Master's Thesis

Human Rights and Bureaucratic Relations

스웨덴의 인권과 관료주의적 관계

August 2014

Graduate School of Seoul National University

International Cooperation, GSIS

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Abstract

Human Rights and Bureaucratic Relations:

Examining stakeholder participation in the formation of human rights policy in the case of Sweden

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Sweden has a long history of civil society involvement in public affairs, and considering this it's hardly surprising to find that civil society participates in the formation of human rights policy. Sweden also has a reputation in the international community for strong human rights protection. This may lead one to assume that Sweden's reputation with regards to human rights is a result of civil society participation.

The argument of whether or not stakeholder participation leads to increased efficiency is as of yet not settled. This paper aims to answer the question of whether or not, in the case of Sweden, participation leads to increased efficiency in terms of stronger human rights protection. In order to shed light on the intricacies of human rights protection, stakeholder participation in the human rights policy formation process is explored using two perspectives on the relationship between participation and efficiency. The first perspective argues that participation leads to decreased efficiency, and the second that participation increases efficiency. In order to answer the question of efficiency, this paper uses qualitative method in the form of a case study. It does this by utilizing different stages in the Swedish National Action Plan policy creation, which have different levels of stakeholder involvement. As is shown in the analysis, stakeholder involvement increases with each step, yet the human rights record shows no improvement. On the contrary, protection for human rights has suffered more and more. This research will contribute to a deeper understanding of Sweden's trajectory towards a leadership position in human rights, and examine how it has since faltered. It does this by demonstrating how the government's opinion on the proper role for civil society has evolved as stakeholder involvement has increased, and argues that this has enabled the government to gradually shift its human rights responsibilities onto civil society actors. The result of this is that human rights protection has decreased as participation has increased.

This paper will thus produce relevant implications for the advancement of human rights promotion and protection. These implications demonstrate the importance of

genuine political will when involving stakeholders in the policy formation process. By extension, it also shows the detriment of increasing stakeholder involvement in mere fulfilment of formal requirements or in an effort to shift the responsibility onto actors which are not equipped to shoulder this burden.

This paper argues that in the case of Sweden's human rights policy formation, efficiency is decreased as participation increases, and that this is due to a lack of political will. As a result of this, Sweden's reputation as a champion for human rights may no longer be entirely deserved.

Keywords: Human rights, Participation, Efficiency, Sweden

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Abbreviations

CAT	Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment
CED	International Convention for the Protection of All Persons from Enforced Disappearances
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECHR	European Court of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
OPT	Optional Protocol

1   Introduction

Viewing it from the outside, Sweden appears to be a tremendous success story with regards to human rights. If we take a closer look at what goes on inside, we can perhaps gain valuable insight into the bureaucratic mechanics that ensures effective human rights protection. Sweden has a long tradition of civil society involvement, and this is viewed from the government perspective as a vital component of Swedish style democracy. Given this context, it is hardly surprising to find that civil society is involved in the protection of human rights. Nevertheless, this raises the question of whether or not this is really the best way of ensuring a strong protection of and respect for human rights. One perspective argues that this is a very effective way of implementing human rights, while the other asserts that a choice must be made between democratic deficit and loss of efficiency as reducing one will increase the other. By analyzing the bureaucratic process in Sweden, with a focus on different levels of civil society involvement in the formation of human rights policy and comparing the outcomes, this paper aims to clarify whether or not more stakeholder participation leads to greater efficiency. This research will contribute to a deeper understanding of Sweden's trajectory towards a leadership position in human rights, as well as produce relevant implications for the advancement of human rights promotion and protection.

1.1 Research Question

The main research question of this paper is whether or not stakeholder participation is effective in the context of Sweden. In order to answer this, two sub-questions are also addressed; why did the Swedish government choose to involve civil society? To what extent is civil society able to participate?

In order to answer these questions, this paper uses qualitative method in the form of a comparative case study, utilizing different stages in the National Action Plan policy creation with different levels of stakeholder involvement.

2 Literature Review

In order to situate this research, the literature review first deals with conceptions of civil society, and proceeds to review research regarding relationships, activities and issue areas. However, there exists no clear boundaries between these categories, and many times they overlap; most of the research on civil society doesn't stay within one category, but is often located in the nexus of relationship, activity and issue area. These categories have in common that there is no one prevailing approach; rather, each scholar seemingly conceptualizes and systematizes as suits his or her purposes.

It is not inaccurate to say that there are nearly as many conceptualizations of civil society as there are scholars studying it. This has resulted in a plethora of complementing ideas on civil society and how to delineate it from other spheres of society.

From a classical point of view, the state and civil society are inseparable. For example, Aristotle viewed society in this way, considering the state as a society of civility. Hobbes had a similar view, viewing civil society as a political society that served as an alternative to the survival of the fittest that would otherwise reign. With the breakdown of traditional views of authority caused by the rise of market economy, concepts of civil society moved in a new direction. Civil society became a way to realize individual freedoms and to protect from the overbearing hand of the state. Alexis de Toqueville, who is probably the most famous thinker on civil society, favoured this view. This perspective focused on the potential of associations to mitigate the power of the state and

form trust between citizens. Whereas this view points to the structural constraints, at the other end of the spectrum can be found conceptualizations that highlight obstacles that are caused by material inequalities. This perspective was favoured by among others Hegel, who considered the state necessary for keeping civil society in line lest it should turn uncivil. Similarly, Marx considered civil society as a tool of the powerful. Gramsci, on the other hand, saw civil society as a space of resistance towards convention as well as a space where the citizens' political positions were shaped. These two contrasting views on civil society, either as a site of inequality or as a means for the weak to defend against oppression, were consolidated by Habermas; he envisioned a civil society where communication was democratically constructed and driven by a shared meaning among its members (Alagappa, 2004, 26-32; Edwards, 2004, 5-10; Hsu, 2010).

The most common contemporary conceptualization sees civil society as a part of society as a whole, and focuses on associational life. This concept is based on Toqueville's view, and commonly divides society into four spheres; the state, the market, the family, and civil society. The first three are sometimes referred to as the political sphere or political society, the economic sphere, and the private sphere, respectively. To add to the conceptual confusion, some consider political society as a part of, rather than separate from, civil society (Alagappa, 2004, 28; Edwards, 204, 18-36; Janoski, 1998, 12-17).

In this conceptualization, civil society is a distinct sphere, separate from the other three. It includes all associations and networks between the state and the family, as long as activities and membership of such an organization is voluntary. Civil society is thus

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made up of associations and networks such as social movements, NGOs, churches, professional associations and labour unions (Alagappa, 2004, 32; Edwards, 2004, 18-36). While this conception at times considers political party organizations and electoral networks that make up political society as an important part of civil society, state institutions are not; civil society and the state are interdependent, with civil society providing pressure on the state in terms of accountability, and the state providing regulatory and legal frameworks and affects civil society through its policies (Edwards, 2004, 18-36).

The most prominent scholar using this conceptualization of civil society is undoubtedly Putnam, who studied the effects of associational activities on trust between citizens and their propensity to vote (Putnam, 1993, 1995, 2000, 2001).

Another way to conceptualize civil society is based on Gramsci's views, and considers civil society as a public sphere; a space for deliberation and associational collaboration. This concept also separates the state from civil society in the sense that legislative and judicial institutions are not part of the latter. Instead, civil society is a sphere for debating and developing public policy, cultural identity, community matters, societal differences and solutions to social problems. This requires citizens to be reasonably active participants in the shaping of society, rather than leaving politics to the elite and limiting their own participation to the occasional vote. From this perspective, civil society is important as a process for the formation of opinions, as well as for developing tolerance towards diversity. It serves as a way to develop new ideas and alternative solutions to old problems, and to balance personal interests against those of

society as a whole. This can only be achieved through democratic debate. This perspective views tendencies towards political correctness as a serious problem. A healthy civil society requires vigorous deliberation in order for some sort of consensus or consent to emerge, whereas too much political correctness risks leading to avoidance of deliberation in favour of polite conversation that will resolve nothing (Alagappa, 2004, 32; Edwards, 2004, 54-71).

Civil society can also be conceptualized from a normative standpoint. Civil society in this case is equated to a good society; it is literally a civil society. Aside from civility, this kind of civil society is characterised by trust, cooperation, non-violence, tolerance and non-discrimination, freedom, and democracy. It can thus be said to be an aspirational social order (Edwards, 2004, 37-53; Labigne, 2012). There exists some analytical confusion surrounding this concept of civil society, as the ascriptive good can be understood in more ways than one. One the one hand, a good or civil society can be understood as one in which public policy problems are solved in a just and effective manner. On the other hand, a good or civil society can be one where the level of trust and cooperation between citizens is generally high (Edwards, 2004, 37-53).

While these are common ways to conceptualize civil society, they are not the only ones. Scholars have pointed out that these concepts may be unsuitable for non-western societies, where the distinction between state and civil society is not as sharp as for example in the United States. For instance, Carolyn Hsu has challenges two common concepts of civil society and offers a third option. In her opinion, the concept of civil society as a solution to the problem of government, and the concept of civil society as

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pushing out and replacing the government, are both inadequate for studying countries such as China. Instead, she suggests that organizational culture has led civil society in China to form a much tighter relationship with the state than is common in the West. Hsu argues that because of this close relationship, many scholars mistakenly believe that China does not have a civil society (Hsu, 2010).

