

Preparatory Report from the Sami Parliament in Sweden/  
Sámediggi/Sámedigge/Saemiedigkie/Sametinget

for the United Nations Special Rapporteur on the Rights of Indigenous Peoples, Ms.  
Victoria Tauli-Corpuz,  
prior to her 2015 August visit to Sápmi and Sweden

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## Summary

The Sami people in Sweden have long-suffered the harms and damages of the colonization of Sápmi by the Swedish State and Kingdom. The recent Sami-initiated development of a Sami Truth Commission in Sweden is a historically significant step towards the restoration of the peace, dignity and well-being of the Sami People as a whole and the Sami people collectively and individually in Sweden. The process of the creation of such a Truth Commission and its goals, outcomes, and architecture is of the utmost importance; a Truth Commission should be victim-led and follow standards set by the United Nations in the scope of Indigenous Peoples Rights.

This report covers a range of topics unaddressed in the last visit to Sápmi re Sweden, Norway and Finland and subsequent reporting of the UN Special Rapporteur on the Rights of Indigenous Peoples in 2010-11. These topics include, but are not limited to, Sami Indigenous women's rights and circumstances in Sweden, the legal-political legacy of Sweden's Race Biology and eugenics programs and Sami collective well-being and identity therein, self-harm and discrimination, and the deeper, harmful effects of a lack of real and actualized structural legal-political self-determination of the Sami people in Sweden.

Sadly, the situations raised in Mr. James Anaya's 2011 report regarding the Sami people in Sweden and rights violations therein by the State have not much changed. Self-determination of the Sami people in Sweden regarding natural resources and lands, waters, air and earth therein continues to be illusive for the Sami due to the lack of a formal Swedish FPIC legislation (and one that is Sami-approved) and the continuation of harmful resource exploitation, legal aid that is collectively inaccessible to the Sami, and burden of proof on the Sami within the Swedish legal system that is unreasonable and colonial in its provisions. In fact, the legal and political systems in Sweden regarding the Sami Indigenous People are still products of colonial mechanisms and State-determined structural processes that have yet to be updated to be in accordance with Indigenous Peoples Rights.

The Sami Parliament in Sweden has taken significant steps since Mr. Anaya's visit in developing Sami-determined positions regarding Sami Indigenous Rights, both in Sweden and in collaboration with Sami leadership across State borders and internationally.

The goal of this Report is to enable the current Special Rapporteur with some comprehensive information regarding situations of the Sami people in Sweden. The Report's *Recommendations* consist of recommendations both original to this Report and coming from the Swedish Sami Parliament's Shadow Report to the United Nations' Human Rights Council for its Universal Periodic Review of Sweden in 2015.

The Sami Parliament in Sweden welcomes Ms. Victoria Tauli-Corpuz and looks forward to her visit and her sensitivity to the complexity of the issues the Sami people endure.

### *Recommendations*

The Sami Parliament in Sweden asks that UN Special Rapporteur on the Rights of Indigenous Peoples, Ms. Tauli-Corpuz, put forward the following *recommendations* to the State of Sweden in light of Indigenous Rights and the situations of the Sami Indigenous People in Sweden and Sápmi:

*Put a moratorium* on all extractive industries in traditional Sami territory until the ratification of ILO Convention 169 and the finalization and adoption of the Nordic Sami Convention and until the relevant review of all laws and policies to put them in accordance with these standards has been undertaken, including in the establishment of a Sami-negotiated and Sami-approved FPIC process in accordance with Indigenous Rights;

*Utilize* the Sami Parliament in Sweden's FPIC process put forward in *Minerals and Mines in Sápmi: the Viewpoint of the Swedish Sami Parliament*, 2014, as a model for Swedish FPIC legislation;

*Legislate as an urgent matter* a Sami-negotiated and Sami-approved absolute right to free, prior and informed consent (FPIC) to any exploitation of natural resources in traditional Sami territory, as per the right to self-determination as established by the International Covenant of Civil and Political Rights and the International Covenant of Economic, Social and Cultural Rights. In exploitation of land and water ensure that the all Sami concerned are included in the process hence respecting the Sami as a People;

*Establish* a Sami-determined Truth Commission in Sweden, as proposed by the Sami Parliament in Sweden- a Truth Commission in-line with current international standards, as presented by the UN EMRIP and PFII, that will genuinely and fully address and bring redress for all colonial and structural roots of discrimination and Indigenous Rights violations that the Sami Indigenous People in Sweden have endured and continue to unjustly suffer from;

*Ratify* ILO Convention 169 as a matter of urgency and review all laws and policies to place them in accordance with the Convention;

*Ensure* the timely negotiation and adoption of a Nordic Sami Convention in line with well-established principles on the rights of indigenous peoples;

*Update* the Swedish Legal Aid system to meet current International Law and EU standards, including Indigenous Rights, so to enable equal access to legal aid for Sami in Sweden as an Indigenous collective right;

*Legislate in a timely manner* a definition of torture into the Swedish legal code, in accordance with UN CAT;

*Stop* the systematic discrimination and categorization of the Sami people and treat the Sami as one undivided people in all matters that concerns them;

*Repatriate* all Sami ancestral remains and cultural artifacts stolen and/or acquired in times of Sweden's Race Biology program(s) or otherwise;

*Respect* the Sami people's rights to land, water, culture, health, identity and spirituality; in exploitation of land and water ensure that the all Sami concerned are included in the process;

*Uphold and legislate* in accordance with International Law and in full participation of the Sami Parliament in Sweden that the Sami Parliament in Sweden is due, in the scope of Indigenous and Peoples' Rights, decision-making powers and self-determination in accordance with International Law and own-determined powers of influence regarding law-making, legal systems, policy-making and governance;

*Support and further investigate* Sami Indigenous women's issues and rights violations, including domestic violence, and culturally-appropriate resources, education, data and needs therein, and for Sami women to be genuinely included in all analyses of the Rights of the Sami Indigenous People and the Sami collective, as part and parcel to a healing process in confronting the legacy of Swedish colonialism and structural racism;

*Support and further investigate* Sami Indigenous youth needs for culturally-appropriate, Sami-driven education, research and needs therein, and for Sami youth to be genuinely included in all analyses of the Rights of the Sami Indigenous People and the Sami collective, as part and parcel to a healing process in confronting the legacy of Swedish colonialism and structural racism;

*Commit* to enabling the full resources and processes needed to address and enable redress regarding the historical and current injustices mentioned in this Report, to be determined by the Sami People in the scope of International Law and Indigenous Rights, so that the Sami people in Sweden can finally seek to live in peace and dignity collectively, and so that any harm to the Sami by the State of Sweden or neglect by the State therein is handled with respect for dignity and an upholding of genuine, participatory and transparent due diligence.

## Introduction

The Sami Parliament in Sweden welcomes the visit of Ms. Victoria Tauli-Corpuz to Sápmi<sup>1</sup> this August 2015 in her examination of the current status of the Indigenous Rights of the Sami People residing in Sápmi and Sweden.

Sápmi is the traditional territory of the Sami People currently politically and territorially divided by the borders of the Nation-States of Sweden, Norway, Finland and Russia. In preparation for Ms. Tauli-Corpuz's visit, this Report provides some follow-up and additional information concerning both new developments and issues addressed and not addressed in conjunction with the previous visit (2010) to Sápmi and Sweden of the UN Special Rapporteur on the Rights of Indigenous Peoples, Mr. James Anaya, and his concluding Report to the Human Rights Council of the status of the Sami People in Sweden, Finland and Norway produced in 2011<sup>2</sup>. In addition to any other materials and submissions she receives from other institutions, groups and persons, Ms. Tauli-Corpuz will receive in-person input regarding the status of the Sami People during her visit to Sápmi in late August 2015 during pre-arranged, interactive dialogues with State and Sami representatives and speakers as well as local visits to specific Sami areas with a highlighting of specific issues the Sami People are facing in the context of Indigenous Rights, amongst other activities.

In its fifth periodic report to the Committee on Economic, Social and Cultural Rights in 2006 Sweden acknowledged that the right to self-determination under Article 1 of the Covenant applies to the Sami people,<sup>3</sup> and as of 2011 the Sami are recognized as a *people* in the Swedish Constitution. However Sweden still needs to further amend its Constitution to recognize the Sami as an *Indigenous People*, as Finland and Norway have done in their Constitutions.<sup>4</sup> Sweden has acknowledged in other legal contexts that the Sami are an indigenous people.

Situations of State negligence in the context of Indigenous Rights that the Sami people continually face in Sweden and reported on by the previous UN Special Rapporteur, Mr. James Anaya, in 2011 following his visit to Sápmi (concerning Sweden, Finland and

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<sup>1</sup> There are multiple Sámi languages and thus multiple words for the traditional territory of the Sámi People. For example, Sápmi is the word used in North Sámi language, Sábme in Lule Sámi, Saemie in South Sámi, Säämi in Inari Sámi, and Sää mjánnam in Skolt Sámi language.

<sup>2</sup> James Anaya, UN Special Rapporteur on the Rights of Indigenous Peoples, "The situation of the Sami people in the Sápmi region of Norway, Sweden and Finland", 6 June 2011, A/HRC/18/35/Add.2 available at [http://www.ohchr.org/Documents/Issues/IPeoples/SR/A-HRC-18-35-Add2\\_en.pdf](http://www.ohchr.org/Documents/Issues/IPeoples/SR/A-HRC-18-35-Add2_en.pdf)

<sup>3</sup> UN Human Rights Council, Implementation Of The International Covenant On Economic, Social And Cultural Rights (ICESCR), Fifth periodic reports submitted by States parties under articles 16 and 17 of the Covenant, Addendum, 6 September 2006, Sweden, E/C.12/SWE/5, paras. 7-16.

<sup>4</sup> See *Joint Pronouncement of 20 February 2014, from the 4<sup>th</sup> Sami Parliamentary Conference held on 20 February 2014 in Umeå/Umeå for Sami commissioners from Finnish, Norwegian and Swedish parliaments and participation by Russian Sami Representatives (Umeå Declaration)*: "We are happy to note the Swedish constitution recognizes the Sami as a people, and remind that the Norwegian and Finnish constitutions recognize the Sami as an indigenous people" <https://www.sametinget.se/73159>

Norway and excluding Russia) in 2010 remain.<sup>5</sup> However, the situation is both more complex and troubling than has been reported.

High rates in Sweden of Sami land loss and loss of self-determination due to still-colonial State laws, policies and practices place the Sami in an oppressive and seemingly endless cycle of high-cost legal battles in the Swedish legal and authority systems and various meetings with little-to-no concrete results in structural changes for the Sami. Formal discussions of colonial and structural racism-related root causes of high rates of suicide, domestic abuse, hazardous alcohol consumption<sup>6</sup> and other addictive behaviors, and internal colonization and division in the Sami community in Sweden and thus, in part, the Sami People, remain relatively silenced.<sup>7</sup> State borders bring additional hardships and complications for the Sami People to overcome a deep history of divide-and-conquer State tactics, facing different legal and political systems in different States, as can be noticed in the gap where the Sami living in Russia would have been in the previous Special Rapporteur's report re Sápmi, and in the context of Sweden in the ongoing effects of the Swedish Reindeer Husbandry [Grazing, Herding] Act.

A lack of visible extreme poverty in Sápmi in the context of economic living conditions as compared to other Indigenous Peoples around the world, something mentioned by Mr. Anaya in his report as Special Rapporteur,<sup>8</sup> does not speak to the collective health and well-being of the Sami people in Sweden, but, rather, a perhaps somewhat accomplished economic colonization of Sápmi by the Swedish State. In fact, such relative economic comfort not only masks the lack of true self-determination for both the Sami Parliament

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<sup>5</sup> James Anaya, UN Special Rapporteur on the Rights of Indigenous Peoples, "The situation of the Sami people in the Sápmi region of Norway, Sweden and Finland", 6 June 2011, A/HRC/18/35/Add.2 available at [http://www.ohchr.org/Documents/Issues/IPeoples/SR/A-HRC-18-35-Add2\\_en.pdf](http://www.ohchr.org/Documents/Issues/IPeoples/SR/A-HRC-18-35-Add2_en.pdf)

<sup>6</sup> See, for example, study results published by Niclas Kaiser and Ellinor Salander Renberg, Department of Clinical Sciences, Division of Psychiatry, Umeå University, Umeå, Sweden, in the article 'Suicidal expressions among the Swedish reindeer-herding Sami population' abstract: "both Sami women and especially Sami men reported a higher prevalence of various types of suicidal problems, particularly suicidal ideation. In addition, anxiety and alcohol use were associated with suicidal expressions in the Sami group. [...] Specific attention should be paid to young and middle-aged Sami men with hazardous alcohol consumption and anxiety." In *Suicidology Online* 2012; 3:102-113, available at <http://www.suicidology-online.com/pdf/SOL-2012-3-102-113.pdf>

<sup>7</sup> During a visit to Sweden in 2007 UN Special Rapporteur on the Right to Health, Paul Hunt, highlighted the Sami psycho-social including incidents of assault, abuse of alcohol and drugs, and work related accidents. At the time, Hunt was critical of the lack of knowledge, statistics and understanding about the Sami health situation in Sweden. Since then a few Swedish University studies and then State-supported investigation and pilot project work have been initiated in regards to suicide in Sápmi in Sweden, from a mainstream psychology-based perspective. However, roots causes of colonialism and structural and societal discrimination in Sweden must be addressed as influences on suicidal thinking and other forms of self-harm and escapism, with caution to not 'problematize' the Sami for their own coping with societal oppressions. These oppressions will be further discussed in this report.

<sup>8</sup> See para. 8, James Anaya, UN Special Rapporteur on the Rights of Indigenous Peoples, "Today, Sami people in the Nordic countries do not have to deal with many of the socio-economic concerns that commonly face indigenous peoples throughout the world, such as serious health concerns, extreme poverty or hunger. Norway, Sweden and Finland are among the wealthiest and most developed countries in the world and consistently rank toward the top of human development indicators." From 'The situation of the Sami people in the Sápmi region of Norway, Sweden and Finland', 6 June 2011, A/HRC/18/35/Add.2, [http://www.ohchr.org/Documents/Issues/IPeoples/SR/A-HRC-18-35-Add2\\_en.pdf](http://www.ohchr.org/Documents/Issues/IPeoples/SR/A-HRC-18-35-Add2_en.pdf)

and Sami leaderships, authorities, healers, traditions and communities in Sweden, which perpetuates the colonizing, but a host of mental and societal health concerns and constant concern for cultural survival and survival as a people. This reality is further aggravated by State-manufactured divisions of the Sami people in Sweden and structural dependencies and discriminatory systems on and of the State therein.

### The Sami Parliament in Sweden, decision-making and maintaining a living culture

The Sámi Parliament/Assembly was established by the Swedish State with some comments from the Sami submitted taken into consideration as per usual Swedish government procedure in law-making in 1993.<sup>9</sup> At the time, the role and capacity of the Sami Parliament in Sweden in its creation and vision by the State was very limited and not meant to be a body of self-determination, despite ‘ting’ (parliament) in the name; the State denying formal submitted Sami demands in process.<sup>10</sup> The Sami Parliament in Sweden was to be an administrative branch of the Swedish Government. In the Bill 1992/93:32, adopted by the Swedish Parliament, it was clearly stated that the Sámi Parliament was not a self-governing body that should function in place of the Swedish Parliament or Swedish State’s municipalities or to compete or conflict with these organs in powers or decision-making.

Mr. Anaya’s 2011 Report on the status of the Sami People in Norway, Sweden and Finland in stated that the Sami Parliaments can be seen as inspirational models of Indigenous self-governance and decision-making for development of similar institutions around the world.<sup>11</sup> This statement is highly debatable and leaves the Sami Parliaments without full recognition of the issues and bindings their face as administrative branches of their encompassing colonial State governments and the deeper effects on the Sami people in those respective States therein. The inherent lack of self-determination of the Sami Parliament in Sweden, along with the inherent conflicts built into Sami Rights and Governance, as determined, recognized and administrated by the Swedish State should not be glossed over at the expense of discussion of the related and resulting struggles for survival and well-being of the Sami People everyday in the face of structural discriminate that comes with these State decisions.

