

Structural discrimination and experiences relating to equality bodies in Sweden and the US. Does discrimination cost?

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Defined the problem as well as various solutions.



What is structural discrimination ?

Structural discrimination (or institutional racism) refers to rules, norms, routines, and attitude and behavior patterns that are obstacles to ethnic or religious minorities in achieving the same rights and opportunities that are available to the majority of the population.

Open or hidden, intentional or unintentional.

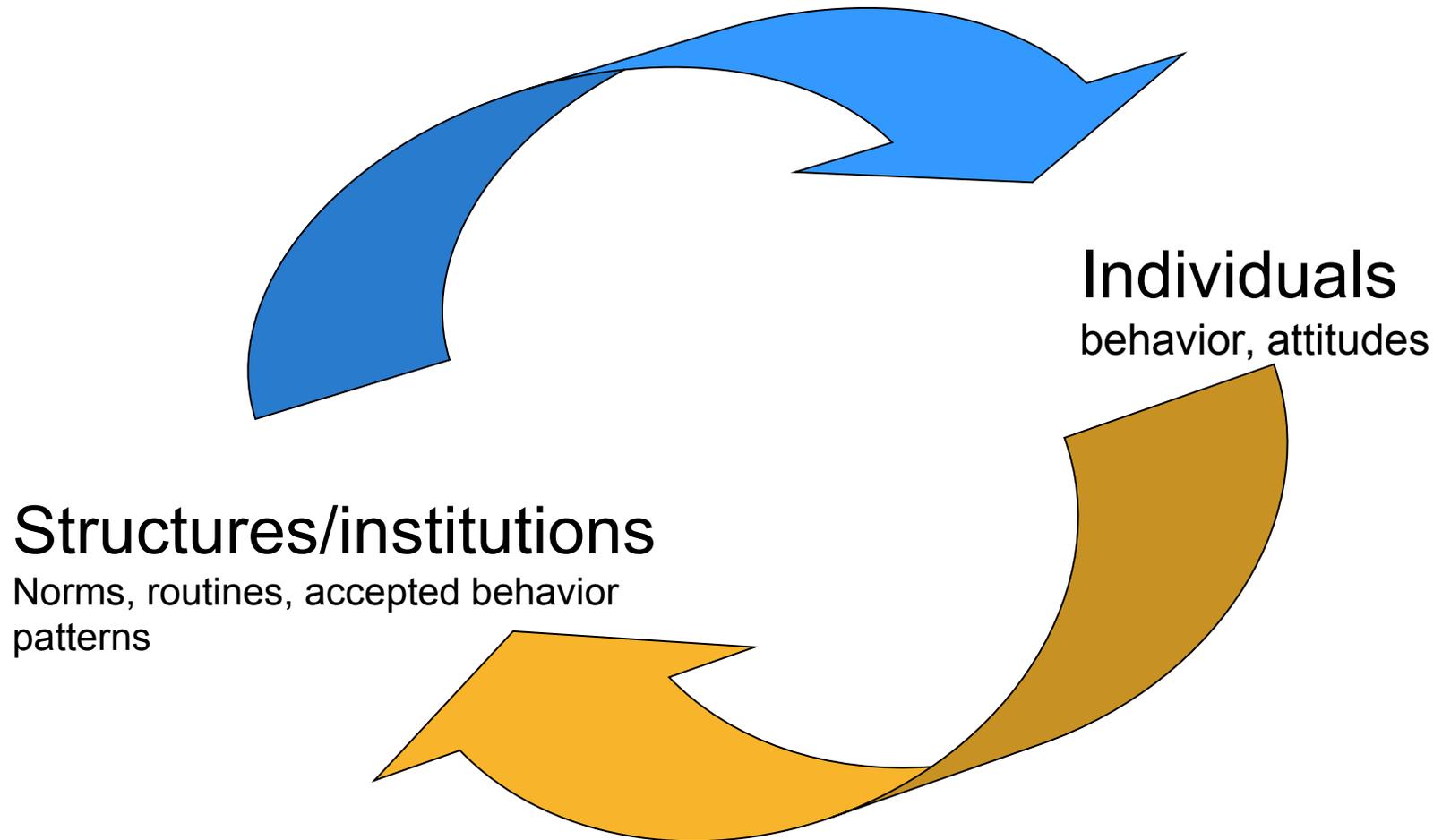


People form structures, structures form people.

**Discrimination needs to be seen in
a structural perspective.**

**Thus individual acts cannot be
isolated from or be held separate
from the structures in which they
occur.**





Do you have prejudices? Do you apply them?



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Who is free from prejudice?