From a simplistic approach, civil society relationships can be divided into three different levels – national, supranational, and sub- and transnational relationships. These refer to civil society relations to different actors. As civil society is often conceptualized in contrast to the state, the relationship between these two has received considerable scholarly attention. However, some investigate the relationship on a supranational level, typically civil society's relationship to the UN (Cassese, 1979; Gaer, 2003; Martens, 2004), the EU (Iusmen, 2012; Kendall, 2010; Sánchez-Salgado, 2007), or different international courts (Glasius, 2008; Nichols Haddad, 2012; Van Der Vyver, 2003). Others concern themselves with relationships within civil society, in other words the relationships between civil society organizations within and across borders (Bob, 2007; Pouligny, 2003; Sánchez-Salgado, 2007).

Migdal understands the relationship between society and the state in terms of social control; the relationship is determined by which actors are able to make and enforce the rules of the game. The state, therefore, is not the only one that can exercise social control; competing groups may challenge the rules of the state with their own. It follows thus that when one is strong, the other must be weak. Migdal offers three indicators of social control; compliance, participation and legitimation. Compliance indicates the ability to

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get people to concede to demands. Participation, which is slightly stronger than compliance, indicates the ability to get the population to repeatedly and voluntarily conform to the rules. Finally, legitimation involves the acceptance of the rules as correct, and are followed not only to gain rewards or to avoid sanctions but because they are believed to be the right rules to follow (Migdal, 1988, 10-41).

Putnam presents a challenge to Migdal's position that a strong society is only possible in a weak state. Instead, Putnam argues that a strong state requires a strong civil society (Putnam, 1993).

An alternative way to understand the relationship between the state and civil society is presented by Jennifer Coston. She categorises relationships into eight types based on the levels of linkage between the state and civil society organizations, the relative power between the two, degree of formalization in the relationship, and how favourable the government is towards civil society in general. Relationships can thus span from repression to cooperation (Coston, 1998).

Alagappa, like Coston, sees a variety of possible relationships, although he doesn't employ a systematic categorization. He considers relationships as not necessarily confrontational, but as ranging across a broad spectrum with differing levels of intensity and influence of one over the other. In most cases, the relationship is one of mutual dependence (Alagappa, 2004, 36-37).

Once concept has decided what organizations are to be considered as a part of civil society, these organizations are often categorised based on their activities. Commonly, they are divided into two categories; organizations that deliver services (Howland, 2008;

Janoski, 1998, 14-15; Lowry, 1995; Martens, 2004; Nichols Haddad, 2012) or organizations that try to affect behaviour (Aaronson and Zimmerman, 2006; Gaer, 2003; Howland, 2008; Janoski, 1998, 12-14; Lowry, 1995; Martens, 2004; Neild, 2003; Nichols Haddad, 2012; Press, 2013; Roth, 2004; Rubenstein, 2004; Sampson, 2003; Tamm, 2004; Wright, 2002). Affecting behaviour can encompass many similar but distinct activities, such as awareness raising, advocacy, accountability and policy making. Some scholars, however, have an extended understanding of civil society activities and include leisure organizations as well (Putnam, 1993, 1995, 2000, 2001; Van Der Meer et al, 2009).

As the type of activity a civil society organization undertakes is greatly affected by its relationship to the state as well as its issue area of activity, scholarly research on activities are heavily influenced by not only concepts of civil society, but also issue area and relationships. Particularly issue area and activity demonstrates a significant over-lap. For example, accountability activities in the area of democratization quite naturally have a tendency to show up together.

As has become apparent from this literature review, certain issue areas have been the subject of much scholarly activities. Studies relating to specific issue areas focus on particular concepts, types of relationships and activities, as the appropriate issues to study are often delineated by these factors.

With regards to civil society, scholarly research is particularly prolific in the area of democracy. Many of these studies focus on the role of civil society in the building of social capital (Edwards and Foley, 2001; Heitzmann et al, 2009; Putnam, 1993, 1995, 2000, 2001), holding the state accountable (Fioramonti and Thümler, 2013; Pianta, 2013),

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or as a force for deepening of or transition towards democracy (Alagappa, 2004, 25-54; Fioramonti and Thümler, 2013; Kim, 2000; Sampson, 2003). Another area that receives a lot of scholarly attention is development, in particular with focus on participatory implementation (Goulet, 2005; Grimble and Chan, 1995; Seppälä, 2002; Wester, 2004). With regards to human rights, research focuses mainly on civil society as service providers that implement human rights (Alger, 2003; Backer, 2003; Howland, 2008; Martens, 2004), or as advocacy groups that put pressure on the government from outside the policymaking process (Aaronson and Zimmerman, 2006; Backer, 2003; Bob, 2007; Martens, 2004; Rubenstein, 2004) and hold the government accountable for human rights violations (Backer, 2003; Gaer, 2003; Howland, 2008; Roth, 2004; Rubenstein, 2004). There are, however, some studies on civil society as participants in the decision-making process.

    For example, Iusmen and Persson have both studied civil society participation in EU policymaking. Iusmen analyses the impact of civil society participation in the policymaking process regarding the Rights of the Child in the European Union (Iusmen, 1012), and Persson investigates whether or not civil society participation in certain policy processes f the EU can really be considered as decreasing the democratic deficit (Persson, 2007). Similarly, both Glasius and Van der Vyver examine civil society participation in the formation of the ICC statute. Whereas Van der Vyver scrutinizes how civil society participation shaped the statue of the ICC (Van Der Vyver, 2003), Glasius considers the desirability of civil society involvement in the negotiations of the statute and to what extent this contributes to democratization of the decision-making process (Glasius, 2008).

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Civil society research that focuses on Sweden is rather scarce. Topics for research tend to centre on democracy and welfare, or the historical evolution of civil society in Sweden (Amnå, 2006; Micheletti, 1995; Trägårdh, 2010).

As can be seen, there are many gaps in the scholarly research on civil society. In the nexus of relationship, activity type and issue area, we find civil society participation in human right policy formation as shown in Figure 1 below. This topic is woefully under-explored; in the case of Sweden, it has remained entirely unexplored. This thesis aims to be a modest contribution towards filling this void.

Figure 1: Situating the research
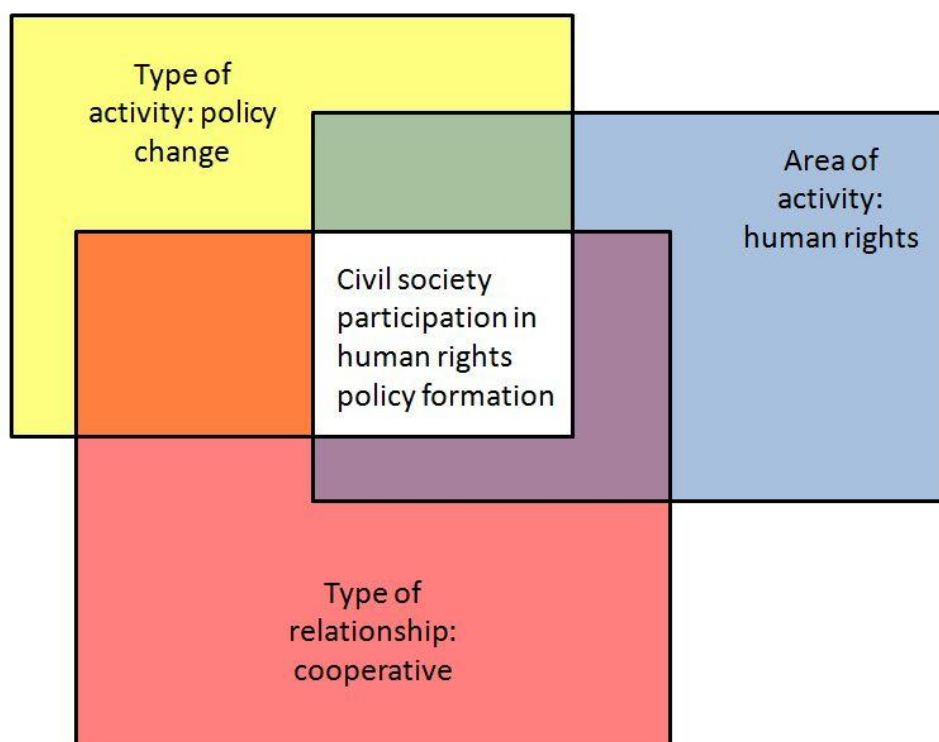
3   Civil Society in Sweden

This section gives an account of civil society in Sweden, starting with a historical overview of the evolution of Swedish civil society and its relationship with the state throughout the various phases of development, and concluding with a brief outline of the present-day situation.

3.1   The Evolution of Civil Society in Sweden

The history of civil society in Sweden can be roughly outlined in six different periods, starting at 1850s and leading up to the mid-1990s.

The first and last two periods share similarities in how they developed. A prominent feature of both these ages is the transition spurred by a struggle for recognition by a variety of political actors. Historians in Sweden agree that internationalization, democratization, urbanization, individualization, and industrialization can be considered as characteristics of the first age. The struggle resulted in new social contract concerning political rights, freedom of religion, speech and assembly. The second age also created a new social contract which aimed at ensuring equal treatment of every individual. Swedish political scientists have described the typical features of this age as internationalization, individualization, postindustrialization, decentralization, and marketization (Micheletti, 1995, 3).

A repeating behavioural pattern among the political and social actors can be seen through the evolution of relations between civil society and state in Sweden. Actors that first challenged the established order eventually become the ones that defend it the most vigorously, criticizing the new challengers and their activities, goals and methods. This pattern of actors changing position from challenging to reinforcing developed during the first period and has been repeating over and over ever since (Micheletti, 1995, 33). Another general feature of the history of Swedish civil society is that once a social movement has established itself, the established political order has a change in attitude from hostile to accepting (Micheletti, 1995, 35).