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<sup>9</sup> Information received in conversation from Professor Ulf Mörkestam, Political Science Department, Stockholm University. See Sami Parliament Act (SFS 1992:1433), <https://www.sametinget.se/9865>

<sup>10</sup> Ibid.

<sup>11</sup> “The Sami parliaments are the principal vehicles for Sami self-determination in Norway, Sweden and Finland, and they represent an important model for indigenous self- governance and participation in decision-making that could inspire the development of similar institutions elsewhere in the world .” James Anaya, UN Special Rapporteur on the Rights of Indigenous Peoples, “The situation of the Sami people in the Sápmi region of Norway, Sweden and Finland”, 6 June 2011, A/HRC/18/35/Add.2, p. 11, para. 37, available at [http://www.ohchr.org/Documents/Issues/IPeoples/SR/A-HRC-18-35-Add2\\_en.pdf](http://www.ohchr.org/Documents/Issues/IPeoples/SR/A-HRC-18-35-Add2_en.pdf)



Despite the illusion of Swedish-State-granted decision-making roles and rights applied therein to Swedish Sami Parliament<sup>12</sup>, reindeer herders and samebys<sup>13</sup>, certain positions created in municipality administrations and as-created via legal-structural-political design by the State of Sweden, these recognized Sami authorities also have little to no say when it comes to land use of traditional territories and other crucial matters affecting the Sami people in Sweden, from having no direct law- and policy-making powers, no own judicial system or formal resolution mechanisms, no taxation rights, and budgets pre-ear-marked by the Swedish Government. Multiple UN treaty bodies have repeatedly made recommendations to Sweden to address race-, culture- and ethnicity-based structural discrimination of the Sami as an Indigenous People in Sweden and the violations of human rights and need for actual law, system and policy change therein, including in the scope of delay of system-change in Sweden to update its laws and practices in accordance with Indigenous Rights.<sup>14</sup> Sweden continues to drag its feet in correcting these structural

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<sup>12</sup> See Report from Sami Parliament in Sweden, Universal Periodic Review (UN Human Rights Council review of Sweden), 11 December 2014:

“The Sami industry's needs, such as herding, hunting, fishing, Sami handicraft, tourism, etc., of the functional areas must never be threatened by short-term exploitation. [...] Mineral Regulation (SFS 1992:282) has changed in that Sami Parliament get referrals to an end to applications for exploration permits on minerals and may submit its opinion. Sami Parliament believes that the government needs to provide resources to the Sami Parliament will be able to handle the increasing amount of matter in answering referrals in a constructive way. Sami Parliament considers that it still requires changes in Mineral Regulation to the Sami culture and Sami rights to resources can be met. Sami Parliament considers that the Swedish government must work for a change of reference of the Sami Parliament so that the Sami Parliament that authorities will have a clear responsibility to participate in environmental assessments that involve fundamental questions, or have significant impact on Saami interests.”

HRC UPR Sweden, Report from the Sami Parliament in Sweden, p. 2,

<https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=1432&file=EnglishTranslation>

<sup>13</sup> For an explanation and description of a sameby, see the Samiskt Informationscentrum website managed by the Sami Parliament in Sweden, section ‘Reindeer husbandry’, article ‘The Samebys organize the reindeer herders’, “[A sameby] is a financial and administrative union that is regulated by law. There are 51 samebys in Sweden, from Idre in Dalarna to Kōnkāma in Norrbotten. According to the Reindeer Husbandry Act, the right to conduct reindeer herding in Sweden belongs to the Sami population. However, in order to exercise this right, it is necessary to be a member of a sameby. Of all the Sami in Sweden, only around 10% are members of a sameby. A sameby is an extensive area, often stretching from the inland forest areas to the mountains on the Norwegian border. The sameby areas consequently follow the reindeer's (mountain reindeer's) annual migration from forest to mountain. A sameby is both an economic association and a specific geographical area. *Company-driven*: Within a single sameby there are several different reindeer herding companies comprising one or more owners. The sameby is run by a board that is elected at the annual meeting. The board takes collective decisions about pasture, enclosures and joint work that has to be carried out. Each reindeer owner takes decisions concerning his own reindeer, such as how many are to be slaughtered. Anyone who wants to become a member of a sameby has to apply for this, and it is then up to the sameby's annual meeting to decide who may become a member.”

[http://www.eng.samer.se/servlet/GetDoc?meta\\_id=1220](http://www.eng.samer.se/servlet/GetDoc?meta_id=1220)

<sup>14</sup> “Recalling its general recommendation No. 23 (1997) on indigenous peoples and previous concluding observations, the Committee recommends that the State party take further measures to facilitate the adoption of the new legislation on Sami rights, in consultation with the concerned communities, building on the studies undertaken into Sami land and resource rights which are considered mutually acceptable. The Committee also recommends that the State party adopt legislation and take other measures to ensure respect for the right of Sami communities to offer free, prior and informed consent whenever their rights may be affected by projects, including the extraction of natural resources, carried out in their traditional

and policy behaviors, which in turn continues to result in harm and struggle for the Sami people trying to maintain both collective and individual Sami life and living culture in Sweden.<sup>15</sup>

In October 2000 the Swedish Government appointed a Sámi Parliamentary Commission to analyze and propose necessary reforms to the Sami Parliament. The Commission delivered the report to the Swedish government in September 2002 and stated the following:

*“- that since the establishment of the Sámi Parliament in 1993 there have been dynamic developments concerning the status of the Sámi people in the framework of international law,  
- that it is obvious today that the Sámi have a right to cultural autonomy, which demands a certain level of self-government. This should also be addressed by the constitution,  
- that a new Commission should be appointed, with a mandate to create new provisions concerning Sámi self-government, to be added to the Swedish Constitution,  
- that in the meantime several changes and improvements should be implemented concerning the functions and mandate of the Sámi Parliament.”<sup>16</sup>*

The full appropriate and corresponding changes have yet to be made in Sweden.

Sustaining a living Sami culture is something that the Sami Parliament and those living the Sami traditions- hunting, fishing, reindeer herding, language, clothing, food, livelihood, crafting, social grouping, yoiking, migrating with the reindeer, land-based medicines and more- are committed to, both by Sami Parliament mandate and genuine desire to continue the Sami Culture and as a People. This is complicated by a blocking of true decision-making power of the Sami by Sweden in regards to decision-making processes and Sami lands, waters, air and natural resources. Moreover and at the same time, the Sami Parliament does not have permanent influence within the Swedish Parliament in any formal roles, such as seats or appointments, other than occasions such as requested meetings amongst politicians or staff, seminars and panel discussions, and for ceremonial purposes, despite being an organ of the Swedish Government and an elected, representative governing body of the Sami people who are Swedish citizens.

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territories.” Para. 17, UN Committee on the Elimination of Racial Discrimination (CERD), Concluding observations on the

combined nineteenth to twenty-first periodic reports of Sweden, adopted by the Committee at its eighty-third session, 12-30 August 2013 (Advanced unedited version), CERD/C/SWE/CO/19-21

<sup>15</sup> For example (one example of many), in September 2013 a complaint to the UN Committee on the Elimination of Racial Discrimination (CERD) claiming that Sweden’s decision to grant permission for a mine in Rönnbäck violates rights of the affected Sami reindeer herders. The CERD Committee made in an interim decision in October 2013 calling for the Swedish State to suspend all mining activities in the Rönnbäck area while the case is under consideration by the Committee. Sweden rejected the CERD Committee’s request.

<sup>16</sup> Observations by the Sami Parliament with regard to Sweden’s Sixth Periodic Report to the United Nations Human Rights Committee, 2009, para 3, <https://www.sametinget.se/7846>

Sweden has put funding into certain linguistic programs through the Sami Parliament in Sweden, but at the same time does not provide Swedish school systems and Sami Schools with the resources needed to make culturally- and historically-appropriate Sami curricula and teacher- and school-capacity building therein.<sup>17</sup> As mentioned, the Sami Parliament in Sweden does not have its own judicial or resolution system, policy-making procedures, laws, taxes or own regulation systems, or other powers of larger societal influence that often come with a nation-based governance. Thus, even if a Sami person has a legal conflict with another Sami person, they are to go to the Swedish court and resolution systems for solutions, decisions or mediations based on the Swedish legal traditions, creating a further, internalized colonization process. Moreover, traditional and necessary Sami livelihood preservation methods, such as the killing of predators stalking one's reindeer, are controlled by Swedish laws and regulations, being penalized and even criminalized by the Swedish legal system.

## Exploitation

Historically, in the context of colonialism, Gustav Vasa, King of Sweden from 1523-1560, placed Sápmi under Crown administration in 1550, then placing Crown taxes on fur, fish, and other products and increasing, at the cost of the Sami for Crown revenue.<sup>18</sup> Conversely, settlers who moved to Sápmi were exempt from taxes for fifteen years as incentive to occupy the region as a part of the Swedish expansion and were not required to consult the Sami when deciding where to settle. Later, the discovery of *silver* ore at Nasafjäll in Sápmi within the expanding Swedish realm again brought a financial focus to the Sami lands for Sweden. The Sami and their reindeer were needed and used for mine labor and the transporting of materials. Accounts of this era for the Sami range from slavery to low-wage starvation and servitude.<sup>19</sup> Today, crafted silver items are an important legacy and part of Sami handicraft tradition, considered a part of Sami culture. Also today, Sami rights to royalties and fair and due portions of benefit sharing and propriety in the context of land occupation and/or use by second and third parties, as well as use of Sami traditional knowledge for benefit by second and third parties, are of major concern for the Sami People, and points of issue in the *Draft Nordic Sami Convention*.

In Sweden, one only has to look to the website of a mining company being fought against for land rights by the Sami to see the still-inherent theft that has been occurring under the feet of the Sami for generations at the hands of outside business and Kingdom-State profit/development; the company websites so tellingly states: “Local knowledge as possessed by the Sami people has been of great historical importance for ore prospecting in northern Sweden, resulting in major discoveries of copper, iron ore, lead and silver

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<sup>17</sup> See Asta Mitkijá Balto and Gunilla Johansson, PhD, “The Process of Vitalizing and Revitalizing Culture-Based Pedagogy in Sámi Schools in Sweden”, full paper submitted to the 10<sup>th</sup> International ERNAPE Conference, July 2015.

<sup>18</sup> “Sweden's Saami Policy 1550-Present: Racist?” By Emmá (Erin Dooner), University of Texas at Austin, <https://www.utexas.edu/courses/sami/dieda/hist/race.htm>

<sup>19</sup> Ibid.

deposits.”<sup>20</sup> In the situation of land above-ground and ownership, for example, over a decade ago the Swedish public power plant company Vattenfall made an application to be registered as the owner of three separate land areas within the traditional territory of three Sami communities. In all three instances, the Sami parties concerned challenged the application, arguing that Vattenfall could not be registered as the landowner, since it had not been sufficiently demonstrated that the land belonged to the State to sell to begin with. In June 2000, the Swedish Court of Appeals hearing the case held that Vattenfall could be registered as the landowner of the lands in question, the Court unable to comprehend that Sweden’s largest water power plant might actually be situated on Sami traditional lands.<sup>21</sup> Such an approach the Sami territory continues today in several cases today and throughout Sápmi in Sweden, in which the Swedish State is considered the owner of Sami lands, granting and selling land-, air-, mineral- and water-related rights therein.

Sami communities feel that their lands are so incredibly pressed that they cannot withstand any further exploitation.<sup>22</sup> Yet, the mining industry in Sweden estimates increasing their production of metal ores by 150% between 2011 and 2020 - from about 60 million tonnes to almost 160 million tonnes.<sup>23</sup> Of Sweden’s total ore production, more than 96% comes from the mines in Sápmi.<sup>24</sup> And, amidst all of this, there is still no formalized or consistent Free, Prior and Informed Consent (FPIC) procedure adopted by Swedish Government regarding Sami and Indigenous Rights, despite various UN Treaty Body recommendations and comments in general and to Sweden, specifically, on this subject.<sup>25</sup> The following information was presented jointly by Network Stop Rönnbäck Nickel Mining Project in Ume River, Tärnaby, Sweden and Civil Rights Defenders in their Shadow Report submitted for the UN Human Rights Committee (HRC) Universal Periodic Review (UPR) of Sweden this 2014:

“In February 2013, the Swedish government presented a new strategy for extraction of minerals. According to this strategy, the government aims for a doubling of the number of mines by 2020 and a tripling by 2030. [...] The Equality Ombudsman recently called the situation for Sami rights in relation to extractive industries ‘alarming’ and urged the government to put an end to all

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<sup>20</sup> Eva Liedholm Johnson, “Mineral Rights Legal Systems Governing Exploration and Exploitation”, a Doctoral Thesis in Estate Planning, Department of Real Estate and Construction Management, School of Architecture and the Built Environment, Royal Institute of Technology (KTH), Sweden: 2010, p. 59, as posted on <http://nickelmountain.se/wp-content/uploads/2014/01/Mineral-rights-Legal-Systems-Governing-Exploration-and-Exploitation.pdf>

<sup>21</sup> Observations by the Sami Parliament with regard to Sweden’s Sixth Periodic Report to the United Nations Human Rights Committee, 2009, para 3, <https://www.sametinget.se/7846>

<sup>22</sup> *Minerals and Mines in Sápmi: the Viewpoint of the Swedish Sami Parliament*, 2014, <https://www.sametinget.se/87915>

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> For example, see Para. 17, UN Committee on the Elimination of Racial Discrimination (CERD), Concluding observations on the combined nineteenth to twenty-first periodic reports of Sweden, adopted by the Committee at its eighty-third session, 12-30 August 2013 (Advanced unedited version), CERD/C/SWE/CO/19-21.

discriminatory practices against the Sami.”<sup>26</sup> Moreover, “According to the strategy Sweden is the leading mining nation in Europe and stands for about 93% of the iron ore. Sweden was in 2014 ranked as the country in the world with most generous policies for mining prospecting, according to the Fraser Institute’s annual survey of mining companies.”<sup>27</sup>

Amidst such circumstantial odds, the Sami Parliament in Sweden has itself put forward and adopted guidelines for an FPIC process in Sápmi in Sweden (see pages 3-4 of *Minerals and Mines in Sápmi: the Viewpoint of the Swedish Sami Parliament*, 2014; Appendix 2)<sup>28</sup>, stating that

“the fundamental principle for indigenous peoples on the right to participation and influence in all parts of the decision-making process in accordance with the right to property is expressed in the principle of Free, Prior and Informed Consent. This principle must be regulated in relationship to the [Swedish] Minerals Act and the [Swedish] Environmental Code.”<sup>29</sup>

In the context of climate change, some monies are earmarked for the Sami Parliament in Sweden to mediate damage from climate change to reindeer herding, but not the Sami people in their traditional relationships with the environment for other traditional trades, practices, lifeways and skills<sup>30</sup>, whilst actual influence in governance and decision-making that can affect climate change, such as those decisions related to resource extraction and industry, political negotiations and legal codification, and protection and use of traditional knowledge, remain out of reach.

These real situations jeopardize the existence of the Sami as a People while simultaneously forcing the Sami to spend much time, energy and resources simply repairing, mending and overcoming State-based divisions and discriminations. Such

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<sup>26</sup> See Sweden’s *Mineral Strategy. For sustainable use of Sweden’s mineral resources creating growth in the whole country*, February 2013, p. 14, <http://www.regeringen.se/content/1/c6/20/96/57/14fbe930.pdf> and <http://www.reuters.com/article/2014/03/03/idUSnMKW2RzDCa+1d6+MKW20140303>; information from “Joint submission to the UN Human Rights Council Universal Periodic Review of Sweden”, 21st Session of the UPR Working Group of the Human Rights Council, January/February 2015, Presented by: Civil Rights Defenders, Sweden Supported by: Expo Foundation, Sweden É Romani Glinda, Sweden Young Roma, Sweden Network Stop Rönnbäck Nickel Mining Project in Ume River, Tärnaby, Sweden, 13 June 2014, p. 10-11; See also *Declaration by the 4th Sami Parliamentary Conference* held on 20 February 2014 with Sami commissioners from the Finnish, Swedish and Norwegian Sami Parliaments and with participation of Russian Sami (*Umeå Declaration*), <http://www.sametinget.se/73159>, Sametingets syn på gruvor och mineraler i Sápmi, (*View of the Sami Parliament on mines and minerals in Sápmi*), statement adopted by the Swedish Sami Parliament on May 20, 2014, available at <http://sametinget.se/73597>, and Equality Ombudsman Agneta Broberg, “Stoppa diskrimineringen av samer med ny urfolkspolitik,” (*Stop discrimination of the Sami by adopting a new policy for Sweden’s indigenous people*), Dagens Nyheter, September 16, 2013, available at <http://www.dn.se/debatt/stoppa-diskrimineringen-av-samer-med-ny-urfolkspolitik/>; Equality Ombudsman Agneta Broberg 2013, note 72.

