'The Trip to Nowhere'

Family Policy in the Swedish Welfare State

Analyzed by Means of the Comparative Law Method

Immanent in the European Convention on Human Rights

By

Professor emeritus Jacob W.F. Sundberg

The Stockholm Institute

of Public and International Law

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Professor emeritus Jacob W.F. Sundberg was for many years professor of Jurisprudence at the University of Stockholm, and one of the most ardent critics of the Swedish "High tax society". He was also the president of the International Commission of Inquiry into the 1932-33 Famine in Ukraine, also called "The Sundberg Commission". He was also the Official Reporter to the European Commission on Human Rights and the founder of the Sporrong-Lönnroth Human Rights Prize Contest for law students.

Profesor em. Sundberg is still a very active researcher at the Stockholm Institute of Public and International Law - IOIR.

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In the beginning of the 1970s Swedish Family Law suddenly hit a crisis. What was old was thrown overboard and the course was changed towards completely new directions. In my 1969 book named "The Changing Family Law" *(Familjerätt i omvandling)* I had sensed the crisis coming[1] and at *Tagungfiir Rechtsvergleichung* in Regensburg, September 24-27, 1969, 1 was able to tell about the big change of direction on the basis of the Directives for the Family Law Experts of August 15, 1969, generally attributed to Mr Carl Lidbom.[2] In her contribution to a *Festschrift* in 1993, Professor Mary Ann Glendon took the Regensburg lecture for her point of departure:

> I was puzzled by what he seemed to be saying about the law of Sweden. What he said seemed so peculiar, in fact, that I thought perhaps I had not understood him correctly. Upon my return to Boston, I wrote Professor Sundberg to inquire whether he had really meant to say that Swedish family policy was marked "by the disappearance of a positive interest in marriage as an institution", and whether it was really the case that the Swedish government had ordained that "future legislation should be so drafted as not to favor in any way the institution of marriage as compared with other forms of cohabitation." His prompt reply, assuring me that I was not mistaken, and describing some further aspects of the family policy of the socialist party then in power, was the first of many courteous responses to my requests for information over the years.[3]

What was strange about this change of direction was that among Swedish lawyers nobody seemed to know what it was good for. Professor Anders Agell did indeed summarize the situation very well when headlining one of his articles in 1978: 'the trip to nowhere'.[4] Swedish lawyers did not understand what was behind the development, or if they did, at least they felt compelled not to tell what they understood. Surely, a weighty factor was the burden of the haegerstroemian Uppsala School of Scandinavian Realism.[5] Lawyers were silenced by the Uppsala School relegating them to the role of technical consultants to the decision-makers and obliging them to keep quiet when no opinion was

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[1] Jacob W.F. Sundberg, *Familjerätt i omvandling,* Institutet för rättsvetenskaplig forskning No LV, Stockholm 1969.

[2] The Directives are discussed by e.g. Folke Schmidt, "The Prospective Law of Marriage", 15 Scandinavian Studies in Law 191-218 (1971); and by Jacob W.F. Sundberg, "Marriage or No Marriage. The Directives for the Revision of Swedish Family Law", International and Comparative Law Quarterly 1971, pp 223-238. - The Regensburg report was later published in *Das Erbrecht von Familienangehorigen in positivrechtlicher und rechtspolitischer Sicht,* Ernst von Caemmerer ed., Frankfurt: Metzner, 1971, p 31-62 (Arbeiten zur Rechtsvergleichung, Bd 50).

[3] Mary Ann Glendon, "Comparative Law as Shock Treatment: A Tribute to Jacob W.F. Sundberg", in Erik Nerep & Wiweka Warnling-Nerep, Eds., *Festskrift till Jacob W.F. Sundberg,* Juristförlaget, Stockholm 1993, pp 69-84, at 69.

[4] Anders Agell, "Den svenska familjerattslagstiftningen. En resa utan mål', Juridiska Föreningens i Finland Tidskrift 1978, pp 1-27 (a lecture given at the University of Helsinki on April 25,1977).

[5] The reader must here be referred to Jacob W.F. Sundberg, "Scandinavian Unrealism", 20 Rechtstheorie, Beiheft 9, pp 307-320; a more recent discussion, but in Swedish, appears in Jacob W.F. Sundberg, *Om doktrinen. Avskedsföreläsning 29.9.1993* [i.e. my valedictory lecture] Institutet för offentlig och internationell rätt No 98, Stockholm 1993, at pp 17-19.

asked for. The straitjacket that this meant in Family Law was very evident in Stockholm and Lund, where no advanced legal scholar seemed willing to devote himself or herself to Family Law. If it was different in Uppsala, that was very much the merit of Professor Anders Agell.

Consequently, the critical discussion of the matter came to be found in places where Swedish lawyers were unaccustomed to look, viz. in the Comparative Law dialogue that was published in learned works and periodicals outside of Sweden. It is not so, in case somebody were inclined to think so, that publications abroad only serve to market the superiority of the Swedish solutions. Approaching matters along Comparative Law lines has quite other merits:

Comparative methodologies ... not only assist us in seeing what remains invisible to us because we know it so well, but aid us in achieving a critical stance toward what we have always taken for granted.[6]

It was in this environment that I myself, having finished "The Changing Family Law" and left the Chair of Family Law for the one of Jurisprudence, chose to publish my later family law contributions,[7] and I was happy to receive a positive response from Professor Glendon herself:

> his writing - with its good-humored provocative sallies, its unexpected juxtapositions and comparisons (Sweden and Rome! Sweden and Poland!) - has seldom failed to send my own research off in new directions.

But, of course, it must be granted that the critical discussion that has been carried on in learned works and periodicals abroad, has not been able to light many candles in Sweden, for whatever reason. Therefore, it is good to know that nowadays we have received one more avenue towards understanding ourselves in Sweden, and indeed one that perhaps many will find it easier to travel than looking into learned volumes requiring a trip to a great library before any reading is possible. This is the self-examination that has been going on in the Social-Democratic Party.

What made the invisible visible was primarily the collapse of high tax society under the attacks of the Socialist Minister of Finance, Mr Kjell-Olof Feldt, and Stig Malm, the top boss of the labour union movement, killing the holiest cows of that society by invectives such as "rotten" and "perverse", all done at a famous occasion on November 23,1988.[8] After that it was said with increasing sincerity, that the societal vision of the Social Democrats meant a system of high taxation that was a goal *per se*. By hyper-intensive taxation money should be brought into the government coffers in order to be transferred therefrom to more worthy societal groups by means of an enormous social bureaucracy.

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[6] Mary Ann Glendon, op. cit. (note 3 supra) p 70 f.
[7] For more detail, see the bibliography in *Festskrift till Jacob W.F. Sundberg* (note *3* supra) pp 479-508.
[8] Kjell-Olof Feldt, *Alla dessa dagar... i regeringen 1982-1990,* Norstedts, Stockholm 1991, p 386, cf 385.

Consequently, today perhaps there are more than a few comparative law experts capable of discussing the 'trip to nowhere'. If we have not heard much from them yet, that may have different explanations. But what is now visible for all to see makes it also possible to discover certain patterns. And those patterns suggest that the 'trip to nowhere' was in fact a trip not without a goal.

2. The Social Bureaucracy

In this perspective you discover the central and dominating role of the social bureaucracy in the Social Democratic building.

In 1950, the personnel employed within the central administration for the social welfare activities of the Swedish municipalities ("kommuner") was altogether about 2.200 people, all municipalities included. At the end of the 1970s, the figure was 13.000. Among these about half had been educated at a university college for social affairs *(socialhögskola)* or been given a similar university education. This was considered to have given them a desirable psychological expertise.[9] To this should be added the so called 'family care principle' *(familjevårdsprincipen),* by which it was understood that all communal social welfare concerning the one and same person or family should be handled by one and same social welfare officer. The principle was believed to entail a better consideration of the totality of the situation of the social welfare client.[10] It certainly meant giving to the social workers an enormous power over their clients.

During the preparations of what was going to be the Social Welfare Act, 1980 (SFS 1980 No 620) a new view of the task happened to surface which could inspire in a great many ways. The time had come to get rid of 'thinking in symptoms' and to arrive at a totality-perspective, a perspective including not the least "the relationship between the Individual and Society". Handling social welfare was in the final resort "a political activity" and the goal was "a nivellation between the living conditions of various groups".[11] Subsequently turning to the 1980 Act with Special Provisions on the Care of Young Persons, known by the acronym LVU,[12] the basis of those takings into public care that later were to call for so much attention in Strasbourg, and having these ideas in mind, it was possible to discover a sharper voice. The danger to the child's health that was a condition for the taking into public care, need not be serious, and no detrimental effects had to be established. The only thing that the powerful social bureaucracy needed to interpret was "the psychiatric apartness" of the parents (their special mental character) and their "personal disposition" as it was mentioned when examples were given.[13]

The expansion of the social bureaucracy entrusted with these tasks took place during the 1970s. The formation of the cadre was mandated to the university colleges for social affairs in Stockholm, Lund, and Umeå. What this meant came to be known by a number

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[9] This information has been taken from the thesis of Harriet Lundblad, titled *Delegerad beslutanderätt inom kommunal socialvård,* Liber, Stockholm 1979, pp 86,106,107 and 108.
[10] Harriet Lundblad, op.cit. (note 9 supra) p 50-51,102.
[11] See Proposition 1979/80:1, del A, p 125,130,134.
[12] Lagen (1980:621) med särskilda bestämmelser om vård av unga, LVU, SFS 1980 No 621.
[13] Proposition 1979/801 del A, p 582.

of complaints to the Chancellor of Justice (JK) and the Ombudsman (JO). This is not the place for an extensive report on these matters.

