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## Sweden, Amnesty International and Legal Entrepreneurs in Global Anti-Torture Politics, 1967–1977

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### ABSTRACT


Torture and inhumane treatment of prisoners was the iconic human rights issue of the 1970s. Scholars credit Amnesty International and other non-governmental organizations for the growing public outcry and for the international diplomacy that led to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984). Little is known about the dynamics between civil society and governments in this process. This article examines Sweden's anti-torture efforts and its entanglement with Amnesty International, its Scandinavian neighbors, and the Netherlands. With varying levels of commitment, these governments issued inter-state complaints against Greece at the Council of Europe in 1967, drafted and secured the adoption of a UN declaration against torture in 1975, and initiated the decision to make a convention in 1977. On several occasions, Sweden took charge, reflecting its new ambitions in human rights as part of its emerging 'active foreign policy'. Tracking specific initiatives, the article brings into focus an often-forgotten group of states, uncovers the dynamics between these and NGOs anti-torture efforts, and reveals the central roles of the legal entrepreneurs who designed and timed initiatives from within their government's foreign ministries.

### KEYWORDS

Sweden; Amnesty International; legal entrepreneurs; torture; human rights

The UN *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT) of 10 December 1984 defined torture, reaffirmed its prohibition during peace-time and war, obliged states to prosecute those engaged in it, and established the UN Committee against Torture as a monitoring body. The scope and depth of the CAT has made it, in legal scholar Beth Simmons' words 'the strongest international legal prohibition contained in any human rights treaty'.<sup>1</sup>

The convention was long time in the making. Scholars and commentators, including activist William Korey, historians of human rights, such as Samuel Moyn, Barbara Keys and Tom Buchanan, legal scholars and international relations scholars, including Ann Maria Clark, and historical actors themselves, have all recognized Amnesty International as having played a critical role in the adoption of CAT. In specific, AI's Campaign for Abolition of Torture, launched in 1972, was pivotal, pushing states to bring the issue of torture before the UN General Assembly, and more generally succeeding in 'moral consciousness-raising' in a way that was unprecedented.<sup>2</sup>

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Although it is clear that AI played a crucial role in catalyzing action by UN member-states, what is not well understood is why and how governments responded as they did.<sup>3</sup> A number of UN member-states at that time were engaged in government-directed torture or other brutal treatment of prisoners. Military dictatorships in Latin America and Europe used torture to punish and curb political opposition, as did the USSR and the South African apartheid regime. Non-aligned states, including recently independent states, also attracted critique, as did several western democracies and especially Great Britain for its treatment of prisoners in Northern Ireland. Given the international political complexity, and the potential strain on inter-state relationships, a state's decision to actively promote international anti-torture measures was not a given, despite the clear morality of the cause.

Roland Burke has noted that there has been a pattern of 'episodic rotation' among states as the 'primary proponents' of new human rights initiatives.<sup>4</sup> This article investigates why Sweden devoted itself to combat torture in these years and pressed for particular initiatives. Although ambivalent about other aspects of human rights promotion, Sweden became the first government to decide to file an interstate complaint to the European Commission of Human Rights against Greece in 1967, and added torture to the complaint in 1968. It cooperated with the Netherlands and tabled a draft declaration against torture at the UN in 1975. Two years later, it succeeded in setting the UN on the track towards a convention.<sup>5</sup> What factors led Sweden to respond positively to civil society initiatives and, specifically, to advocate new international legal norms and enforcement mechanisms? Investigating this is important to improving our understanding of how the CAT came into being, but also to the larger project of advancing understanding of the dynamics between civil society and governments in global human rights politics.<sup>6</sup> Drawing on under-utilized materials, including the records of Swedish and Norwegian<sup>7</sup> foreign ministries as well as Amnesty International archival materials, UN records, and news reports, this article tracks the evolution of Sweden's commitment to combat torture, exploring the way in which AI interacted with its government and public.

The article demonstrates that countries developing more assertive foreign policies can be convinced to press for particular human rights initiatives in international organizations. The period in focus—from 1967 to 1977—were years during which Sweden was establishing its 'active foreign policy' in response to the international political situation created by decolonization and reduced Cold War tensions. The article connects Sweden's efforts to its own unique ambitions in these years, as well as to international crisis, including the coups against the Greek government in 1967 and against Salvador Allende in Chile in 1973. Civil society initiatives galvanized Sweden to act in international organizations with Amnesty's fingerprints on all stages and levels, from the local to the global, and set the Swedish government on track to an aggressive stand against torture. However, the specific Swedish initiatives were designed and timed by lawyer-diplomats who acted as legal entrepreneurs by maneuvering to successfully push forward a government agenda. Exploring the dynamics between civil society and the government, thus not only reveals the key agency of human rights organizations but, equally important, the crucial role played by legal entrepreneurs in anti-torture politics.

## Sweden's ambiguous support for human rights

In international human rights history, rarely based on local archival sources, Sweden's government and civil society organizations appear occasionally as advocates for particular human rights initiatives.<sup>8</sup> Among individuals mentioned, social democratic Prime Minister Olof Palme stand out, and the Web page of the Swedish Foreign Ministry boasts that he was 'a notoriously outspoken human rights advocate'.<sup>9</sup> International Relations literature has argued that Sweden, along with its Scandinavian neighbors and the Netherlands, are 'global good Samaritans' or 'norm

entrepreneurs' for human rights.<sup>10</sup> Sweden's engagement for human rights was a mixed bag, however.