The first period saw the formation of the modern Swedish civil society, starting at the 1850s and ending at the turn of the century. The mid-1800s in Sweden were characterized by extreme transformation, where the old Swedish society disintegrated. This past society was based on the authority of the state church and other similar hierarchies of patriarchy. The church, however, was the focal point of society (Micheletti, 1995, 32).

The societal disintegration was set in motion by new land redistribution laws, which had the effect of displacing a large number of people and creating numerous kinds of social misery. It also left a void of social organization, which was then filled by the emerging civil society organizations. The most prominent civil society organizations of this time were free churches, women's and peace movements, temperance movements, and union movements. These organizations struggled for economic justice and began demanding various rights, such as the right to freedom of assembly, of the political order (Micheletti, 1995, 32-42).

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The early 1900s, the formative period of Sweden's civil society had come to an end. The second period, which started here and ended in the 1920s, was a time of democratization and rise of capitalist economy in Sweden. It was also a time of some of the greatest conflicts of this decade, in particular around the issues of prohibition and workers' rights. Many of the movements of the first period pressured the political order to recognize them as legitimate actors during this time, and were able to push through this recognition by the mobilization of popular support. They also carried on the battle for economic justice; in reaction to capitalism, several kinds of cooperative organizations related to economic rights emerged and gained legitimacy during this period. While support for these organizations was at first weak, popular attitude changed during the war years (Micheletti, 1995, 43-58).

The democratization of Sweden brought with it changes in the political opportunity structure that had both negative and positive impacts on civil society. As all adults gained the right to vote, new political parties began to develop. These took the place of many civil society organizations as an arena for social change, which led to a loss of public support for free churches, the temperance movement, and the women's and peace organizations. Labour unions, however, were able to grow in strength. This time also saw the genesis of adult education associations and the conservationist movement, the first of which prospered along with the labour unions whereas the second was only marginally successful (Micheletti, 1995, 43-51, 56-58).

During this period, the Pentecostal movement reached Sweden. While peasants and workers were favourable to this development, the government, state church and the

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established free churches were less than enthusiastic, and did their utmost to label the Pentecostal movement as a threat. Somewhat ironically, this parallels the emergence of the free churches during the first period (Micheletti, 1995, 58-59).

The third period, encompassing the 1920s and 30s, was characterised by compromise. With the looming war crisis in Europe, there was an increasing emphasis on national unity, solidarity and social responsibility in Sweden. People increasingly felt that in order to ride out the storm, they all had to pull together and cooperate. This sense of national solidarity furthered respect for class differences and helped form the Swedish concept of the people, which soon enabled the development of the Swedish welfare state known as Folkhemmet; the people's home. The Saltsjöbaden Agreement, concluded in 1938, has become a salient symbol of this mentality of compromise and national unity. The concept of the people's home melded political democracy, the people, and social movements together, creating the foundation for Sweden's modern political culture. While social movements were still important, the driving force for a reshaping of society came from the government. With this came a belief that the only effective way for organizing wide-scale change was though government action. The independent civil society that had grown strong during the second period was now starting to merge with the government into what came to be called the strong society; the distinction between state and civil society faded away as the two melded together. As their combined forces successfully achieved a variety of remarkable tasks, there were very little critical sentiments towards this merger among the people (Micheletti, 1995, 60-71).

During the 1940s and 1950s, which make up the fourth period, the Social Democrats began their reign on the Swedish political stage. It was during this time that the welfare state was developed and expanded. The Swedish Model, in which opposing political actors met with mutual respect to discuss their differences, surfaced during this time. This model emphasized reaching consensus and avoiding conflict. The expanding welfare state meant that the government assumed many of the activities that had previously been in the realm of civil society, which had a negative impact on many of the civil society organizations; almost all of the civil society organizations of this period were active in welfare service provision. Towards the end of the 1950s, many organizations started to show signs of stagnations, as well as loss of members (Micheletti, 1995, 72-88).

During the fifth and sixth period, the basis of the Swedish Model and its decision-making style came to be seriously questioned.

The fifth period stretches from late 1950s to the end of the 1970s. During this period, there were great changes in the political landscape and the Swedish mentality. As post-material values gained importance, established civil society organizations came under criticism from politicians and government, students, intellectuals, as well as from their own members. Anti-American sentiments and solidarity with third world countries gained ground, spawning new socialist ideology and social movements. The established political order and the predominance of the Social Democrats were challenged by these new movements. This period saw intense levels of grassroots activity, distrust of and disappointment with the system, political deviance, civil disobedience, demonstrations and confrontation with the police. Of particular importance for these movements during

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this period was the opposition of nuclear power. Unsuccessful attempt to resolve this issue caused a general disillusionment with democracy. In 1974, electoral laws were r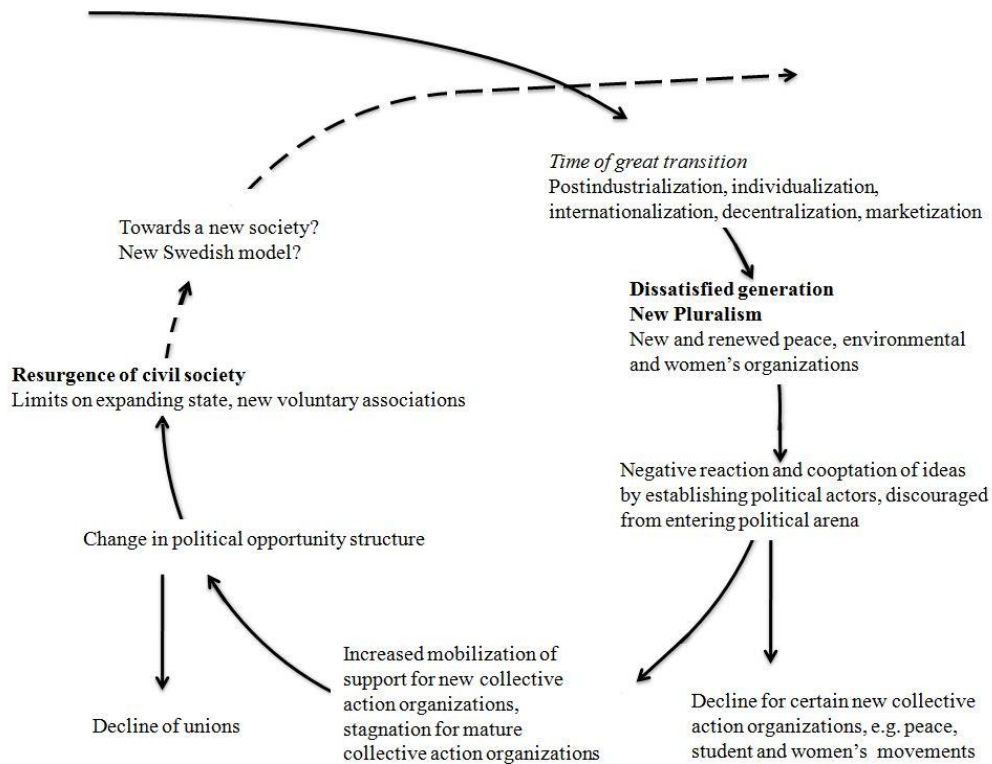eformed and a new constitution adopted. Shortly thereafter, the predominance of the Social Democrats came to an end (Micheletti, 1995, 89-115).

The 1980s and 1990s, which cover the sixth period, felt the impact of the fifth period developments; civil society in Sweden experienced a renaissance, mainly concerned with issues that had previously been overlooked. Questions regarding gender inequality and environmental damage became top priorities. At the same time, xenophobic sentiments grew, producing new racist organizations and political parties. This civil society revitalization demonstrates how badly the established political parties and civil society organizations had lost the ability to maintain the support of the people. As the population battled for political change and expansion of democracy through protests, the government started to question the suitability of involving civil society in the political process. Civil society organization increasingly came to be viewed by the government as "demand machines" that represented special interests and lacked accountability. At the same time, the people started losing their sense of pride in the welfare state and began questioning the role, scope and cost of its government. Rather than putting their faith in civil society as before, people turned to decentralization, deregulation and market competition as solutions to the problems of the welfare state. This period became a time when topics that were taboo could be debated openly and established truths could be questioned; the country had steered away from the Swedish Model that avoided conflict in favour of polite consensus (Micheletti, 1995, 116-141).

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As can be seen in Figure 2 below, the evolution of civil society in Sweden can also be illustrated as revolution, with pattern of change repeating at intervals and rise and decline initiated by a transition period.

Figure 2: Evolution of Civil Society in Sweden

Time of great transition
Postindustrialization, individualization,
internationalization, decentralization, marketization

Dissatisfied generation
New Pluralism
New and renewed peace, environmental
and women's organizations

Negative reaction and cooptation of ideas
by establishing political actors, discouraged
from entering political arena

Towards a new society?
New Swedish model?

Resurgence of civil society
Limits on expanding state, new voluntary associations

Change in political opportunity structure

Increased mobilization of
support for new collective
action organizations,
stagnation for mature
collective action organizations

Decline of unions

Decline for certain new collective
action organizations, e.g. peace,
student and women's movements

Note: Reproduced from Micheletti (1995), 146-147.

3.2   Current Government Position on Civil Society

The government's current position with regards to civil society is dominated with

concerns about democracy; civil society is considered as an essential feature to safeguard

the viability of democracy in Sweden.

Up until a few years after the turn of the millennium, civil society featured in official

publications as a democratic enhancement. Its main purpose was to provide another arena

for people to voice their opinions and to motivate them to partake in democratic

deliberations (SOU 1999: 84; SOU 2004: 59; Ds 2001:34, 30-31).