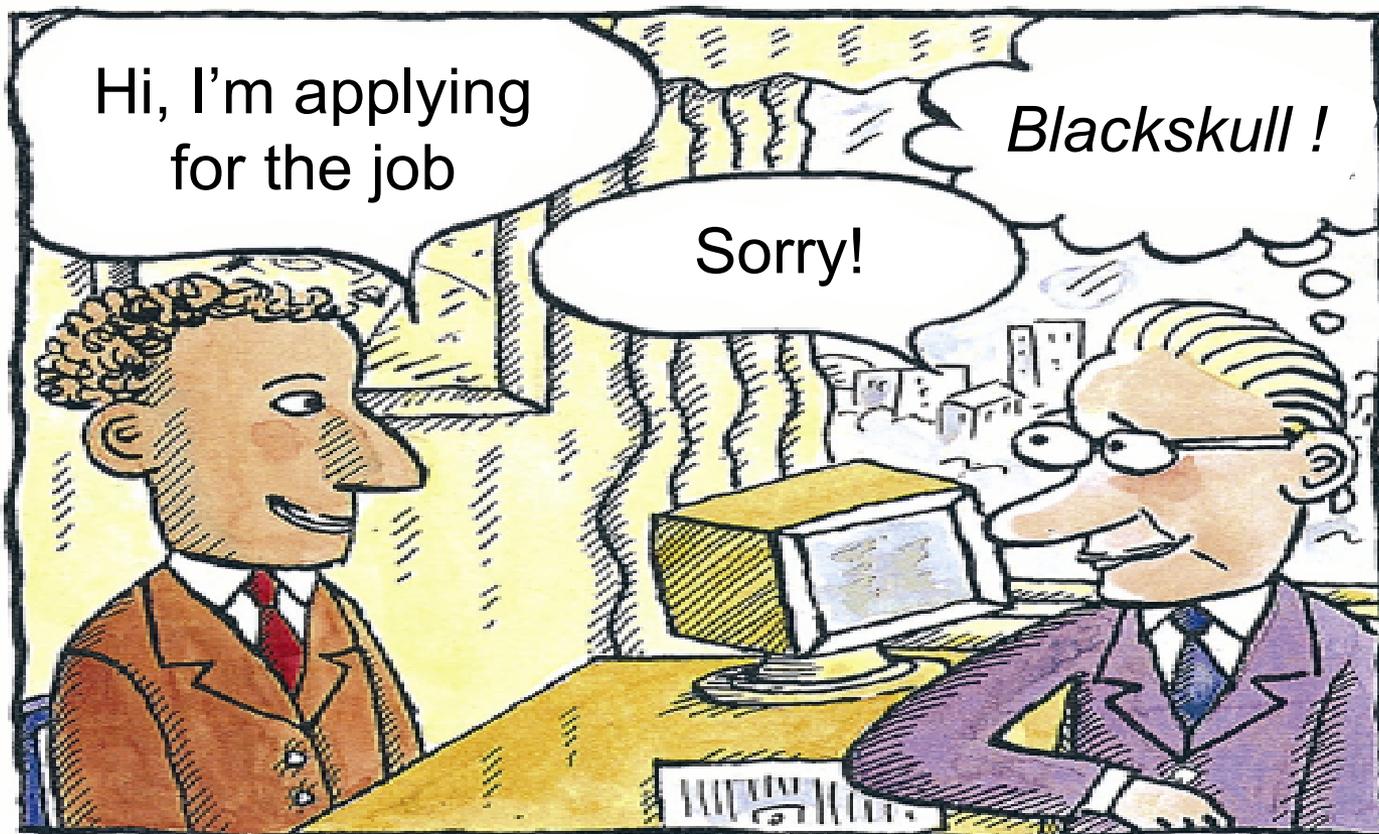
- Harvard Implicit Association Test
(<https://implicit.harvard.edu/implicit/demo/>)
- People with openly racist and sexist opinions have the same levels of underlying prejudices as “non-racists” and “non-sexists”
- Difference between the man on the soap-box and those in the crowd?