I will simply refer readers to the lecture on The Welfare Society, that I used to give during the 1980s within the framework of the course in Jurisprudence at the University of Stockholm, and which course played a role in the *ius docendi* affair.[14] Summarizing, it may however be said that the system meant something that was commonly described as "Red terror - Marxist mobbing - Massive Left-extremist propaganda" and the major instrument used was the so called 'sensitivity exercises' ('group dynamics') in the course in Psychology in which you must get a Pass if you were to proceed further towards the degree in Social Affairs *(socionom-examen).* In Umeå, the advice passed along among the students was: "Pretend you are a Marxist, otherwise you will not survive."[15] In this way the expanding social bureaucracy was recruited in a rather special way, the majority sharing the ideas about the Marxist Progression[16] and finding its task to be to contribute to the development of Socialist Man who was to be active in the new Socialist Society, about to appear around the corner.

In the case *Ulla Widén v. Sweden*[17] - the applicant being the lady from the islands of Åland whose children were to be taken into public care because she was no good at cleaning her apartment - this special feature of the social bureaucracy was brought into evidence. In the local newspaper *Jönköpings-Posten* of March 24, 1983, Ulla Widén could read a leftist lunatic-fringe manifesto that called for, i.a. "the nationalization without compensation of all enterprises that could not guarantee continued operations". Among the 132 signatures under this proposal about how to solve the problems of the early 1980s, Ulla Widén could recognize five of those social workers who had pestered her life, and some 30 or more other social workers, as well as perhaps equally many school teachers, i.e. all representatives of the leftist cadre that had been one major product of the flower-power years of the 1970s.[18]

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[14] As to the ius *docendi* affair, readers are referred to the extensive documentation published in 29 Minerva. A Review of Science, Learning and Policy 330-385 under the title "Reports and Documents. Academic Freedom at the University of Stockholm", preceded by an article by Professor Edward Shils (ibidem, pp 321-330). In the Swedish language, reports will be found in Jacob W.F. Sundberg, *"Det är för UHA väl känt"*(No 92 in the publication series of The Stockholm Institute for Public and International Law [Institutet för offentlig och internationell rätt, hereinafter referred to by the acronym IOIR], Stockholm 1992) pp 7-8 with further references, and in Jacob W.F. Sundberg, *Tystnadsspiralen,* IOIR No 96, pp vii-x.

[15] The lecture on "The Welfare Society" has been published, partly, in Swedish, in Jacob W.F. Sundberg, *En liten bok om allmän rättslära,[i.e.* A little book about Jurisprudence], IOIR No 80, pp 95-98, 99-100.

[16] See generally Jacob W.F. Sundberg, "On Marxism as a Legal Practice", 65 Washington University L.Q. 823-838 (1987), republished in Sava Alexander Vojcanin, Ed., *Law, Culture, and Values. Essays in Honor of Gray L. Dorsey,* Transaction Publishers, New Brunnswick etc. 1989, pp 215-230,

[17] *Ulla Widen v. Sweden, 8* EHRR 79. For a more extensive report, see Jacob W.F. Sundberg, *Human Rights in Sweden. The Annual Report* 1986 p 53-56.

[18] A sweeping picture of how the social bureaucracy developed during this period has been provided by Siv Westerberg in her article "Några tankar kring svensk barn-Gulag" (Some

The Marxist element in the new social bureaucracy gives a sizeable explanatory value to the comparison with the role of the Marxist ideas within the once so frightening Socialist Camp, now defunct, when it comes to interpreting what happened in Sweden.[19] In the lecture on The Welfare Society, just referred t there is a passage with a brief retrospect on the Socialist Camp legislation of the 1960s in the field of family law, that may be worthwhile recapitulating in my translation into English.[20]

The theoretical explanation ... why this legislation looked so totally different from the one that was introduced during the 1920s ... [has something] to do with the dynamic view of the evolution: that Man's nature is reformable, that as time goes by it shall be possible to create Socialist Man, and that Socialist Man shall be capable of being eventually so improved that he can be a member of Communist Society. In order to achieve this, what is important is to protect the child from detrimental influences, and the detrimental influences stem mainly from the Family. Consequently you have to, at least, supervise the Family closely, so that it becomes the ultimate instrument of the State Power. This is the basic thinking. But it is also part of this that if the family happens to peddle the wrong message that is not in harmony with that of the State Power, then you have to deprive the family of that influence. The simplest way to do this is by taking the child into public care, or also by preventing the situation from occurring by seeing to it that the family influence remains as little as possible. The less number of hours and minutes that people spend together in the family, the less chance there is that the evil wrongful influence is exercised that entails the unhappy consequences.[21]

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thoughts about Swedish children-Gulag), i.e. her contribution to the anthology Lennart Hane, red., *Rättvisan och psykologin,* [Justice and Psychology] Contra, Stockholm 1994, pp 111-122. The article only exists in its Swedish version. It has the merit of including also the system of foster children in the picture, thus adding another economic dimension to the social bureaucracy system.

[19] As to the meaning of the term Socialist Camp, now in oblivion, the reader is referred the explanations appearing in connection with the appearance of the so called Brezhnev Doctrine, explaining the Warsaw Pact intervention in Czechoslovakia in 1968. See e.g. Keesing's Contemporary Archives 1968, col. 23 027.

[20] The text that follows is based on research relating to the Uniform Family Law, which was prepared on common Marxist ground and which was adopted in Social Czechoslovakia in 1949 and in Socialist Poland in 1950; later however it was scrapped in favour of separate and more different national laws which were adopted by these two countries in 1963 and 1964, respectively. The in-depth analysis of what the system meant builds mainly on a term paper by Mr Alexander Juris, titled "Cooperation between Poland and Czechoslovakia in the field of Family Law" *(Samarbete mellan Polen o Tjeckoslovakien på familjerättens område)* filed with IOIR under number P 30/79. this the author tells that his analysis is based, partly on facts taken from the commentary to the Polish and the Czechoslovak Family Law, and partly on literature dealing with Marxist ideology in general; "furthermore it includes quite a great deal reflecting own experience." Mr Juris arrived in Sweden during the 1970s as a refugee from< Czechoslovakia. In Sweden of the time it turned out to be impossible to get the paper printed.

[21] See *En liten bok* (note 15 supra) p 95. - This theory about the purpose of legislation concerning the custody of and the education of children is by no means exclusively the hallmark of the Communists in the then Socialist Camp. It has a much broader base, not the least in the Socialist movement in Sweden. It may be useful to look for comparison at the following little excerpt from the editorial page of the Swedish daily *Svenska Dagbladet,* of September 30, 1994. It reported on

3. The ius docendi Affair as Catalyzing Agent

What has been said in the past about the role of the social bureaucracy also gains in credibility when the *ius docendi* affair (1988-1990) is analyzed.[22] It has produced an extremely interesting period document in the shape of the Memoranda of the Working Group[23] showing what was believed to command sympathetic attention, at the same time as the choice of points of attack provides helpful information about why the action was started. The themes that the Group felt to be well suited to form the basis of the attacks were Marxism and its relationship to genocide, and the relationship between the Uppsala School of Scandinavian Realism and the Law of Nature.

I find it extremely difficult to arrive at any other understanding than the point of attack of 'Marxism and genocide' being brought about by my presidency, at that time, of the International Commission of Inquiry into the 1932-33 Famine in Ukraine. The Commission had been asked to investigate the relationship between Marxism as a kind of 'state religion' in the Soviet Union, on the one side, and the great genocide, killing some ten million people or so, by means of the deliberately organized famine in 1932-33 in Ukraine and surrounding territories, on the other side. My mandate was widely known (even if Swedish mass media resolutely tried to suppress the news, restricting themselves to the headline in the daily *Dagens Nyheter:* "Made Propaganda Against Marxism"[24]). Furthermore it is difficult to believe that the Soviet Embassy in Stockholm should have been less interested in what I was doing than the Soviet Embassy in Ottawa which made certain interventions in the Commission proceedings. I am impressed by the *'ius docendi'* action beginning at the same time as the Sundberg Commission (as it was termed in the

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the programme for school work that recently had been announced in the Swedish broadcasting service by "Mr Sven Wernström, a widely known old Communist and author of instruction-books in the virtues of the class struggle, adapted for use by children":
Yes, the school must 'theorize', i.a. about 'the parasitical upper class'. The children must be separated, to the extent possible, from the detrimental influence of the parents. And this should be done early. *Kindergarten* children *shall* be in the day-home, even if it is possible for them to stay home with their parents. The correct view of Man can only be transmitted in public administration. To this should perhaps only be added that in the new Socialist Cabinet that took over after the 1994 elections, the post as Minister for School Affairs was given to former Communist, Ms Ylva Johansson.

[22] See note 14 supra.

[23] The Memorandum of November 22,1988, together with its covering letter, is published in translation into English in 29 Minerva 330-342 (cf note 14 supra). The original Swedish text of that Memorandum, plus the one of December 13,1988, appears together with the interventions of Professor Gerard Radnitzky and Hannu T. Klami in *Arbetsgruppens skrivelse och promemorior samt motpromemorior från professorerna Hannu T. Klami och Gerard Radnitzky*, IOIR No 79.

[24] The newspaper article is reproduced in translation to English in 29 Minerva 352-353 (1991). What was known in the Stockholm media world about the International Commission and its mandate has been reported in the book Jacob W.F. Sundberg, *Tystnadsspiralen* [i.e. The Spiral of Silence], IOIR No 96, Stockholm 1993, in the chapter "Hur hungersnöden försvann" (How the Famine Disappeared) pp 77-86.

daily "News from Ukraine"[25]) held its first hearings in Brussels. I am certainly happy that the point of attack faded away when the Socialist Camp collapsed and the Soviet Union broke up.