<sup>27</sup> Ibid.

<sup>28</sup> *Minerals and Mines in Sápmi: the Viewpoint of the Swedish Sami Parliament*, 2014, <https://www.sametinget.se/87915>

<sup>29</sup> Ibid.

<sup>30</sup> See Sametinget article “The Climate Bill and the Reindeer Industry”, 18 May 2015, <https://www.sametinget.se/10181>

circumstances have harmful effects on a social-societal level, as well. In a report 2010, the Ombudsman for Children put forward that a high number of Sami children are perceiving discrimination due to their ethnic background. The Equality Ombudsman has also been receiving an increasing number of notifications of discrimination against Sami persons. That Sami are speaking out about harm and suffering in a larger society that has been thriving on its victims' silence is an indication of what can be considered a starting point for a healing process; member of the Sami Parliament in Sweden and anti-mining activist Marie Persson stated the situation well when she wrote this January 2015,

“We Sami have a responsibility to break free from the colonial structures and demand our dignity again - our dignity as a people. The right to our culture, health, identity and self-determination, regardless of whether we carry out reindeer herding or not. That the Sami increasingly loudly start demanding to be heard regarding their rights and culture must be seen as a sign of health.”<sup>31</sup>

### Harm in lack of structural change and due legal redress

The lack of a formalized and Sami-determined, thorough FPIC process adopted or agreed to by the Swedish government in turn permits harm by blocking Sami Indigenous Rights re processes and decision-making. This, along with the too-long-time Sweden is taking to alter and amend Swedish laws and policies in accordance with Indigenous Rights, has been resulting in situations in which businesses claim consent from Sami communities under false pretenses<sup>32</sup>.

In addition and at the same time, and compounding the damage, the Sami communities pay steep prices for these and other conditions of legal and political stalling and neglect on the part of the Swedish State, having to themselves fund legal assistance to use the Swedish court system to argue for their own land rights, including in situations of FPIC-based State negligence. Burden of proof in land rights cases fall on the Sami, a legal situation that has been commented on by CERD in 2008<sup>33</sup> and remains today. In addition, it still remains that the Swedish Legal Aid system is not a collective provision, even for the Sami people or communities, but is only for individuals- something in an of itself that

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<sup>31</sup> Opinion article by member of the Sami Parliament in Sweden and anti-mining activist Marie Persson, SVT News, 22 January 2015, <http://www.svt.se/opinion/article2617745.svt>

<sup>32</sup> “E.ON Vind AB claimed that Sami were not interested in consultations and that they did not come to a meeting they called. According to Iijnjevaerie Chairperson Marianne Persson, it was not due to disinterest in consultation that the Sami village did not come, but to the reindeer herding work taking priority. -‘We did not have time. We kept on gathering the reindeer and were in the middle of spring migration. In July, it was the same thing, then it was all up to the mountains to gather for the calf-marking’, says a dejected Marianne Persson.” from Inga-Marja Steinfjell, ‘Marianne Persson: I’ve never felt so small’, Sami Radio & SVT News Sápmi, 21 August 2014, <http://sverigesradio.se/sida/artikel.aspx?programid=2327&artikel=5942608>

<sup>33</sup> UN Committee on the Elimination of Racial Discrimination (CERD), Seventy-Third Session, Consideration of Reports Submitted by States Parties under Article 9 of the Convention, Concluding Observations of the Committee on the Elimination of Racial Discrimination, Sweden, 21 August 2008, CERD/C/SWE/C/=18, para. 20.

is a violation of UN Treaty Body conclusions and recommendations<sup>34</sup> and EU policy. Moreover, and noted with a legally-sound analysis in accordance with International Law by partly-dissenting Judge Ziemele in the *Handölsdalen Sami Village and Others v. Sweden* case at the European Court of Human Rights in 2010<sup>35</sup>, to place the burden of proof and legal cost on the Sami villages and people, as Indigenous Peoples in defending their own land rights in the State, is discriminatory; Ziemele rightly argued that State-ratified Indigenous Rights, including CERD treaty body comments and recommendations therein, were being overlooked by the ECtHR itself in the *Handölsdalen Case* decision that was judging in favor of a Swedish-State discriminatory legal system. These stressful factors combined with negligent, non-adaptive and thus corrupt business-based consultation processes causes immense harm to individual, community and collective health and well-being in an already-pressed Sami society. For example, the Jijnjevaerie Sami community in Sweden, in fighting the imposition of a windpower company for windmills on their traditional lands, faced not only exorbitant legal fees and the need to self-represent therein in August 2014 due to a lacking true FPIC process,<sup>36</sup> but a resulting situation of debt and hardship. Jijnjevaerie's Chairperson Marianne Persson stated in August 2014, concerning her community fighting the windpower company E.ON Vind AB via the Swedish Environmental Court to protect community lands and land-based traditions and with no legal aid, "We have been inside out all week. We have not slept at all. I've never done this before, been in court without a lawyer. But when we do not have money for a lawyer we still must try. So I can at least say at the finish line, we tried."<sup>37</sup>

In such instances, due to structural racism in Sweden's legal aid system that only provides for individual aid and not collective aid, the Sami in Sweden are playing themselves from their own already-pressed livelihoods, lifeways and economies to fight the very racism in the legal system that should have long ago been addressed through other more responsible methods of legal diligence by the State of Sweden. The structural discrimination against the Sami as an Indigenous People in the form of non-access as a collective to legal aid in Sweden has been commented on by UN mechanisms and experts and is not legally sound any more than Sweden's other ongoing rights violations of the Sami. However, yet again the situation is one of continued negligence.

A continued lack of redress for lands stolen through colonialism and discriminatory laws and policies leaves Sami people and communities alike to struggle through legal claims and court cases at high costs to both financial security and well-being. See, for example, a statement in this regard made by the Sami Youth Association, Sáminourra, this June 2015,

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<sup>34</sup> Ibid.

<sup>35</sup> Separate Opinion: Partly Dissenting Opinion of Judge Ziemele, Judgment, *Case of Handölsdalen Sami Village and Others v. Sweden*, European Court of Human Rights, (Application no. 39013/04), 30 March 2010, Final 04/10/2010, p. 20-23.

<sup>36</sup> See Lars-Ola Marakatt, "Jijnjevaerie representing themselves in the Environmental Court", Sami Radio & SVT News Sápmi, 19 August 2014, <http://sverigesradio.se/sida/artikel.aspx?programid=2327&artikel=5941162>

<sup>37</sup> From Inga-Marja Steinfjell, "Marianne Persson: I've never felt so small", Sami Radio & SVT News Sápmi, 21 August 2014, <http://sverigesradio.se/sida/artikel.aspx?programid=2327&artikel=5942608>

“The Swedish State does not dare to raise the so-called Sami issue for fear of bringing old conflicts about land that the State once confiscated. This irresponsible behavior is one of the reasons that mental health problems are widespread among young Sami today.

Research suggests that the exploitation and powerlessness over one's own situation leads to young Sami feel worse than the average Swedish the same age.

To constantly be in conflict with the legal system and in the hands of obscure section of the law is a nasty way to starve the future. The right vacuum that prevails in Sweden is highly regarded as a public health issue and the government should be the need to take their responsibility.”<sup>38</sup>

This statement is supported by a long history of legal argumentation, healing initiatives, statements, advocacy and works from around the world in various professional fields and movements alike regarding the situation(s) of Indigenous Peoples, ongoing and historical colonialism, and effects therein.<sup>39</sup> That our world's youth today continue to put this information forward, and with their own precious time and energy in their own life-development, and the responsible authorities do not pick it up and make the necessary changes for health reasons, if no other, only creates more tragedy.<sup>40</sup>

Importantly, the Sami Parliament in Sweden,<sup>41</sup> as governance in Sápmi, the UN itself,<sup>42</sup> and International Human Rights organizations based in Sweden<sup>43</sup> have called for all

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<sup>38</sup> Isaac Utsi, Olov Anders Sikku and Magnus Antaris Sandström, “The [Swedish] State does not dare raise the Sami question”, Opinion article, SVT News, 3 June 2015, <http://www.svt.se/opinion/article2985686.svt>

<sup>39</sup> See India Reed Bowers, *Indigenous Decolonization and United Nations Membership: Indigenous Peoples and the Fundamental Right to Self-Determination*, Section 3. Political and Legal Points of Contention: C. Cultural Genocide: I. High Indigenous Suicide Rates, II. Mining, Land-Grabbing and Resource Exploitation, p. 38-51, and Section 5. Steps to Solutions: A. Step One: Redefining War and Conflict: I. Domestic Abuse and Redefining Aggression, II. Conflict and Redefining Development; B. Step Two: Healing Dignity- Peace, Rights to Living Culture, Land and Self-Determination, p. 51-67, LLM Thesis, International Law of Human Rights and Criminal Justice, School of Law, Utrecht University, Netherlands: 2012, published in *Indigenous Nations & Peoples Law eJournal*. Center for Indigenous Law, Governance & Citizenship at Syracuse University College of Law. Vol. 9, nr 10: 29 March 2013; available online at: <http://www.scribd.com/doc/129340589/Indigenous-Decolonization-and-United-Nations-Membership-Indigenous-Peoples-and-the-Fundamental-Right-to-Self-Determination>

<sup>40</sup> See, for example, *Joint Statement by International Organization for Self-Determination and Equality (IOSDE), Winnemem Wintu Tribe, Sacred Places Institute for Indigenous People*, Item 3(c) (continued): Youth, Self-Harm and Suicide, United Nations Permanent Forum on Indigenous Issues, Fourteenth Session, New York, April 2015, available at <https://www.scribd.com/doc/264352589/UNPFII-Intervention-Youth-Self-Harm-and-Suicide-21-April-2015>

<sup>41</sup> “While waiting for the ratification and implementation in Swedish legislation of ILO 169 (Indigenous and Tribal Peoples Convention, 1989) and the Nordic Sami Covenant, the Swedish Sami Parliament feels that there shall be a moratorium on all exploitation in Sápmi.” *Minerals and Mines in Sápmi: the Viewpoint of the Swedish Sami Parliament*, 2014, p. 6 <https://www.sametinget.se/87915>

<sup>42</sup> For example, in addition to other Treaty Body comments and recommendations to Sweden upon review, the UN CERD Committee made in an interim decision in October 2013 calling for the Swedish State to suspend all mining activities in the Rönneback area while the submitted related Sami community CERD case remained under consideration by the Committee.

<sup>43</sup> See *IOSDE Statement to Immediately halt all mineral prospecting- and mining-related activity in Gállok due to Negligence, Violence, and unresolved Indigenous Land Rights*, 1 September 2013, for example



exploitation in Sápmi to be halted until due Indigenous-Rights-based legal resolution and commitments are taken by Sweden. In fact, peaceful protesters, both Sami and non-Sami, were treated with harm by Swedish Police at the Gállok anti-mining and Sami Indigenous Rights protest camp during the summer of 2013, and then in turn charged with criminal counts by the Swedish System, despite being Human Rights Defenders in the face of unresolved land disputes due to Indigenous Rights violations.<sup>44</sup>

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excerpt: “IOSDE also calls for all authorities in violation of Indigenous Rights and/or contributing to the lack of peaceful and timely, rights-based land dispute resolution to make statements condemning all forms of violence, especially violence associated with unequal power dynamics and illegal land acquisition during the era of colonialism and modern land-grabbing...”, available at

<https://www.scribd.com/doc/164891197/IOSDE-Statement-to-Immediately-halt-all-mineral-prospecting-and-mining-related-activity-in-Gallok-due-to-Negligence-Violence-and-unresolved-Indigen>. See also Open Letter to Prime Minister Fredrik Reinfeldt on 30 July /1 August 2013: ‘*International Law being violated by the State of Sweden in Sohppar/Övre Soppero and Gállok/Kallak this week while 9<sup>th</sup> August 2013, United Nations’ International Day of the World’s Indigenous Peoples, approaches*’, for example excerpt:

“The State of Sweden has not been acting in accordance with International Law in regards activities affecting the Indigenous Sami People and Sápmi territory, including those activities involving State-permitted mining, mineral prospecting and mineral surveying. Sweden’s current Mineral Act and mining and mineral-related laws and policies and their applications, as well as State Indigenous land-related laws and policies in regards to the Sami People are out-of-date by International Human Rights and Indigenous Rights standards. The resulting actions of the State cause further trauma for the Sami People and traditional Sami culture, religion and subsistence. Mineral surveying and prospecting currently underway this week and last week in Sohppar/Övre Soppero and Gállok/Kallak are the result of illegal acts by the State of Sweden and against Indigenous People under International Law. [...]

During the August 22-23, 2013 UN CERD (United Nations Committee for the International Convention on the Elimination of all forms of Racial Discrimination) review of Sweden, the Swedish delegation admitted that application of Indigenous Sámi land rights by the State of Sweden have not yet been resolved within the State. Especially given the State’s admitted awareness of its own unresolved short-comings concerning Sami land rights, IOSDE sees the inaction on the part of all Swedish and business interest authorities involved in the land dispute, in regards to the safety of the rights-based activists and peaceful protestors, as existing within the category of the highest of human rights violations in a democratic society- permitted violence to Human Rights defenders. That all Swedish and business interest authorities have, instead of halting the mineral prospecting activities as soon as police violence had occurred, continued to let violence be played out against both Sámi and non-Sámi Human Rights defenders in the middle of an unresolved land dispute is unacceptable, negligent, and further violates International Law and the health and safety of humans and well as the peaceful goals of International Law and Human Rights all are beholden to by very nature of their own legal existence.

It is time for a complete and urgent halt to all mining-related activities in the area and in the Sápmi territory of Sweden until Indigenous Sámi land rights have been established formally and in accordance with Sweden’s and all Peoples’ duties under International Law...”

No response to the letter was received; in 2012, Prime Minister Reinfeldt stated that the rich mineral deposits in the Sami territory have the same importance for Sweden economy as the oil for Norway. Open letter available at <https://www.scribd.com/doc/157071040/IOSDE-Letter-to-Prime-Minister-Reinfeldt>

<sup>44</sup> See *IOSDE Brief in Support of Gállok Human Rights Defenders*, 18 February 2014, submitted to the Swedish Courts Umeå Tingsrätt, Göteborgs Tingsrätt, Gällivare Tingsrätt and Södertörns Tingsrätt in the following cases: Gällivare Tingsrätt charges and the cases of Malin Norrby, Lovis Agestam, Frida Forsgren, Eino Johan Kenttää, Adam Ekengren, Linda Lundström, and Elina Siri Laszlo Ambjörnsson, arrested and charged 1 July 2013, 12 August 2013, 21 August 2013 and 3 September 2013, court date 18

The Sami Parliament in Sweden has put forward proposals to change the in-force and structurally-colonizing Swedish Minerals Act therein.<sup>45</sup> Sweden has yet to honor these determinations. Again, such ongoing negligence of the Swedish government leaves the Sami people in Sweden, and thus the Sami People as a whole, not only without State-recognized formal standing on the construction of an FPIC process in and of itself in Sweden, but also, as a result, without consistent, safe and reliable ways to voice positions on either business (internal or external) or State matters as a People or an Indigenous People in Sweden, including those matters concerning lands, waters, air and natural resources, or to seek Indigenous-Rights-based redress in Sweden, which has not incorporated Indigenous Rights into its State legislation.