What we know is that before the mid-1960s, Sweden, like the Netherlands and other Western states, contributed episodically to creating international human rights norms and enforcement mechanisms.<sup>11</sup> This reflected the difficult climate for human rights at the UN from the early 1950s, but also Sweden's relatively passive role in international affairs. The Swedish government, although anti-communist, claimed a neutral position with respect to the two cold war super-powers, the United States and the Soviet Union.<sup>12</sup> Its political leadership believed that international law and economic development offered paths to preserve peace and democracy.<sup>13</sup> This formed the background when Sweden participated in drafting the European human rights convention at the Council of Europe, and the Parliament ratified the convention and the optional protocol on the individual complaints procedure, in 1952.<sup>14</sup>

Sweden's relations to the European human rights system was ambiguous and cautious. Östen Undén, Sweden's foreign minister from 1945 to 1962 and a professor of law, believed firmly in a neutral Swedish foreign policy and in international legal order as the best path to sustained peace. He supported the European human rights framework and found the individual complaint procedure to be an 'interesting'... 'experiment in public international law.'<sup>15</sup> In the drafting process, however, Undén had been on guard against proposals that could potentially be too far-reaching and invasive in domestic affairs, and preferred to wait and see how the system developed before Sweden joined the European Court of Human Rights. He had grown increasingly weary of the level of detail in the convention and of the potential role of the court, and had on several occasions argued, in Parliament, newspapers and legal journals, against joining.<sup>16</sup> His reluctance mirrored how Swedish social democrats and leading law professors at the time were on guard against courts with authority to overturn the decisions of democratically elected bodies.<sup>17</sup>

At the UN, Undén considered human rights principles when dealing with international crises. In an internal meeting on the Algerian war of independence in 1956, Undén, argued that the crisis, despite being a French problem, involved a breach of human rights norms and thus could be discussed at the UN. Sweden nevertheless sided with France at the UN. Widely aired revelations the following year that French military forces routinely tortured prisoners in Algeria spurred a more critical view of French colonialism. Concerned that the French president, Charles De Gaulle, would undermine French democracy, and fearful of Great Power involvement in Algeria, Sweden began to see the matter as relevant to peace and democracy in Europe. This made the situation directly relevant for Sweden's security interests, Marie Demker argues, and in 1959, it became the first Western country to vote 'yes' to Algerian independence in the UN General Assembly.<sup>18</sup> From this point onward, Marie Demker argues, Sweden became more active in colonial issues, and this heralded a turn to a higher international profile.<sup>19</sup>

World events and domestic civil society stimulated Sweden's general turn to an 'active foreign policy'. By the mid-1960s, the Soviet Union no longer seemed a dire military threat to Western European states, thus allowing them to develop foreign policies more independent of the United States. Worries about world communism waned somewhat in light of the apparent rift between China and the Soviet Union. The result was a growth in the international ambitions of Western Europe's smaller states, and Sweden in particular. Moral-ideological issues came to the fore in public debate when old and new organizations mobilized Swedish public opinion to support international solidarity, and new social movements matured rapidly.<sup>20</sup> Swedish civil society encompassed a wide variety of traditional organizations, single-cause organizations and social movements, and proved particularly fertile ground for Amnesty International, established in London in 1961. Its critique of countries on both sides of the cold-war divide for imprisoning political opposition was attractive to many. By 1967, Sweden had the second largest number of AI groups, after Great Britain. Two years later, Sweden was in the lead with 184 groups.<sup>21</sup>

Recently independent states renewed UN efforts in human rights treaty-making from the early 1960s.<sup>22</sup> The Swedish government gradually developed a more active engagement with human rights. The first sign was possibly that Sweden started taking an active role in the push for outlawing the death penalty in peacetime, starting in 1957.<sup>23</sup> In 1966 Sweden joined the European Court of Human Rights. Its Parliament also quickly ratified the two UN human rights covenants of 1966, and Sweden became party number ten to these, in 1971.<sup>24</sup> Under Palme's first government (1969–1976), Sweden's general international engagement swelled, became more ideological and aimed at bridging East-West and North-South divides and mobilizing international public opinion. Palme first gained international attention for his views on the Vietnam War. He also advocated nuclear disarmament, supported national liberation movements in Africa and Asia, and criticized dictatorships in Greece, Spain, Portugal, and Chile.<sup>25</sup> Palme repeatedly emphasized the equality of all humans regardless of gender, race, age or social categories and stated that apartheid was 'in full conflict with human rights and all decency'.<sup>26</sup> Despite this, according to political scientist Hans Löden, Palme actually spoke relatively sparingly of 'human rights'.<sup>27</sup>

The Swedish relations to the European human rights system remained ambiguous and even sometimes hostile. The court was unknown and little used.<sup>28</sup> Palme was skeptical of any role in Sweden's own law for the European human rights convention, and concerned that the convention and its court had the potential to halt policies his government desired.<sup>29</sup> Carl Lidbom, who in 1969 was appointed as Minister without portfolio at the Justice department and responsible for human rights, worked to keep European law out of the domestic legal domain, particularly property and family law.<sup>30</sup> Thus, the Swedish social democrats worried over the potential of the court to bolster conservative political projects at a time when leftists elsewhere were beginning to use international human rights instruments to support their own political projects.<sup>31</sup> Palme later expressed support for the court, but simultaneously warned it against engaging in domestic fights between opposing political parties.<sup>32</sup>

On this background, legal scholar Jacob Sundberg noted that in Sweden in the 1970s, human rights was only a matter for foreign affairs.<sup>33</sup> Even in this domain, however, seeking to advance international human rights norms involved weighing costs and benefits. Ario Makko has convincingly argued that policymakers in the early to mid-1970s were passive in the run-up to and early work in the Conference on Security in Europe, ignoring human rights violations in East Europe and prioritizing its own security interests.<sup>34</sup> Furthermore, the Swedish social democratic party believed that peace depended on national self-determination, combined with the economic and social development of former colonized states. Commitments to freedom and human equality as well as economic and social equality, in some instances, led Swedish social democrats to accept one-party systems and totalitarian tendencies, provided that they were not communist.<sup>35</sup> Ambiguities aside, it was clear that Sweden's emerging 'active foreign policy' came with heightened ambitions in promoting human rights from the mid-1960s.