The Working Group was of the opinion that Section 2 in the Swedish University Law *(Högskolelagen,* SFS 1977 No 218) was using the very restricted Uppsala School notion of 'science'[26] and that consequently all teaching that could not be classified as 'scientific' in the Uppsala School sense was impermissible *eo ipso,* including everything that smelled 'natural-law-renaissance' which was the term commonly used in Swedish legal circles to identify the European Convention on Human Rights. The Working Group could hardly have ignored that this line of attack must release a flood of criticism from other seats of learning, e.g. the one from Professor Hannu T. Klami in Uppsala, Professor Gerard Radnitzky in Trier (Germany), and Dr Virginia Black at Pace University (New York). The reason why nevertheless this line of attack was chosen was no doubt that thereby it would be possible to have a swipe at something that was truly relevant to the circles behind the *ius docendi* action, viz. the fact that the teaching about the European Convention - the so called natural-law-renaissance - during the Spring Term of 1988 had been integrated with my teaching of Jurisprudence at the University of Stockholm.

What made this so pointed was the case *Olsson v. Sweden*[27] which at that time was pending in the European Court of Human Rights. The excitement which this case caused in Cabinet and Party quarters can be studied in Ms Yrsa Stenius' editorials in the leading Socialist Party daily *Aftonbladet* following the advance of the case from the Commission to the Court. The fact that the Prime Minister's speech-writer, Mr Par Nuder, had himself immatriculated to follow my above-mentioned course certainly displays interest, and so do the reports that the President of the Social Democratic youth organization SSU, Ms Anna Lindh, turned up in the audience on March 18, 1988 for the lecture that was directly devoted to the European Convention.[28] A terrifying blast, authored by Mr Jesus Alcalá and published in *Dagens Nyheter* a few weeks after the judgment in the Olsson Case, was directed at the lawyers behind the complaint in that case.[29] It evidences a vicarious

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[25] See e.g. Serhiy Dibrova, "Famine of 1933: Political profiteering or search for truth?", News from Ukraine, No 39,1988, p 5.

[26] Section 2, first paragraph, reads as follows:
The education given within the university should build on a scientific ground *[Utbildningen inom högskolan skall bygga på vetenskaplig grund}*

[27] *Stig and Gun Olsson v. Sweden,* Application 10 465/83, Report of the Commission adopted December 2,1986; judgment, see 11 EHRR 259.

[28] The reports are covered in *En liten bok* (note 15) p 35.

[29] Jesus Alcalá, "Advokater struntar i barnen" [i.e. Advocates do not care about the children], *Dagens Nyheter,* April 5, 1988. The article includes the following blast:
One Advocate, spearheading, just like the above-mentioned lawyer, a furious campaign in favour of unrestricted parental rights, is known to harbour the opinion that each and every social-welfare intervention evidences the dictatorial State - meddlesome and unduly inclined to interfere. Here is an openly expressed aversion against social authorities, and a devoted conviction that children are part and parcel of private property. With Advocates of that kind the risk is evident that cases about taking into public care, that is to say cases in which the dispute exists formally and exclusively between the individual and the "state", will turn into veritable hate campaigns against

suffering for the sake of the social bureaucracy that would be hard to take seriously, had it not been known that exactly Mr Alcalá had been chosen to be one of the heads of the 'anti-course' in human rights that was set up during the Spring Term of 1988, the Board of Line having adopted its first resolution in the matter at the initiative of Professor Madeleine Lofmarck (now -Leijonhufvud) on October 14, 1987. This 'anti-course' was to have the then Socialist Minister of Justice, Ms Anna-Greta Leijon, as its shining star. I myself was under order of Professor Lofmarck not to look into what students that had signed up for the course.[30]

In September 1987, hearings were being held in the Olsson Case and they provoked angry attacks by Ms Yrsa Stenius. Judgment in the Case was rendered the week after my lecture on the European Convention. The judgment caused renewed attacks, and now the Working Groups future pet subject surfaced, viz. the pretended "accepted borderline in Sweden between Law and Politics".[31] Law student, Mr Carl Johan Norström, who had been at the disposition of the Working Group, was to sit in the kitchen of Justice Tor Sverne, busy with his term paper on "Society's Responsibility for Children" *(Samhällets ansvar för barn),* in which a dozen pages were devoted to the European Convention and the cases lost in Strasbourg.[32] Law student, Mr Martin Tiden introduced the second complaint. His mother was the superintendent medical officer at the PBU-section of the Stockholm medical services. Due to her deep involvement in the parallel case in Strasbourg, *Lovasz v. Sweden,*[33] he hardly could have avoided being fully informed. In this case, in early March, the Social District Board had just given up the fight and withdrawn its appeal to the Administrative Court of Appeal so that the case could be stricken from the list the day before my lecture on the European Convention. The fact that in a third round were to appear with complaints the daughter of Justice Sverne, Ms Erica Sverne, and her buddy, Ms Agneta Lundberg with a degree in Social Affairs, as well as Mr Martin Weyler, the younger brother of the 'director of culture' *(kulturchefen)*[34]

Sweden and the Swedish social model. Of course, this campaign character will be particularly patent when the case is pursued further before the organs of the Council of Europe. [My translation.]

Subsequently, Mr Alcalá gave up his doctoral studies and now makes a living as a newspaper writer, thus profiting from an environment where the calls for exactitude are far less than when doctoral dissertations are in issue.

[30] A more detailed account of the incident will be found in my reminders to the National Board of Universities and Colleges in the *ius docendi* case (supervisory part), signed September 20, 1989, section titled "Courses and anti-courses".

[31] See editorial in *Aftonbladet,* March 25, 1988 (also reproduced as picture 19 in my valedictory lecture: *Om doktrinen,* IOIR No 98).

[32] The relationship between Mr Norström and Justice Sverne is eloquently described in the preface to the term paper.

[33] The Commission Report in the Lovasz Case was adopted on July 4, 1988. - It may be added that the boy taken into public care in that case, Mr Frans Lovasz, when of mature age, has brought a civil action against the Swedish State for damages due to the detriment he was made to suffer by the decision to take him into public care (Case No T 8-399-94 before the Stockholm District Court). Incidentally, the same goes for Mr Alexander Aminoff who has initiated a similar court case.

[34] "Culture" in Sweden is normally a cover name for some kind of militant leftist philosophy.

Mr Svante Weyler, of course does nothing to dispel the impression of important ties to the social bureaucracy being present.

Consequently, it is better than an informed guess that it was exactly in the social bureaucracy that my lectures were experienced as a threat.

4. The Comparative Law Method Immanent in the European Convention

If in this way it is possible to establish that the social bureaucracy and the European Convention - each for itself and with extra emphasis when they collided - have been important factors in the development, it remains nevertheless to analyze and evaluate what it was that in fact did take place. We must see what remains invisible to us because we know it so well, we must arrive at a critical stance toward what we are used to take for granted. In this matter we have suddenly received some extra help by Comparative Law, in fact by the Comparative Law method which is immanent in the European Convention on Human Rights.

Jurisprudence in Swedish is termed *allmän rättslära,* which is our counterpart to the German expression *Allgemeine Rechtslehre.* That again means a general teaching about law, law as a generalized phenomenon. But when speaking about law as a generalized - non-national - phenomenon, it is difficult to do so without resorting to Comparative Law, to some kind of comparative method. This received its formula already at the end of the 19th century as a result of the endeavours of the German Professor Adolf Merkel.

Just as each single discipline of the Law gives birth to a General Part at a certain degree of development ... similarly, out of all branches of legal science, in other words, out of its totality, there should be developed a General Part, in which the unity of Law finds its expression and is fully brought about.[35]

A legal philosophy conceived this way - or an *allmän rättslära* for lawyers as my students were taught to say in Stockholm - is a matter of great dimensions. It is possible to identify it with what I have called *the European artefact.*[36] By this is meant the idea about *rättssamhället*, the *Rechtstaat,* a society under the supremacy of the Law or 'the Rule of Law'. The European Convention on Human Rights has been created in order to guarantee that society, and all activity of the Convention organs and the procedural machinery in Strasbourg express that notion and give it precision. The European Convention is a treaty of guarantee, created to secure the maintenance of a European legal minimum standard throughout the whole Convention area.

The particular nature of the European Convention forces a European systematization and a European conceptualization that is independent -autonomous - in relation to the national legal systems, the standards of which the Convention organs are created to supervise. In order to arrive at these European autonomous legal notions method is called for. In our

[35] This summary will be found in the obituary over Professor Merkel that was written by Professor J. Grotenfelt and was published in Juridiska Föreningens i Finland Tidskrift 1898 pp 141-150, at 149. My translation.