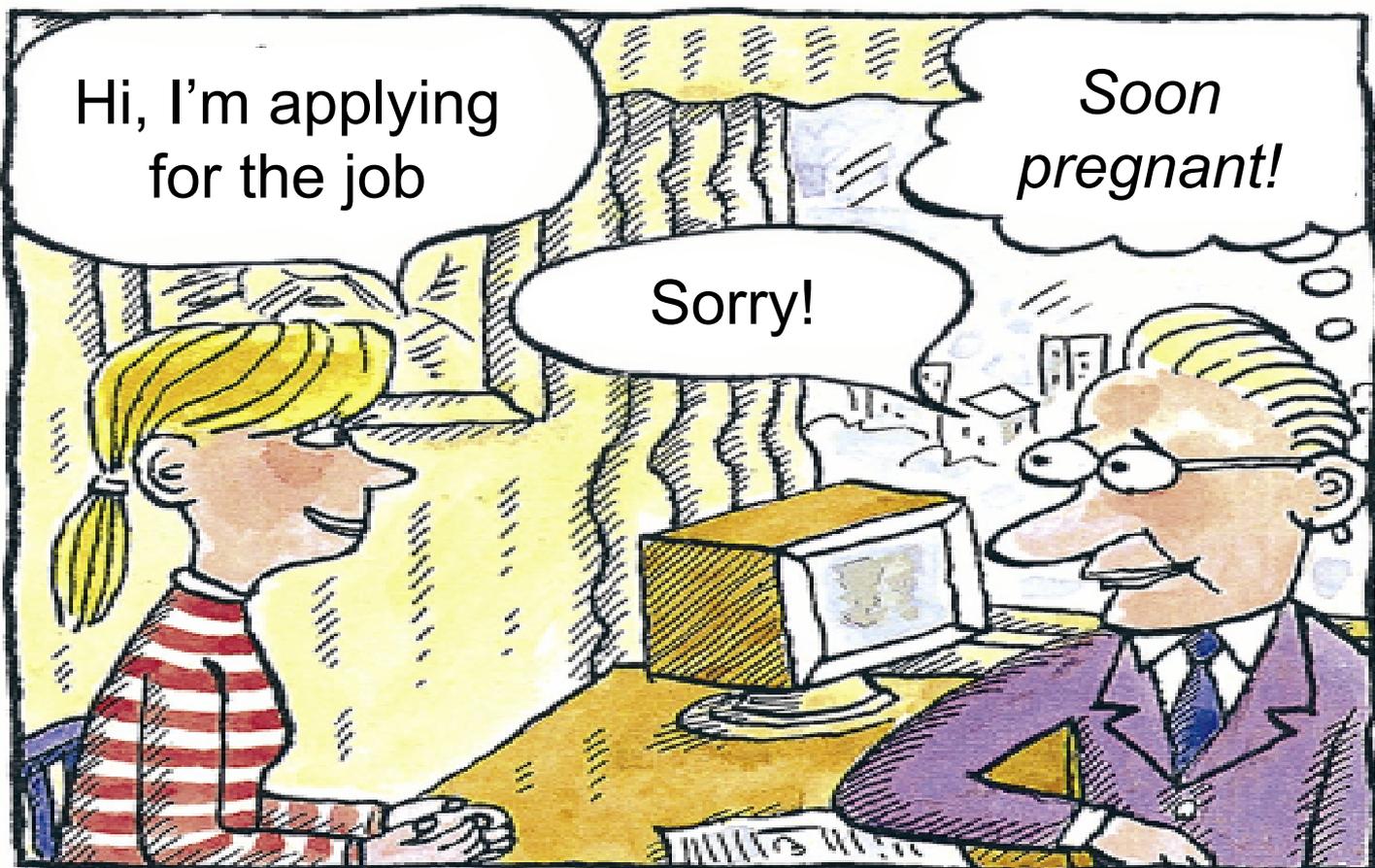


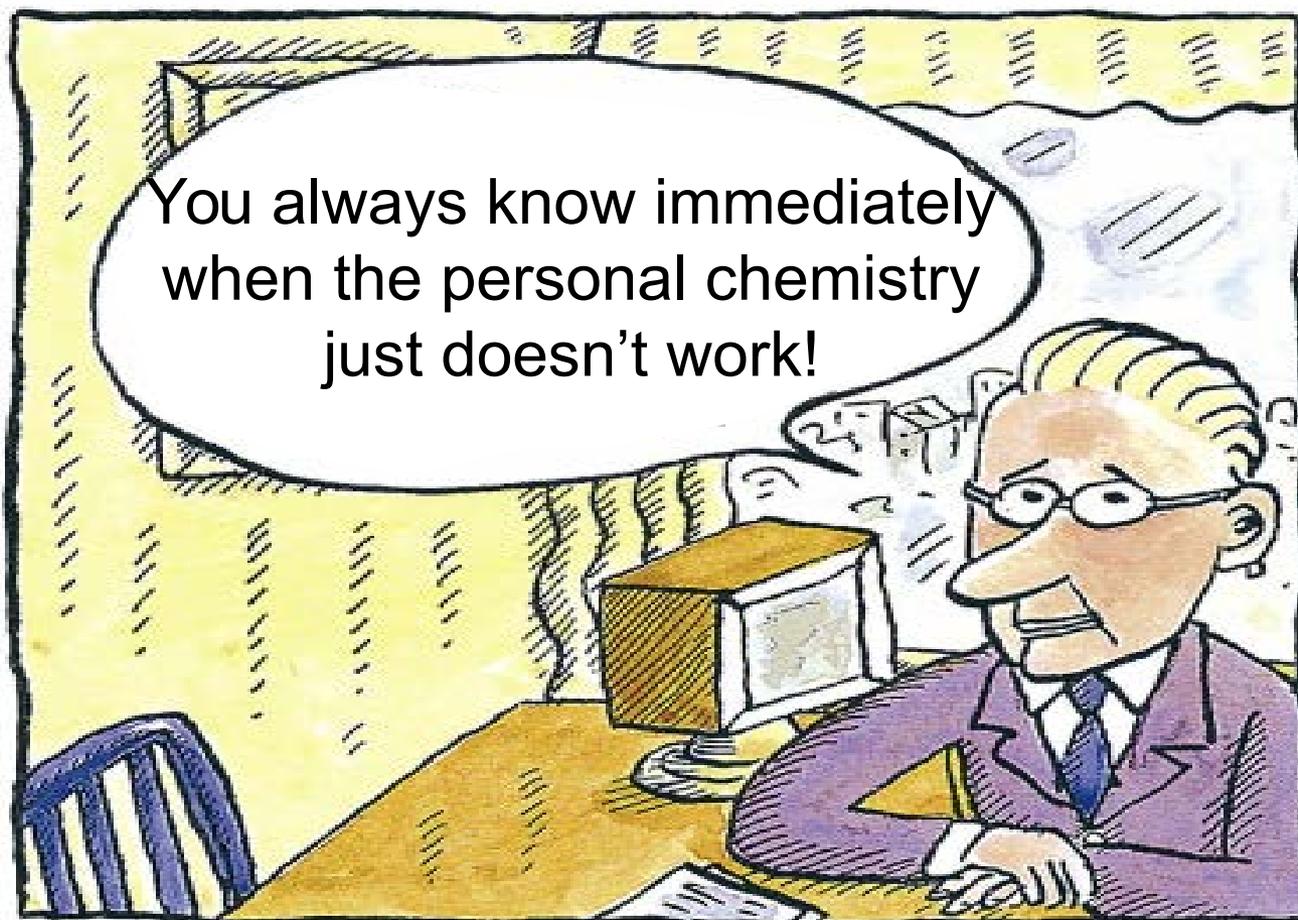
I know my own mind.

***I am able to assess others in a fair
and accurate way.***

Based on current research about hidden biases as well as their connection to behaviour, the authors seriously challenge these self-perceptions.







Robert Nyberg

Eye-openers for Europe

- └|| UK Stephen Lawrence Inquiry 1999
- └|| Not just "bad apples" within the police but institutional racism (or structural discrimination)
- └|| Also other government authorities

- └|| Proactive measures required of all authorities to promote ethnic equality, other grounds followed



Racism/discrimination in Swedish history

Denial is often based on the idea that Sweden is "different" from other countries.

Sweden, it is thought, lacks a history of racism and repression of ethnic minorities.



Historical and current examples

Sami, Roma, Jews. First race biology institute. The J in the passports of German Jews. Africans and Asians.