## Greece on trial

The military take-over in Greece on 21 April 1967 pushed Sweden to the forefront of international human rights advocacy. The coup elicited strongly negative reactions across the political spectrum in Scandinavia.<sup>36</sup> The center-right Norwegian and the social democratic Swedish and Danish governments all immediately condemned the coup. They jointly criticize the Greek junta at the Council of Europe, and Denmark and Norway did the same in NATO.<sup>37</sup> However, the late April call by the Standing Committee of the Parliamentary Assembly of the Council of Europe to bring the Greek situation to the European Human Rights Commission, elicited no immediate response in the Scandinavian foreign ministries.<sup>38</sup> The Scandinavian prime ministers reasoning was both practical and strategic: they expected the procedure for lodging a complaint to be

complex, time-consuming, and not likely to succeed.<sup>39</sup> Action through the Commission would also be secret and therefore offered no 'immediate political gains'.<sup>40</sup>

Domestic public pressure to act strongly against the Greek junta was building from several sectors. Sweden had a substantial and active Greek exile community, and a close relationship, predating the coup, between leading Greek and Swedish social democrats.<sup>41</sup> A Swedish Committee for Democracy in Greece, similar to committees formed in other countries, brought together politicians, Greeks and other interested parties. Leading the committee was Hans Göran Franck, a lawyer and left-wing activist who chaired the Swedish section of Amnesty and was a member of Amnesty's International Executive Committee. The Swedish Committee for Democracy in Greece established local branches, initiated a tourist boycott, and collected signatures of national and local organizations, with broad support from youth organizations and trade unions, many with close ties to the Swedish government.<sup>42</sup> The Swedish parliament's foreign relations committee discussed the Greek case in late July, and when asked about using the inter-state complaint procedure against Greece, and Torsten Nilsson, Sweden's foreign minister (1962–1971), committed to discuss this with his Nordic colleagues, at their next meeting.<sup>43</sup> Finally, Franck initiated a Scandinavian parliamentary delegation to Greece, which Swedish diplomats learned of in early August.<sup>44</sup> Travelling to Athens later that same month, the delegation formally represented the Scandinavian committees for democracy in Greece, and included parliamentarians from parties across the political spectrum.<sup>45</sup>

The legal department of the Swedish Foreign Ministry made the legal approach both viable and desirable. To help Nilsson prepare for his meeting with his Nordic colleagues, he brought Love Kellberg, head of legal department back from his annual leave.<sup>46</sup> Kellberg noted that a complaint against Greece would be 'a highly unusual step'. In prior cases, the complaining state or its nationals had been affected, and this was not the situation for Sweden in this case. Protection of democratic ideals, however, was a joint European interest.<sup>47</sup> To succeed, he and his colleagues proposed a line of argument for the late August meeting of the Nordic foreign ministers: Greece should be asked to document that it could lawfully derogate from the convention, which would place the burden of proof on Greece. Kellberg assisted Nilsson in making the case for a complaint to the other foreign ministers.<sup>48</sup> Two days later, Kellberg informed his Scandinavian colleagues that Sweden would issue an application, alone if need be, and that Nilsson wanted to sign it before heading off to the UN General Assembly.<sup>49</sup> The shift, Kellberg noted, was a response to domestic public pressure.<sup>50</sup> The Swedish decision replaced reluctance with urgency in both Denmark and Norway, as none of the two governments would risk the public relations problems that would follow if they came through as less critical than Sweden of the junta's human rights violations. The Danish and Norwegian foreign ministers had been skeptical but had agreed to consider the option further, Finland was not a member of the Council of Europe, and Iceland eschewed involvement so as not to risk its export of fish to Greece.<sup>51</sup>

The Swedish strategy was revised in discussions among the Scandinavian foreign ministries' legal departments. Departing from Kellberg's original strategy to target only procedural aspects, they decided to refocus and charge Greece also with violating multiple material articles, including the rights to personal liberty and security, private life and family, a fair trial, and freedom of speech and peaceful assembly.<sup>52</sup> On 20 September 1967, Denmark, Norway and Sweden filed separate but identical inter-state complaints at the Council of Europe.<sup>53</sup> The Netherlands filed a separate complaint a week later.<sup>54</sup> The Commission had only deliberated three such applications in its history, each time with significant national interests on both sides.<sup>55</sup> Critics lamented Scandinavia's moralistic 'foreign policy of pointing fingers' and its hypocrisy, given that they ignored communist transgressions.<sup>56</sup> In response, Danish Prime Minister Jens Otto Krag argued that, in the case of communist dictatorships, the careful approach contributed to lowering international tensions, but that this was not the case with Greece. Here a dictatorship had replaced a democratic government, and protest was 'a self-evident duty'.<sup>57</sup>



The Scandinavian lawyer-diplomats cooperated closely on the next steps in the process. The diplomats in charge of preparing the case—Kellberg for Sweden, Janus Paludan for Denmark and Jens Evensen for Norway—were all trained in law. They strategized together and collected evidence, which was both difficult and sensitive. Media reports from Greek and international outlets, memoranda of conversations and other materials provided by the envoys in Athens and other diplomatic contacts, and information from Amnesty International and the International Commission of Jurists gave them a worrying, but incomplete picture of developments in Greece. Torture charges appeared regularly in the materials that piled up in the foreign ministries, especially in reports and information provided by British legal scholar and journalist Cedric Thornberry and Amnesty International.<sup>58</sup> Despite the incomplete materials, they added torture to their list of complaints when they submitted written arguments in March 1968, which the Netherlands did not.<sup>59</sup> Several scholars have claimed that Amnesty's report of January 1968 was decisive for the Scandinavian decision to add torture charges, but although it clearly contributed, the foreign ministries were already attentive to torture. The European Commission on Human Rights deemed the torture charges admissible.<sup>60</sup> Months of assembling documentation on the charges, finding witnesses and arguing in Strasbourg followed. On 5 November 1969, the European Commission of Human Rights agreed with the central points of the complaints. Its report, detailing 213 cases of torture, leaked the following month and convinced the media and the public to consider torture claims against Greece as established facts.<sup>61</sup> Greece withdrew from the organization that same month. In April 1970, the Committee of Ministers concurred with the Commission's conclusions.

The inter-state complaint reveal how lawyer-diplomats working in the foreign ministries' legal departments were key agents in transforming anti-torture sentiments into practical policies. This makes them a separate category of legal entrepreneurs, in addition to the ones Michael Rask Madsen and Antonin Cohen have identified. They have described how lawyer-statesmen and academic jurists gave shape to the foundational text of the European human rights system, and how judges of the European Court of Human Rights convinced European politicians of the 'relevance and reasonableness' of the convention and the court, and in this way acted as legal entrepreneurs.<sup>62</sup> The Greek case, and the further evolution of anti-torture efforts discussed below, demonstrates how lawyer-diplomats acted as legal entrepreneurs in developing the international human rights system, designing their government's policies, cooperating with each other, and navigating and attempting to control myriad competing initiatives. They pursued legal measures to deal with crises and helped develop human rights norms and mechanisms to tackle various international problems. In this way, the expansion of the human rights system from the mid-1960s, both reflected and contributed to the institutionalization of human rights in the foreign ministries' legal departments.