[36] The doctrine about the European artefact is sketched briefly in Jacob W.F. Sundberg, *En liten bok* (note 14 supra), pp 18, 28 and 119.

connection, the comparative method is of particular interest. The use of that method by the European Court has been a source of much discussion that may be studied in majority opinions and in dissenting votes.[37] When the interpretation of the Convention language has been in question it has often been found to be natural to look at what the relevant word means in general among the Convention countries. It has been natural since the Preamble of the Convention declares the Governments of these countries to have a common heritage of political traditions, ideals, freedom and the rule of law. In this way, modern comparative law research gets a practical center exactly in the European Convention and the case law produced under its auspices may be studied as a European dialogue. The difficulty does then not lie in satisfying the Uppsala School's ideas about legal science, should anybody think so, but in the culture specificity of the legal language in particular. For haegerstroemianally muted Swedish lawyers, the European dialogue may mean a shock[38] - and even more so to the mass media people and others who have been raised under the Spiral of Silence.[39] Using the comparative method entails that they have to suffer the Swedish legal system in its various facets being presented in a non-Swedish analysis. That leads easily to a repetition of the circus around the 1971 book "The New Totalitarians" that was written by Mr Roland Huntford and which analyzed, i.a. the Swedish legal mentality taking the Anglo-American conceptualization as his point of departure. Some who are still with us may perhaps recall the hysteria that characterized the Swedish voices of the time when the analysis failed to produce the glorification expected.[40]

If somebody is capable of overcoming this state of shock and is willing to look closer into what this European dialogue means, he will find that it has the same merits as any Comparative Law dialogue in general, but beyond that also many other advantages. To

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[37] See e.g. Francois Ost, "The Original Canons of Interpretation of the European Court of Human Rights", in Mireille Delmas-Marty, ed., *The European Convention for the Protection of Human Rights, International Protection versus National Restrictions,* Nijhoff 1992, pp 283-318, at 305. Compare the Report delivered to the XVth International Congress of Comparative Law (July 31 - August 6, 1994 in Athens, Greece) by judge C. N. Kakouris of the Luxembourg Court (EU), titled "Use of the Comparative Method by the Court of Justice of the European Communities".

[38] I have noted that none of my seven books in English and three major books in Swedish, dealing with the relationship between Swedish law and the European Convention, has ever received a review in the legal periodical *Svensk Juristtidning,* and I have been inclined to explain this strange phenomenon by the shock effect referred to in the text although I am fully aware that also personal chemistry reactions may have played a certain role ; see *"Det är för UHA välkänt"* (note 14 supra) pp 162-165.

[39] The Spiral of Silence and its implications for Swedish societal life is dealt with in Jacob W.F. Sundberg, *Tystnadsspiralen* (note 14 supra). An early English-language study was published in Jacob W.F. Sundberg, "The Media and the Formation of Law", in Rolf Dietrich Herzberg, ed.. *Festschrift fur Dietrich Oehler zum 70. Geburtstag,* Carl Heymann, Koln etc. 1985, pp 447-469, at 453-457.

[40] Roland Huntford, *The New Totalitarians,* Allen Lane & The Penguin Press, London 1971. The reviews in the Swedish print media oscillated between 'balderdash' (Leif Carlsson, "Mr Huntfords gallimatias", *Svenska Dagbladet,* November 19, 1971) and incomprehension (Sture Lindmark, "Är svenskarna obegripliga" [i.e. Are the Swedes incomprehensible?], *Svenska Dagbladet,* March 14,1972).

these should be counted that it is possible to take advantage of the merits in a quicker and much more immediate way than by the hard-won extensive international reading that only can be achieved in those grand temples of learning that are the big libraries. The Swedish cases moving through the Convention machinery in Strasbourg all have a Swedish pre-history allowing insight into the problems, and the cases are followed intensively by a whole platoon of government officials and advocates and others familiar with the history. The fact that seemingly a professional Swedish discussion afterwards is missing is only an illusion. It is explained by certain mass media circles and certain bureaucratic circles - sometimes even dancing hand in hand - finding it being to their advantage of having so little discussion as possible of the cases lost in Strasbourg.[41] There does exist a widening field of well-informed people and if those were allowed to speak up and themselves were willing to discuss the truths evidenced by the cases about Swedish law, we would know very much more about what has really happened and is happening than what is transmitted by the feigned debate that today much too much characterizes Swedish public life.

5. The Catholic Teaching About Rights

Evidently, it is possible to make use of the comparative method in order to see things that otherwise would remain invisible for us, and to arrive at a critical stance toward what we have always taken for granted - to quote Mary Ann Glendon. But if so, the legal system to compare with must not be situated too close on the legal map. Therefore, let us take our reckoning by using the Catholic world, to be precise, the Roman Catholic teaching about Man's rights and duties. This is a heavyweight doctrine in a world housing about a billion Catholics[42] and the center of gravity lies in the densely populated Central and Southern European countries that now make a majority in both the European Union and in the Council of Europe. Immigration has brought the doctrine also to Sweden to such an extent that the Swedish Government in 1988 found reason to send its first ambassador to the Holy See.

There is no room in this paper to account for the full history of the relationship between the Roman Catholic church and the secularized doctrine of human rights.[43] I will therefore restrict myself to the teaching in the matter of the present Pope - *vicarius Christi* -, i.e. the former Archbishop in Polish Krakow, Karol Wojtyla, as Pope known as John Paul II. His pontificate (1978 -) has been marked by the repudiation of compromise with the Communist regimes and I do not think it is too much to say that he has decisively contributed to the collapse of the Socialist Camp and the dissolution of the Soviet Union. The papal teaching will be found in a number of documents emanating from the Holy See during the early 1980s. Among them should in particular be noted the

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[41] Cf Gustaf Petrén in Jacob Sundberg, ed., *Laws, Rights, and the European Convention on Human Rights*, Rothman, Littleton, Colorado 1985, p 50: "Most people hope to prevent any further complaints being brought before the Commission based on the rule in Article 6 by remaining silent."

[42] Der Fischer Weltalmanach 94 sets the figure at 1.008 million people.

[43] The recent past is covered by Professor Philippe Laurent, s.j., in his intervention at the Strasbourg colloquy, 17-19 April 1989, the proceedings of which are published as *Universality of Human Rights in a Pluralistic World*, N.P. Engel & Council of Europe 1990, see pp 62-67.

two encyclical letters *Familiar is consortio* and *Laborem exercens* as well as the Charter of the Rights of the Family. As to the basic philosophy, I accept the interpretation given by dr Philippe-I. Andre-Vincent.[44]

The point of departure must of course be what the Pope has taken over from his predecessors, viz. the idea of "1'ordre absolu des êtres et des fins" which is the basis of all societal authority and which imposes upon it fundamental limits. The fundamental relations and the objective rights are the expression of this Order which makes the people look to each other and makes them look towards God. This Order begins in the mother's womb with rights and duties born from the fundamental relation which is motherhood and fatherhood.[45] Andre-Vincent explains:

> Dans sa dialectique des droits fondamentaux Jean Paul II est toujours polarisé par la vie des personnes. II fait appel à la verité de leur nature ; et elles apparaissent dans l'ordre de leurs relations fondamentales; dans leurs families, dans leur communauté de travail, dans leur nation. Or cet ordre fondamental est à la fois être et devenir.[46]
>
> Si ces droits fondamentaux constituent des droits naturels c'est au sens d'un dû objectif qui appartient à l'homme en vertu de sa nature. "Ce droit objectif" est un droit concret: il est determiné par les conditions de vie ; c'est la nourriture dûe par les parents aux enfants, l'éducation dûe par la famille et par la société, le travail et la participation aux fruits du travail dûs par l'employeur à son employé, par la société à la famille.
> Ce dû existe avant toute decision législative ou judiciaire. II y a des relations objectives de justice entre les êtres humains avant même qu'il y ait des lois pour en determiner les contours et attribuer à telle ou telle catégorie de citoyens des droits subjectifs. ... Avant 1'attribution de ces droits existent ces relations de justice et le droit objectif qui les determine....[47]
> "Le premier droit de l'homme est le droit à la vie." Et le moment de son apparition est le commencement de tous ses droits. Or c'est dans 1'instant de sa conception qu'apparait ce commencement. Le combat pour la justice commence là.[48]
>
> Tous les droits fondamentaux peuvent être saisis dans le droit à la vie tel qu 'il apparaît initialement et se développe dans la famille.[49]
>
> La famille est le berceau de la liberte comme elle l'est d'abord de la vie. La liberté de l'homme est le fruit de cette culture qui intéresse toute la société et qui est donné d'abord pour chacun dans sa famille. Parlant des droits de 1'enfant Jean Paul II voque

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[44] Philippe-I. Andre-Vincent, *Les droits de I'homme dans I'enseignment deJean PaulII,* Bibliothèque de philosophie du droit vol. XXVII, Paris 1983.
[45] Andre-Vincent, op. cit. (note 44) pp 28-29.
[46] Andre-Vincent, op. cit. (note 44 supra) p 31.
[47] Andre-Vincent, op. cit (note 44 supra) p 22.
[48] Andre-Vincent, op. cit. (note 44 supra) p 33.
[49] Andre-Vincent, op. cit. (note 44 supra) p 39.

> imm´´ediatement les droit et devoirs de la famille: les droits et devoirs de 1'Etat ne viennet que subsidiairement en cas de dfaillance du cercle familial ...[50]

In the rights of the family is included the right to educate the children within the family.