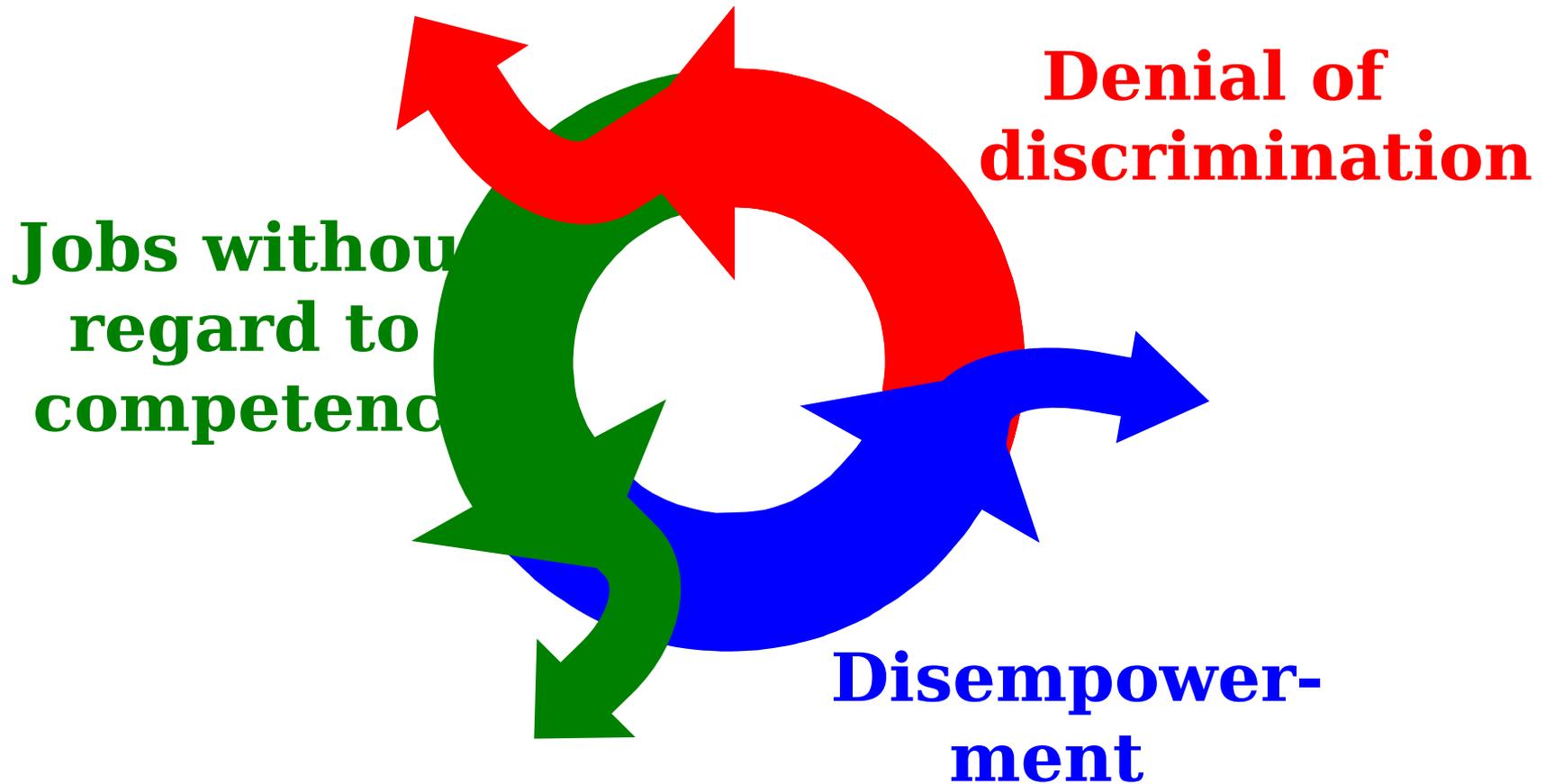
Swedish history is a part of Europe's history in regard to racism and discrimination.

Difficulty for Sweden and other EU-countries re laws against ethnic discrimination. The problem was elsewhere.

Denial of ethnic discrimination is apparent in Swedish immigrant policy, integration policy and equality policy.



Swedish and European “integration” policy for many years
A negative spiral



Feelgood vs equality measures

Focus on the "immigrant"

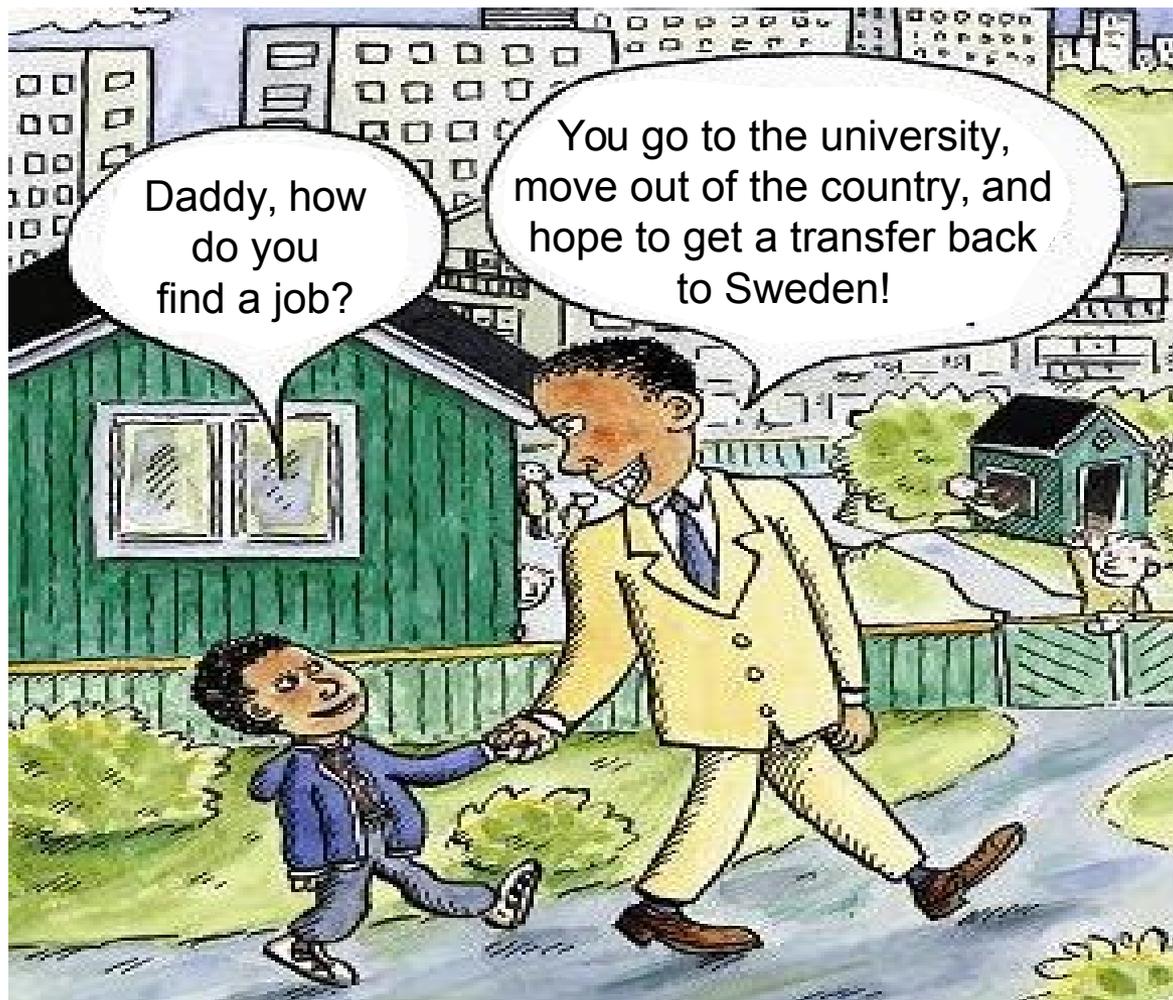
Jobs, language education, urban renewal ...