## **Advocating intergovernmental action at the UN**

The Greek case became a foreign policy victory for the applicant states, which committed them to human rights, and in particular to curb torture. The Swedish government's *global* anti-torture efforts were still in the future, and the Swedish government was initially not enthusiastic about a treaty-approach to torture. Developing new norms and legal mechanisms would nevertheless become central elements in Swedish anti-torture efforts. The sustained effort of Amnesty International was a main factor behind this.

Amnesty had targeted torture since the mid-1960s, and these efforts prepared the ground for the better-known initiatives in the 1970s. The 1966 Amnesty International Assembly in Copenhagen, Swedish Amnesty had successfully proposed that all national sections should give the problem of torture 'special attention' and ask the UN and other international organizations to include the elimination of torture in their programs for the 1968 International Year of Human

Rights.<sup>63</sup> Information on torture was piling up in the International secretariat, and two years later, Amnesty claimed it had substantial evidence for the use of torture in over thirty countries worldwide, and had published two reports on torture perpetrated by the Greek junta, prepared by on-the-spot investigators, a new working method for the organization.<sup>64</sup> The Swedish section hosted the 1968 International Assembly in Stockholm; these meetings rotated between the national sections. In conjunction with the meeting, the Swedish section organized an international conference on torture in the Swedish Parliament, with the Swedish Committee for the Human Rights Year as co-organizer. The conference had 240 participants from 13 countries, among whom were Amnesty members, experts, prominent persons and government representatives. At the conference, AI presented oral and written testimony of torture and inhumane treatment, including that of South African lawyer and activist Albie Sachs. The use of torture in Greece, Nicaragua, Malawi, Indonesia and the Soviet Union also figured prominently.<sup>65</sup> It was normal practice in Sweden that government representatives would make speeches to civil society conferences when invited to do so. Cabinet minister for disarmament Alva Myrdal represented the Swedish government and delivered one of the opening speeches where she called for action against torture, while noting that 'international agreements are not enough for reaching its abolishment', and '[w]e must also work on other levels'.<sup>66</sup>

Adopting stronger international legal measures, however, was emerging as a new goal for Amnesty. In Stockholm, its International Assembly delegates agreed to build a public opinion against the use of torture and called for stronger legal measures.<sup>67</sup> Before the meeting, Eric Baker, the British member of Amnesty International's leadership, had argued that existing human rights instruments were not detailed enough to be effective and that Amnesty should pursue a new convention. The United Nations Universal Declaration of Human Rights of 1948 proclaimed the universal right not to be subjected to 'torture or to cruel, inhuman or degrading treatment or punishment'. Other global and regional declarations and treaties also banned torture, including the Geneva conventions and the recent International Convention on Civil and Political Rights. Baker nevertheless found that there was 'an urgent need' for a convention that protected political detainees not classifiable as prisoners of war, and that such a convention should ban torture.<sup>68</sup> Sean MacBride, the Secretary General of International Commission of Jurists (ICJ) as well as Chairman of AI's International Executive Board at that time, argued similarly that adopting new conventions against torture should be the 'first objective'.<sup>69</sup>

International organizations were addressing torture, but major initiatives were still in the future. That same year, the UN conference in Teheran on human rights had adopted a resolution, sponsored by India, Czechoslovakia, Jamaica, India and the United Arab Republic, that took as its point of departure the widespread 'tortures, inhumane treatment of prisoners' and noted specifically that those struggling against colonial regimes 'should be protected against inhuman or brutal treatment'.<sup>70</sup> Amnesty and other NGOs used these formulations to legitimize further international action against torture.<sup>71</sup> Amnesty furthermore started targeting the UN Congress on the Prevention of Crime and Treatment of Offenders (hereafter Crime Congress), a technical, largely expert-body, which in 1955 had adopted the Standard Minimum Rules for the Treatment of Prisoners (SMR).<sup>72</sup> The SMR prohibited corporal punishment and 'all cruel, inhuman or degrading punishments' for disciplinary offences while in prison. Strengthening the SMR, developing professional codes of ethics for police and medical personnel, and achieving a convention that banned torture and made it an international crime, would become Amnesty International's main goals for inter-governmental action against torture.

Amnesty's public relations work was innovative and effective, and this was also the case in Sweden. In early 1969, Swedish newspapers, regardless of political orientation or journalistic style, reported almost daily about the shocking and disgusting instances of torture in Greece, Spain, Israel, Vietnam, South Africa, Brazil and other Latin American countries, often citing Amnesty as a source.<sup>73</sup> This testifies to the generally rising attention to Amnesty, and trust in its information. It also reflected the efforts of strong individuals. A close look at Thomas



Hammarberg reveal the very close ties between Amnesty's international leadership and national-level efforts, and the blurred lines between professional journalism and activism. Hammarberg was a politically liberal Swedish journalist who frequently authored newspaper articles about torture. He recalls that his interest in human rights started as a student in the 1950s with public outrage over the Holocaust and Apartheid system in South Africa. This motivated his work as a journalist and an Amnesty International activist at home and internationally as member and later chair of AI's International Executive Committee (1971–1979).<sup>74</sup>

Hammarberg held a leading role in Amnesty's anti-torture work, including leading AI's mission to Northern Ireland in 1971 to investigate internment and use of torture in prisons. He also helped strategize how the organization should achieve intergovernmental action at the UN. An expert working group appointed by Amnesty and the ICJ had drafted a long and detailed convention to 'protect the human rights of persons deprived of their liberty', completed in November 1971 and approved by a group of NGOs with consultative status at the UN.<sup>75</sup> To have torture discussed 'in a serious manner', we find Hammarberg in the international Campaign Secretariat encouraging the national sections to approach national UN Associations, organizations in the human rights field, youth organizations, and parliamentarians who were likely to be part of national delegations to the UN General Assembly.<sup>76</sup> The goal was to gain their help to convince governments to approve and sponsor a resolution on a convention on 'torture and the treatment of prisoners'.<sup>77</sup>