> The right and duty of parents to give education is *essential,* since it is connected with the transmission of human life ; it is *original and primary* with regard to the educational role of others, on account of the uniqueness of the loving relationship between parents and children ; and it is *irreplaceable and inalienable,* and therefore incapable of being entirely delegated to others or usurped by others.[51]

> Même si les parents doivent se préparer avec beaucoup de soin à accomplir ce devoir et ce droit dans la mesure de leurs forces, il n'en reste pas moins que, dans la structure de la société moderne, *la fonction éducative depasse bien souvent,* semble-t-il, les possibilités et la préparation de la famille, surtout en raison de l'énorme masse de connaissances qui constituent aujourd'hui le patrimoine culturel... II est donc indispensable que, dans le domaine éducatif, il y ait une collaboration *complémentaire et subsidiaire* de la société, une collaboration qui se réalise principalement dans 1'école et par le moyen de l'école,[52]

This means that the role of the school is subsidiary, it is always exercised *in loco parentis.* In *Familiaris consortio* this was put in the following way:

> However, those in society who are in charge of schools must never forget that the parents have been appointed by God himself as the first and principal educators of their children and that their right is completely inalienable.[53]

The family is the object of protection in the Charter of the rights of the family,[54] and Art. 10 of the Charter explains:

> Remuneration for work must be sufficient for establishing and maintaining a family with dignity, either through a suitable salary, called a "family wage", or through other social measures such as family allowances or the remuneration of the work in the home

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[50] Andr6-Vincent, op. cit. (note 44 supra) p 36.
[51] *Familiaris consortio,* sec. 36, 2d para.
[52] Pope John Paul II, addressing the Italian lawyers, December 7,1981, *Documentation catholique* 1982 p 94.
[53] *Familiaris consortio* Sec. 40, 4th para.
[54] The Charter is the response to a proposition at the Bishops' Synod, 1980 ; the 14 points made were recapitulated in *Familiaris consortio,* and the Chater which was signed October 22,1983, was published by the Holy See on November 24,1983. It is presented in "Charter Of the Rights of the Family. Presentation of the Holy See to all persons, institutions and authorities concerned with the mission of the family in today's world", 29 The Pope Speaks: The Church Documents Quarterly (No 1) 1984, pp 78-86; and in "Charte des droits de la famille. Texte présenté par le Saint-Siège a tous les intéressés", *La Documentation Catholique,* December 18, 1983 - No 1864, pp 1153-1157. The Charter was published by the Parliamentary Assembly of the Council of Europe on March 5,1984 (AS/Inf (84)3).

of one of the parents; it should be such that mothers will not be obliged to work outside the home to the detriment of family life and especially of the education of the children.

In *Laborem exercens* there will be found a call for "a social re-evaluation of the mother's role", requesting that society should "make it possible for a mother - without inhibiting her freedom, without psychological or practical discrimination, and without penalizing her as compared with other women - to devote herself to taking care of her children and educating them in accordance with their needs, which vary with age."[55]

It is easy to see that this message had a point against the then Communist regime in Poland which this Polish pope had experienced himself and which regime, by its own family law philosophy, forcefully tried to destroy the Catholic family as being the nucleus in the resistance to Communism (cf supra page 6). But it is also possible to see the point against many of the Swedish innovations of the 1970s, which more or less hiddenly mirrored the same philosophy on which the Polish regime was based. The confrontation has come to light in the case of the teaching at home, the teaching of religion, corporeal chastisement, the taking of children into public care pursuant to LVU, and many other matters.

As a result of the examination of the Swedish system in Strasbourg as to its conformity with the European Convention's minimum standard, we have been drawn into a European dialogue, in spite of our muted haegerstroemian lawyers. This is all the more interesting since the Pope repeatedly in his speeches has turned particularly to the judges of the European Court, e.g. at the occasion of the audience in the Vatican on November 10,1980 when he received various Catholic gatherings of lawyers, headed by the French advocate Edmond Pettiti who had been recently appointed member of the European Court.[56] In the Catholic light, the peculiarities of the Swedish system get their sharpest illumination.

6. Swedish Cases of Taking into Public Care as a Matter for the European Dialogue

In a number of cases during the 1980s about the taking of children into public care focus has been set with increasing intensity on the social bureaucracy, and the system has received comments from lawyers all over Europe. The Norwegian member of the Commission, Advocate Gro Hillestad Thune, happened to spearhead some of the most interesting attacks. She had among her antecedentia the merit of having been the political secretary to the Minister of Commerce in the Labour Governement of Mr Bratteli (1974-76) and she had no difficulty with neither the Socialist ways of thinking, nor the reading of Swedish language literature.

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[55] *Laborem exercens,* Ch. 19, 4th para. The text proceeds: Having to abandon these tasks in order to take up paid work outside the home is wrong from the point of view of the good of society and of the family when it contradicts or hinders these primary goals of the mission of a mother.

[56] Pettiti was appointed on January 20, 1980. The speech will be found in *L 'Osservatore Romano,* January 5, 1981, titled: "To Judges of European Court of Human Rights -European defence of human rights through the Commission and the Court". - Later, on December 12,1983 - i.e. after the adoption of the Charter - the Pope addressed the judges of the European Court in a new speech which was published by the Council of Europe in its French version. The speech celebrated the 30-year jubilee of the Court and it drew the attention of the judges to the Charter

The first cases to attract attention concerned the very decision to take into public care and it appeared that in those cases the social bureaucracy in fact had been a bit too enthusiastic about its political role. Even if the way the parents defended themselves by legal proceedings breeded ill will in the bureaucracy, in Strasbourg the cases seemed to evidence relatively clear transgressions and the Swedish Government settled the cases with substantial indemnities being paid to the victims.[57]

The sequence of cases that was begun by Olsson in the European Court were of a slightly different character.[58] The starting point was well described by the Supreme Administrative Court in the case *RA1987 ref. 123;* among the signatures under that case will be found, incidentally, Justice Elisabeth Palm, later to be appointed Swedish judge in Strasbourg. It is there said:

> A conspicuous difficulty is to be found in the differing points of departure, different in legal character, when making an examination under Sec. 5 of LVU whether the public care should be discontinued, and when examining under Sec. 28 of the Social Welfare Act whether a child should be allowed to leave a family home [by this term is meant a foster home]. The fact that these decisions have to be taken in different proceedings does create great problems, see e.g. SOU 1986:20 pp 340-345 and DsS 1987:3 pp 124-126. As a matter of fact, being aware of these problems could lead to an inclination of the relevant authorities, having to consider the discontinuation or not of the public care under Sec. 5 LVU, to bring into the picture also circumstances that rather are of relevance in the application of Sec. 28 of the Social Welfare Act.

The Supreme Administrative Court repudiates such a mixing.

> It is the youngster's need of treatment that shall determine the length of the care. If there is no longer any need for exercising the special powers given by LVU, the care shall be discontinued. The fact that a child who has been taken into public care, feels afraid for having to leave the family home [foster home] and possibly may suffer damage by a removal will have to be considered in the course of the examination under Sec. 28 of the Social Welfare Act.

When Ms Gro Thune was pleading the case *Rieme v. Sweden*[59] she developed what this meant:

The four Swedish cases I mentioned at the outset [Eriksson,[60] Nyberg,[61] Rieme,[62] and Olsson *2*[63]*]* have all related to this situation and have exposed a number of problems....

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[57] *Eva Aminoff v. Sweden,* Appl. 10 554/83, reported in Jacob W.F. Sundberg, *Human Rights in Sweden. The Annual Report* 1986 pp 49-53, 66-69, 8 EHRR 71 ; *Vila Widen v. Sweden,* Appl. 10 723/83, reported in the same volume pp 53-56, 69-71, 8 EHRR 79.
[58] *Olsson v. Sweden,* 11 EHRR 259.
[59] *Antero Rieme v. Sweden,* Appl. 12 366/86, 16 EHRR 155.
[60] *Cecilia and Lisa Eriksson v. Sweden,* Appl. 11 373/85, 12 EHRR 183.
[61] *Nyberg v. Sweden,* Appl. 12 574/86, 14 EHRR 870.
[62] See note 59 supra.

The Swedish system has established two separate procedures to deal with the child's situation in cases like the present:

First, an initial one, in which social authorities and, if necessary, also the administrative courts, test the conditions of the natural home, and only these, in order to see whether public care can lawfully be maintained;

Second, a subsequent one, whereby the same organs test whether separating the child from his foster home would create a risk, which is not of a minor nature, of harming its physical or mental health - in which case a prohibition on removal is issued as a provisional measure - and I underline this - either for a fixed period of time with the possibility of renewal or until further notice....

The complexity of this decision-making process would seem likely to increase any uncertainty as to the child's final home and in this way also the stress on the parent-child relationship. Even more important, the existence of two entirely separate proceedings also appears apt to cause a loss of time. This must be especially unfortunate in these child-care cases since the possibilities of successfully reuniting child and parent is likely to diminish rapidly as time passes. This is particularly so in cases where, as in the present, the child is in the crucial years of early childhood.

Ms Siw Westerberg has given the matter a very pregnant formulation:

> every year, in a number of cases of taking children forcefully into public care, the sequence goes like this: When the parents after years of fighting succeed to have a court order the discontinuation of the taking, the social authority immediately issues a ban on removal. When the parents ask for an opportunity to meet the child, they are met with a ban on visits and/or a prohibition for the child to even visit the parental home, and, above all, in many cases of prohibitions of removal, the social authority and the foster parents forbid the child to be alone with its parents even for only a short while.[64]

Ms Gro Thune looks at the matter in a European perspective:

> A situation where the authorities with one hand open the door for a return of the child and then with the other immediately close it, cannot but increase the uncertainty and conflict between the mother and the foster parents. Such a floating situation, where the possibility of lifting the prohibition on removal depends on the extent of the contact between the child and the mother can only encourage a constant competition between her and the foster parents as to actual access. The foster parents wanting to keep the

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[63] *Stig and Gun Olsson* v. *Sweden No 2,* Appl. 13 441/87, 17 EHRR 134.
[64] Siv Westerberg, "Några tankar kring svensk barn-Gulag"[i.e. Some thoughts about Swedish children-Gulag], in Lennart Hane, ed., *Rättvisan och psykologin,* Contra, Stockholm 1994, pp 111-122, at 115.