Focus on those with power and privilege

Anti-discrimination measures

What do you call the children of immigrants?

Key to integration – a job, any job?



Different fields of society



Media - Immigration costs 40-50 billion annually

Unemployment in California among blacks is 12%, among whites 6%. The difference is due to racism and discrimination.

Politics - immigrants portrayed as a threat and problem in re "Swedish culture" and "welfare". They need our help.

Education - The system is based on "Swedishness as a norm". Affects the treatment of students with immigrant backgrounds (and their parents).

Housing – Urban renewal. No effect on segregation. Focus on symptoms, not the causes.

Legal system – immigrants run a greater risk of being stopped, arrested and jailed than others in same situation.

Working life – Focus on feelgood measures (language and other training, trainee placement, equivalency of exams) and not on discrimination. Labour reserve.

Welfare – social problems transformed into problems.



Main equality tools developed in a process combining an equality movement, leading to political leadership and then to a focus on changing behavior (not just attitudes).

Laws, institutions and policies (such as anti-discrimination clauses in public contracts).



Earl Warren – Chief Justice US S Ct 1953-1969

“There was ‘an invidious view which is now held by many that you can't wipe out racial discrimination by law, only through changing the hearts and minds of men’.

Warren disdained that as a ‘false credo. True, prejudice cannot be wiped out, but infliction of it upon others can.’”

How? Discrimination must cost or carry with cost risks?

Gender discrimination

Same process concerning gender equality in Sweden. A movement, researchers, political leadership.

Focus on those with the power to discriminate. Power and structures.

Sweden's gender equality act and ombudsman based on the experiences of the USA, Canada and England.



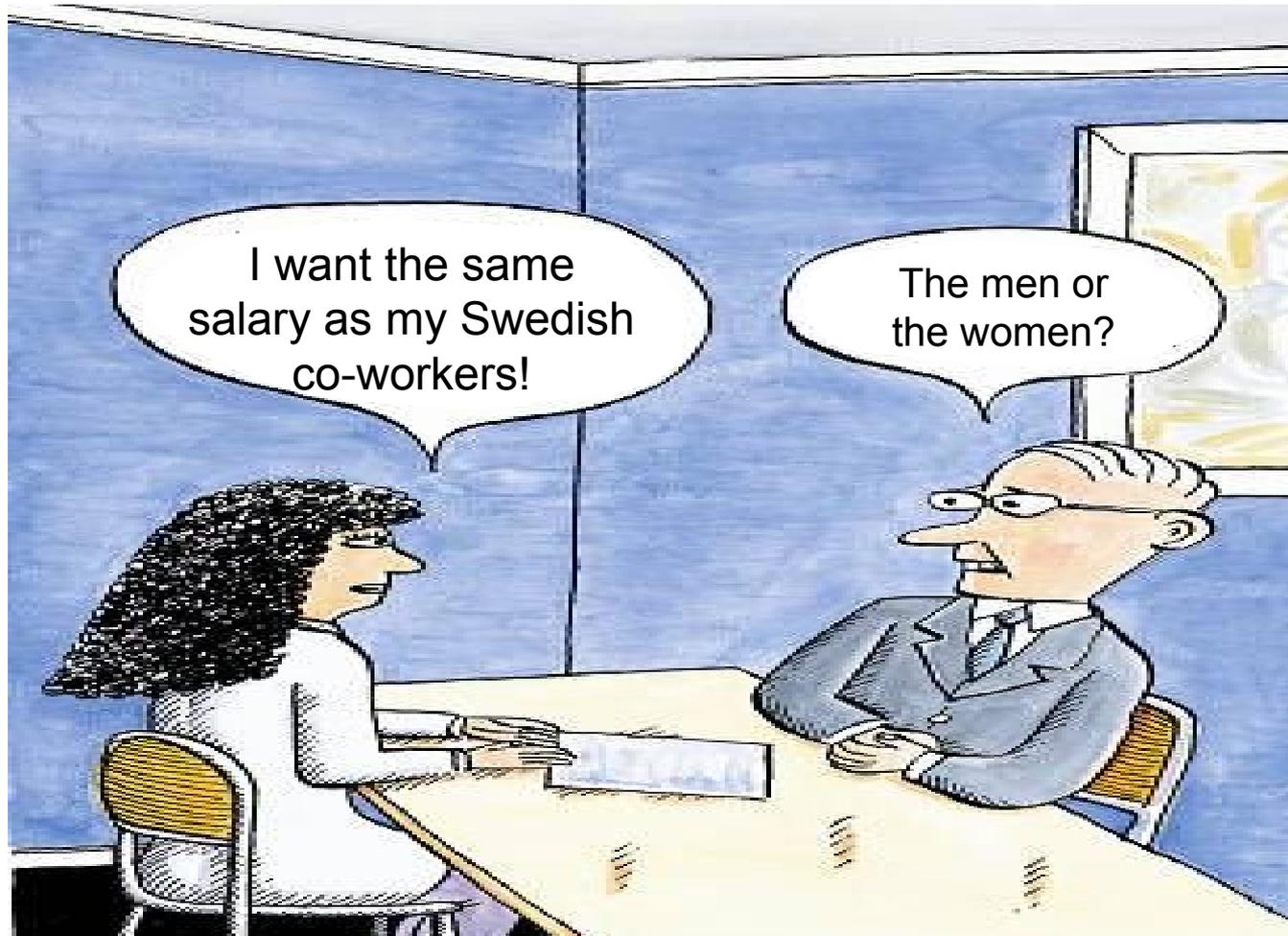
Interplay of grounds

“When feminism does not explicitly oppose racism, and when antiracism does not incorporate opposition to patriarchy, race and gender politics often end up being antagonistic to each other and both interests lose.”