### Colonialism and racism: law, identity and self-harm

The contiguous-land-based colonizing of Sápmi by the Kingdom of Sweden and then the State of Sweden came in the forms of not only church allegiance and forced conversions and demonizing of Sami traditional beliefs and practices therein<sup>46</sup>, but also in the formation of laws, taxes and incentives in favor and encouragement of settlers on Sami territories by Sweden, along with boarding schools for the Sami children and ethnic-cultural cleansing<sup>47</sup>. Historically, the Swedish Kingdom and then Swedish State laid claim over vast tracts of mountains, forests, waters and livelihoods whilst defining and regulating of Sami communities from the Kingdom and State perspective.

A wide range of facts and figures regarding colonialism, both current and historic, are presented in the context of the Sami in Sweden. Stories of past colonization range from brutal slavery in silver mines and torture of Sami and the reindeer therein, burnings to death of persons for Sami Indigenous religious beliefs, the destruction of sacred drums, beatings and brainwashing in Swedish boarding schools for the Sami children,

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February 2013 at Umeå Tingsrätt, Göteborgs Tingsrätt, Gällivare Tingsrätt and Södertörns Tingsrätt, available at <https://www.scribd.com/doc/207642989/IOSDE-2nd-Brief-in-Support-of-Gallok-Human-Rights-Defenders-18-February-2014>; See also, “The roughly 100 residents of the Jähkagasska villages near the subarctic town of Jokkmokk are deeply worried what will happen if the proposed Kallak iron mine, an open pit project mostly located inside the district, is allowed to go ahead. Behind the plan is the British Beowulf’s subsidiary Jokkmokk Iron Mines, Jimab.” from article “Mining threatens Sami reindeer grazing” The Local (news), 24 Dec 2013, <http://www.thelocal.se/20131224/mining-threatens-sami-reindeer-grazing-traditions>

<sup>45</sup> *Minerals and Mines in Sápmi: the Viewpoint of the Swedish Sami Parliament*, 2014, <https://www.sametinget.se/87915>, p. 8.

<sup>46</sup> “Sweden’s Saami Policy 1550-Present: Racist?” By Emmá (Erin Dooner), University of Texas at Austin, <https://www.utexas.edu/courses/sami/dieda/hist/race.htm>

<sup>47</sup> “The three types of schools, nomad schools, boarding schools, and normal primary schools, were all concerned with making the Saami literate and giving them a religiously [Christian] focused rather than an all around education.” Cohen, Roxanne W. “An Educational Dilemma: The Lapps and the Swedish Schools.” *Comparative Education*. 12.1 (1976); Also, “It was mandatory that some Saami children go to school starting in the seventeenth century, something that ethnic Swedish children did not have to do.” Rydving, Håkan. *The end of the drum-time: religious change among the Lule Saami, 1670s - 1740s*. Stockholm: Norstedts Tryckeri, 1995.

impoverishment due to taxes by the expanding Crown whilst settlers were not taxed at all,<sup>48</sup> to pictures of a relatively benign and benevolent Swedish Kingdom and then State whose policies and expansions may have harmed the Sami, but were mostly protective and well-intentioned<sup>49</sup>. In addition to these wide ranges of historical accounts that must be reconciled, there is a large and looming State silence regarding the past and present histories and realities of the Sami in Sweden in the curriculum of mainstream Swedish education and mainstream conscience. Accounts of the number of persons with Sami heritage in Sweden include estimates of approximately 80,000-100,000, with 95 percent not practicing reindeer herding, and the more officially-stated 20,000... however, the latter statistic, while being the most commonly used and the number upheld institutionally, has been sourced from data collected by means and methods prior to World War II and not modern statistical procedures, due to the fact that since World War II Sweden has upheld a policy of no statistical data collection related to ethnicity.

Racism faced by virtually all Sami in Sweden persists today on some level, structurally and/or interpersonally/societally. Language specialists working to build Sami language programs in a local Swedish school systems experience both resistance and positive feedback in building the programs, from both Swedish staff in the school's administration and Sami parents and elders who still had lingering feelings of shame for or need to hide their Sami identity<sup>50</sup> or language due to Swedish boarding school and/or racism experiences in their own formative years. Reindeer herders and non-reindeer herders alike still experience both harsh and negative and romanticized stereotypes from the larger Swedish society, and romanticized stereotypes from the world society, while facing direct racism-based conflict and discrimination in encounters with Swedish landowners and authorities regarding both lands and self-determination.<sup>51</sup>

In addition, today the Sami people as a whole in Sweden still face discriminatory State laws and practices that 'divide and conquer' the Sami People,<sup>52</sup> not only by State borders

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<sup>48</sup> See Peter Ericson, "Saami History- a Story about a Brutal Colonization, Torture, Slavery... (part 1: 2)", *SouthSaamiHistory* blog, 2 August 2015, <https://southsaamihistory.wordpress.com/2015/08/03/saami-history-a-story-about-a-brutal-colonization-torture-slavery-part-1-2/>

<sup>49</sup> See, for example, in the situation of experts used by the State in the *Girjas Case*, "Sami research angles history", Lars-Ola Marakatt, Sami Radio & SVT News Sápmi, 16 June 2015, <http://sverigesradio.se/sida/artikel.aspx?programid=2327&artikel=6191736>

<sup>50</sup> One man of both Swedish and Sami Descent describes the situation with further example, "...in my family mother's Sami heritage was supposed to be covered up to avoid racism and biased treatment. I doubt my father's family would have accepted her. In my heart I always suspected [our Sami heritage], but in the last years, I contacted people where she came from and I realized that we have family in Sápmi..."

<sup>51</sup> For a brief English-language news article on this issue, see <http://sverigesradio.se/sida/artikel.aspx?programid=2054&artikel=4832942> from 2011, 'Indigenous Sami face increasing racism', reporting on situations that are still present today: "Destruction of property, racist websites and vandalism of Sami street signs are on the increase in Northern Sweden according to the Sami Centre Against Discrimination and Racism", also reported on by the Council of Europe's Strasbourg-based Commission on Racism and Intolerance in 2012, <http://sverigesradio.se/sida/artikel.aspx?programid=2054&artikel=5284429>

<sup>52</sup> See Speech by Josefina Lundgren Skerk, Sami Parliament in Sweden Vice Chair, United Nations Permanent Forum on Indigenous Issues Fourteenth session New York, 20 April - 1 May 2015. Item 7 a: Implementation of the United Nations Declaration on the Rights of Indigenous Peoples, excerpt:

but by definition and decision-making and limited and incongruently-designated statuses. Sweden's Reindeer Husbandry [Grazing/Herding] Act (*rennäringslagen*), last amended in 1993,<sup>53</sup> seemingly creates certain legal protections and rights therein for Sami land use. However, this law in fact divides Sami Rights between reindeer-herding Sami and non-reindeer herding Sami. As a result, Sami Rights, as defined and determined by Sweden during colonialism and still today, are based on agriculture-based concepts of property and as tied to profession, thus dividing the Sami community in Sweden. In fact, Sweden treats Sami Reindeer Husbandry in the Swedish Constitution as a form of right to trade, or conduct business, and not a religious, cultural, familial or collective practice of an Indigenous People: "Freedom of trade: Art. 17. Limitations affecting the right to trade or practise a profession may be introduced only in order to protect pressing public interests and never solely in order to further the economic interests of a particular person or enterprise."<sup>54</sup> These circumstances of the Sami people in Sweden occur, in turn, at the same time as Sweden's "recent approval to a mining corporation to initiate nickel mining in Rönnbäck, Västerbotten, in August 2013. In its decision to grant concessions the State explicitly prioritized the national interest of extraction of minerals over reindeer herding and other Sami rights and interests, *de facto* only giving regard to socio-economic concerns"<sup>55</sup>

What should be Indigenous Rights for a collective People and based on self-determination are made to be a forced dependency on the granting of rights to a few by the Swedish State, under the hidden State insinuation that the Sami themselves, as a collective whole, cannot make own decisions as own leadership and authorities, collectively as *Sápmi*. Such practice of law is steeped in colonialism world-wide, historically, including British colonization of Ireland for the purpose of State-based

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"The Swedish State has a century-long policy of deciding what criteria determines who is Sami and on the basis of livelihood. This discrimination has resulted in laws and policies that severely divide and damage the Sami people. Another result is that the majority of the Sami people are left without the possibility to decision making regarding proposed mining projects, as their collective claims to the Sami land and water, based on hunting, fishing, collecting edible plants and herbs, cultural activities, spirituality and other Sami lifeways, are not recognized in the Swedish State's laws. State policies highlighting only certain cultural practices of the Sami People is resulting in a critical loss of Sami culture as a whole, in turn leaving gaps in what we, as a People, can pass on to our children and future generations as a living culture. The richness and complexity of our cultural practices is being diminished by State policies and decisions."

Available at <https://www.sametinget.se/88495>.

<sup>53</sup> Reindeer Husbandry Act (SFS 1971:437),

[http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/\\_sfs-1971-437/](http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/_sfs-1971-437/)

<sup>54</sup> Swedish Constitution,

<http://www.riksdagen.se/en/Documents-and-laws/Laws/The-Constitution/>

<sup>55</sup> "Joint submission to the UN Human Rights Council Universal Periodic Review of Sweden", 21st Session of the UPR Working Group of the Human Rights Council, January/February 2015, Presented by: Civil Rights Defenders, Sweden Supported by: Expo Foundation, Sweden É Romani Glinda, Sweden Young Roma, Sweden Network Stop Rönnbäck Nickel Mining Project in Ume River, Tärnaby, Sweden, 13 June 2014, p. 11; Regeringsbeslut (Decision of the Government) N2012/1637/FIN, N2012/2776/FIN, N2012/5276/FIN, 22 August 2013, *Appeal of the decision of the Chief Mining Inspector on exploratory concessions for the areas Rönnbäcken K nr 1 and Rönnbäcken K nr 2 and Rönnbäcken K nr 3 in the department of Storuman, region of Västerbotten*.

expansion and agriculture therein, justified as occupying and managing ‘wastelands’ that the ‘savages’ and ‘heathens’ did not and could not fully utilize and manage as hunters and gatherers, to the Indian Trust system of the United States of America, in which Federally-recognized tribes’ lands, major programs, activities, monies and governance are all overseen by the U.S. Federal and Trust systems along with the Bureau of Indian Affairs.

The legacy and presence of State discrimination further harms the Sami People when internalized. High suicide rates among the Sami in Sweden have been addressed by some University researchers and pilot programs therein.<sup>56</sup> However, so long as the underlying root cause of feelings of helplessness, anger, despair and historical inequalities both within Sweden and within Sápmi in Sweden resulting from colonial tactics and alterations are not addressed,<sup>57</sup> all solutions are not being enabled for the Sami people in Sweden to move forward to a better and more self-determined, healthy and holistic societal situation.<sup>58</sup>

Member of the Sami Parliament in Sweden and anti-mining activist Marie Persson explains,

“It is the trauma that is passed on from generation to generation and manifests itself in mental health; self-harming behaviors, various addictions, geographical escape more.

Ill-health is often hidden where the dark figure is high. Situation deteriorates when health facilities with Sami competence is lacking in Sweden.

Lack of school knowledge about the Sami, one-sided media image and the reproduction of exoticized pictures of Sami does not make it better.”<sup>59</sup>

The Sami Parliament is seeking true restoration to the Sami people in Sweden from the harms done by colonialism and discriminatory measures and actions of Sweden, both historical and current, in the form of a full and genuine *Truth Commission*, also discussed in this Report.

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<sup>56</sup> For example, see Lotta Omma, “Young Saami in Sweden: living conditions, self-assessment and health”, Umeå University, Faculty of Medicine, Department of Clinical Sciences, Psychiatry, 2013, <http://umu.diva-portal.org/smash/record.jsf?pid=diva2%3A585920&dswid=1619>

<sup>57</sup> Sami artist Anders Sunna writes in a statement regarding his own family’s history in the face of State policy- and law-making and structural racism and harm they have encountered therein, “We survive, but we do not live.” A sample of Anders’ artwork about this reality can be seen in this Report’s Appendix 4. For more on Sunna’s story, see The Sami Parliament in Sweden’s Sami Information Center, 17 September 2013 article by Camilla Andersson, ‘Anders Sunna’s art leaves no one indifferent’, <http://www.samer.se/4239>

<sup>58</sup> During a visit to Sweden in 2007 UN Special Rapporteur on the Right to Health, Paul Hunt, highlighted the Sami psycho-social including incidents of assault, abuse of alcohol and drugs, and work related accidents. At the time, Hunt was critical of the lack of knowledge, statistics and understanding about the Sami health situation in Sweden.

<sup>59</sup> SVT News opinion article by member of the Sami Parliament in Sweden and anti-mining activist Marie Persson, 22 January 2015, <http://www.svt.se/opinion/article2617745.svt>

## Eugenics, legal codification and repatriation

The first racial biology institute in the world, the Swedish Institute for Racial Biology, was founded in 1922 in Uppsala, with the support of the Swedish government and the Swedish people.<sup>60</sup> Its founder, Herman Lundborg, ranked humans according to their accomplishments and unsurprisingly, he placed scientists at the top of his scale and the Saami at the bottom.<sup>61</sup> “He was strongly against Saami and Swedes marrying, and for a while, he used all of the Institute’s resources to study the Saami, and believed that by studying their skulls, he could prove that interracial marriage was bad for the future of the Swedish race.”<sup>62</sup> At the time of race biology, a law similar to the German Nuremberg Laws was even proposed in the Swedish Government to ban Sami-Swedish marriage.

Lundborg was doing his Race Biology eugenics work at the time, via Uppsala University, when the focus of Swedish Sami policy and legislation was established. Sami Parliament member and anti-mining activist Marie Persson explains that the perception of the Sami rights today is based on Lundborg’s research conducted in 1922-1935. Lundborg’s work violated the Sami people on profound levels, a traumatic history and fact the Sami people in Sweden are only able to begin to talk about recently. Lundborg measured skulls, took blood samples, pictures, and established a register. Marie Persson has explained that her grandfather, and everyone’s relatives, are in that register.<sup>63</sup> While other Nation-States, museums and ‘collectors’ around the world have begun to repatriate ancestral remains and cultural, ceremonial objects to Indigenous Peoples with due diligence through both actions of good faith and new laws and policies in accordance with relevant International Law,<sup>64</sup> skeletal remains and ‘scientific’ photos of the ancestors and family members of the Sami people in Sweden have remained in the vaults of Uppsala University since the race biology programs and continue to be there and elsewhere outside of the hands of their Sami families and communities and the Sami People.

In the context of Cultural Heritage and restorative measures for historical injustices, while in other parts of the world processes of repatriation of Indigenous remains and cultural and sacred artifacts are underway and being discussed, negotiated and addressed in the context of historical restorative justice, these remains and highly private and exposing photographs for the purpose of the race biology program remain in the hands of Uppsala University and not in the communities and families who are traumatized by the loss and violations of their ancestors and relatives.

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<sup>60</sup> Alain Drouard, "Concerning Eugenics in Scandinavia. An Evaluation of Recent Research and Publications." *Population: An English Selection*. 11 (1999): 261-270.

<sup>61</sup> Dennis Sven Nordin, *A Swedish Dilemma: A Liberal European Nation's Struggle with Racism and Xenophobia, 1990-2000*. Lanham, Maryland: University Press of America, 2005.

<sup>62</sup> Lennart Lundmark, “Saami policy in the shadow of racism.” *The Saami- an Indigenous People in Sweden*. Västerås: Edita Västra Aros, 2005, p. 14 – 15.