> child would be expected to avoid access. No-one can foresee the outcome and no-one can tell the child what is actually going to happen.[65]

When pleading in Rieme, Ms Gro Thune hits the head of the nail:

> The Swedish situation seems further complicated by the absence of sufficient common ground between the courts and the social authorities as to the approach to these problems.
> The point of departure for the law, as it appears from the preparatory works and the judgments of the domestic courts, seems to have been that, once public care has ceased, the social authorities should in principle attempt to reunite the child with its natural parents. Sometimes a time-limit is fixed for the reunion, often it is not.
>
> The social authorities for their part, basing themselves on psychological and clinical research, seem to consider that once a child has had time to root himself in a foster home he should be allowed to remain there also after public care has terminated.

Interest for the Swedish cases in Strasbourg in this field is consequently focus on the measures taken by the social authorities once a judgment has been given[66] or a decision taken,[67] involving a prohibition of removal and bans on visits a: access generally, at times in fact also prohibitions to phone or ha' correspondence by mail.[68] Already at the time when the Eriksson Case was being considered in the Commission, Ms Gro Thune let be known her surprise:

> Finally, I find it very surprising that under the Swedish system a Social Council can in practice disregard and even obstruct the judgment of the Supreme Administrative Court without resulting sanction.

In the dissenting opinion which was formulated by the French judge Edmond Pettiti, with the Austrian judge Frans Matscher and the Italian judge Carlo Russo concurring, in the case *Olsson v. Sweden No 2,* the same criticism was voiced very keenly:

> The social welfare authorities displayed what was almost contempt both for the national courts and the European Court. It is somewhat surprising that neither the courts nor the governmental authorities managed to force the "imperialism" of the social services to give ground.[69]

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[65] *Cecilia and Lisa Eriksson v. Sweden,* Appl. 11 373/85, Commission Report adopt July 14,1988. Concurring opinion of Mrs G.H. Thune.
[66] For instance, in *Olsson v. Sweden No 1:* the judgment of the Administrative Court Appeal February 16,1987 concerning the child Stefan, and the judgment of the Supreme Administrative Court, June 18,1987, concerning the children Helena and Thomas.
[67] For instance, in *Cecilia Eriksson v. Sweden:* decision of the Southern Social District Board in Lidingö, January 21, 1983, concerning the daughter Lisa.
[68] So *in Margareta and Roger Andersson v. Sweden,* Appl. 12 963/87, 14 EHRR 615.
[69] *Olsson v. Sweden No* 2, 17 EHRR 134, at 191. However, the original version of the dissenting opinion is written in French; it is published in 5 RUDH 244, at 250 f. and reads as follows:

The way the European system has been constructed the examination would largely focus on what had been the *legal duty* of the social welfare authorities in this situation, and what had been their *real intentions* behind the measures taken.

In so far as the restrictions on access were concerned, which sabotaged the reunion of the family, the position of the Swedish Government was untenable, at least until the arrival *of lex Eriksson* or SFS 1990 No 52: the 1990 Act with Special Provisions on the Care of Young Persons[70] (granted that the Swedish Government Agent in Strasbourg attempted to save the official position by a very strained line of argument) inasmuch as the Supreme Administrative Court in *RA 1988 p 271* had declared that the restrictions on access were totally lacking in legal foundation during the time when the prohibition on removal was in force. The Swedish authorities had thus kicked the ball into their own goal.[71]

In the matter how the social welfare authorities had handled the prohibition on removal, it was generally assumed in Strasbourg that this was a temporary measure within the framework of a general obligation to bring about a quick reunification between the child and the natural parents. This line of thought was established for good in Olsson I.[72]

> 81. As for the remaining aspects of the implementation of the care decision, the Court would first observe that there appears to have been no question of the children's being adopted. The care decision should therefore have been regarded as a. temporary measure, to be discontinued as soon as circumstances permitted, and any measures of implementation should have been consistent with the ultimate aim of reuniting the Olsson family.

Having this for a point of departure the Court then turns to an examination of what the social welfare board had done.

> In point of fact, the steps taken by the Swedish authorities ran counter to such an aim. The ties between members of a family and the prospects of their successful reunification will perforce be weakened if impediments are placed in the way of their having easy and regular access to each other. Yet the very placement of Helena and Thomas at so great a distance from their parents and from Stefan ... must have

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Les services sociaux ont manifesté un quasi-mépris aussi bien envers les juridictions nationales qu'envers la Cour europenne. On est surpris de ce que ni les juridictions ni les autorités gouvernementales n'aient pu parvenir à faire ceder "1'imperialisme" des services sociaux.

[70] Compare Proposition 1989/90:28.

[71] In the majority opinion of the European judgment in the Olsson 2 Case it was said: according to an authoritative interpretation of Swedish law by the Supreme Administrative Court in the present case, the impositions of restrictions on access while a prohibition on removal under the Social Services Act 1980 was in force lacked any legal effect, as there was then no legal provision on which such restrictions could be based (see paragraph 33 above and the abovementioned Eriksson judgment, Series A no. 156, p. 25, S 65). This situation lasted from 23 June 1987 to 1 July 1990, when the 1990 Act entered into force. During this period, the impugned restrictions - as conceded by the Government - were not "in accordance with the law" for the purposes of Article 8.

[72] *Stig and Gun Olsson v. Sweden*, 11 EHRR 259, at 290.

> adversely affected the possibility of contacts between them. This situation was compounded by the restrictions imposed by the authorities on parental access.

Ms Gro Thune touches the same issue in her concurring opinion added to the Commission Report in Rieme:

Accordingly, the prohibition on removal, which is defined and understood as a temporary short-term measure, was implemented with the obvious intention, on the part of the social authorities, *not* to keep it in force for a short time, but rather the contrary. This, in my view, is most objectionable in the present case.[73]

Ms Gro Thune provides a sketch of principle for what should be the right solution when it is not intended that the foster parents should adopt the child ; i. e. at that moment

> active steps must be taken to prepare a transfer of the child to the natural parents within a fixed time limit. Such a time limit should normally not exceed one year. Accordingly, a prohibition on removal which has been enforced for more than one year will normally amount to a violation of Article 8 of the Convention.[74]

Of course, when what they have done comes under scrutiny in Strasbourg, the social authorities can muster a thousand *excuses* - rarely will they be caught red-handed with having declared openly that the prohibition on removal and the restrictions on access are intended as more or less permanent measures. From a principle point of view, what then gets to be interesting is the role attributed to the scepticism displayed by the natural parents as to the good will of the social authorities, and the ways in which this scepticism has come to light.

In the judgment in the Olsson No 2 Case the majority discusses the issue (making due reference to its position in the then recent Rieme Case[75]) in the following terms:

> the lifting of the care order implied that the children should, in principle, be reunited with their natural parents. In cases like the present, Article 8 includes a right for the natural parents to have measures taken with a view to their being reunited with their children... and an obligation for the national authorities to take such measures.[76]

> Whilst national authorities must do their utmost to bring about such cooperation [of all concerned], their possibilities of applying coercion in this respect are limited since the interests as well as the rights and freedoms of all concerned must be taken into account, notably the children's interests and their rights under Article 8 of the Convention.[77]

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[73] Mrs Gro Thune's concurring opinion is set out in full in the report of the judgment of the court, *see Antero Rieme v. Sweden*, 16 EHRR 155, pp 177-178, at 178.
[74] See report in 16 EHRR 155, at 178.
[75] "See, as the most recent authority, *Rieme v. Sweden* (A/226-B): (1993) 16 EHRR 155, para. 69."
[76] *Olsson v. Sweden (No. 2),* 17 EHRR 134, at 181 f.
[77] 17 EHRR 134, at 182 para. 90.

Evidently, the idea is that one cannot force the child into being together with its natural parents. What impedes the 'being together' may then be that the child does not want to be together with the natural parents, and that turns the main question into being how to identify what the child really wants, the persistence of this will, and its value. There may be another impediment in the fact that the natural parents are not willing to conform to the debasing conditions established by the social authorities for being together with the child. The main question then turns out to have two sides; on the one side whether it is possible to find *détournement de pouvoir* on the part of the social authorities, on the other side what personal integrity must be accorded to the parents.

The matter of *the child's will* is mostly a question about what influence over the child that the social welfare officers and the foster parents have succeeded to appropriate for themselves. The heart of the matter was nicely illustrated in Advocate Lennart Hane's pleading before the European Court in Rieme in reference to a concurring opinion written by the Commission member, Mr L. Loucaides:

> The question is from which time and from which age the child's wishes can be considered without interference from social workers and foster parents. In 1978 Susanne surely had no personal wishes [she was born in 1976], not even in 1981, 1982 or 1983. In 1984 and 1985 she could surely be affected by the grown-up people around her. At that time she wanted to pass the night at the father's home when speaking to the father. But she refused when speaking to the social officer. The social authorities accepted the child's so-called wishes so long as the child was under the influence of the social administration. The child wanted, of course, to be loyal to everybody.

Mr Loucaides said that he cannot accept that a child at the age of eight to thirteen has to decide when the removal from the foster home shall take place. He points out that it is not advisable to lay such a burden on a child and that it is extremely difficult to know what a child really wants.

It surely requires much courage for the child to show his or her real will when the question is whether the child shall abandon the home where he or she is living. Susanne has not that courage. She is very passive and inactive. If the social administration had given her the advice to reunite with the father the reunion would have taken place within a short time and without difficulties.[78]

The matter of *the attitude of the parents* is often raised. In the case of the family Olsson it was much dramatized. The Administrative Court of Appeal already ha in its judgment of 16 February 1987 burdened the Olssons for "the spouse negative attitude to the family home parents" [i.e. the foster parents] and in the judgment of the European Court in Olsson 2 the same theme is brought up again:

[78] The quote is taken from the Verbatim records of the public hearing held on 25 November 1991, at page 17 (Cour/Misc (91) 483. Or. Eng.).