Approximately a decade ago, civil society's role as service providers started to be mentioned as well. However, democracy was still the main concern, and service provision was generally considered as another way to enhance the people's democratic participation (Integrations- och jämställdhetsdepartementet Ungdomspolitiska enheten; SOU 2007:66; prop. 2009/10: 55).

In 2009, the government developed an official policy for civil society (prop. 2009/10:55) which replaced the earlier policy for people's movements (prop. 2009/10:55, 47-48). The new policy has expanded to be more inclusive, meaning that more organizations can be considered as part of civil society. While other functions of civil society are considered, the whole document is permeated by the view of civil society as an important tool for a vibrant democracy.

The main goal of the new policy is to improve civil society's ability to function as a central component of democracy, which the government intends to achieve by means of three intermediate aims. The first is the rather vague aim of developing civil society's ability to enable popular participation. The second aim, which is similarly vague, concerns the government's intention to enhance civil society's ability to contribute to the development of Swedish society as a whole. The third and final intermediate aim is to disseminate knowledge about civil society (prop. 2009/10:55, 44, 48-52). The new policy outlines six principles for evaluating how well the aims have been met; independence, dialogue, quality, sustainability, transparency and diversity (prop. 2009/10:55, 52-61).

The first aim seems to be based on strong faith in the validity of Putnam's research; popular commitment to and involvement in the democratic process is to be strengthened

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by the increase in social capital which will follow as a natural consequence of associational activities (prop. 2009/10:55, 48-50). Another way in which civil society is believed to increase popular involvement is to provide democratic education by teaching people how democratic decisions are reached, in society as a whole as well as internally (prop. 2009/10:55, 42-43, 49). The government intends to reach this aim by removing obstacles to associational participation, among which working hours and family situation are mentioned. There are no mentions of concrete strategies for the removal of these obstacles, but rather they will be dealt with within their respective policy areas (prop. 2009/10:55, 51).

The government strategy for the second aim is to enhance civil society's ability to be welfare service providers by making government funding for such projects more easily accessible. The government thus intends to direct more of its outsourced obligations towards civil society. This will increase the diversity in options available to the people, which will enhance the people in their role as opinion holders and choice makers (prop. 2009/10:55, 51).

Finally, the third aim is to be reached by the systematic collection of statistics about civil society (prop. 2009/10:55, 52).

A 2012 report on the future of civil society in Sweden shows rather unsurprisingly that Swedish civil society is undergoing transformation. Civil society's role as a welfare service provider has become more prominent, while at the same time participation in associational life is declining (Harding, 11). This is believed to be cause by a growing distrust towards authorities, a trend that is evident in other countries as well but appears

to be particularly strong in the case of Sweden. While civil society in Sweden has traditionally been dominated by democratic participation processes based on membership open for anyone, the current decline in membership rates raises concerns with regards to the democratic viability of civil society as decisions to a greater extent are made by association employees rather than members (Harding, 12-13).

It is however expected that civil society will continue to play an important role in the enhancement of democratic participation (Harding, 11). In addition, while membership in associations in general is on the decline, membership in associations that focus on voluntary work remains steady which means that civil society is able to maintain and even expand its role as a provider of welfare services (Harding, 12-13).

A recent committee terms of reference, resulting from a government meeting on March 13 2014, reiterates the idea of civil society as a central part of democracy. The emphasis, however, has discreetly been shifted somewhat; civil society is still vital for democracy, but now the focus is on how to better enable civil society to function as providers of welfare services. Civil society organizations' role as employers is also more prominent in mention (Dir. 2014:40).

4 Analytical Framework

4.1 Theory

For the theoretical framework, this thesis utilizes two competing perspectives on the relationship between participation and efficiency. These perspectives take radically different positions on the effect that participation has on efficiency, one considering the relationship negative and the other viewing it as positive.

According to the first perspective, participation and efficiency are diametrically opposed. From this follows that to increase one, the other must necessarily decrease (Woods, 2007, 31). Participation is considered as inefficient mainly because it increases red tape and creates delays, making for a time consuming process (Irvin and Stansbury, 2004; King et al, 1998; Woods, 2007, 31).

Efficiency is also decreased because increased participation means increased difficulty in reaching a decision as well as increased costs. This increased cost may mean that there is less money for the implementation of the policies. In addition, stakeholders may represent specific interests rather than community-wide interests, which risks leading to policy decisions that are worse than would be the case without participation; there is no guarantee that participation leads to better decisions (Irvin and Stansbury, 2004). Increased participation may thus cause a loss of autonomy and flexibility (Salamon, 1994; Woods, 2007, 32-33).

Finally, participation does necessarily translate to influence; suggestions can be considered merely as advice, or outright ignored (Irvin and Stansbury, 2004). Additionally, research has shown that administrators may block opinions that challenge the status quo (King et al, 1998), meaning that the process is not only slow and costly but also meaningless. It therefore follows that efficiency requires limited participation, whereas high level of participation reduces efficiency.

The competing perspective considers participation as highly beneficial for efficiency; rather than reducing efficiency, it enhances it. This view is clearly the dominant one among scholars, and as evident by the UN Handbook for National Action Plans, it is also the perspective favoured by the UN.

The reasons why participation is considered as increasing efficiency are several. One that figures particularly often is the argument that participation increases legitimacy (HR/P/PT/10, 14, 20-21; Irvin and Stansbury, 2004; Woods, 2007, 34-36).

Efficiency is also benefitted because participation enables more views to be presented (Binkerhoff, 2002, 3-4; HR/P/PT/10, 14, 54, 62, 107; Irvin and Stansbury, 2004; Woods, 2007, 35), thereby making it possible to make better choices for policy (Irvin and Stansbury, 2004). This in itself increases efficiency, but it also allows for more innovative solutions to problem which also leads to greater efficiency (Birkerhoff, 2002, 4).

Participation has also been considered as a way to decrease costs. In the case of conflict, cooperation can prove much less costly in terms of time and resources (Birkerhoff, 2002, 4). Participation is also a way to head off future conflicts, thereby avoiding litigation costs (Irvin and Stansbury, 2004).

The relationships between participation and efficiency that these two perspectives represent are illustrated below.

Figure 3: Theoretical Perspectives
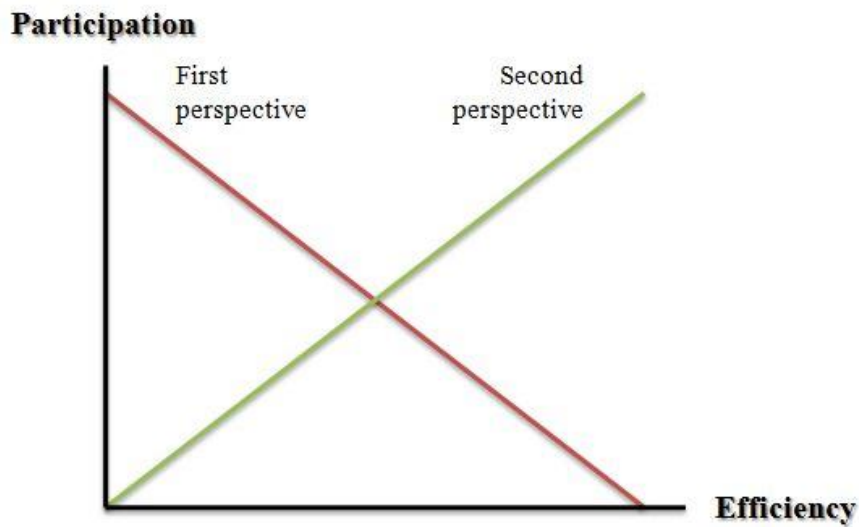
4.2 Methodology and Cases

In order to answer the question of whether or not stakeholder participation leads to greater efficiency in the case of Sweden, this paper uses qualitative method in the form of a case study, utilizing the ongoing project of creating a National Action Plan for Human Rights. At this point, there have been three different stages in the project, with different levels of stakeholder involvement. This allows for a comparison of before, two instances of in between, and of after the latest development. By looking for difference in outcome

between different levels of stakeholder involvement, this type of case study will clarify the relationship between participation and efficiency for the context of Sweden.

The three stages cover the baseline study for a National Action Plan, the first National Action Plan, and the second National Action Plan. These stages all concern human rights as a comprehensive area. The baseline study was submitted to the Riksdag in March 2001, and involved 65 civil society organizations. The two National Action Plans were submitted in 2002 and 2006 respectively. Stakeholders participating increased in number to 163 Civil Society Organizations involved in the first action plan, and again to 248 organizations in the second. A third action plan is currently in the process of being created, which will presumably show a similar increase in civil society involvement.

The main source for this analysis will be documents published by the government with regards to this process of policy creation. As Sweden has laws concerning the right to public access to official documents, information with regards to government activities is abundant and easy to access through the internet; providing that one has a high level of proficiency in the Swedish language. In addition this documentation, some statistics will be utilized as a complement to the qualitative analysis, in order to form a more comprehensive picture.

5   National Action Plan for Human Rights

In 2002, the first National Action Plan for human rights was submitted to the Swedish Riksdag, followed by a second National Action Plan in 2006. The national action plans concerns human rights as a comprehensive area, and utilizes a relatively high level of stakeholder involvement in the formation process. Including the baseline study in preparation for the first National Action Plan, which also had stakeholder input, participating stakeholders in the form of civil society organizations has increased by roughly 100 per round. Presumably, the third National Action Plan, which is currently being created, will show a similar increase in civil society participation.