<sup>63</sup> Amnesty International Press, “Requiring a truth about atrocities against Sami”, 11 May 2015, <http://www.amnestypress.se/artiklar/reportage/25788/arsmotet-i-umea-krav-en-sanningskommission-om-over/>

<sup>64</sup> For example, see John Carlisle, “Saginaw Chippewa tribes reclaim their dead”, Detroit Free Press, 7 June 2015, <http://www.usatoday.com/story/news/nation/2015/06/07/chippewa-tribes-reclaim-dead/28659013/>

## Women

Through the Swedish Reindeer Husbandry Act the Swedish State has determined and defined over the years who is Sami and who is not according to historical lines of race biology, occupation, business and profit therein, gender<sup>65</sup> and other divisive State-identified criteria<sup>66</sup>, and has assigned Sami Rights accordingly. As late as 1971, the Act contained legal codification defining a woman's reindeer herding rights and thus (according to the Act) 'Samianness' according to her partnership with either a reindeer-herding Sami man or a non-reindeer-herding (Sami or otherwise) man.<sup>67</sup> This divisive

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<sup>65</sup> See Jenny Wik Karlsson, "The Reindeer Husbandry Act and Equality", Swedish Sami Association (SSR), 2012, available at [http://www.Sápmi.se/ren\\_o\\_jamn\\_2012\\_webb.pdf](http://www.Sápmi.se/ren_o_jamn_2012_webb.pdf)

<sup>66</sup> For example, "Sometimes reindeer herders who only had a small number of reindeer would take casual forestry or mining work, in order to save up enough money to buy more reindeer, but, when they tried to return to work as reindeer herders, the district administrator did not allow it. The loss of the right to herd reindeer meant that these Saami would have to change their occupation completely, and to many, it meant losing a part of their identity. This obviously caused a great dilemma for the Saami reindeer herders with financial difficulties. One could either choose to be a poor reindeer herder, and suffer; or he could choose to be a reindeer herder that took a side job in an attempt to better his way of life, risking the loss of said way of life. The Swedish state effectively took away the ability of the Saami to make living conditions better for themselves, while maintaining their traditional ways of life and occupations, and if one tried, that Saami person would be stripped of his identity vis-à-vis his occupation. With the state, it was either integrate or live a completely traditional nomadic lifestyle." 'Sweden's Saami Policy 1550-Present: Racist?' Emmá (Erin Dooner), University of Texas at Austin, <https://www.utexas.edu/courses/sami/dieda/hist/race.htm>

<sup>67</sup> See, for example, Agneta Silversparf, "Sámi genealogy Research as Resistance Practice: Countering Ethnical Cleansing and Reclaiming Our Memory, History and Culture" in *RE: Mindings; Co-Constituting Indigenous/Academic/Artistic Knowledges* (2014: Uppsala), p. 135-6:

"The question of finding a legal definition of the term 'Sámi' was first proposed in *Bill No. 169* to the Swedish Parliament of 1917. Its content aimed towards excluding the Sami from occupations other than reindeer herding. To some degree there were also attempts to prevent the combining of reindeer husbandry and agriculture. The bill was not successful in its entirety, but there were more to follow.

A decade later, the state report SOU 1927:25 wished to define the relationship between membership in the Sami and settler villages of Sweden. This was revised in the *Reindeer Grazing Act of 1928*, which defines Sami as 'a nomadic reindeer herder', stated in 1§1 and explained in the following passage:

'...the Sami were divided into two groups: the Sami with legal right to reindeer herding and the Sami without that right. Only the former group is called Sami in the law. The others are judicially equal to the non-Sami population'.

The *Act* closely defined the linkages between the herding vocation and Sami genealogy:

'The right to reindeer herding will be due to those of Sami origin if his father or mother, or one of their parents, permanently had reindeer herding as a profession. 'Sami' is in this Act every person who has the right to reindeer husbandry'.

Furthermore, the status of Sami women was weakened by paragraph §1, a wording that was not to disappear until 1971:

'The right of reindeer husbandry belongs to a woman who is, or has been, married to a man with such a right. If a woman who has the right of reindeer husbandry marries a man who has no such rights, then she loses her rights.'

law, as well as the divisions of powers within Sápmi in Sweden between the Sami people as a result, were manufactured and codified by Sweden and not the Sami themselves. Many Sami often put forward the cultural notion that, prior to colonization and societal roles assigned therein, identities and responsibilities were divided and shared equally between men and women in the Sami family and collective, including in working with reindeer. Such a divisive law created by Sweden and under the guise of protection, so as to manage and control Sami people and land use with a colonial hand, continues to have effects today, and its harmful legacy has not been resolved with proper redress. Usufruct rights to land allotted within this legal codification context do not give the Sami persons or People full rightful decision-making powers, collective equality or due process. In Sápmi within Sweden, currently land- and water-related Indigenous Rights are not granted to non-reindeer herding Sami persons, which denies the Sami as a whole the rights needed for other livelihoods and traditions, including medicine, culture, teaching youth, food access, crafts, storytelling and general peace. At the same time, such legal conditions for already-pressed reindeer herders and communities creates an aura of fear of change of the Act and its rights, a fear of losing the handful of Sami Rights and protections they themselves already do have/have left. Thus, the creation and maintaining the Swedish Reindeer Husbandry Act has a typically colonial divisive effect on the Sami.

Within the context of this colonial and legal legacy, Sami women in Sweden today face large and still-not-openly-discussed historical oppressions as Sami women, specifically, which continue to manifest today as not having healing, change and redress as Sami Indigenous women in the context of Indigenous Women's Rights. Märgge Uttjek, Project Manager of the 2008 *Dorvu/Dårvvo/Dårvvuo/Jearsoe/Security* program seminar concerning Sami women and domestic violence, a usually-silenced topic in Sweden and Sápmi in Sweden, wrote in the program report:

“In conjunction with the introduction of [Swedish] Christianity and colonization [in Sápmi] arose new, hierarchical power structures which man was superior to the woman. The man was the one who was considered the family the head and the man became owner of the land that the family used. In addition, the woman was later ‘housewife’ to the man according to § 13 of the Reindeer Husbandry Act (SFS No. 1971: 437, reprinted: SFS 1993: 36). The [Sami] woman's position as subordinate to man is thereby enshrined in the law that applies today.”<sup>68</sup>

The historical legacy of a notion of a people as based on business and a man's identity therein rather than collective interdependency of family, community and people who all share roles and responsibilities in the continuation of the Sami People and family/collective is a colonial one. Historically, Sami women even faced forced

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To conclude, according to the Swedish law of 1928, to be a Sami meant having the right to reindeer husbandry. However having the right was not enough, if a person did not actually work with reindeer husbandry, one was not considered to be officially ‘Sámi’. In the *Act of 1971*, still in effect at present, a Sami is defined in the same way. Moreover, Sami women have faced additional discrimination under Swedish Sámi-defining law.”

<sup>68</sup> “Project: Dorvu/Dårvvo/Dårvvuo/Jearsoe/Security”, Märgge Uttjek, Project Manager, 2008, p. 10-11, available at <https://www.sametinget.se/64205>



sterilizations under the command of the Swedish State.<sup>69</sup> Do women feel their own needs for equality are put into conflict with what is perceived to be a fight against exploitation that does not include their own harm/injustices? Can both Sami gender inequality and Sami Indigenous Rights violations be traced back to Swedish colonial policies and mechanisms, together and equally? In the Appendix 3 of this Report is a Statement made by one brave reindeer-herding woman in Sápmi in Sweden who provides her own story on the issues at hand and on which there is little to no information. She speaks of how the Swedish society discriminates against her work and identity as a reindeer herder, even in the health care system when she seeks care- a place meant to be safe and healing for all persons. She also discusses some reasons for her fear of talking about women's issues as a Sami woman in Sweden, including brief discussion of suicide in Sápmi and the burden being carried.

While the issues and situations women in Sápmi face are steeped in colonial history and influence, these issues are rarely discussed openly, either as own issues worthy of highlighting as public concerns, including in the context of public health, or in recognition of their collective connection to the other violations the Sami face, such as- determination, land loss and divisive colonial legacy harms. Violence against women in Sápmi needs to be further investigated for root causes in Swedish colonial measures and structural racism dually compounding gender harassment and discrimination. Domestic violence programs and emergency resources, information and counseling services in Swedish systems offer no specialized assistance for those suffering within Sápmi and living either as Sami or within the Sami culture and communities, nor have the Sami Parliament or other entities been supported to create such initiatives.<sup>70</sup> The Sami Parliament Equality Program, adopted 2004-10-19-20, clause 38, states: "Gender-based violence, particularly violence against women, is a global gender equality issues available in all different communities. Despite the lack of research on the extent of the problem in the Sami society must work to reduce the problem, to be taken within the Sami Parliament activity." As can be seen in the Norwegian side of Sápmi, Sami women face drastically

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<sup>69</sup> See Speech by Josefina Lundgren Skerk, Sami Parliament in Sweden Vice Chair, United Nations Permanent Forum on Indigenous Issues Fourteenth session New York, 20 April - 1 May 2015. Item 7 a: Implementation of the United Nations Declaration on the Rights of Indigenous Peoples, excerpt:

"My grandmother was the first woman in our family to give birth in a hospital; when she had recovered, she placed my new-born mother in a wooden box on her bicycle and rode 30 kilometers back into the forest. My mother was 10 years old when the road and electricity came to where they were living; she was 30 years old when Sweden stopped forcibly sterilizing Sami women. Sweden has yet to stop forcibly assimilating children - the State continues to refuse the Sami language, culture and history being taught in most schools, and does so now, in most cases, through structural discrimination. The lack of teachers, scheduled time, funding, adequate laws and systems leaves Sami children and youth without their language and identity." <https://www.sametinget.se/88495>

<sup>70</sup> The Sami Parliament in Sweden organized a seminar in 2008 in conjunction with *Project: Dorvu/Dârvuo/Dârvuo/Jearsoe/Security* concerning domestic violence and Sami women in Sweden and outcomes included "The action plan, drafted during the seminar proposed the establishment of a hotline for Sami women, and for the callers to talk to someone with adequate cultural competence should hotline staffed by Sami women. The conclusion from the seminar and the draft Sami Parliament plan is that funds are wanted for a feasibility study with the aim to examine the conditions for the establishment of a Sami shelter." none of which have since become available. See the report and recommendations here: <https://www.sametinget.se/64205>

higher rates of domestic violence than ethnic Norwegian women according one recent report, “45 percent of the Sami who responded to the survey stated that they had been subjected to violence and abuse against 29.6 per cent of the ethnic Norwegian respondents.”<sup>71</sup> The 15 March 2006 Report on Sweden to the Human Rights Council by Special Rapporteur on Violence Against Women, its Causes and Consequences, Yakin Ertürk, criticized Sweden for not having paid attention to violence against Sami women. The report pointed out that Sami women avoid Swedish women's shelters because they lack knowledge on the Sami community and then they are alien to the Sami women.<sup>72</sup> The Swedish Government established an action plan in 2007 that claimed to take into account special needs of women in different minority groups may have, but did not mentioned anything specific about Sami women's Rights as Indigenous women or special needs therein for women in general living in a relationship in Sápmi.<sup>73</sup> Such lack of resources further silences the stark reality of domestic violence, gender inequality and needs for counseling services and historical and current justice in Sápmi in Sweden.

The situation for Sami women and women in Sápmi and domestic violence is compounded by a lack in Sweden of disaggregated statistical data. There remains no formal documentation of violence against Sami women in Sweden.<sup>74</sup> Since World War II, statistical data in Sweden collected by the State has not been collected or categorized by ethnicity, in accordance with Swedish policy. Due the horrendous race-based politics of the European Nazi regime leading up to World War II and also Sweden's own shameful eugenics and race biology programs of the time, the Swedish State put a ban on all data collection and statistics based on ethnicity after WWII, something now criticized by the UN Committee Against Torture (CAT) in review of Sweden. CAT criticizes Sweden for the reason that without such data there is no way for the CAT Committee and others to analyze Sweden's adherence to the CAT treaty in difference ethnic contexts within Sweden, in addition to Sweden not having the knowledge it needs to know what changes and services are required by its populations. This lack has deep effects on statistics regarding domestic violence rates, amongst other forms of torture as-identified by CAT, within different populations in Sweden. It also means no statistics-provable grounds for need for legal redress or systems changes, even under urgent conditions and situations of neglect.<sup>75</sup> Unfortunately, such a lack of State disaggregated data and statistics not only

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<sup>71</sup> Robin Mortensen, “New research: Sami women most exposed to violence”, NRK Finnmark [http://www.nrk.no/finnmark/ny-forskning\\_-samiske-kvinner-mest-utsatt-for-vold-1.12378676](http://www.nrk.no/finnmark/ny-forskning_-samiske-kvinner-mest-utsatt-for-vold-1.12378676)

<sup>72</sup> “Project: Dorvu/Dårvvu/Dårvvuo/Jearsoe/Security”, Märgge Uttjek, Project Manager, 2008, p. 7, available at <https://www.sametinget.se/64205>

<sup>73</sup> Ibid.

<sup>74</sup> Ibid, p. 5.

<sup>75</sup> “While noting that some statistics have been provided, the Committee regrets the lack of comprehensive and disaggregated data, which has made it difficult for the Committee to monitor and assess the implementation of the Convention by the State party at the national level (arts. 2, 12, 13, 14 and 16). The State party should as a matter of urgency compile statistical data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement and prison personnel; on gender-based violence, including domestic violence and trafficking; on hate crimes; and on the means of redress provided to victims, including compensation and rehabilitation.” UN Committee against Torture for the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Concluding observations on the sixth and seventh periodic reports of Sweden, 2014 Concluding remarks, CAT/C/SWE/CO/6-7, pg. 7 para. 19.

has left reports to CAT regarding domestic violence in Sápmi in Sweden un-remarked upon by the CAT Committee,<sup>76</sup> but this lack of data also leaves women who are from other ethnic and non-majority circumstances in Sweden with a lack of possible opportunity to discuss any common issues regarding rates of domestic violence with Sami women in Sweden and for the women to create solidarity. The lack of such data and the resulting silence of the State on such issues also prevents situations of intersectionality (issues crossing through multiple spheres of oppression at the same time, such as minority/Indigenous/immigrant) and problem-solving regarding State policies therein to further address larger issues of structural State and societal discriminations.

Some people even argue that the situation of women and domestic violence in Sápmi in Sweden does not exist or is not unique, or that it should be kept to private discussions and not made public, or that it is not a real legal, political or Indigenous Rights issue or one to be concerned with or to prioritize as urgent. This is a crushing situation, as, in turn, many Sami women in Sweden remain in silence about their own domestic violence traumas, and do so without any culturally-appropriate resources whatsoever as women residing in Sápmi or as Sami women in Sweden. Women who have suffered and do suffer from domestic violence and gender discriminations are, in turn, forced by State policies, sexism and racism to promote an image of a ‘strong woman’ that does not reveal any damage... damage that, in fact, the State has done through the years to the Sami family, individual, culture and collective – and women.<sup>77</sup>

Such compounded situations for women in Sápmi in Sweden continue to render silence around the issues at hand out of fear of speaking the truth instead of healing through victims’ voice and larger resolution. The concern of Ms. Tauli-Corpuz, UN Special Rapporteur on the Rights of Indigenous Peoples’, for the well-being and rights and issues of women and Indigenous women in Sápmi and in Sweden, therefore, is most welcomed. Sami women’s issues, including domestic violence and the need for Sami-created, culturally-appropriate resources and works therein, are often hidden and deemed less important than other Sami Indigenous Rights issues at hand, a situation which the functions, in turn, as another harm to the Sami People as a collective, and which is all too indicative of continued State colonial practices in Sápmi.

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<sup>76</sup> The following NGO Shadow Report submitted to the UN CAT Committee, 53<sup>rd</sup> Session, Review of Sweden, raised issues of domestic violence in Sápmi in Sweden and lack of information and resources for Sami people and women therein, and the situation therein of the Sami Parliament in Sweden not being included by either the UN as governance or Sweden as State-mechanism contributor for the Sami within the UN system, so as to, for example, report on domestic violence and Sami people to CAT (p. 5-7); none of which was addressed by the UN CAT Committee in its questioning to Sweden or concluding remarks, nor were any of the other items raised by CAT from the Shadow Report; in fact, the Committee never mentioned the Sami, which can only be interpreted as a result of the lack of disaggregated data in Sweden based on ethnicity or Committee oversight regarding Indigenous Peoples and the Sami: [http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/SWE/INT\\_CAT\\_NGO\\_SWE\\_18652\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/SWE/INT_CAT_NGO_SWE_18652_E.pdf)

<sup>77</sup> See Appendix 3 of this Report.