> the judgments which were given ..., in the transfer of custody proceedings, clearly take the view that the main responsibility for the necessary preparations not having been made lay with the applicants. ... Nevertheless, the applicants, although they knew that the access restrictions corresponded to the children's wishes, refused to accept them. They visited the children at the foster homes only twice (See, *mutatis mutandis,* Powell and Rayner v. United Kingdom (A/172): (1990) 12 EHRR 355, para. 41) and also neglected other possible forms of contact, such as contact by telephone. Rather than follow the course of co-operation recommended by the courts, the applicants instead chose that of continuous hostility: again and again they demanded access at their home without the foster parents' presence, which, as they were well aware, was unacceptable not only to the social welfare authorities but also to the children. In addition, they responded to the failure to comply with their demands by lodging complaints with the police and numerous appeals (See paras. 32-34, 46 and 50-52 of the judgment).[79]

Ambassador Hans Corell, who was the Government Agent in Olsson published a few months after the rendering of the judgment in that case, newspaper article which i.a. set the focus on this question.[80]

> Another observation is that the files sometimes show that a certain antagonism has arisen between the biological parents and those persons within the social administration who handle the case. ... [Nevertheless one has to harden oneself against provocations or other attacks from the side of the parents or - something that I have noted with surprise - from those who should know better, viz, the parents' counsel. In one of the cases with which I have had contact, the antagonisms were so big that it cannot be excluded that certain measures may have been tainted by irrelevant considerations...
>
> One question that I have found reason to raise in this matter is: What role are counsel to play in these cases, in particular counsel for the parents? Shall they try to bridge possible differences between the parents and the social authorities, or shall they fan the conflicts? Here I find reason to agree with much of what Dr Alcalá thinks.[81] Within the Legal Department of the Ministry of Foreign Affairs, we have even put the question to ourselves if the rules in force in the Act on Administrative Procedure are appropriately drafted when counsel can behave in such a way that the gulf between parents and authorities becomes wider and wider.

To the Heads of the Legal Department in the Ministry of Foreign Affairs who normally have been Government Agent before the Convention organs i Strasbourg (as well as exercised a decisive influence when the Swedish member of the Commission has been about to be appointed), an overbearing attitude towards those who consider that their rights have been trampled upon, certainly comes naturally. This attitude is not unlike the one appearing when a common man is contradicting a police witness in a Swedish court: the police witness always enjoys an added credibility when faced with a common man.

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[79] *Olsson v. Sweden (No. 2),* 17 EHRR 134, at 182-183 para. 91.
[80] Hans Corell, "Ni underblåser motsättningarna" [i.e. You are fanning the antagonisms *Dagens Nyheter,* 26 April 1988.
[81] Compare note 29 supra.

Consequently, the burden of proof weighs heavily on somebody who picks fault with the authorities' way of handling the case. The Swedish member of the Commission, Justice Hans Danelius, who was for a long time such a Head of Department in the Foreign Ministry, mirrors such an attitude rather well in his dissenting opinion in Rieme, three more members of the Commission concurring:

> the applicant had since the autumn of 1985 declined contact with the social authorities which, since they had no contact with the applicant, were unable to work actively for better relations between him and the foster home. The applicant has contested that the social authorities had in reality any intention of working for the improvement of these relations. Nevertheless, the applicant's refusal of contact with these authorities must be regarded as an element which made it more difficult for them to promote the aim of reunion and, in the absence of any evidence to the contrary, it must be assumed that they would have been prepared to take certain measures for the purpose indicated in the Social Council's memorandum, which might, if successful, have facilitated Susanne's transfer to the applicant's home. Having regard to these facts, and in the absence of any other evidence of inadequate action by the social authorities, I find no basis for any particular criticism against these authorities in the present case.[82]

Of course, it would have been particularly interesting if Justice Danelius had engaged in refuting the opinion of his Norwegian colleague, Mrs Gro Thune, who had arrived on the same basis at the very opposite conclusion that it was "obvious" that the intention of the social authorities had not been to keep the prohibition on removal in force for a short time only, rather they intended to maintain it during an extended period. On this point, however, Justice Danelius has not been accommodating.

Justice Danelius' successor as Head of the Legal Department, Ambassador Hans Corell, naturally, made as much hay as possible out of this line when pleading Rieme before the European Court- "the way in which Mr Rieme acted".

> Let us face the situation. He had in his hand a judgment saying that he was now to be the custodian of his little daughter. But he must have understood the terribly difficult situation for the girl to just, from one day to the next, leave the foster home and come to stay with him. Now, what did he do? Instead of really trying to grapple with this problem and to work in co-operation with the social authorities, he was making difficulties. It may be so that there was a certain animosity between Mr Rieme and certain functionaries at the social office - I do not know - but he as a grown-up should have been in such a position as to understand the situation of this little girl. He should have made the necessary steps. He should have been the one who stepped down if there was a conflict and say "OK, I will play it according to your rules. Let us see what we can do here."[83]

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[82] *Antero Rieme v, Sweden,* 16 EHRR 155, reported at pp 175-176, at 176.

[83] Verbatim record (see note 78 supra) p 33. Cf 1 Kings, 3, nos 16-28.

This is hardly Professor Rudolf von Ihering's famous line in "Der Kampf urn's Rechr which underlines the importance of everybody asserting his right against every violation of same, even in the relationship to the governmental authorities. But probably the line is rather typical for how matters involving the right of the individual were seen among haegerstroemian bureaucrats with the basic view that 'rights, after all, do not exist'. The fact that this view is not shared in many places outside of Sweden should perhaps not come as a surprise for Swedish lawyers, but parochialism and servility together with a mass media climate permeated with the will that things abroad may only be seen through rosy socialist lenses, may well have made many go astray.

It is hardly tempting to discuss the real intentions of the social authorities; faced with deceit and sloppiness the Government representatives in Strasbourg are almost helpless. Ambassador Corell had experienced this personally in Olsson 2, when it turned out that the Social District Board in Gunnared had withheld from him that they had been well aware that the foster father employed by the Board was facing criminal prosecution for having sexually abused one of his wards. Corell informed the Chancellor of Justice but of no avail ; not surprisingly the Chancellor did not want to interfere.[84] Consequently it was natural to try to move the disputed matter and turn it into a burden-of-proof question, as did Justice Danelius in his abovementioned opinion. Another way of disarming the matter was to move it to the area of the Government's "margin of appreciation", a move that undoubtedly would in fact put the lid on such delicate issues as whether "the antagonisms were so big that it cannot be excluded that certain measures had been tainted by irrelevant considerations" as it was put by Ambassador Corell after Olsson I.[85]

Behind the reasoning about "the margin of appreciation" there hides however one more factor in that societal life that is administered by the social bureaucracy, viz. the organization of foster homes.

One would perhaps believe that in a society in which extra-marital birth has lost its stigma and the social welfare system has eradicated begging and poverty as real phenomenona by providing everybody with an income,[86] there would not exist any foster children to take care of. It is hard to say how things really are -what is true and what is slander. But the social bureaucracy has created to assist it an extensive client organization in the form of a great number of foster homes which should be provided with foster children. In this connection, the takings into public care came to play a big role if we may judge from the facts in many of the Strasbourg cases. To take a foster child became a very lucrative affair. Ms Siv Westerberg describes the conditions in the following way:

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[84] Resolution of the Chancellor of Justice, March 30, 1992, in file No 1558-91-90: Ofullständiga upplysningar från sociala myndigheter till Sveriges ombud i ett förfarande vid konventionsorganen för de mänskliga rättigheterna i Strasbourg [i.e. Insufficient information from social authorities to Sweden's agent in proceedings before the organs of the Convention on human rights in Strasbourg].

[85] See supra page 24.

[86] At this place I will not discuss the attempts to redefine 'poverty' in order to save the Marxist theories about the antagonism between the poor proletariat and the rich bourgeoisie.

> Foster parents taking a normal healthy foster child may receive as much per month as between 5.000 and 10.000 crowns [USS 600-1.200], mainly tax-free money. If the child is handicapped in any way or has some other problem that need not be big, well, then the foster child compensation may be double that. And now willing foster parents appeared eager to make tax-free income. It is not uncommon that one family takes three or four foster children and anybody can make out how much that means in monthly income. Moreover people turned up who simply could not get another job because they had lengthy jail sentences in their record. No employer wanted them, but the social authorities were completely undisturbed by the fact that the foster parents in spe had a criminal record. There is an example of a foster parent who had a record of safe-deposit blasting.[87]

With such good income the economic standard of the foster homes naturally became much better than what the natural parents could offer. This gave to the rights-discussion a material dimension that came useful when arguing about the "margin of appreciation".

In Olsson 2 - the Court being a 9-man chamber with Professor A.B. Baka as the representative of Hungary, recently converted from Communism - the "margin of appreciation" argument was developed by a majority consisting of, besides dr Baka, already mentioned, Ms Elisabeth Palm from Sweden, the Dutchman S. K. Martens, the Irishman Brian Walsh, the Cypriot A.N. Loizou, and the President, the Norwegian Rolv Ryssdal. In the judgment it was said:

> the interests as well as the rights and freedoms of all concerned must be taken into account, notably the children's interests and their rights under Article 8 of the Convention. Where contacts with the natural parents would harm those interests or interfere with those rights, it is for the national authorities to strike a fair balance (See, *mutatis mutandis* Powell and Rayner v. United Kingdom (A/172): (1990) 12 EHRR 355, para. 41).