Kimberlé Williams Crenshaw 1992

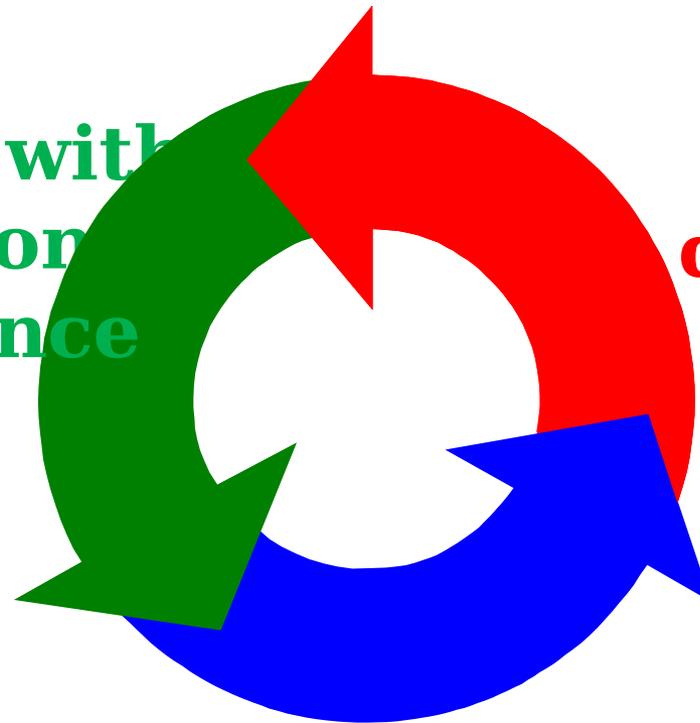
What about Europe?

Interplay of discrimination grounds



**Diversity with
a focus on
competence**

**Counteract
discrimination**



Empowerment

On their own, law, research and mobilization seldom lead to change.

BUT together they have led to change.