Hammarberg implemented this model for advocacy at home. In August 1972, together with Bengt Gustafson of the United Nations Association in Sweden (UNA) and Pär Granstedt of the National Council for Sweden's Youth Organizations, he started a push to get the UN to adopt a convention against torture of prisoners. Commending Swedish initiatives at the UN against the use of the death penalty, they maintained the 'obvious need for a specific, international convention against torture and other mistreatment of prisoners' in a letter to the Swedish Ministry of Foreign Affairs and asked for an initiative that same year. They included two draft resolutions with their letter.<sup>78</sup> AI leadership anticipated that Sweden would bring the resolutions, including on a convention, to the General Assembly that same fall.<sup>79</sup> This expectation proved wrong. The ministry gave the follow-up responsibility to its legal department and Kellberg advised to wait. Both the pushback against Sweden's advocacy against the death penalty, and the prevailing skepticism towards UN supranational human rights machinery, especially among East Block states, made most initiatives proposed by the NGOs unlikely to gain acceptance, in his opinion. In any case, it was too late in the year for an initiative to the General Assembly.<sup>80</sup>

Coordinated advocacy through national sections and building coalitions on levels from local to global was at the heart of the work done in the AI Campaign for the Abolition of Torture, launched on Human Rights Day 10 December 1972. The goal was, in the words of MacBride, to make 'torture as unthinkable as slavery'.<sup>81</sup> Amnesty sought to demonstrate that torture was global, with perpetrators on all sides of the East/West and North/South divides. The *Report on Torture*, published on 25 January 1973, chronicled torture and ill-treatment in sixty-one countries, of which fourteen were African states; seven Asian; four Western European; seven Eastern European and the USSR; twenty-one in the Americas, including the United States; and eight in the Middle East.<sup>82</sup> Amnesty also organized regional conferences and an international conference in Paris to discuss and develop strategies to combat torture. The Paris conference drew more than 300 people, including representatives of AI's national sections and other international and national NGOs, along with academics, artists, judges, psychiatrists, international bureaucrats, priests, diplomats, politicians, journalists, and former prisoners.<sup>83</sup> The AI Campaign Secretariat called on the national sections to lobby their governments to support the draft resolutions on humanitarian law and torture and the treatment of prisoners, advising them to contact parliamentarians.<sup>84</sup> During 1973, Amnesty collected more than one million signatures on a petition calling on the UN General Assembly to outlaw the torture of prisoners worldwide.

Amnesty targeted the Swedish and the Dutch governments directly for sponsorship of a UN resolution on torture, and noted that Tanzania, Ghana, Liberia, Gambia and the Ivory Coast had all expressed interest in supporting such an initiative.<sup>85</sup> In Sweden, Amnesty's local political network once again proved useful. Nils Hjort and Evert Svensson, both Social Democrats, introduced a proposition to the Swedish parliament in early May 1973 entitled 'regarding the treatment of political prisoners'. The fingerprints of AI were unmistakably clear. The purpose of the proposition was to call for implementation of AI's goals at the upcoming UN General Assembly, and the language closely aligned with that of Hammarberg's letter the year before. Swedish Amnesty took credit for the proposition and followed it closely to adoption. The parliament concurred that 'the question of torture and cruel, inhuman or degrading treatment or punishment should again be actualized by the Swedish government, in whatever way expedient, in the appropriate international organizations.'<sup>86</sup> This was the first national parliament to adopt such a resolution, and Amnesty urged its other sections to pursue similar resolutions.<sup>87</sup>

Despite its commitment to curb torture, the Swedish government hesitated to act at the international level. Without making promises, Swedish Foreign Minister Wickman assured AI's MacBride in May 1973 that Sweden considered the subject matter of 'particular importance' and that the draft resolutions would be 'studied very carefully by the competent Swedish experts.'<sup>88</sup> Public pressure was felt in Stockholm, and the Ministry of Foreign Affairs noted that 'a great number of non-governmental organizations' had asked for sponsorship of resolutions.<sup>89</sup> Swedish diplomat Hans Danelius became instrumental in translating political sentiment into actionable diplomatic proposals at the UN. Danelius had worked at a Swedish court of appeals and the Ministry of Justice and had been stationed at the European Commission on Human Rights from 1964–1967. He came to the Foreign Ministry in 1971, and became head of its Legal Affairs Department a few years later.<sup>90</sup> After having reviewed Amnesty's proposals, Danelius and his lawyer-diplomat colleagues began preliminary inquiries to ascertain the views of other countries on possible anti-torture initiatives. Norwegian and Danish colleagues had, in Kellberg's words, 'great and obvious sympathy' for the Amnesty's proposals. But the Scandinavian lawyer-diplomats believed that the draft resolutions needed amending and that the Commission on Human Rights or the Committee of Crime Prevention and Control was better suited than a group of experts to formulate a draft convention. They agreed to study and discuss the issue further, opting for an initiative in 1974.<sup>91</sup> Countries of the European Community (EC), Swedish diplomats reported, also had a 'rather reserved' reaction to Amnesty's proposals. An exception was the Netherlands, which was prepared to co-sponsor some sort of anti-torture initiative but deemed a new convention unnecessary.<sup>92</sup>

In early September, Sweden had not yet committed to any specific anti-torture initiative and believed more time was needed to prepare an initiative. A few weeks later, Sweden nevertheless helped table a resolution at the UN. One factor in this was clearly the 11 September 1973 coup in Chile that brought to power a right-wing military dictatorship and further aligned Swedish and Scandinavian foreign policy goals with the anti-torture agenda of Amnesty International. The Scandinavian countries had held President Salvador Allende in high esteem, and the governments of Norway, Sweden and Denmark condemned the coup. By taking the lead in pressing for an anti-torture initiative, Sweden would demonstrate its opposition to developments in Chile as well as boost its international prestige. Furthermore, Amnesty International's sustained activities was crucial and the archival records indicates that AI's Secretary General Martin Ennals visit to New York unleashed activity in the Swedish Embassy that convinced the Ministry of Foreign Affairs to take action. Ennals sought support for the draft resolutions and met with fourteen government envoys, including Sweden's Ambassador to the UN, Olof Rydbeck.<sup>93</sup> The Ambassador quickly consulted with the Austrian and Dutch delegations, and together they drew up a resolution. Stockholm immediately agreed, and Kellberg specified that the UN should give the torture issue its 'highest' priority, and concluded, 'let those voting against be left with the shame.'<sup>94</sup> A Swedish leadership role was highly appropriate, he argued, with reference to the 1967 coup in