In this section, the human rights situation on Sweden will be outlined before proceeding to analyse the National Action Plans along with the baseline study, comparing the civil society involvement and the outcomes in order to determine how stakeholder input has affected the process and outcome in the case of Sweden.

5.1   The State of Human Rights in Sweden

The human rights situation in Sweden is generally considered as very good by outside observers. The population in Sweden, however, does not share this sentiment. The most recent wave of the World Values Survey show that the population overwhelmingly feel that there is some but not full respect for human right in Sweden. Nearly as many people feel that there is very little respect for human rights as those that feel that there is a lot of

respect. Only about half a percent feel that there no respect at all (WVS, sixth wave, v142). The government takes a somewhat cautiously optimistic position, expressing that human rights are in general respected but that there are still areas with room for improvements (DS 2001:10, 17).

The main responsibility for human rights in Sweden falls on the Ministry of Employment. However, for specific questions on the matter of human rights responsibility is assigned according to ministry policy area (skr 2001/02:83; skr 2005/06:95). Aside from government ministries, some of the responsibility also falls on the municipal administrative offices, the court system and the office of the ombudsman. The office of the ombudsman has been emphasised as particularly important, especially as an additional accountability mechanism (DS 2001:10, 31, 35).

A weakness in the Swedish system is that in many instances in the formation and execution of national policy these efforts are not actively related to human rights, whether by neglect or intention (DS 2001:10, 49-50; SOU 2010:70, 442). This largely appears to be a result of a lack of awareness and knowledge within the public sector concerning responsibility to ensure that human rights are respected (SOU 2010:70, 442). The situation with regards to the national level stands in stark contrast to foreign policy, where human rights are explicitly a top priority and oftentimes the first issue on the agenda (UD 10.084; skr 2007/08:109; skr 2003/04:20). It has repeatedly and expressly been stated that human rights have to permeate every area of foreign policy in a consistent manner (skr 2003/04:20, 4; skr 2007/08:109, 28, UD 10.084, 1).

Sweden has ratified a number of international human rights conventions. A list of the UN conventions along with dates of ratification and entry into force is presented below.

Table 1: UN Human Rights conventions that Sweden has ratified

Convention	Ratification date	Entry into force
CERD	6 December 1971	5 January 1972
ICCPR	6 December 1971	23 March 1976
- ICCPR OPT	6 December 1971	23 March 1976
- ICCRP OPT2	11 May 1990	11 July 1991
ICESCR	6 December 1971	3 January 1976
CEDAW	2 July 1980	3 September 1981
- CEDAW OPT	24 April 2003	24 July 2003
CAT	8 January, 1986	26 June 1987
- CAT OPT	14 September 2005	22 June 2006
CRC	29 June 1990	2 September 1990
- CRC OPT	20 February 2003	20 March 2003

- CRC OPT2	19 January 2007	19 February 2007
CRPD	15 December 2008	15 January 2009
- CRPD OPT	15 December 2008	15 January 2009
	Signatory only	
CED	6 February 2007	

Sweden's position regarding reservations is that as far as possible reservations should be avoided and if made they should be withdrawn as soon as they are no longer necessary (DS 2001:10, 24).

Sweden has entered few reservations to the conventions listed above. Of the ICCPR, Sweden has reservations entered against article 10 paragraph 3, concerning the obligation to segregate juvenile offenders from adult offenders, article 14 paragraph 7, prohibiting the prosecution of a person for a crime of which he or she has already been tried, and article 20 paragraph 1, which obligates the state to legislate against war propaganda. Sweden also has a reservation entered for ICESCR with regards to part of article 7 (d), relating to the right to remuneration on public holidays.

Even though Sweden didn't enter into membership in the European Union until 1995, it ratified the European Convention on Human Rights already in 1952. In addition to

these conventions, Sweden has also ratified the Rome statute, as well as a number of human rights related conventions with other organizations (DS 2001:10, 24-26, 120). Sweden has, for example, ratified more than 70 conventions with the ILO. All of this means that Sweden has to submit reports in agreement with these conventions, at an average, for about 20 conventions each year (DS 2001:10, 45).

As Sweden applies the dualistic principle, international human rights commitments do not immediately upon ratification become part of domestic law, but have to be assimilated by transformation, incorporation or norm harmonization. Whereas in the case of transformation, international commitments that are not already part of domestic law are added by translation or re-writing, and in incorporation international commitments are given equal status to domestic laws by prescription, in the case of norm harmonization it is upon ratification considered that domestic law already sufficiently reflects the commitments undertaken (DS 2001:10, 31-34). While norm harmonization was employed previously, the principal method currently in use by Sweden is transformation (DS 2001:10, 31-34; SOU 2010:70, 19).

The reason behind Sweden's rather prolific ratification is to provide for the long term protection of human rights; because the conventions are international no one state can unilaterally alter the agreements, which means that once Sweden has joined it can't backtrack easily. With a greater number of international commitments, the protection for human rights is able to better withstand turbulent times when internal divisions, changes in power, or generally difficult conditions might otherwise down-prioritize human rights (SOU 2010:70,18).

While the official position is that the right of the individual to issue a complaint with an international supervisory body is of great importance to Sweden, it has still stated its opposition for such a mechanism with regards to the international convention for economic, social and cultural rights (DS 2001:10, 43).

The greatest area of concern with regards to the protection of human rights in Sweden is the right to a fair trial without undue length of proceedings. In the period between 1959 and 2010 violation of this right has made up 62% of the cases against Sweden being judged by the European Court of Human Rights, compared to 46% for the 47 member states of this period. In 50% of the cases against Sweden that have been judged by the ECHR between 1959 and 2010, the court found that Sweden had violated human rights, whereas for the 47 member states violations were found in 83% of the cases. Of the applications submitted to the ECHR during this period, 98% were either not admissible or were struck from the list of cases, and in only 2% of the applications did the ECHR make a judgement. (ECHR, Statistics on judgments by State) In total number of cases before the ECHR against Sweden during this time period is 95 with the court ruling that a violation has occurred in 47 cases. 5104 applications between 1959 and 2010 have been struck or decided inadmissible (ECHR, Country Fact Sheets 1959-2010).

Another area where Sweden's record is less than exemplary concerns the right to not be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Two main issues stand out with regards to this. The first is the mistreatment of various groups, such as people participating in demonstrations, by the police force, and the

second the refoulment of asylum seekers to countries where they risk being subjected to torture.

Several organizations, from domestic civil society organizations to intergovernmental organizations such as the UN, have criticised Sweden on all of these issues. For example, the UN Committee Against Torture has brought up its concerns regarding the use of police dogs in the police's encounters with demonstrators, as well as excessive use of violence in the handling of those detained by the police (DS 2001:10, 115-116).

The Swedish section of Amnesty International has also highlighted the excessive use of force by the police, pointing to a number of deaths in police custody as well as other instances of excessive violence that amount to torture even while not being fatal (DS 2001:10, 119).

The most current developments in the ongoing effort to protect human rights concern suggestions that Sweden should establish a national institute for human rights (SOU 2010:70, 15). The role of civil society in monitoring the implementation and contributing to development of human rights policy has also been highlighted (SOU 2010:70, 289-293).

5.2   National Action Plan Baseline Study

The first step towards a national action plan was commenced in 2000, with the appointment of an interdepartmental working group by the ministry of Justice. The working group was charged with mapping out a comprehensive picture the human rights

situation in Sweden in preparation for the creation of the National Action Plan, and completed this task with the publication of their investigation in march 2001 (DS 2001:10, 7; skr 2001/02:83, 18).

The interdepartmental working group produced the map of the human rights situation with the aid of four different reference groups that were invited to participate. The first group was made up of the then six different offices of the ombudsman, whereas the second consisted of representatives from different government agencies. Academics, union representatives, and people with experience working with human rights comprised the third group. Of the four reference groups, these first three had the opportunity to submit their opinions on measures to improve the protection of human rights by participating in meetings. The fourth group was composed of 65 civil society organizations, which were given the opportunity to submit their opinions in writing (DS 2001:10, 12-13). It is not clear from the baseline study if all four groups have had the opportunity to submit opinions both orally and in writing, or if there has been a division between oral and written submission among the reference groups.

The baseline study often doesn't specify from which reference group specific suggestions have come, but only refers to most of these suggestions as brought up by several parties. Considering that there are only four reference groups, and that the fourth makes up a numerical majority at close to 60%, there is however a good chance that at least some of the civil society organizations represented in the fourth reference group has been among the parties included in "several". If only one or two reference groups brought up an issue, and the fourth group was not among those bringing it up, it's unlike this

would have been refer to an issue brought up by several parties. In some instances, however, civil society is referred to explicitly, even naming the organization that contributed a certain opinion.

Among the issues raised by several parties is the question of whether or not Sweden should assimilate more international conventions into domestic law. The opinion expressed is that it is an important step for strengthening the national human rights protection to proceed with this sort of assimilation. The fourth reference group, along with the third, have stressed how important they believe it is to include suggestions of incorporation of conventions concerning human rights in any national strategy aimed at the fulfilment of such rights (DS 2001:10, 32-33).

These several parties have also raised issue areas that they feel are of particular importance to focus on for the improvement of the human rights situation in Sweden, and therefore need to be included in the upcoming National Action Plan. These same issue areas have oftentimes been the focal point for international criticism towards Sweden, such as the protection against torture and the right to a fair trial (DS 2001:10, 17).

Aside from the concrete input from organizations, civil society also appears in the baseline study in another way; there is a suggestion for two-way information transfer. Rather than just having information transfer in terms of opinions from civil society to the government, the suggestion is that the government also needs to keep the civil society organizations informed of its work on human rights. Specifically, there is mention of UN reporting, where civil society organizations sometimes submit a report along with the government's country report. In the baseline study, the working group proposes that the

recommendations from the UN committee's in response to the country report should be shared with aforementioned civil society organizations (DS 2001:10, 42).