## A Truth Commission

The Sami Parliament recently adopted a motion for the establishment of a Truth Commission via a motion first proposed in February 2012 that was revisited and endorsed by the plenum in May 2014.<sup>78</sup> Sweden's Equality Ombudsman has agreed to collaborate in the process.<sup>79</sup> Sáminuorra, the Sami Youth Organization, raised the idea of a Truth Commission in Sweden in 2008,<sup>80</sup> seeking historical justice that could heal wounds and divisions in the Sami communities and People far and wide. In regards to their demand for a Truth Commission, in 2008 Sáminuorras Chairman Lars Miguel Utsi said that the historical abuses against the Sami by Sweden are "an open wound in Sami society and in Swedish society" and that "Sweden has not taken hold of sorting out the abuse and reconciled themselves with the Sami and compensate and recognize the Sami as an indigenous people." Utsi further stated, "A truth commission would give an objective and historically accurate description of the abuse committed [...] and that the issue of right to land and water should be a primary task to investigate the Truth Commission."<sup>81</sup> Submitted to the Human Rights Council for the most recent Universal Periodic Review of Sweden was the following Shadow Report statement:

"The Swedish government has failed to investigate and remedy the historical discrimination and repression of the Sami. In May 2014 the Sami Parliament voted to support the establishment of a truth commission on the treatment of the Sami people throughout Sweden's history. Such a commission would be an important contribution to the recognition of the structural violations of the human rights of the Sami."<sup>82</sup>

The Swedish Church has been undergoing a reconciliation process with Sami in Sweden with its own result of a corresponding White Paper.<sup>83</sup> However, the Sami Parliament has

<sup>78</sup> Swedish Sami Parliament motion adopted on May 21, 2014, Records from Sami Parliament plenary session in Åre 2014; see also <https://www.sametinget.se/90491>

<sup>79</sup> See Press, Sami Parliament in Sweden, 16 June 2015, "The abuse unknown to many: The abuse and discrimination that the Swedish government has exposed Sami to and that is still ongoing on many levels is essentially unknown to policy makers and the public at large. An independent truth commission to investigate the Swedish state's abuse towards Sami could be a first step and an important element in efforts to secure Sami human rights," says Sami Parliament Chairman Håkan Jonsson". <https://www.sametinget.se/90491>

<sup>80</sup> "Sáminuorra [Sami Youth Association] six years ahead of the Sami Parliament", David Rydenfalk, Sami Radio & SVT News Sápmi, 26 May 2014, <http://sverigesradio.se/sida/artikel.aspx?programid=2327&artikel=5872467>

<sup>81</sup> "Requiring a Truth Commission", Sami Radio & SVT News Sápmi & SVT News Sápmi, 22 september 2008, <http://sverigesradio.se/sida/artikel.aspx?programid=2327&artikel=2327599>

<sup>82</sup> "Joint submission to the UN Human Rights Council Universal Periodic Review of Sweden", 21st Session of the UPR Working Group of the Human Rights Council, January/February 2015, Presented by: Civil Rights Defenders, Sweden Supported by: Expo Foundation, Sweden É Romani Glinda, Sweden Young Roma, Sweden Network Stop Rönnbäck Nickel Mining Project in Ume River, Tärnaby, Sweden, 13 June 2014

<sup>83</sup> See, for example, Church of Sweden Press Release: "Experts on indigenous peoples to attend Saturday seminar", 9 December 2014, "A seminar on indigenous peoples is being held in Uppsala on Saturday 13 December as part of the Church of Sweden's more in-depth work on indigenous issues. The panel will

already determined that it does not want a White Paper to be the result or primary goal of a Truth Commission between the Sami and Sweden,<sup>84</sup> and therefore demands a true and genuine Truth Commission process that is Sami-determined as per International Law.

Restorative Justice is the underlying legal process that is the foundation of Truth Commissions. Restorative Justice is utilized in many legal and structural/societal/institutional contexts around the world, including in Indigenous-related Truth Commissions in Australia, Canada, Chile, Guatemala, Peru, the Australian Apology and reconciliation initiatives, the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, the Waitangi Tribunal in New Zealand, and the use of customary law both in peaceful and post-conflict Indigenous societies.<sup>85</sup> Restorative justice processes often include, for example, opportunities to share experiences, focus on restoring relationships, requirements of apology and/or reparation, active participation by the parties in negotiating a just resolution, and an emphasis on creating a dialogue between the parties.<sup>86</sup>

To be genuine and legally-sound, a Truth Commission between the Sami people in Sweden and the Swedish State needs to be a full and thorough process that is victim-, i.e. Sami-, driven, so as to be restorative a Truth Commission process.<sup>87</sup> Restorative justice legal processes are victim-and healing-driven justice processes and are practices as acts of good faith in the perpetrator(s) and victim(s) alike, and in that context are chosen by the victims in lieu of traditionally adversarial systems, such as the International Criminal Court, police and adversarial criminal justice procedures, and punishment-oriented or

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include indigenous peoples representative Dr Wilton Littlechild, UN expert on indigenous issues and Truth and Reconciliation Commissioner for indigenous issues in Canada. The indigenous peoples seminar is an expression of the desire of the Church of Sweden to work in more depth on indigenous issues. During the seminar, indigenous rights and the opportunities and obstacles of reconciliation will be up for discussion, partly based on experiences from the truth and reconciliation process in Canada. [...] Next year (2015) the Church of Sweden will be publishing its White Paper on the historical relation of the church to the Sami.” [http://www.mynewsdesk.com/uk/svenska\\_kyrkan/pressreleases/experts-on-indigenous-peoples-to-attend-saturday-seminar-1097535](http://www.mynewsdesk.com/uk/svenska_kyrkan/pressreleases/experts-on-indigenous-peoples-to-attend-saturday-seminar-1097535)

<sup>84</sup> “A Sami truth commission should not be confused with a White Paper. A commission is more comprehensive and contains far-reaching measures for redress, the state accounts for [wrongdoings] and provides compensation. Commission work should be done with Sami own influence, even if the state initiates the work and contributes resources. The guiding principle must be to make visible the history and the abuse that people suffered. The Truth Commission shall cover the whole of the Sami people. The appointment of a commission may not mean that other processes to respect the rights of the Sami stop, but must proceed in parallel.” In ‘The Way to a Sami Truth Commission, Opinion article by Sami Parliament member Marie Persson, SVT News, 22 January 2015

<sup>85</sup> UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), Seventh session, Item 5 of the provisional agenda: Continuation of the study on access to justice in the promotion and protection of the rights of indigenous peoples: ‘Restorative justice, indigenous juridical systems and access to justice for indigenous women, children and youth, and persons with disabilities’ Study by the Expert Mechanism on the Rights of Indigenous Peoples, 25 June 2014, para. 77, A/HRC/EMRIP/2014/3/Rev.1

<sup>86</sup> Ibid.

<sup>87</sup> “Truth commissions adopt a victim-centric approach, as their aim is to protect the victim’s dignity, and the victim’s testimony is largely their primary source of evidence.” from UN Permanent Forum on Indigenous Issues (UNPFII), Twelfth session, Provisional agenda item 6\*, Discussion on the World Conference on Indigenous Peoples, ‘Study on the rights of indigenous peoples and truth commissions and other truth-seeking mechanisms on the American continent’, 14 February 2013, Para. 6, E/C.19/2013/13

criminal-focused legal systems. Restorative justice is a mixed and developing field in the context of non-indigenous legal and mediation/justice work, while also being an Indigenous tradition in many societies, still practiced in many parts of the world both independently and as component of hybrid, non-Indigenous State justice systems and other institutions.

From the start, Restorative Justice, and thus a Truth Commission, is not legally-sound if any particular process is not victim-chosen/agreed to and victim-healing driven, which would include a situation where Sweden itself would solely determine the path and/or outcome of a Sami-Sweden Truth Commission. As stated by the Secretariat of the UN Permanent Forum on Indigenous Issues (PFII),

“The legitimacy of truth commissions is essential to ensure a successful outcome. Mechanisms for consultation and direct participation may strengthen dialogue and trust in the commission. In ideal situations, a commission’s mandate should be elaborated through consultations, including discussions with groups representing victims, civil society and other sectors. Consultation also helps to ensure that the victims’ needs are better reflected in the mandate, methodology and reports of the truth commission.”<sup>88</sup>

In the context of Sweden and the Sami People, this means full participation and decision-making in what the Truth Commission will look like architecturally, what the goals will be, as well as the desired outcomes. These positions are not for the State to decide over the Sami People, otherwise re-victimization will then re-occur. At all times, the legal process of Restorative Justice should not re-victimize the victim, including if any particular process therein is being forced upon the victim(s) against their will or treats the victim(s) as not capable of making own decisions and participating as own truth-tellers of own experiences, both in developing the procedures and throughout the process. In this situation, FPIC also matters; to not have full information on all of the various legal process and options in the scope of Restorative Justice, Truth Commissions and the like as victims and/or to then have no choice in the matter of what the process put into action is or the desired results are, would simply result in yet another violation against the Sami people in Sweden on the part of the State, and would therefore be legally invalid and not an act of good faith by all parties.

Truth Commissions are a legitimate and accepted legal option for addressing historical injustices and current harms in the larger context of Restorative Justice, and within the scope of developing a Truth Commission there are many different paths and options. The UN General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007; in accordance with the UNDRIP and many other UN treaties, treaty bodies and treaty comments therein, Indigenous Peoples have the right to maintain and strengthen their distinct legal, political, social, economic and cultural institutions, and to participate in the institutions of the State in which they live, as well as the collective right to live in security, peace and freedom. These Rights apply to the

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<sup>88</sup> Ibid, para. 7; See also Varney and Gonzalez, eds., Truth Seeking: A Handbook on Creating an Effective Truth Commission.

developing of process, goals and procedures of a Sami Truth Commission in Sweden. Moreover, also stated by the Secretariat of the UNPFII,

“Truth commissions have typically been established as instruments to reaffirm goals of reconciliation and unity within a nation-State. This model may not be the most inadequate to set the goals of a truth commission dealing with indigenous peoples, many of who consider themselves members of ‘first nations’ [peoples residing in the territory prior to colonialism] and should be recognized as such.”<sup>89</sup>

For all of these reasons and more, it is of the utmost importance for the Sami People, already having been through so much at the hands of the Swedish State and Kingdom and the States dividing and developing on and through the territory and People of Sápmi, to have full participation and decision-making in the architecture, goals and desired outcomes of a Sami Truth Commission in Sweden; so as to create a restorative process with care, FPIC, good faith of all and a full and genuine healing experience. To not create further victimization, wasted, non-genuine efforts, or additional conflict must be a goal of Sweden in a Truth Commission process. Self-determination and FPIC are of the utmost importance in the formation of the Truth Commission for and by the Sami in Sweden.

The following is a list from the UNPFII Secretariat of general recommendations<sup>90</sup> in the setting up a Truth Commission involving Indigenous Peoples, which Sweden must abide by (See this Appendix 6 of this Report for additional UNPFII Truth Commission-related structural and procedural recommended guidelines, 2013):

- Consulting in good faith to obtain free, prior and informed consent
- Respecting indigenous peoples’ representative institutions
- Considering the specific needs of indigenous women

### Swedish State resistance

Undeniably, Swedish State continues to resist change in the context of Indigenous Rights and fight the Sami people in Sweden through its own court processes and procedures. While other Indigenous Peoples around the world have own legal systems and mechanisms, direct positions in the larger, non-Indigenous State parliaments, and traditional and non-traditional governances of their own creations recognized by States, Sweden continues to silence discussions of such possibilities for the Sami through keeping them in endless legal battles for application of the most basic of rights and various other distractions, instead of pro-active, Indigenous Rights based co-creation and self-determination.

Along these lines, Sweden continues to not ratify ILO 169, which is only one piece of a larger puzzle of avoidance on the part of Sweden to deal directly with the complexity of damage that has resulted from historical racism against the Sami and Sweden’s own

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<sup>89</sup> Ibid, para. 20.

<sup>90</sup> Ibid, para. 74-77.

colonialism that continues today through its structures and systems. In its response to its recent, 2015 UN HRC Universal Periodic Review recommendations from Denmark and Honduras this June<sup>91</sup>, Sweden stated the following in response to the Human Rights Council recommendation (146.6) to ratify ILO 169: “Sweden does not accept the recommendation. The Government is working towards a ratification of the Convention in order to strengthen the rights of the Sami people, but a decision to accede to a convention is ultimately a matter for the Riksdag (the Swedish Parliament).”<sup>92</sup> Beyond the issue of ILO 169 ratification, notable in its reply is that Sweden neither uses the word Indigenous, as in ‘the Indigenous Sami People’, nor does the reply apply any powers or influence whatsoever to the Sami (Indigenous) People or the Sami Parliament in Sweden concerning treaty ratification or decision-making therein, even in regards to such a treaty concerning the Sami. Sweden accepted the subsequent recommendation (146.7) from Norway to “continue to work towards ratification of ILO 169”<sup>93</sup>; beyond ratification of ILO 169, but how long must the Sami People continue to suffer and wait, and with no true legal/political say to influence the necessary changes, even as an internationally-recognized Indigenous People, and what is the damage being done in this Sweden-enforced waiting period? Such a replies in its own UPR reveals the Swedish government’s true views of the powers of the Sami Parliament in Sweden and the Sami as a self-determining People.

In its recent UN HRC UPR Sweden also continued refuse the recommendations (146.9-146.13) to define, criminalize, strengthen its legal framework concerning, incorporate and adopt definitions of torture, as per UN CAT, as a specific criminal offense under the Swedish penal code and legal system.<sup>94</sup> Dragging its heels yet again on matters affecting persons suffering domestic violence (domestic violence legally falling under the CAT convention as a form of torture), including Sami women, and possibly the legal influence of the Sami People in holding the State accountable for historical acts. Moreover, Sweden is only now, in 2015, putting forth a plan to consider the creating of an Independent National Human Rights Institution as per UN mandate;<sup>95</sup> a resource that could have been extremely helpful for the Sami people in Sweden for all the years of its delay.

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<sup>91</sup> UN Human Rights Council, Twenty-ninth session, Agenda item 6, Universal Periodic Review, 19 June 2015, Report of the Working Group on the Universal Periodic Review, Sweden, Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/29/13/Add.1

<sup>92</sup> Ibid.

<sup>93</sup> Ibid.

<sup>94</sup> “Sweden does not accept the recommendation. In June 2014, the Government commissioned an independent inquiry to consider whether a specific provision on torture should be introduced in Swedish penal law. The report is due on 1 September 2015 and the Government does not want to anticipate the outcome of the inquiry.” June 2015, Report of the Working Group on the Universal Periodic Review, Sweden, Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/29/13/Add.1

<sup>95</sup> Para. 146.14, June 2015, Report of the Working Group on the Universal Periodic Review, Sweden, Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/29/13/Add.1



All of these factors considered along with those in the rest of the Report, the need for a thorough and genuine Sami Truth Commission for Sápmi-Sweden friendly relations, and justice and healing for the Sami People, becomes even more apparent.

### United Nations engagement

This April 2015 the Swedish State put forward that it would not be including any Sami representatives in the Swedish delegation to the UNPFII, a change from past inclusion. This situation, experienced in the weeks just prior to the UNPFII and after the registration deadline for new organizations, left the Sami Parliament of Sweden believing there was no way to attend the Indigenous UN mechanism. With outside consultation the Sami Parliament of Sweden was enabled to register and attend as own delegation and to shift what was a situation of silencing into one of even greater success, free to make own interventions at the UNPFII and to make own decisions of engagements during the sessions as Indigenous governance and Indigenous Parliamentarians. In fact, this was an act of self-determination. However, it was not the result of the Swedish State upholding, promoting or protecting Indigenous Rights of the UNDRIP, UN ICCPR, CERD or ICESCR or International Law or capacity-building on the part of the State for the Sami Indigenous People therein; it was a situation of State negligence, corrected by third-party assistance in a time of urgency. When Sami media wished to cover the situation, Sweden denied it.