Greece: Austria 'had showed no interest', the Netherlands 'was with us only half-heartedly', and 'Norway had been very active'.<sup>95</sup>

Sweden introduced what became GA resolution 3059 on 2 November 1973, sponsored by Austria, Costa Rica, the Netherlands, Trinidad and Tobago.<sup>96</sup> The resolution rejected torture and resolved to revisit the issue at a future session.<sup>97</sup> The move fulfilled the Swedish parliament's instruction to its government to place the issue of torture on the agenda of appropriate inter-governmental agencies. It also paved the way for new initiatives in 1974, while retaining all options as to the form and content of such initiatives. For Swedish diplomats, Sweden and the Netherlands now formed a potent core in the group of early sponsors and interested state parties at the UN; the Nordic framework for dealing with the torture issue faded in significance.

### First a declaration, then a convention

Amnesty International's leadership had as early as 1968 identified the UN Crime Congress' Standard Minimum Rules for the Treatment of Prisoners (SMR) as a relevant framework for improving the conditions for political prisoners. In early 1974, Amnesty wanted to use the Fifth UN Crime Congress, scheduled for September 1975, to push for inter-governmental anti-torture initiatives. AI's leadership approached the Inter-Parliamentarian Union (IPU) to convince parliamentarians to ask their national governments to place torture of the Congress' agenda; reached out to various international associations of medical professionals for support; and contacted governments directly.<sup>98</sup> AI sought governmental support for a three step process: a decision by the UN General Assembly to prioritize torture; followed by agreeing on various anti-torture measures at the Crime Congress; and finally, adopting some of these at the UN General Assembly and specifically proclaiming torture an international crime and starting to draft an anti-torture convention.

The top political leaders in Sweden and the Netherlands, using vague formulations, promised Amnesty to help at the UN General Assembly.<sup>99</sup> Work on global anti-torture initiatives did not carry pressing security implications for Sweden as the human rights clauses of the Helsinki Final Act of the Conference on Security and Co-operation in Europe, described by Makko, and this left diplomats more room to maneuver. Swedish diplomats, however, found slim prospects for a new resolution due to 'much resistance to deal with torture'; they recognized a main challenge was to attract interest and support from key states among 'the developing countries'.<sup>100</sup> However, the 1974 GA resolution 3218, was drafted in New York by the Netherlands in consultation with Austria, Ireland and Sweden, and called for member states to submit reports on domestic measures against torture in time for the Fifth UN Crime Congress. The resolution also requested the Crime Congress to discuss rules for protecting prisoners against 'torture and other forms of cruel, inhuman or degrading treatment or punishment' when working on SMR.<sup>101</sup>

As the Crime Congress approached, the Swedish and Dutch foreign ministries, in particular, Danelius, Nils Rune Larsson and Theodoor C. van Boven, worked closely to design a joint initiative.<sup>102</sup> Larsson was a director of a division dealing with international law and human rights within Sweden's Legal Affairs Department.<sup>103</sup> While Danelius and Larsson had professional relations to Amnesty, van Boven, the head of the Dutch foreign ministry's division for social and legal questions, had a private engagement for human rights. At the time, he was member of the Council of Churches in the Netherlands and had been part of a combined working group of the Council and the Dutch Amnesty International that planned a campaign in churches against torture in 1974, which included the booklet 'Torture ... Unbelievable'.<sup>104</sup> Working on the issue of torture could be emotionally taxing. In a private letter to Amnesty's Rodley, van Boven admitted feeling 'sometimes deeply distressed reading the evidence of terrible human suffering and being aware at the same time of the absence of the political will of Governments and the UN to take

effective remedial action'.<sup>105</sup> In 1977, he became UN Director of Human Rights and he later held various UN posts, including Special Rapporteur on Torture.

The UN Secretariat was planning an anti-torture initiative, though not a very radical one. The Dutch and Swedish diplomats found out that the UN Secretariat planned to make the SMR applicable to *all* categories of prisoners, regardless of reason for detention.<sup>106</sup> The Swedes first idea was similar. However, the SMR addressed the treatment of prisoners in institutions; the rules the Swedes and Dutch wanted to add targeted the active investigation, primarily norms for interrogation.<sup>107</sup> Van Boven therefore convinced the Swedes that a new instrument, a declaration against torture, was needed.<sup>108</sup> They agreed that states were not ready for a convention, and that chance of success was greatest if they offered the Congress a well-prepared, realistic and complete draft declaration against torture.<sup>109</sup> Danelius authored the first draft declaration, and to secure its adoption, the lawyer-diplomats contacted a wide array of countries, including key countries in Africa, America and Asia, in an attempt to bridge regional divides that frequently hampered efforts at the UN.<sup>110</sup> Others also prepared anti-torture initiatives and responded with competing proposals, and Danelius underscored the limited time available for discussion at the Crime Congress.<sup>111</sup> Amnesty already had distributed a sixteen-page document containing a number of proposals, including revisions to the SMR and adoption of a convention, to about fifty governments and the conference organizers, and organized two seminars in conjunction with the Congress.<sup>112</sup>

This way, a UN forum that had so far been of a technical nature now took on a highly politically charged issue. More than 900 participants from 101 countries gathered in Geneva<sup>113</sup> on 1 September 1975 for the Fifth Crime Congress. The majority represented national governments, but an impressive range of intergovernmental and non-governmental organizations was also present, including the International Labor Organization (ILO), the World Health Organization (WHO), the Council of Europe, the League of Arab States, INTERPOL and thirty-two NGOs. In the last category, attending with consultative status, were Amnesty International and the International Commission of Jurists (ICJ). Amnesty sent eight representatives, including Secretary General Martin Ennals, Dick Oosting as coordinator on the Campaign for the Abolition of Torture, and Nigel S. Rodley as a legal adviser.<sup>114</sup> The Dutch-Swedish preparations paid off. The Crime Congress adopted the declaration, making only a few changes. In Geneva, an informal committee comprised of Australia, Austria, Great Britain, Greece, the Netherlands, Sweden, the United States, Yugoslavia, Zambia, and Amnesty International, handled most of the workload of the declaration.<sup>115</sup> The changes included adding intimidation to the purposes for inflicting severe pain or suffering, which expanded the scope of the instruments, and specifying that an act of torture or ill-treatment must be committed 'by or at the instigation of a public official', which left offences by private individuals to the purview of domestic penal law.<sup>116</sup>