If we consider outcome in a very simplistic manner, the baseline study has been a resounding success; it resulted in a National Action Plan, just as intended. Adopting such a simple view of the situation, however, doesn't add anything helpful. It also fails to recognize the complexities of participatory policy formation.

The baseline study, unlike the National Action Plans, was not supposed to in itself produce human rights policy. It was meant to perform necessary preparations for the plan. In a sense, the baseline study was merely the bulldozer that cleared the way for the road crew; just as important, but performing a different function. The intentions being such, the baseline study cannot be considered as having an outcome in terms of a direct effect on the protection of human rights. It can, however, have an outcome in terms of effect on human rights policy, which in turn serves to protect human rights. In other words, the outcome is here more indirect. This is true of civil society participation in human rights policy formation in the other stages as well. The involvement of civil society organizations in itself does not create better protection of human rights. However, their impact on the policies can.

In addition, the baseline study can be thought to have outcome in terms of human rights promotion. It represents a clear, tangible step towards the improvement of human rights protection, which may have an impact on the perceptions of the people with regards to whether or not human rights are being protected.

We can also consider outcome in terms of how much of civil society suggestions was taken to heart. As mentioned above, it had been suggested that the first National Action Plan needed to include certain important issues. The right to a fair trial and the right to not be subjected to torture were explicitly mentioned. Both these issues are among the prioritized areas in the first National Action Plan.

5.3   The first National Action Plan

The first National Action Plan was presented to the Swedish Riksdag on 24 January 2002, and concerns the promotion and protection of human rights encompassing the three-year period between 2002 and 2004. While the National Action Plan concerns human rights as a whole, some selected areas of rights receive particular attention. Particular emphasis has been placed on the question of how to increase the spread of information and knowledge about human rights, as this is a weakness from which Sweden suffers. The plan has been published in two versions; one full text and one shorter, easy to read version. Presumably, the second version is aimed at people that may have a hard time with Cabinet Swedish, such as children or immigrants, in order that the information should be accessible to everyone.

As in the case of the baseline study, the interdepartmental working group for the National Action Plan has utilized four different reference groups for the development of the plan (skr 2001/02:83, 17). The third reference group for the baseline study, which consisted of academics etc, was extended to members of the Riksdag (skr 2001/02:83, 19). Aside from this change, the groups consist of the same type of participants as for the

baseline study. With the exception of the first reference group, which is made up of the six offices of the ombudsman, the internal composition of the reference groups has changed, however. The fourth reference group saw a numerical increase of roughly 100 civil society organizations, with one organization that participated in the baseline study not returning to participate in the development of the National Action Plan.

In the first National Action Plan, the interdepartmental working group expresses that the cooperation with the reference groups has yielded many helpful suggestions. It further states that many of the provisions reported in the plan were originally brought up by the reference groups (skr 2001/02:83, 20).

However, the plan doesn't contain specific mention of one single suggestion as originating from civil society organizations. Two mentions are made of suggestions that are referred to as coming from several reference groups, which very likely includes the fourth reference group. Both mentions concern the need to improve the dissemination of information with regards to human rights. While not detailed in the National Action Plan, it is expressed that the reference groups have had specific ideas on how to spread information throughout all of Swedish society (skr 2001/02:83, 106). They have also pointed out the need for information regarding human rights to reach municipal level by means of circulating Sweden's reports to the UN committees and the Council of Europe (skr 2001/02:83, 137-138).

A positive outcome of the first National Action Plan concerns the right to not be subjected to torture, which was highlighted as an important issue in line with suggestions by civil society organizations in the baseline study. In the plan is a directive for a special

committee to investigate the use of violence by police force (skr 2001/02:83, 99). While there is no way to determine with certainty that this is as a result of civil society participation, it is highly probable that the continued raising of the issue by civil society has contributed to this development.

During the work for the first National Action Plan, the need for greater dissemination of information with regards to human rights has been emphasized by the reference groups. The interdepartmental working group seemingly took this seriously, stating its intentions in the National Action Plan to translate a summary of the plan's contents it into English and the recognized minority languages, as well as to release an audio recording. In addition, it was decided that a webpage to inform the public about human rights in Sweden would be created (skr 2001/02:83, 136-137).

Intentions notwithstanding, the results have been rather unimpressive. While there are records (Ju2004/6673/D, 12) of summaries having been translated into English and minority languages as well as an audio recording having been made, none of these are anywhere to be found. The webpage was created during the spring of 2002 (Press release Nr 15, 2002-02-01). It is however dubious if this webpage can be considered as terribly informative. It appears to be geared more towards instilling a positive attitude towards human rights, which of course is also an important function. Nevertheless, the purpose of the creation of the webpage as expressly stated in the National Action Plan (skr 2001/02:83, 136) was to serve as a source of information, not to convince the public that human rights are important.

The evaluation of the first National Action Plan that was commissioned by the Ministry of Justice contains some rather scathing criticism. In particular, criticism was expressed with regards the idea that there isn't much need for serious efforts of improvement that according to the evaluator permeates the power strata of Sweden. In short, the attitude of the powerful is that human rights is something for other countries, but not something that Sweden needs to be terribly concerned with for its domestic situation (Ju2004/6673/D, 5).

The first National Action Plan was also criticised for lacking in clarity with regards to responsibility, time limits and reporting, as well as for not being very specific and action-oriented (Ju2004/6673/D, 1). The last point is particularly ironic, and must be considered as a great failure, since the plan is supposedly a plan of action.

In addition, the evaluation emphasized that in order for human rights to be properly protected they need to be considered as a priority, including in terms of budget allocation (Ju2004/6673/D, 6).

The evaluation also pointed to a weakness in the design of the National Action plan; it hadn't been structured in a manner that allowed it to be used by municipal offices as a tool in their everyday work, and so ended up just sitting on an office bookshelf as a document of reference. While this function was seen as valuable in itself, there were requests for a National Action Plan that could be more readily applied (Ju2004/6673/D, 17).

As this National Action Plan followed not too long after the 9/11 terror attacks, it is unsurprising that some of the criticism concerns human rights violations in connection

with the effort to combat terrorism. In particular, the evaluation raised concerns over the lack of access to legal council, which is considered as vital in order to avoid that suspects are subjected to torture or other cruel or inhumane treatments (Ju2004/6673/D, 2).

Another point of criticism that was raised was the lack of stakeholder involvement in terms of persons that have suffered human rights violations, and that the perspectives of these persons need to be included in the future. On the other hand, the evaluation did commend the efforts to include so many other stakeholders (Ju2004/6673/D, 1).

5.4   The second National Action Plan

The second National Action Plan covers the period four year period of 2006 to 2009, and was presented to the Swedish Riksdag on 9 March 2006. Like the first National Action Plan, particular emphasis is placed on specific questions, but the document still concerns human rights as a whole. It is stated in the second National Action Plan that the most important question for this period is discrimination (skr 2005/06:95, 21), but like the first plan a great deal of importance is also placed on information about human rights (skr 2005/06:95, 12, 21, 114). Like the first National Action Plan, the second plan has been published in full in Swedish, and as a shorter version in easy to read Swedish. The shorter version has also been published in English, as well as in ten other languages of which seven are recognized as minority languages in Sweden.

An improvement in the second National Action Plan, compared to the first plan, is that it contains a much clearer list of measures; it would appear that the government is quite keen to communicate commitment for the second plan. The second plan also aims

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to address one of the more serious failings of the first plan; the first plan became more of a document of reference than a tool for everyday work in municipal offices. It has been stated in the second National Action Plan that this plan is intended to be a document that can be applied in practice at all levels of government (skr 2005/06:95, 14).

Unlike the baseline study and the first National Action Plan, the second plan elaborates slightly on the composition of the interdepartmental working group that is responsible for the creations of the plans; it is stated that all ministries are represented in the working group (skr 2005/06:95, 113) The reference groups have been restructured for the second plan, and instead of the previous four groups there are now eight reference groups. The first group still consists of the six offices of the ombudsman, but the second group has been split into two, the first of these two consisting of government agencies related to the judicial system and the second of the two of other government agencies. In addition, the parties represented in the Riksdag have its own reference group for the second National Action Plan, as do municipal government offices and representatives of industry. Finally, the reference groups made up of academics and civil society organizations are also present for the second plan (skr 2005/06:95, 20).

Like the first plan, the second National Action Plan saw a numerical increase in civil society participant. However, whereas participant increased for the first plan by nearly 100 organizations, for the second plan the increase was slightly less at 85 additional organizations. Also, roughly 15% of the organizations that participated in the creation of the first National Action Plan did not return to participate in the creation of the second

plan. Percentage-wise, this is a ten-fold increase in drop-out; only one organization that participated in the baseline study chose to not return for the creation of the first plan.

The second National Action Plan contains more explicit emphasis of the importance of civil society participation (skr 2005/06:95, 12, 18, 19, 21, 28, 63, 73-74) compared to the baseline study and the first plan. The second plan also exhibits a subtle shift in the government's position regarding the intentions of including civil society to a greater extent; whereas the baseline study and first plan expresses the desirability for civil society participation in terms of the additional perspectives that this participation will yield, the second National Action Plan also makes mentions of civil society as important for implementation (skr 2005/06:95, 19, 20, 63, 73-74). The second National Action Plan also shows a significant increase in evidence of civil society suggestions when compared to the baseline study and the first plan.