The Sami Parliament of Sweden has a need for and right to information, resources and capacity-building, as do the Sami communities and People/peoples, in regards to Indigenous Rights and the United Nations and how to achieve and apply these systems, so as to be able to engage and work pro-actively with Indigenous Rights in Sweden and internationally.

The following Statement was made by Sweden at the UN General Assembly during the adoption of UN declaration of the Right of Indigenous peoples September 13th 2007:

- “-The Swedish Government bases its relations with the Sámi people on dialogue, partnership and self-determination, with respect and responsibility for cultural identity,
- The Sámi and other indigenous peoples must have the right to influence the use of land and natural resources that are important for their survival.
- The political discussion on self-determination cannot be separated from the question of land rights,
- The Sámi relationship to the land is at the heart of the matter.”<sup>96</sup>

The Sami People and the Sami Parliament in Sweden still wait for and work for these claims to be actualized.

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<sup>96</sup> Observations by the Sami Parliament with regard to Sweden’s Sixth Periodic Report to the United Nations Human Rights Committee, 2009, para 3, <https://www.sametinget.se/7846>, para 4.

## Concluding remarks

Ms. Tauli-Corpuz, behind the clean and shiny things in Sweden lies the truth. While Sweden and the European Union earmark funding for budgets and projects in Sápmi on the Swedish side that uplift the Sami image, the pain and suffering and loss of a collective, living culture for the Sami people, themselves, is ongoing. No business plan can replace the loss of dignity that comes with barriers to own decision-making as a healed collective people in regards to traditional knowledge of lands, healers, Indigenous religion and own self-governance,<sup>97</sup> or the loss of peace that occurs when one's one family or love relationship is divided and conquered by colonial law and policy or thinking.

Many practitioners, leaders and activists in the sphere of International Law and Indigenous Rights know that Indigenous Peoples are still, to this day, blocked from formal decolonization at the United Nations (as in accessing the Decolonization Committee and procedures therein, as well as in the context of self-defining own governance free from State control and/or influence) as well as extensive, needed capacity-building and consultation and participatory processes. In fact, many Indigenous Peoples do want and demand for the autonomy of full, formal decolonization- of complete territorial and political independence. Here in Sápmi, as James Anaya noted in his report and is both commonly and formally stated, as of now the Sami in Sweden do not wish to separate from the State of Sweden.<sup>98</sup> This has even been stated on the Sami Parliament of Sweden's website. And, while formal, Sápmi-wide, population-based consultations on such an issue have not occurred, it must not be overlooked that a history of colonialism has occurred here, and that, therefore, the intention of a Sami Truth Commission as-offered by the Sami Parliament in Sweden is offered as a potential form of reconciliation between the Sami People and Sweden- an offer in good faith and not to be violated by unjust process.

Furthermore, many positive and pro-active steps are being taken collectively by Sápmi and the Sami People to further the Sami Indigenous Rights agenda and rights-claiming positions in Sweden and the Nordic region. Working to establish a Sami secretariat in Brussels is a collaborative Sami-institution effort across State borders<sup>99</sup>, as is the Sami

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<sup>97</sup> See, for example, the 2010 Árbiediehtu/Árbbediehto/Aerpimaahtoe: Sami Parliament Policy For Traditional Knowledge, "We Sami people want to live in a society where árbiediehtu has a central and vibrant role and is indicative of our society. Through the integration of árbiediehtu all levels of society created a society permeated by our Sami tradition of thought. The integration of Sami traditional knowledge means that our community has its base based on our norms and values, creating a sense of security on many levels for us Sami." p. 4, <https://www.sametinget.se/26119>

<sup>98</sup> James Anaya, UN Special Rapporteur on the Rights of Indigenous Peoples, "The situation of the Sami people in the Sápmi region of Norway, Sweden and Finland", 6 June 2011, A/HRC/18/35/Add.2 available at [http://www.ohchr.org/Documents/Issues/IPeoples/SR/A-HRC-18-35-Add2\\_en.pdf](http://www.ohchr.org/Documents/Issues/IPeoples/SR/A-HRC-18-35-Add2_en.pdf)

<sup>99</sup> Statement by Håkan Jonsson, President of the Sami Parliamentarian Council at the Standing Committee of Parliamentarians of the Arctic Region meeting in Helsinki, Item 9: Report on Arctic activities by members, 20 November 2014, <https://www.sametinget.se/81013>

Nordic Convention<sup>100</sup>, the Sami Parliamentary Council,<sup>101</sup> and such joint declarations as the *Umeå Declaration* (2014; Appendix 5)<sup>102</sup>.

However, Sami representatives are still not treated by the Swedish Government as equal, national leadership to consult with and participate with in formal decision-making and negotiations. Such legal-political neglect is even the case regarding the situation of what is deemed security in the Arctic, as well as land, water and air space use for military training, testing and application.<sup>103</sup> To use Sami Indigenous, or any Indigenous, traditional lands for Swedish or other State and business military operations and testing without Indigenous Free, Prior and Informed Consent (FPIC), and with no true access to legal redress for Sami Indigenous People therein, is perhaps one of the most aggressive actions a colonial State can take, in the absence of direct conflict.<sup>104</sup>

<sup>100</sup> Public Draft as of 9 August 2015 available here: <https://www.sametinget.se/1516>; see *Pronouncement: The Declaration by the Sami Parliamentary Conference on the Nordic Sami Convention adopted in Umeå 2014 (Umeå Declaration)*, in which “The Sami parliaments demand that the negotiations are completed at the latest under 2016.”

<sup>101</sup> The Sami Parliamentary Council is the institutionalized cooperative body of the Sami parliaments in Finland, Norway and Sweden and includes the permanent participation of Sami in Russia. The Council’s mandate to address cross-border issues affecting the Sami People and to speak on behalf of the Sami People at the international level. For example “SPR is concerned about the plans for mining operations and construction of transport links as it has an effect on Sami culture, reindeer herding and biodiversity. If a railway being built between Finland and Norway, it provides consequences for the Sami, Sami culture, biological diversity and reindeer husbandry in the three countries. SPR is very concerned that this planned without questioning the Sami Parliament and the reindeer-herding Sami are being heard” from SPR Decision 2014-09-02 Sami Parliamentary Council statement on plans for mining establishment in Lannavaara and the demands of traffic and transport links, <https://www.sametinget.se/78121>. The Council is also seeking permanent accreditation with both the Nordic and the Arctic Councils.

<sup>102</sup> See *Joint Pronouncement of 20 February 2014, from the 4<sup>th</sup> Sami Parliamentary Conference held on 20 February 2014 in Umeå for Sami commissioners from Finnish, Norwegian and Swedish parliaments and participation by Russian Sami Representatives (Umeå Declaration)*, <https://www.sametinget.se/73159>

<sup>103</sup> See Statement made by Håkan Jonsson, President of the Sami Parliamentarian Council, with the assistance of Sami politician Kristina Nordling, at the Standing Committee of Parliamentarians of the Arctic Region meeting in Helsinki, Item 9: Report on Arctic activities by members, 20 November 2014:

“...the presence and development of unmanned aircraft systems in the Arctic. In this regard, I would like to mention the Swedish and sometimes also NATO operated testing area in Vidsel, Norrbotten. The FMV, The Swedish Defence Material administration recently decided to expand this already vast testing area with an additional 210 kilometers, thus forcing the relocation of both prosperous and sustainable tourism industries and people living in the area. The testing activities will seriously hinder and damage the traditional food production, hunting and fishing as well as the reindeer herding in the area as the plan is also, to carry out these activities during the most vulnerable season. [...] the Sami Parliament in Sweden was not consulted in this process.”, <https://www.sametinget.se/81013>.

<sup>104</sup> Lilian Mikaelsson, “When the land became a testing range”, in *RE: Mindings; Co-Constituting Indigenous/Academic/Artistic Knowledges* (2014: Uppsala), p. 245-60, excerpt:

“The Vidsel Test Range, also known as RFN – Robotförsöksplats Norrland (Robot Testing Ground Norrland/North), was established during the 1950s on land primarily used by three Saami villages - Udtja, Turopon and Luokta Mavas. The testing grounds also coincide with Udtja Nature Reserve, an area extending over 15,000 square kilometers. The government agency *Administration for Defense Material* (Försvarets Materielverk, FMV) is responsible for the activities of RFN. The main purpose has been

Thus, again, in the light of all of the harms committed against the Sami People both historically during direct colonization by the Swedish Kingdom and then State, and currently in the form of long and paralyzing legal battles, unresolved and worsening land, living culture and natural resource loss-related issues, lack of true structural self-governance and decision making, and many forms of institutionalized and structural racism in Sweden and the effects on the Sami people in Sweden therein, the call for and actualization of a full and genuine Sami Truth Commission in Sweden is very needed. No report can make up for the need for the Sami People themselves, or any victims, in any context, to have access to telling their own stories in their own, self-determined manner.

Ms. Tauli-Corpuz, Sápmi and the Sami Parliament in Sweden await your visit and look forward to your skills in Indigenous Rights, experience in activism, expertise in health, and your dedication to Indigenous women's issues and the inclusion and collective well-being of Indigenous Peoples.

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to execute military weapon tests but was initially also planned for the building of the first Swedish atomic bomb.

There is some literature available on the impacts of the Vidsel Test Range – RFN – on the communities that were forced to relocate and on the impacts on the communities that are still around. However there has been no major investigation in these matters. It is sort of a hidden history that mainly only the people that are related to this place know about. So far no research has been made in regard to the environmental impacts on the lands and waters.

Back in the 1950s, Saami Rights were practically non-existent – some concerns and privileges were honored but were confined to specific traditional vocations like reindeer herding. Once the Swedish State had decided to establish RFN, the process to empty the area of its people began. The populace did not receive support from Sámiid Riikasearvi (SSR), the national reindeer herders' organization – all were left to negotiate conditions on their own with the State.

From a Saami perspective, little consultation or dialogue had existed between the State and the inhabitants affected by these decisions. The village Nausta was emptied, bearing resemblance to what has in history by labeled as *forced relocation*. Udtja village, where the herders lived, managed to stay. As the reindeer herders of Udtja depended on these pasture lands, the State made some adjustments to allow for the village to maintain their livelihood. [...]

In 2007 a local newspaper (NK 2007-05-28) interviewed Saami herders from Tuorpon Saami Sijdda, who reported that military aircrafts had flown several times over the herds. Several female reindeer were pregnant and, as the airplane repeatedly passed overhead and in close vicinity to the dwelling ground of the herd, the reindeer panicked. In the chaos, reindeer were trampled and wounded by each others' horns, which resulted in spontaneous abortions of calves. Several more reindeer had to be put to death once it was all over. [...]

It is not only the rights of local inhabitants, but the nature itself that has been affected by the presence of RFN. The RFN test range area at Udtja contains many lakes, and both the Lule and Pite rivers are downstream from these lakes and receive their waters from them. As of yet there have been no official investigations in regards to if, and how, toxic materials or heavy metals are present in the water as a result of RFN's activities in the area.”

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*All translations from Swedish-only materials, quotes and texts utilized in this Report have been conducted by the author of this Report with the use of Google Translate and the author's own English-language corrections therein.*

## Appendix 1



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2014-12-11

## Universal Periodic Review

### Report from Sami Parliament in Sweden

#### UPR-rekommendation

**95.1.** Complete the work on clarifying the legal consequences of the ratification of ILO Convention No. 169 as a matter of priority (**Norway**);

**95.2.** Consider ratifying ILO Convention No. 169 as a matter of priority (**Norway**);

**95.3.** Amend the Swedish Constitution so as to give explicit recognition to the Sami people (**Greece**);

**95.68.** Continue to develop and institute effective mechanisms for improved dialogue and consultation with the Sami people in all areas of government policy that affect them and in the development of legislation (**Canada**);

**95.69.** Implement effectively the United Nations Declaration on the Rights of Indigenous Peoples, and establish mechanisms for its full implementation in full cooperation with the Sami people (**Islamic Republic of Iran**);

**95.71.** Initiate further studies on methods by which Sami land and resource rights could be established, taking into account the culture of the Sami community (**Austria**);

*Sami Parliament considers that there are deficiencies in the Swedish government commitments to respect human rights.*

Sami Parliaments in the Nordic countries discussed the work of the Nordic Sami Convention at parliamentarians conference in Umeå in February 2014. Amongst other things Sami Parliaments concerned that negotiations are moving so slowly and that all articles appear to be subject to complex discussions. Sami Parliaments also requires more resources to be able to participate in and coordinate their work and believe that Nordic Sami Convention is important for the Sami rights to be strengthened, accepted and exploited and to promote Sami cooperation across borders. Sami Parliaments require that negotiations be finalized later in 2016 and will not accept further delay.

Sami Parliament recommends the Swedish government to prioritize the immediate ratification of ILO 169 and urgently finalize and ratify Nordic Sami Convention.

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Sami Parliament urges the Government to:

Until the ILO 169 and Nordic Sami Convention is ratified and implemented in Sweden, further mineral exploitation and exploration of Sápmi, the reindeer herding area, not will be made.

Sami Parliament will have the right to veto, the Sami should have the right to veto, the Sami communities should have the right to veto. For a yes to an exploitation all must agree, there must be consensus for exploitation to occur.

The Swedish government would have to stop all ongoing exploration, permit all new exploration, plans and concession applications pending that Sweden lives up to the international indigenous peoples law, particularly the principles of Free, Prior and Informed Consent must be implemented in all matters relating to the indigenous Sami people. The Sami Parliament would be given the right to control it Saami lands.

The legislation would be amended so that the Saami people need functional land and water should outweigh foreign Venture Capitalists profit.

National interests are revalued so that the long-term interests are valued higher than short-term profit thinking.

A sustainable living through a priority, with a focus on current and future generations to their own culture, physical and mental health and to exercise and develop sustainable Sami industries.

The Sami industry's needs, such as herding, hunting, fishing, Sami handicraft, tourism, etc., of the functional areas must never be threatened by short-term exploitation. The constitutionally protected reindeer law must be respected.

The cultural and psycho-social impacts must be considered in all urban planning in Sápmi.

Annual consultations with the government on overall community planning issues and follow-up of the Sami Parliament reporting on the state's effectiveness regarding the international and national commitments to the Sami as an indigenous people in Sweden.

Mineral Regulation (SFS1992: 282) has changed in that Sami Parliament get referrals to an end to applications for exploration permits on minerals and may submit its opinion. Sami Parliament believes that the government needs to provide resources to the Sami Parliament will be able to handle the increasing amount of matter in answering referrals in a constructive way. Sami Parliament considers that it still requires changes in Mineral Regulation to the Sami culture and Sami rights to resources can be met. Sami Parliament considers that the Swedish government must work for a change of reference of the Sami Parliament so that the Sami Parliament that authorities will have a clear responsibility to

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participate in environmental assessments that involve fundamental questions, or have significant impact on Saami interests.

### UPR recommendation

#### **95.72. Developmental Measures in order to ENSURE That Affected Sami community can take part and Participate Actively in consultations held between the federal government and municipalities on issues related to land rights, water and resources (Austria);**

The principle of free, prior and informed consent is based in that indigenous peoples have the right to say yes or no to activities affecting their traditional lands, before the operation begins. It is a fundamental principle of self-determination.

*Swedish law does not meet the Swedish human rights commitments when it comes to Sami, indigenous peoples, rights to land and water. There are deficiencies in the application and interpretation of the Environmental (SFS1998: 808) rules on permit applications under the Planning and Building Act (SFS 2010:900).*

On 1 July 2008, the Sami Parliament the authority to designate areas of national interest for the reindeer industry. Sami Parliament considers that the application and interpretation of the Environmental Code by state trial violates the Sami's right to natural resources and pasture for reindeer, especially for the reindeer who is supporting for the maintain and development of the Sami culture. Areas of national interest for reindeer are not respected by the state trials when the trial comes to balance two national interests.

Sami Parliament considers that the government permit overrides legislature for the protection of the Sami culture and the right to natural resources for reindeer herding. The government has in its permissibility started giving the admissibility of actions that make areas for reindeer unusable for long time forward, by arguing that aid can compensate the unworkable ground. Some cases are entitled tried by the Supreme Administrative Court, which in some cases meant that there is some latitude in the rules. Sami Parliament considers that there is nothing in the legislative history for household provisions evidencing current application.