For Amnesty, the declaration was a double-edged sword. In an AI newsletter, Ennals foresaw that the Crime Congress would be a potential watershed in the effort to lift 'torture from the realm of non-committal denunciation into the stage of specific and concrete action by the UN'.<sup>117</sup> Internally, AI leadership believed that the torture declaration had 'overshadowed all other events', and that it was 'quite generally recognized' that Amnesty was 'the main factor in the whole process leading up to the result', AI leaders noted. Still, the Crime Congress had been 'unsatisfactory in many respects'.<sup>118</sup> Most of its proposals had not received proper attention. No agreement had been reached on an international code of police ethics, the SMR remained a weak instrument, and the declaration lacked enforcement mechanisms. Moreover, the Congress did not consider defining torture as a transnational crime and as a crime under international law.<sup>119</sup>

The draft UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment met little resistance at the UN General Assembly that same fall. The situations in Chile and South Africa and the possible introduction of a UN high commissioner for human rights dominated the human rights items.<sup>120</sup> The

draft declaration underwent only one amendment, and the Third Committee adopted it by acclamation, followed by unanimous adoption by the General Assembly on 9 December 1975.<sup>121</sup> *The New York Times* reported that the Dutch and Swedes had ‘shepherded’ the declaration to final adoption.<sup>122</sup>

Their diplomats had certainly been quite active herding dogs: throughout 1975, Sweden and the Netherlands worked systematically to pave the way for a declaration against torture and actively dissuade other countries from putting forward competing initiatives. The United States had created stress for the Swedish and Dutch diplomats. The US, reacting to domestic public pressure, reflected in a fast rising membership in Amnesty International and voiced amongst others by Congressman Donald M. Fraser, had proposed that a group of experts, to be appointed by the Secretary-General, should ‘study the nature and extent of torture in the world today and to report back to the next session of our Assembly’.<sup>123</sup> The Swedish and Dutch diplomats feared that the proposal could stir disagreements that would derail the adoption of the torture declaration.<sup>124</sup> Together, they tried to dissuade the Americans, and on multiple occasions, both the Swedish and Dutch embassies informed the US State Department of their misgivings. The Dutch State Secretary for Foreign Affairs, Peter Kooijmans, also raised the issue in Washington.<sup>125</sup> The Americans never won sufficient support and eventually backed down.<sup>126</sup>

With the declaration adopted, the Dutch and Swedish diplomats considered moving on to a UN convention. The Swedish lawyer-diplomats were not optimistic: few states seemed prepared to accept mechanisms for overseeing that states followed the International Covenant on Civil and Political Rights (1966); and non-aligned states in particular had resisted human rights enforcement mechanisms at the Commission on Human Rights. In mid-1976, the Swedes therefore expected that proposing a convention might be counterproductive.<sup>127</sup> The Dutch were also disinclined, but for other reasons. Van Boven initially hoped that ‘the resistance he had previously met from the Netherlands Ministry of Justice regarding a convention had now been surpassed given the results on the declaration’.<sup>128</sup> It had not. The main problem was the principle of universal jurisdiction over international crimes, by which national courts could establish jurisdiction over acts of torture committed in territories and by persons otherwise outside Dutch jurisdiction.<sup>129</sup> Adding a personal dimension to the abrupt pause in the Swedish/Dutch cooperation on anti-torture initiatives, when van Boven was appointed UN human rights director, he was replaced at the Dutch foreign ministry by Jan Herman Burgers, who would later play a prominent role in securing the adoption of the convention.<sup>130</sup> Burgers’ relationships with the Swedish lawyer-diplomats did not begin well. Following initial correspondence and a meeting, Larsson noted that Burgers’ attitude towards cooperation on several human rights issues—and crucially, a convention against torture—had been negative.<sup>131</sup>

Many states were considering anti-torture initiatives at the 1977 UN General Assembly. Sweden’s two-year appointment to the UN Commission on Human Rights gave an opportunity and an expectation to follow through on a major anti-torture initiative.<sup>132</sup> To succeed with setting the UN on track to a convention, Anders Thunborg, the newly appointed Swedish ambassador to the UN, advised that, Sweden had to start this work before competing initiatives on torture preoccupied and distracted the UN.<sup>133</sup> Support for a convention was hard to find, however, and Larsson’s discussions of Swedish plans with representatives from other states at the Council of Europe in late June produced ‘meager results’.<sup>134</sup> But, once again, NGO initiatives were again gaining momentum. A group of experts produced a draft convention aimed at preventing torture and ill-treatment by implementing systematic inspections of places of detention at the request of the Swiss Committee Against Torture.<sup>135</sup> ICJ, in coordination with Amnesty International’s Ennals, asked the Swedish foreign ministry to help fund ‘a meeting of experts to prepare a Draft Convention declaring torture an international crime’.<sup>136</sup> Danelius found it to be ‘way too optimistic to believe that the General Assembly would directly, or after minor work, adopt an NGO initiative for a convention of this type’.<sup>137</sup> He nevertheless made sure that

the ICJ received a grant of 5,000 USD.<sup>138</sup> This way, Sweden facilitated a further NGO-pressure for a convention.

Sweden was finally ready to take the lead on the convention. Speaking at the UN in late September, Karin Söder, the Swedish foreign minister (1976–1978), made Sweden's intentions official, stating that '[a] legally binding Convention must be our goal.'<sup>139</sup> The statement followed up on planning and discussions through the summer and early fall, in a year that saw a further surge in interest in human rights in many corners of the world. Charta 77 had been published in Czechoslovakia in January and criticized the governments for failing to live up to the human rights provisions of the Helsinki final act (1975). Jimmy Carter had made human rights a key point of his presidential campaign in the United States. On 12<sup>th</sup> September, anti-apartheid activist Steven Biko was brutally murdered in Pretoria, which had further impassioned advocates of human rights and a convention against torture, and helped the Swedes succeed.