The second National Action Plan sees many of the same issues raised by civil society as in the baseline study and the first plan. Like the first plan, the second National Action Plan makes mention of how important it has been for the process to collect opinions from the reference groups (skr 2005/06:95, 18, 21) Unlike the first plan, however, the origin of several of the suggestions mentioned in the second plan can be traced very specifically to civil society.

One suggestion that has been brought up several times by civil society for the second plan is that Sweden should ratify more human rights related conventions (skr 2005/06:95, 24, 142-143), specifically mentioning the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the ILO Convention

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concerning Indigenous and Tribal Peoples in Independent Countries (skr 2005/06:95,143). In connection with these suggestions, civil society has also urged the Swedish government to further incorporate ratified human rights conventions into the domestic judicial system, which is an issue that first raised in the baseline study. Civil society participants also advices the government to make it clear to all parties involved that both exercise of public authority and administration of justice are bound to abide by the ratified conventions (skr 2005/06:95, 141-142).

Another issue that was brought up as particularly important in both the baseline study and the first National Action Plan, and that re-occurs in the second plan, is the problems surrounding the right to not be subjected to torture or other cruel, inhumane or degrading treatment. In particular, this issue is raised by civil society in connection with concerns with regards to the use of excessive violence by the police. The first National Action Plan stated that the government was going to institute a special committee to investigate the use of violence by the police force, and this idea appears again in the second plan. Here, civil society participants explicitly suggest that the government establish an independent agency to investigate cases where the police force is suspected of having used excessive violence (skr 2005/06:95, 83), as this has obviously not been realized by the first plan.

Civil society participants have for the second National Action Plan also raised the issue of torture in connections with refugee policy (skr 2005/06:95, 91, 98), in particular directing criticism towards the government for being too restrictive in its refugee policy and for violating the right of non-refoulment; both of these points of criticism are problems which increase a person's risk of being subjected to torture.

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In terms of outcome, the second National Action Plan must be considered a spectacular failure.

While the second plan is improved of the first in terms of making measures more clear, the measures in the second plan are in many cases not actual provisions for the improvement of human rights; many of them are reports of steps already taken, while some are assurances that the government will consider the situation further. Some are just plain political statements on the government's position on an issue, and finally, some are rejections of suggestions.

There is no full version of the second National Action Plan available in a language other than Swedish on the government homepage, which means that the information accessible to non-Swedish speakers is extremely limited. There is no mention of an audio recording of the second National Action Plan, but if such a recording exists, presumably there is only a Swedish language version. As a result, those with impaired vision and limited Swedish proficiency have virtually no access to this information. For the first National Action Plan this oversight is hardly surprising, but during the time for the creation of the second plan an intersectional approach has started to take root. This is evident throughout the Second National Action Plan which while it does not use the term intersectionality still shows plenty of evidence in several places of considering intersectional issues (skr 2005/06:95, 22, 30, 31, 32, 34, 75, 78, 80, 180, 188, 196, 222) , particularly in terms of access. As the second National Action Plan identified discrimination as the most important obstacle to the fulfilment of human rights in Sweden, the question of access is particularly salient, and is considered at several points in the

document (skr 2005/06:95, 22, 35, 42, 43, 59, 61, 64, 65, 67, 68, 72, 75, 90, 96, 97, 115, 123, 126-127, 147, 156, 157, 160, 162, 170, 173, 176, 180, 185, 188, 194, 196, 200, 201, 205, 222, 228, 242). Even so, an audio recording is nowhere to be found; even if one exists, it must be questioned how accessible it is if it cannot be easily located.

With regards to the question of ratifications of more human rights conventions, which was strongly emphasized by civil society participants, the government has chosen to almost entirely disregard civil society suggestions (skr 2005/06:95, 25, 26). The only ratification the government will consider for the second National Action Plan is for the Optional Protocol on the sale of children, child prostitution and child pornography (skr 2005/06:95, 26). However, as the Convention on the Rights of the Child is unquestioningly the most popular human rights convention in terms of ratification rate, it is hardly surprising that the Swedish government is prepared to consider ratifying this optional protocol; failing to protect the rights children is politically problematic to a much greater extent than failures to protect human rights in general.

The use of excessive violence by the police force remains a problem, despite the issue having been raised by civil society on several occasions. One step has been taken to address the situation, however. On 1 January 2011, a separation of internal police investigations and other investigation conducted by the police was made, which in practice means that investigation concerning suspicion of the use of excessive force has been moved from local levels to a national level, as well as being moved physically to separate location (SOU 2011:29, 30). Despite this step, the investigation is not independent; the police still investigates the police. In addition, there is despite

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suggestions still no law obligating investigation in cases when a person has been harmed or killed in the course of an arrest by the police.

Regarding criticism surrounding the right to not be subjected to torture, government measure to address this problem can be considered evasive at best; the plan makes mentions of measures previously undertaken, reaffirms the position that torture is not acceptable, and makes a firm commitment to consider thinking over the situation sometime in the future (skr 2005/06:95, 91-94, 98-102).

5.5   Results

The results of the government's effort to launch a National Action Plan for Human Rights in Sweden have been mixed; while the first step went pretty well, there's been a steady decline since. Supplementing this result by qualitative method with indicators from the Cingrinelli-Richards Human Rights database confirms this observation. As participation has increased, the human rights record has simultaneously worsened.

As illustrated below in figure 4, in particular empowerment rights, physical integrity rights and the right to freedom of opinion, expression and information show signs of having suffered.

Figure 4: Human Rights records for Sweden
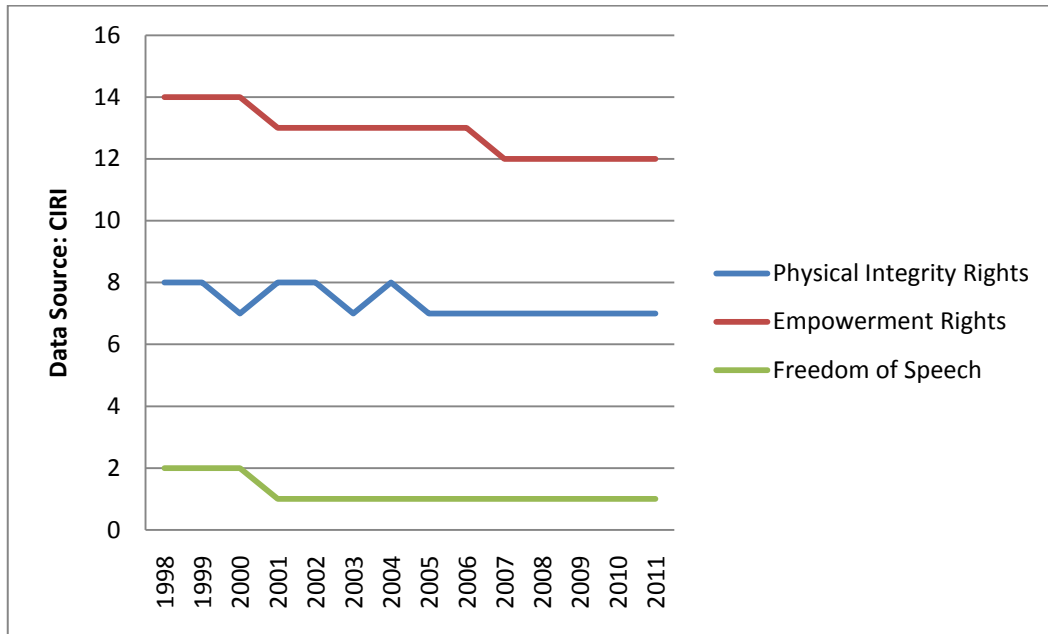
Returning to the questions posed in the introduction, we can now construct an image of how efficient civil society participation has been in the case of Sweden.

Is stakeholder participation in human rights policy formation efficient in the context of Sweden? Based on careful analysis of the process and outcome, in the case of Sweden stakeholder participation is not efficient in the slightest

Outside evaluation of the human rights situation in Sweden show that respect for some rights appear entirely unaffected, while others have shown a decrease in protection. Ultimately, policy cannot be considered as successful if it does not promote and protect human rights. Therefore, if civil society participation does not lead to policy that promotes and protects human rights, participation cannot be considered efficient.

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If there was no effect of stakeholder participation, outcome for rights would remain the same even as participation increased. However, several rights have shown an increase in violations as participation increased. The right to freedom of opinion, expression and information, as well as physical integrity rights, appear to have suffered in particular. Ironically, these are issues that civil society organizations specifically emphasized and that as a result received a high degree of importance in the National Action Plans.

Why is participation not efficient in Sweden? There are two possible explanations. The first is that participation just isn't efficient. However, as mentioned in the literature review, there are several studies of stakeholder participation that find an increase in efficiency. Scholars would presumably not sing the praise of participation for efficiency if it didn't work at least to some extent in many of the cases studied. The second explanation is that participation is only efficient under specific circumstances, which are lacking in Sweden. An obvious lacking circumstance in the case of Sweden would be complete civil society autonomy. However, the Swedish government and civil society have been in bed together for about a century and during this time civil society has still been able to have a significant effect on politics, as evident in the history of civil society in Sweden. Another possibility is that civil society can only contribute to efficiency when the state is lacking in this area – or, as Migdal would put it, when the state lacks the social control to act. This is not the case in Sweden, however. The government has plenty of resources, and has definitely demonstrated its ability to effectively implement policies.