*The interplay between research, law and mobilization
can be seen in the*

Civil rights movement

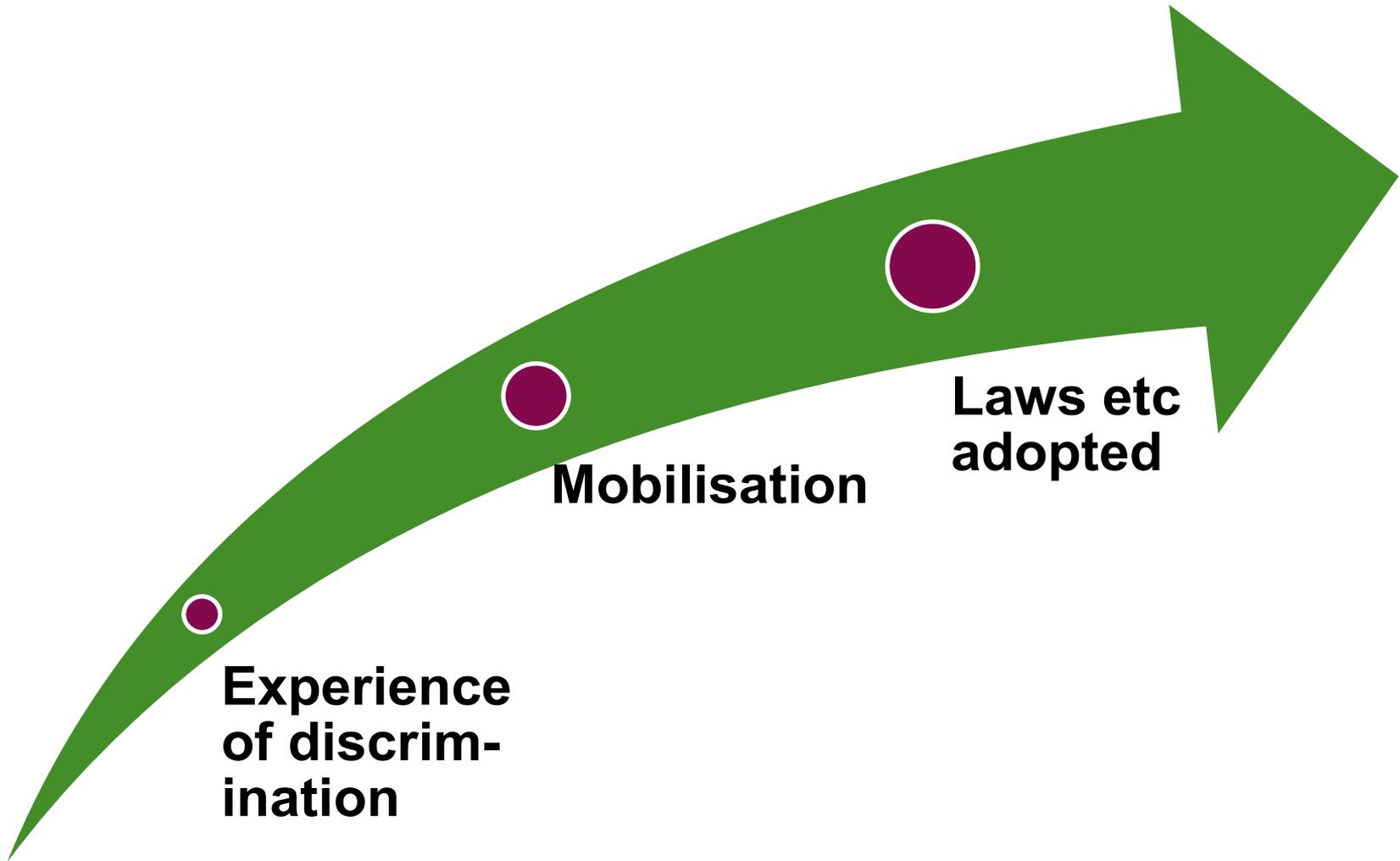
Women's movement

Disability movement,

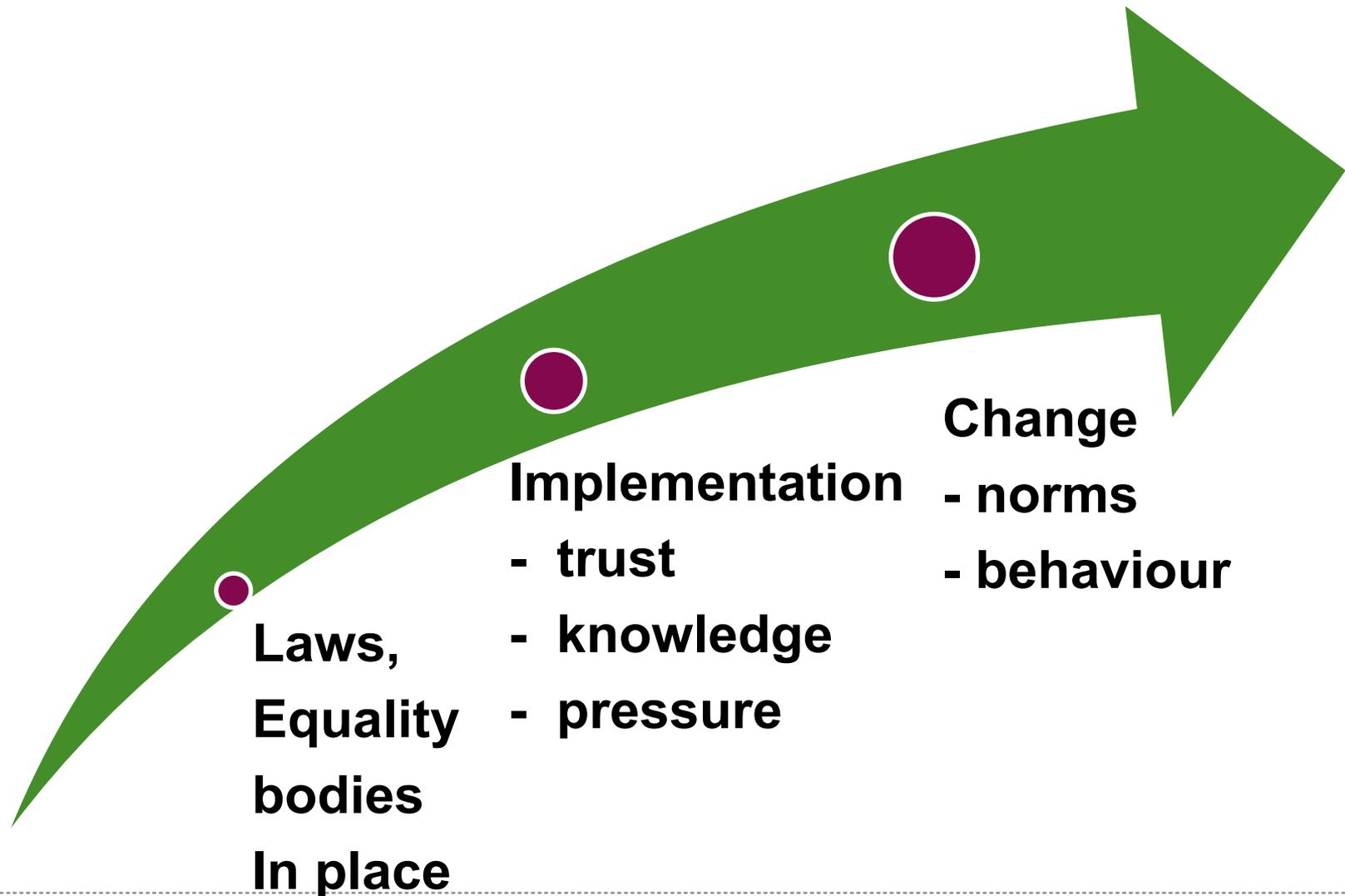
LGBT movement,

Starting Line Group

Step 1 – Civil society pressure for a law



STEP 2 – Implementation of laws



 **Empowerment**

 **Leadership**

 **Change in behavior (measures to ensure that discrimination costs)**





**STATUS
QUO !**



DO

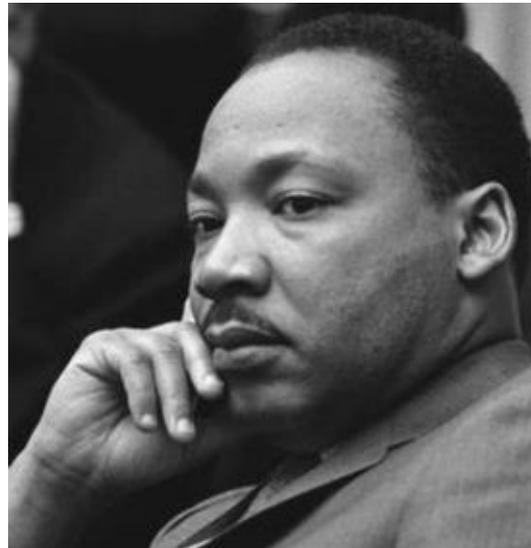
Structures

NGO

Knowledge

It is a sad historical fact that privileged groups have seldom given up their privileges voluntarily.

Martin Luther King



Proposals – all grounds

- Anti-discrimination law – all grounds
- Proactive equality plans in all government agencies
- Inquiry into the cost of discrimination
- Discrimination testing as a quality control on equality plans
- Education in schools concerning Sweden's history of discrimination
- Anti-discrimination educ in key university educations – lawyers, teachers, journalists
- Empowerment of NGOs – promoting their advocacy role
- Equality statistics
- Anti-discrimination clauses in all public contracts
- Research institute on structural discrimination

The targets of discrimination must become real participants

Subsidies to NGOs need to focus on promoting their advocacy role

Representation on state inquiries. Or remove civil society (eg social partners)

***Fund for case law development. See Canada**



Human rights-based anti-discrimination law and enforcement

- └|| Structural discrimination counteracted best within framework of a comprehensive law and supervision. Allow pos treatment. Require equality plans. Increased damages.
- └|| Such systems have been the inspiration for Sweden's and Europe's laws.
- └|| Prerequisite - strengthened minimum protection against discrimination in re all grounds.



A strategic equality body



Individual justice or social change? Advocate against discrimination or neutral arbiter? Similar to public interest law organisations or administration of complaints?