On 8 December 1977, the General Assembly adopted three resolutions pertaining to torture, including the resolution initiated by Sweden with sponsorship from countries of all regions—unusual for resolutions pertaining to torture—requesting that the Commission on Human Rights draw up a convention against torture.<sup>140</sup> This marked the advent of a new phase in global anti-torture work. The same week, Chair of the Norwegian Nobel Peace Prize Committee, Aase Lionaes, presented the 1977 Peace Prize to Amnesty International. Lionaes had chaired the Scandinavian delegation to Athens a decade earlier. The committee had chosen Amnesty, she stated, 'in the conviction that the defense of human dignity against torture, violence, and degradation constitutes a very real contribution to the peace of this world'.<sup>141</sup> This further strengthened Amnesty International's global reputation and political influence.

## Conclusions

This pre-history of CAT reveal how from the late 1960s, the grinding advocacy work by Amnesty International was crucial for pushing the Swedish government to act. Amnesty lobbied Sweden and other governments directly through approaching top politicians and officials in foreign ministries and embassies, and the archives reveal frequent correspondence and meetings that maintained pressure for action by sympathetic governments. Amnesty also worked indirectly to prod governments to take action. Its international leadership and national sections gained media's attention, provided documentation and proposals, targeted intergovernmental organizations and national governments, galvanizing parliamentarians to add pressure, mobilizing national and international NGOs to support its proposals. Sweden's Amnesty branch was notably strong and industrious, a powerhouse both at home and within Amnesty itself. Its leaders were well-connected and had high public profiles, and Amnesty's international leadership commanded respect from diplomats and top politicians.

The rise of human rights in international politics in the 1960s and 1970s happened at the same time as Sweden was developing a more active foreign policy. The coup in Greece jolted Sweden into taking action and placing the European Commission on Human Rights at center stage in the international dealings with the junta. The event also spurred its anti-torture engagement, and each time Sweden took a significant initiative, its politicians and diplomats became more conscious of Sweden's responsibility to continue in this vein. Thirst for international prestige and a desire to accommodate Sweden's public and parliamentarians motivated the government. However, the records also reveal strong feelings of a duty to act derived from humanitarian concern and a belief in democracy and human freedom. Compared to human rights issues in the Helsinki-process and the role of the European court of human rights in Swedish law, global anti-torture politics was low-cost humanitarian and moralist foreign politics, as it did not have serious implications for Swedish security politics or domestic politics.



That Sweden pursued new legal norms and mechanisms, even when such were not central to the main tendencies in Swedish foreign policy thinking, reflects the sustained pressure from Amnesty International. However, equally important, this particular way of designing global anti-torture initiatives was the result the engagement by the foreign ministry's legal department in human rights matters. Diplomats trained in law used their knowledge to strengthen the international human rights system, shaping the initiatives of their governments. Both professional and personal motivations come out of the materials, to a varying degree, and Kellberg and his colleagues designed and employed a legal strategy in the Greek case, drafted the declaration, and then tabled the resolution that set the UN on track to a convention. They did not take on Amnesty's proposals directly, but waited and weighed their options before they shepherded proposals to adoption. The archives thus reveal their crucial influence over Swedish human rights policy and their commitment to see these instruments adopted.

## Notes

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3. On the history of Amnesty International, see Egon Larsen, *A Flame in Barbed Wire: The Story of Amnesty International* (London: Frederick Muller, 1978); Uta Devries, *Amnesty International gegen Folter: Eine kritische Bilanz* (Frankfurt am Main: Lang, 1998); Clark, *Diplomacy of Conscience*; Tom Buchanan, "The Truth Will Set You Free": The Making of Amnesty International," *Journal of Contemporary History* 37:4 (2002): 575–97; Stephen Hopgood, *Keepers of the Flame: Understanding Amnesty International* (Ithaca, N.Y.: Cornell University Press, 2006); Aryeh Neyer, *The International Human Rights Movement: A History*, (Princeton: Princeton University Press, 2012), chapter 8; Jan Eckel, 'The International League for the Rights of Man, Amnesty International, and the Changing Fate of Human Rights Activism from the 1940s and through the 1970s' *Humanity: An International Journal of Human Rights, Humanitarianism, and Development*, 4:2 (2013), 194–214; Tom Buchanan, *Amnesty International and Human Rights Activism in Postwar Britain, 1945-1977* (Cambridge: Cambridge University Press, 2020).
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5. On the Dutch anti-torture efforts, see Hilde Reiding, 'The Netherlands and the Development of International Human Rights Instruments' (PhD diss, University of Utrecht, 2007).
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7. The Norwegian foreign ministry's archive contain [supplementary materials](#) on Scandinavian and Nordic cooperation, including initiatives by other governments, negotiations at the UN, and entanglements with NGOs.

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13. Hans Lödén, "För säkerhets skull:" *Ideologi och säkerhet i svensk aktiv utrikespolitik 1950–1975* (Stockholm: Nerenius & Santérus, 1999), esp. 20; Ulf Bjereld, Alf W. Johansson, and Karl Malin. *Sveriges Säkerhet Och Världens Fred: Svensk Utrikespolitik under Kalla Kriget* (Stockholm: Santérus, 2008), esp. 173. See also Nils Andrén and Åke Landqvist, *Svensk utrikespolitik efter 1945* (Stockholm: Almqvist & Wiksell, 1965), esp. 50–51, 53, 87; Nils Andrén and Yngve Möller, *Från Undén till Palme: Svensk utrikespolitik efter andra världskriget* (Stockholm: Norstedt, 1990) esp. 207, 442–446.
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15. His book chapter 'Mänskliga rättigheter' was originally a 1958 lecture under the Brussels Exhibition, published in his book *Tankar om utrikespolitik* (1966), 13–14. See also Demker, *Algeriet*, 66–68.
16. Kellberg, 'Svenska inställningen', 302–307; Sundberg, 'Sweden and human rights', 957, 963–964; Östen Undén, 'Om FN:s och Europarådets domstolar', *Svensk juristtidning* (1963), 657–661.
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