A final explanation is that the will is lacking. This explanation not only seems to fit quite well from a perspective of logic, but the evidence indicates that this is indeed the

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case. The current government strongly favours a smaller state, and is retracting government responsibility. This is evident not only in the government's evasiveness in terms of allocating sufficient resources for human rights (Ju2004/6673/D, 6), but more notably in its attitudes towards and action oriented National Action Plan; while some representatives report that the government failed to instruct them to set goals that could be implemented and evaluated, others report that they had been instructed to exclude goals from the plan that could obligate the government to take action (SOU 2011:29, 120). At the same time, government articulation of the appropriate functions of civil society has shifted; the role of civil society as stated by the government has been expanded to take over more and more of what used to fall under the government's realm of responsibilities. This explanation leads to the conclusion that the government is shifting its human rights responsibilities more and more onto civil society; more participation means more actors to lay the burden on. However, civil society cannot be expected to fulfil and protect human rights; civil society does not have the ability to ratify human rights treaties on behalf of Sweden, it cannot pass legislation, it cannot prosecute human rights violators, and motivated as it may be it cannot be expected to provide welfare services for a whole country. Under such circumstances, human rights protection will suffer, just as they have in the case of Sweden.

To what extent is civil society able to participate? While it seems like civil society organizations were restricted to making suggestions in writing, whereas other reference groups were able to attend meetings as well, it would still appears that civil society organizations have not encountered any problems in participating, at least not in the

earlier stages. Despite the fact that there is scant evidence of civil society suggestions making it into the first National Action Plans, it must be assumed that to a sufficient extent they did; civil society organizations would presumably not express satisfaction with the process if their suggestions had been ignored. This assumption is further supported by the fact that civil society has after the second National Action Plan expressed some dissatisfaction with participation (SOU 2011:29, 95-96). Participation, therefore, can be considered as having been satisfactory at first, and then deteriorated.

Why did the Swedish government choose to involve civil society? All indications point to this being simply because the UN Handbook instructs countries to do just this. A close, careful reading of the documents published by the government, when compared with the instructions in the Handbook, reveal that the Swedish government has picked up on the points that are emphasized continually; stakeholder participation and dissemination of information. They have more or less completely neglected the most important but less emphasised point; the National Action Plan needs to be an action-oriented document. Adding to this the reportings of government attempts to actually prevent the plan from being action oriented, this is a strong indication that the Swedish National Action Plans have been an exercise in publicity – the focus has been on formalities rather than on substance. This is clearly evident also when looking closer at the dissemination of information. These attempts have been half-hearted, to put it generously. As mentioned in the analysis, the website intended to inform is not so informative, and it only has Swedish and English language versions; there are no minority language version of the website, nor

any function to make it accessible to people with impaired vision. Similarly, the Action Plans themselves have translations available only for short summaries.

A successful strategy for disseminating information about human rights should be reflected in popular opinions about the level of respect human rights have in Sweden. Either information makes people more aware and able to recognize human rights violations, in which case opinions will reflect that people feel human rights are less respected, or the information makes people feel that the government is actively working to improve the human rights situation, in which case opinions with regards to the level of respect should become more favourable. However, attitudes remain virtually unchanged.

Figure 5: Popular opinion on the state of Human Rights
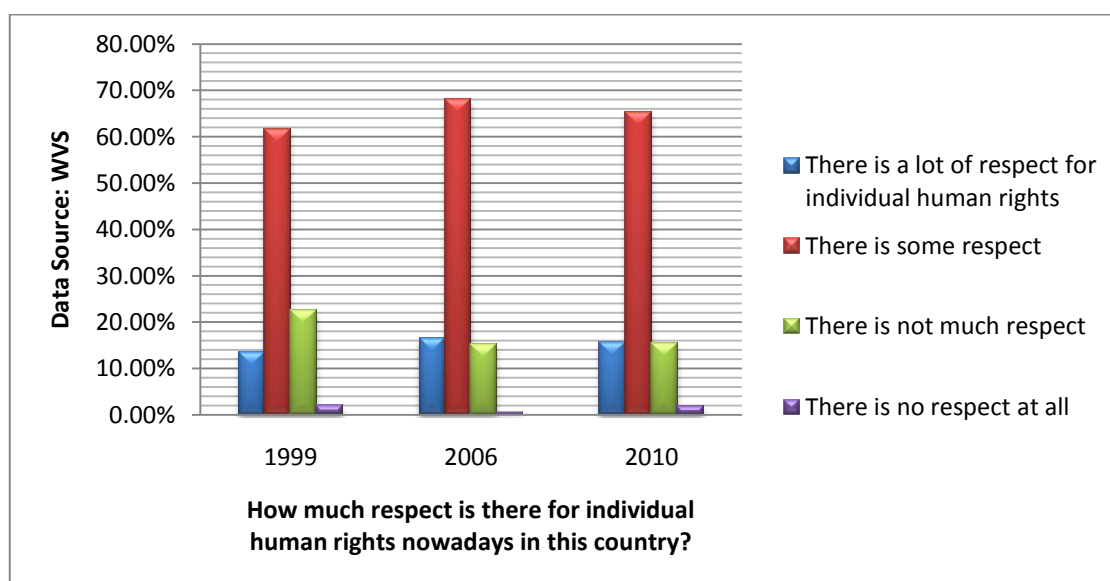
It is reasonable to assume that the Swedish government has been trying to increase legitimacy by stakeholder participation. Obviously, legitimacy does nothing to improve the outcome in the case of Sweden.

6   Conclusion

As evident by the analysis of the National Action Plans, in the case of Sweden stakeholder participation has not been efficient in improving the protection of human rights. The government has fallen woefully short of the ambitions outlined in the plans, and as a result the protection and promotion of human rights have grown worse during this time period.

While an in-depth case study such as this produces knowledge that may be considered as unique to the context, some general insights may be made that can be transferred onto other contexts as well. The most important of these insights is that political will is crucial. Undoubtedly, state-civil society cooperation can be highly beneficial, but only when both parties cooperate in earnest. When the political powers do not put in genuine effort, but only bring in civil society for appearances or for the opportunity to shift the work load onto someone else, failure must follow.

Another generalization that is applicable to other contexts is that participation can backfire unexpectedly. Participation supposedly increases efficiency by way of increasing support for a project. However, participation can serve as a placating mechanism in this sense; by bringing in civil society, it becomes less inclined to criticize a project because it would by extension be criticizing itself and its contribution to it. This means that increasing participation in order to increase support runs the risk of resulting in decreased efficiency, as civil society's critical edge is lost.

In conclusion, the importance of genuine political will as well as of civil society remaining vigilant of political motivations for extending participation deserves serious emphasis and consideration for further studies.

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초록

스웨덴의 인권과 관료주의적 관계:

이해당사자의 인권 정책 형성 참여에 관한 연구

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스웨덴에서 시민사회가 사회문제에 참여한지는 꽤 오래됐다. 이 점을 고려하면

스웨덴 시민사회가 인권정책형성에 참여하는 모습이 놀랍지 않다. 또한 스웨덴은

국제사회에서 인권보호가 강한 나라로 알려져 있다. 스웨덴이 인권분야에서 이런

명성을 갖게 된 데에는 시민사회참여의 역할이 크다고 미뤄 짐작할 가능성이 있다.

시민들의 사회참여가 효율성향상을 가져오는지 여부에 대해서는 아직 명확한

결론이 나오지 않았다. 이 연구에서 스웨덴의 경우 시민사회의 참여가

인권보호강화의 효율성을 높였는지 여부를 살펴보고자 한다. 인권보호 과정에서

부딪히는 다양한 문제를 설명하고자, 참여와 효율성 사이 관계에 대한 두 가지

관점을 활용해, 인권정책형성 과정에서 시민사회참여의 기능을 분석할 수 있다. 첫

번째 관점에 따르면 참여가 효율성을 떨어트리는 원인이 된다. 반면, 두 번째

관점에 따르면 참여가 효율성을 높인다.효율성에 관한 질문에 답하고자, 사례연구

형식의 질적 연구 방법을 사용했다. 스웨덴 국가정책기본계획이 형성된 다양한

단계를 참고했다. 이 계획에 따르면 각 단계별로 시민참여 정도가 다르다.

분석결과에 따르면, 단계가 올라갈수록 시민참여가 증가하지만, 인권보호

정도에는 별다른 진전이 없다. 이와는 대조적으로, 인권보호에는 점점 더 많은

어려움이 따랐다. 이 연구는 인권분야 리더로 성장한 스웨덴의 과정을 좀 더 깊이

이해하고, 이후 인권분야 리더로서의 스웨덴의 위상이 흔들린 과정 분석에

기여한다. 이를 위해 시민참여가 증가하면서, 시민사회의 적절한 역할에 대한

스웨덴 정부의 견해가 어떻게 바뀌었는지 살펴봤다. 그리고 스웨덴 정부가 인권에

관한 책임을 시민사회참여자들에게 조금씩 전가할 수 있었고, 그 결과 시민참여가

증가할수록 인권보호수준은 떨어졌다는 점을 파악했다.

이 연구는 인권신장과 인권보호 발전에 필요한 정보를 제공한다. 특히 시민들이

정책형성단계에 참여할 때 진심이 담긴 정치적의지가 중요하다고 강조한다. 또한

단순히 형식적 요구 충족이나,준비가 안된 시민들에게 인권에 관한 책임을

전가하고자 시민참여를 늘리면 어떤 부정적인 결과가 나타나는지도 보여준다.

이 연구에서 필자는 스웨덴 인권정책형성 사례의 경우, 참여가 증가하면 효율성이

떨어지는데, 그 원인이 정치적의지 부족에 있다고 주장한다. 때문에 스웨덴이

인권보호가 강한 나라로서의 명성을 계속 누리기에는 스웨덴의 현 수준이

충분하지 않다고 볼 수도 있다.