When reviewing whether the right balance has been found the majority considers that it shall

> leave room for a margin of appreciation, if only because it has to base itself on the case file, whereas the domestic authorities had the benefit of direct contact with all those concerned.

That is of course an important difference but it does not always operate in the way that the majority is assuming. The Social District Board in Gunnared used it, as shows the case before the Chancellor of Justice, to withhold exactly what could have been important in the Strasbourg proceedings and consequently made the 'margin of appreciation' principle next to mockery. Furthermore, the terminology used here speaks of not only rights and freedoms but also of 'interests'. This means it would seem that the majority has opened the door for considering the material interests of the child which gives the foster parents an automatic advantage, due to the generous foster parent compensations. The effect thereof is strengthened by the material interests of the child being the excuse for

[87] Siv Westerberg, op. cit. (note 64 supra) p 117.

placing the ball squarely in the hands of the Swedish social authorities. This leaves splendid room for the 'imperialism' of the social authorities.

This being the background it becomes interesting to look at what differences in perspective that come with the Catholic rights doctrine. Much of this can be seen if we examine the dissenting opinion of judges Pettiti, Matscher and Russo in Olsson 2, an opinion that reveals its philosophy already by the phrase that the spouses Olsson were involved in a fight to secure "respect of *their most sacred rights"* (my italics).

This opinion stresses strongly that it was a matter of the rights of the parents and their ways of asserting these as against the authorities.

> The most important thing was to take account of the parents' persistent efforts to secure the return of their children, despite all obstacles, which confirmed their parental attachment and their legitimate and consistent claim. In my view, neither the social welfare authorities nor the majority of the European court sitting as a Chamber gave sufficient weight to the strength and extent of this attachment.
>
> At no time did the social welfare authorities take the least account of the love for their children that the parents sought to express, a love that was demonstrated by the years of struggle in proceedings to seek to obtain the return of the children and the respect of their most sacred rights.[88]

It is not without interest to recall what the Pope had to say about the unavoidable obligation in his speech on November 10, 1981 to the judges of the European Court - inclusive judge Pettiti - viz. "the duty of submitting laws and systems to a continual revision from the point of view of objective and inviolable human rights is necessarily imperative."[89] The Pope developed his thinking like this:

> [T]he Church reaffirms and supports the right that every man has to found a family and defend his private life, as well as ...the right to educate their children within the family...
>
> The three family law Articles - 3, 12, and Art. 2 of the First Additional Protocol -
>
> These three articles express a firm attitude in favour of life as well as of the autonomy and rights of the family, and they ensure a rigorous juridical defence of these rights.
>
> The affirmation of the rights of parents in Art. 2 of the First Additional Protocol excludes all restrictions of a juridical or economic character, and all ideological pressure which would prevent the sacred rights of parents from being exercised.[90]

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[88] *Olsson v. Sweden No. 2,* 17 EHRR 134, at 191.
[89] Pope John Paul II, speech reprinted in *L 'Osservatore Romano, 5* January 1981.
[90] Ibidem

It is obvious that what here is being said is very very far from the attitudes of the frightened haegerstroemian bureaucrats with their citation cartels, their servility and their parochialism. What we here are facing is the call for a role c lawyers that is sadly missing when lawyers in Sweden are analyzing their tasks,[91] viz. the one of the tribune of the plebs whose task it is to protect and assert the rights of the citizen. But this is the role that is brought to the forefront by the Pettiti opinion.

When judge Pettiti reasons, he takes for his point of departure the individual before the authorities, asserting his rights. Pettiti is understanding, in quite another way than the haegerstroemian bureaucrats who do not even believe in rights and who think that at the end of the day the individual should waive his rights in order to please the authorities. In the Pettiti/Matscher/Russo opinion it is said:

> Clearly, the Olsson parents' attitude was not always helpful, particularly after 1989, and they must therefore bear a part of the responsibility. Yet one must not forget their despair after the repeated failures with which they met even after the favourable decisions of the European Court and the national courts.
>
> Adopting the tactics employed by their lawyers, which were perhaps too extreme, they hardened their position, but legally they had a number of valid reasons for doing so. In any case, the authorities [sic!] were under a duty to exert a positive influence, by showing understanding and making repeated interventions, instead of reinforcing the differences. In this type of situation it is necessary to seek to organise more and more meetings, to educate the children and the parents, to defuse conflicts. It is unfair to give priority to the obstinacy of the children and the foster families.
> -.-.- One is left with the impression that the authorities were content to allow the intransigence of the parents to strengthen the position of the social welfare authorities, despite the fact that the latter had never disguised their preference for the foster families, as if they sought to accord greater weight to material comfort than to parental and maternal ties. Viewed from the outside this attitude towards the parents may seem somewhat 'inhuman'.

The dissenting opinion of judge Pettiti and his colleagues is remarkable from a Swedish point of view also because of the use there made of the comparative law method. It contributes exactly that international dialogue that is so sadly; missing in so much of the Swedish discussion of Comparative Law.[92] Pettiti and his colleagues compare the

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[91] See e.g. Stig Strömholm, "Juristroll och samhällsutveckling" [i.e. The role of lawyer and the development of society], Nordiska Juristmötet 1981 pp 30-42, which sets on his leading speech at the Meeting of the Nordic Lawyers in Stockholm 1981. The essence of his wisdom is there put in the phrase: "Where the power is, there the lawyers are also." See pp 38, 40..

[92] The perspective of a dialogue is thus altogether absent in Stig Strömholm, "Har den komparativa rätten en metod" [i.e. Does Comparative Law Have a Method?], Svensk Juristtidning 1972 pp 456-465, in spite of the fact that it is standard reading in the university courses in Comparative Law in Sweden. Contrariwise, that perspective i quite dominating in my own doctoral dissertation *Air Charter - A Study in Legal Development*, Norstedts, Stockholm 1961, and it was discussed by Professors Lennart Vahl6n and Ivar Strahl in their expert opinions in

behaviour of the Swedish social welfare authorities with how things are handled in other countries in the corresponding situations of antagonism between natural parents and foster parents. The learned judges teach the Swedish social authorities about how to do it, taking for a point of departure the opinion that "it appears clear that the social welfare officials did not take all the steps that they should have done in the light of that judgment [in Olsson 1] with a view to promoting the exercise of the right of access and the right to have the children to stay which would have prepared the way for returning custody of the children to their parents."

> in view of the large number of misunderstandings which had built up over the years, these attempts had no chance of succeeding without an adequate psychological preparation of the parties concerned. It is the duty of the social welfare authorities, and this is one of the most elementary principles of the methods of educative assistance practised in Europe, where this type of conflict is frequent, to make specific arrangements.
>
> ... in other States and in other jurisdictions, hearings would have been held at shorter intervals by means of an urgent procedure before a children's judge.

This passage loses a bit in the translation into English from the French original. Consequently, I will also set out the corresponding text of the French original.

> alors que dans d'autres Etats et juridictions, on aurait utilisé des procedures d'audition à dates rapprochés au titre de 1'action du juge des enfants pour statuer en urgence.

And finally, concerning the refusal of the right of access, the dissenting judges see the attitude of the social authorities as the most repulsive and in fact the real reason of the catastrophe that had hit the spouses Olsson.

> Whatever the case may be, the general and overall conduct of the authorities was such that the parents are permanently separated from their children, and this situation is now irreparable as a result of the refusal to allow access, a right which is not even refused to criminal parents in other countries.' The Olsson parents have been definitely cut off from any family relationship. It is difficult to think of a more serious case of a violation of the fundamental rights protected by Article 8.

1964 and 1968, respectively, as well as in the reviews of the dissertation that were published by Werner Guldimann (Switzerland) in 13 American Journal of Comparative Law 121-122, at 121; and by A. Beatty Rosevear (Canada) in 41 Canadian Bar Review 154-159, at 156. That dissertation is not mentioned in Dr Strömholm's article.

8. Concluding Remarks

Comparative methods assist us not only in seeing what remains invisible to us because we know it so well, wrote Mary Ann Glendon, but also aid us in achieving a critical stance toward what we always have taken for granted. No doubt she has hit the head of the nail. The comparative methodologies that are cultivated under the aegis of the European Convention evidently provide many reasons for Swedish lawyers to ponder critically over those parts of the legal system that are illuminated in each single case. People in Sweden need perhaps not view the rights as sacred as others do, but it is good to know that others do so. I believe to have shown in this article that in this way certainly Swedish lawyers can achieve a critical stance toward the family law development that they have experienced since the renowned directives of 1969 and perhaps it will not then be necessary to go blind and fumbling on 'a trip to nowhere'. In this way what happens in Strasbourg may turn out to be to the advantage not only for the social bureaucracy itself which has been somewhat targeted by me above, but also our haegerstroemian lawyers generally as well as - last but not least - our somewhat limited array of comparative law scholars. But the usefulness of this lesson is, of course, not limited to Sweden. It seems to extend to all of Europe assembled in the Council of Europe, and perhaps to comparative lawyers all the world over.

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Abbreviations

EHRR	European Human Rights Reports (The European Law Centre at Sweet & Maxwell, England)
IOIR	Institutet för offentlig och internationell rätt (The Stockholm Institute of Public and International Law, volume series, Uggelviksgatan 9, S-114 27 Stockholm, Sweden)
LVU	Lagen (1980:621) med särskilda bestämmelser om vård av unga (Act with Special Provisions on the Care of Young Persons), SFS 1980 No 621
RÅ	Regeringsrättens Årsbok (official reports of the Supreme Administrative Court)
SFS	Svensk Författningssamling (Swedish Official Gazette)
SOU	Statens Offentliga Utredningar (State Official Reports)