Sufficient level of funding and independence:

- └ Strategic enforcement of the law**
- └ Trust of discriminated groups**
- └ Strategic role re active duties in the law, public contracts, public equality duties**
- └ Strategic education and policy proposals that can affect the mechanisms behind discrimination**

Institute for research on structural discrimination

- └|| Long-term, cross disciplinary research
- └|| The perspective of those affected is missing in much of the research
- └|| Key issue for Sweden as well as for Europe
- └|| Also important for analyses of measures and proposals for new measures.*



*Anti-discrimination clauses

National contracts – 100 billion SEK per year

Executive order requiring the following clause

- └|| Swedish anti-discrimination laws shall apply to the contractor's activities in Sweden
- └|| sub-contractors
- └|| reports on request
- └|| the contracting unit retains the right to cancel the contract in cases of violations of the clause

Primary purpose - preventive

Motivational aspects - Democracy – quality.

Similar demands in the USA have led to positive labour market effects in the position of minority men and women, and "white" women.



Why anti-discrimination clauses?

- *They are legal*
- *They strengthen equality*
- *They strengthen democracy*
- *They lead to quality*
- *They work*

- **Contractor agrees to follow the law against discrimination**
- **Duty to report**
- **Apply clause to sub-contractors**
- **Retain the right to cancel the contract**

Equality clause in the Glass House Inquiry

- § 1 The supplier shall throughout the contract period, in its business activities in Sweden, abide by **the current law against discrimination.**
- § 2 The supplier, during the contract period, has a duty, at the request of the contracting entity, to **provide a written report concerning the measures, equality plans etc.,** that have been undertaken in accordance with the duties specified in § 1. The report shall be submitted to the contracting entity within one week after a request is made unless some other agreement has been reached in the individual case.
- § 3. **In the contracts with sub-contractors,** the supplier shall apply the same duty to them as is specified in § 1. The supplier shall be responsible to the contracting entity for a sub-contractor's violation of the duties in § 1. The supplier shall also ensure that the contracting entity can upon request be informed of the sub-contractor's measures, plans etc. in accordance with § 2.
- § 4 As it is of substantial importance to the contracting entity that its suppliers live up to basic democratic values, a violation of the duties in §§ 1-3 shall constitute a **significant breach of the contract.** The contracting entity therefore retains the **right to cancel the contract** if the supplier or a sub-contractor violates the conditions in §§ 1-3. However, the contract will not be cancelled if the supplier immediately remedies the situation or undertakes other relevant measures with the purpose of achieving compliance with § 1, or if the violation is considered to be insignificant.

*Equality statistics

These need to be developed on the basis of voluntary self identification

This is NOT ethnic registration

Countries that have statistics are the ones that we look to for inspiration re equality – UK, Canada and the US.

“The issue of equality data is more a question of political priorities than of legality.”

See eg <http://www.enargywebzine.eu/spip.php?article343>



The police

└─|| Confidence surveys

└─|| Education

└─|| How complaints are examined

└─|| Reporting system concerning the right of police to stop and search



Where do human rights begin?

Eleanor Roosevelt, ordf

In small places, close to home ... they are the world of the individual; the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere."



Local powers to promote equality

The democratic arena – consultation, voting, monitoring

Employer – leadership duty, training, follow-up

Service provider – social services, housing, health care,
etc, training, testing

Public contracts – anti-discrimination clauses etc

Rulemaker – licensing, NGO subsidies

Cities are the experts – but others can point out some of the issues and potential solutions .
Where is there a risk for discrimination? What can be done?

Inspiration – ECCAR, Council of Europe, EU



EU Test Case Fund

The European Social Funds' anti-discrimination work – clarify

An anti-discrimination clause for EU contracts

Emphasize role of local governments

Mainstreaming equality - use of equality clauses in the employment contracts of heads of public agencies

Equality data – promote and develop needed data

Situation testing research

Underreporting is not the problem, but the limited success concerning reported cases. Increase success rate thru situation testing

Situation testing as a quality control concerning equality policies.

EU proposing local voting rights for third country nationals.*

Move the EU and Member States to a greater emphasis on equality as a fundamental right and away from today's hierarchy.

- **If discrimination costs, people change behavior**
- **Empowerment – civil society advocacy**
- **Focus on changing behavior, not only attitudes**
- **Clean the stairs from the top – thus responsibility at the top**
- **Understand the interplay between different measures as well as grounds**

Aha! Now I see them...!



That was easy! Thank You!



Various sources I



Concerning UNESCO⁹'s European Coalition of Cities Against Racism (ECCAR) ee

Website - <http://www.citiesagainstracism.org/> Email - ECCAR@Rathaus.Potsdam.de

ECCAR's 10 point Action Program

http://www.citiesagainstracism.org/fileadmin/user_upload/download/10ppa-engl-unesco.pdf

Report to the Council of Europe⁹'s Congress of Local and Regional Authorities *Social approach to the fight against racism at local and regional level*

On the web at <https://wcd.coe.int/ViewDoc.jsp?id=1285613>

Resulting recommendation 246 (2008)

<https://wcd.coe.int/ViewDoc.jsp?id=1285477&Site=CM>

And resolution 264 (2008) at

[https://wcd.coe.int/ViewDoc.jsp?Ref=RES\(2008\)264&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=RES(2008)264&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864)

European Union Charter for Equality between men and women

<http://www.charter-equality.eu/>

Concerning testing: see *Proving discrimination cases: the role of situation testing*

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http://www.migpolgroup.com/projects_publications.php?id=25

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AT HOME IN EUROPE – PROMOTING INCLUSION. Open society foundations

Muslims in European Cities. Somalis in European Cities. Excluded Majorities.

www.opensocietyfoundations.org/projects/home-europe

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Sverige SOU 2005:56, (The Blue and Yellow Glass House, Structural Discrimination in Sweden) <http://www.regeringen.se/sb/d/108/a/46188>

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ENARgy 17. In particular “Institutional Racism in Sweden and Europe”

http://cms.horus.be/files/99935/MediaArchive/pdf/ENARgy_17_EN.pdf

AN INTERSECTIONAL APPROACH TO DISCRIMINATION: Addressing Multiple Grounds in Human Rights Claims. Ontario Human Rights Commission. 2001

http://www.ohrc.on.ca/sites/default/files/attachments/An_intersectional_approach_to_discrimination%3A_Addressig_multiple_grounds_in_human_rights_claims.pdf

Equality data and political priorities: the Swedish case, Yamam Al-Zubaidi

www.enargywebzine.eu/spip.php?article343