The Sami have protection under international law to natural resources to maintain the Sami culture and reindeer pastures. The Proposition 1985/86: 3 Swedish Parliament has adopted a position that there must be safe access to areas of critical importance for reindeer herding to be conducted in both the year-round land and winter pastures. Reindeer herding is considered as very important for the Sami culture and the Swedish Parliament has on several occasions stated that the Sami culture's survival must be ensured.

Environmental Code (SFS 1998:808) housekeeping rules are contained in Chapter 3 and 4. Purpose is to promote the ecological, social and economic perspective wise management of land, water and the physical environment in general. In Chapter 3 is down rules may provide protection against actions that can make it harder to exploit certain natural resources, and protect against actions that might complicate the exploitation of natural

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resources. The rules are designed based on an overriding socioeconomically perspective. Conditions shall apply to the planning, decisions under the Planning and Building Act and matters concerning various environmental permits. The rules focus on both geographic areas and parts operations including the Sami reindeer. The legislature's intent was to give the reindeer protection against the actions and the states in Chapter 3 § 5. The idea of protection in subsection one piece is not an unconditional protection. The protection of the second paragraph is drafted under the legislature's position that certain areas "shall" be protected. The bill states that "protection must concentrate on areas such as taking into account the different part of the reindeer industry performers in different Sami communities are particularly keen to protect." The conditions in the physical terrain is crucial if an area be designated as national interest area for reindeer. Legal rule designed to provide protection for the reindeer industry on measures of social structure and business that involves irreversible interventions in land areas. "Actions that would significantly complicate the pursuit of livelihood shall not be permitted in these areas" (Prop. 1985/86 p 161). The provision that is considered unconditional under such conditions, raises the question of the limits of what is considered to significantly impede the reindeer industry. The Supreme Administrative Court has considered decision under 3, Chapter 5, § 2 paragraph, under the Act on Judicial Review. In addition to interpretation of the law, questions about the evidence and factual assessment, and if the decision is contrary to the requirement of impartiality, objectivity and equality before the law. Although procedural errors that could affect the outcome of the case be tried. If there is some latitude in decision making so examined the question whether the decision falls within the freedom of action. Crucially, the significance of the term significantly hamper reindeer stands for. According to the legislative history refers to such actions can have a lasting negative impact on the current interest (Prop. 1985/86: 3 p.155). "Ex mining facility in the form of open-pit mines can not be assessed in any other way than that it will have a lasting negative impact on reindeer herding because it becomes impossible for reindeer to be in the area. Under such conditions, the measure must not be allowed "(Prop. 1985/86: 3, p. 111). In the preliminary work is not discussed at all the possibility of using special support measures to compensate for the action that would otherwise be unlawful. The purpose of the rule would never be achieved if the legislature had considered compensatory measures have been possible.

#### UPR recommendation

#### **95.6. Incorporate into its domestic law norms Protecting All Children; including indigenous children, in line with the Convention on the Rights of the Child (Plurinational State of Bolivia);**

*The Act (the Act (2009:724) on National Minorities and Minority attributed continue as a minority language law, states that the general has a special responsibility to promote children's development of a cultural identity and the use of the children's minority.*

The Sami Parliament has repeatedly called attention to §§ 17och 18 of the Minority Act with current writing "all or part of" especially with administration local authorities' interpretation of the wording does not provide Sami children (or independent senior citizens) any natural

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right to their own language in municipal activities. Minority law's writing "§ 17, all or part of the business" and "§ 18, all or part of the services and care" is vague and provides administrative municipalities prevail. Management Municipalities can decide whether to offer Sami preschool (for the elderly) based on entirely different reasons than the child (and the elderly) need their own language. Management Municipalities can of organizational, financial, emotional or other reasons to deny the child preschool (the care of dependent elderly care) in Sami. For administrative municipalities to realize the privileges associated with the concepts need this clarified through review of sections.

The child and his guardians (as well as the care of dependent elderly person) Nor has the opportunity to appeal the municipal administration's decision not to provide Sami activities / care of this access to justice is lacking in current minority law. By the legislation also strengthen the ability of individuals to claim their rights would individuals have a greater opportunity to act when they do not get access to their rights.

The statute comment for Minority Act § 18 provides that the municipality will ensure that Sami staff's operations and it is also not its more regulated, but it will be up to local management to act. Thus, there is no compelling for the management of municipalities to work because there are Sami staff that ensures that a Sámi activities can be provided for those individuals that request it under the rights individuals have under the Minority Act. We need a sharpening or clarification on this part of the legislation, for the benefit of the individual's right to their own language, so may not reasons to curtail this right about other than the individual's needs. Council of Europe's aim with the Framework Convention on the Protection of National Minorities and the European Charter for Regional or Minority Languages, the so-called minority conventions, is to maintain and improve human rights.

### UPR recommendation

**95.8. Conduct a breakfast inventory of laws and in Regulations to bring to light Those That are not in accordance with the right to equality and / or CRPD (United Kingdom);**

**95.9. Ensure That All laws, regulations, policies and practices are consistent with the Convention on the Rights of Persons with Disabilities and with rights to equality generally, as part of, or in addition to, the multitrack strategy Referred to in its report (New Zealand) ;**

*Lack of current legislation, the Act (2009:724) on National Minorities and Minority terms of disability rights*

The Sami Parliament has lifted the Minister of the law on national minorities and minority languages should clarify the rights of the group of individuals covered by the Act (1993:387) concerning Support and Service for Persons with Certain Functional Impairments (LSS), by a minority legislation and maybe in other legislation expressly provide in their own section that the individual has the right to request of the principal performing LSS. There is currently a shortage situation that is not covered by today's minority legislation, disabled people have as much need of their own language and their own culture with others. The disabled are beyond today's minority legislation confirms that the implementation of

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minority policy goals need to have a clearer impact in all policies affecting the Sami situation with regard to the promotion and preservation of the Sami language and culture. Such areas include public health, the elderly, school and youth policy. In all these decisions will be made that affect the above subdivisions. It is important that Sweden, together with Sami representatives work for a deliberate approach that promotes the Saami people's needs in municipal and government sectors.

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## Appendix 2





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# MINERALS AND MINES IN SÁPMI

THE VIEWPOINT OF THE  
SWEDISH SAMI PARLIAMENT



The Viewpoint of the Swedish Sami Parliament on Minerals and Mines in Sápmi has been prepared in 2012-2014 and was adopted by the Plenary Assembly in Åre, Sweden on 20 May 2014.

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# Introduction

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We the Sami are the indigenous people of Sápmi (northern Scandinavia and the Cola peninsula). Our people have lived here since time immemorial, living on and managing the lands and waters with utmost respect. We are one with the landscape of Sápmi. Our lives – our trades and cultural expressions – adapt to maintain a flexible balance between what nature provides and what we can take without exhausting it.

Our deep relationship to nature is difficult to express in words. To live with and be able make a living off of what is provided creates an immediate relationship between us and nature – the animals and each other. We rely on a living relationship to Sápmi, our home. If we – or someone else – destroy nature, we also harm our culture.

The Sápmi environment is delicate, and sustaining its viability requires that we use it with great care. A long-term perspective and a sustainable way of life have always been the foundation of our traditional trades. If the natural conditions faltered in a certain area, the possibility to use alternative resources was available while the weakened area was given the chance to recover and renew itself.

Sápmi contains enormous natural resources of considerable natural and cultural value. We now stand before substantial pressure to extract the natural resources in the form of minerals, forests and energy exploitation. The way the Sami use the land is based mainly on using sustainable natural resources. For millennium, the Sami have lived off that which nature provided and developed a way of living by using but not depleting the natural resources. We wish to pass on this approach and these opportunities to coming generations.

To clarify the standpoint of the Sami Parliament on how the natural resources within Sápmi shall be managed and especially in relationship to minerals mining, this strategy has been produced on behalf of the Sami Parliament Assembly.

*This strategy shall be considered as a political standpoint as well as a comment to the Swedish government and counties in their development work and to the authorities who in different ways decide on and follow issues pertaining to environment, business development, land-use planning, resource exploitation and permit management. It is also interesting for the mineral exploration and mining companies, in Sweden and abroad.*

# The Joint Direction We Chose

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The Sami Parliament's environmental program Eallinbiras, which was adopted in 2009, states the direction of how we Sami see our lands and waters and how these shall be used. The principles and values stated in Eallinbiras are also the foundation of the Sami Parliament's view on the conditions for minerals extraction in Sápmi.

*Our overall objective expressed in Eallinbiras is a viable and sustainable Sami living environment.*

We wish to live in a viable Sápmi rooted in a sound nature and a living Sami culture. Man and nature shall have a long-term capability to renew themselves and sustainability to further develop – even in times of considerable changes. Both nature and culture in Sápmi shall feel enriching for the rest of the world. We believe that it is important that:

- areas particularly valuable for our culture and our trades are protected against infringement and other disturbances
- all operations are sustainable and run according to the precautionary principle
- precautionary and sustainable use is realized
- no additional large-scale exploitation is to take place
- the combined use of natural resources within the traditional Sami areas of settlement are in harmony with the ecological system within which the trades are carried out (since sustainable reindeer husbandry, hunting, fishing, gathering and farming depend on a long-term use of natural resources)
- the use and exploitation of land and water resources do not further deplete the needs of the Sami trades.

We believe that land and water resources in Sápmi are for the needs of our trades and the survival of our culture. In order to achieve this in relationship to the extraction of minerals and large-scale mining, great demands are set on changes in legislation, on authorities' implementation and practice in relationship to enforce rights and on the Sami Parliament's own work with questions of land use.

On 28 August, 2013, the Sami Parliament Plenum adopted the united statement “The Sami Parliament cannot accept continued exploitation of Sápmi” with demands that were sent to the Swedish government.<sup>1</sup>

On 20 February, 2014, the Fourth Sami Parliamentary Conference adopted the Umeå Declaration<sup>2</sup>, the theme of which was minerals exploitation.

The focus of this report lies on clarifying a few basic principles of the Sami rights of influence over the extraction of natural resources in Sápmi, which changes need to be made in the current mineral legislation and how the Sami Parliament shall work to carry out the suggestions laid out in this policy. (The Sámi Parliament's responsibility is not included in the English version.)

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<sup>1</sup> [www.sametinget.se/61416](http://www.sametinget.se/61416)

<sup>2</sup> [www.sametinget.se/73165](http://www.sametinget.se/73165)

# The Overall Standpoint of the Sami Parliament

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All natural resources above and below ground within the traditional Sami land areas belong to the Sami people. This is clarified in, among others, article 26 of the UN Declaration on the Rights of Indigenous Peoples. The right to self-determination is in its nature a collective right for a people and is therefore directly relevant to the management of natural resources. The right to self-determination follows Articles 1 and 27 of the UN International Covenant on Civil and Political Rights as well as Articles 3 and 4 of the Declaration of Indigenous Peoples.

The provisions of Article 27 of the UN Covenant grant indigenous peoples the right to protection of their culture. This is an absolute and protects the Sami in practicing their culture, religion and traditional trades, as well as the modern ways that the traditional trades are practiced and the areas and natural resources that make up the foundation of these trades.

According to the Minority Languages Act (2009:724), opportunities shall be promoted for the Sami to sustain and develop their culture. Especially stressed is the development of children's cultural identity. This law should be applied in processes pertaining to mineral exploitations.

The fundamental principle for indigenous peoples on the right to participation and influence in all parts of the decision-making process in accordance with the right to property is expressed in the principle of Free, Prior and Informed Consent. This principle must be regulated in relationship to the Minerals Act and the Environmental Code.

## **Free, Prior and Informed Consent**

The principle of indigenous people's rights to free, prior and informed consent is based on that indigenous people have the right to say yes or no to operations that have an impact on their traditional land areas, before the operations start. Specifically, this means the following:

### **Free**

- The stakeholders (the Sami Parliament, concerned Sami and concerned Sami reindeer-herding and economic districts) shall have been informed of their right to say yes or no.
- The indigenous people shall have accepted the decision-making process and work process that will be used in every operation.
- The information initiative responsibility lies with the company, the information shall be transparent and objective.
- The process shall be free from bribery or coercion.
- Meetings and decisions shall take place at locations and times and in the languages and formats determined by the Sami.
- Mediation shall be implemented if an agreement cannot be met.
- The company undertakes to not continue the process without the consent of the indigenous people.

### **Prior**

- The information shall be provided as early as possible.
- Sufficient time must be provided to understand and analyse all relevant information and the consequences thereof.
- The decision-making process required in order to be able to submit their consent must be respected despite delay.

### **Informed**

- Be objective, covering both the positive and negative consequences.
- Be complete, covering the spectrum of potential social, financial, cultural and environmental impacts as well as the impacts for the rights of the indigenous people.
- Be accessible, transparent, clear and in the language designated by the indigenous people.
- The indigenous people shall have the opportunity to be accompanied by advisors.
- The information shall be made available to all groups within the indigenous people.

### **Consent**

- A freely given decision that may be a “Yes or a “No” to the proposed measure.
- The right to change one’s mind if new information comes to light.
- Shall be provided in the manner and through the decision-making process decided by the indigenous people.
- Not the same as consultations.
- Not indefinitely valid.

A consultation procedure based on the principle of free, prior and informed consent places great demands on nations, authorities and legislation that must be adapted. Free, prior and informed consent also places great demands on how those companies who want to establish operations in Sápmi conduct their work.

## **Convention on Biological Diversity**

The Convention on Biological Diversity, CBD, is a very important international agreement that decrees how we shall relate to the environment and utilize our natural resources. The convention determines three main objectives: the conservation of biological diversity, the sustainable use of the components of biological diversity and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. The convention includes, among others, provisions (Article 8j) on that the nations shall respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application, with the total picture of infringement on the Sami. It requires the approval and involvement of the holders of such knowledge, innovations and practices. According to the Convention (Article 10c) the nations shall also protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements. On Sweden’s part, the convention concerns the Sami and compels Sweden to encourage the preservation and development of traditional Sami trades and culture. Reindeer husbandry is also a prerequisite for Sweden to be able to reach their environmental objective of a Magnificent Mountain Landscape.

In May 2000, the cooperating nations moved to adopt voluntary guidelines, Akwé Kon-voluntary guidelines, for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous communities. The Akwé: Kon guidelines play a key role for the nations to be able to live up to, among other, Article 8j in the CBD.

### **The Swedish Minerals Act**

Today's Minerals Act is a purely exploitation law, where the intention of the legislation is to increase the knowledge of the mineral assets and to provide the country's and world's demand for mineable minerals.

The rights and interests of the Sami are not provided for with today's legislation. The Minerals Act (1991:45) came into force on 1 July 1992 and thus replaced both the Mining Act (1974:342) and the Act (1974:890) concerning Certain Mineral Deposits (the old Minerals Act). After that, there have been some changes, among others in 2005.

Sweden has not claimed proprietorship to all ore even if historically there have been proposals to such. Ever since the so-called "Crown portion" was abolished, neither has the general public any claim on any direct financial compensation for mining activities.

In the Minerals Act, a consideration has been made between the interests of land owners, prospectors and communities. Today's legislation does not ensure or respect reindeer husbandry's and other Sami's rights to land and water. The Swedish Sami Parliament cannot therefore either be liable for that the minerals extraction in Sápmi is conducted in such a way that we preserve a sustainable living environment in Sápmi in the future.

The Swedish Sami Parliament demands that the Minerals Act be changed and adjusted to the civil rights of the Sami in accordance with the basic principles that the Sami Parliament highlights in this document, especially in relationship to the rights of property.

It is also necessary that connected legislation, such as Sweden's Environmental Code and Planning and Building Act are provided with equivalent changes. The Environmental Code should be strengthened. A comprehensive view of the Sami tradition, culture, reindeer husbandry's and other Sami use of the land is required. It is therefore important the Sami reindeer-herding and economic districts as well as other concerned Sami are included in the process.

*While waiting for the ratification and implementation in Swedish legislation of ILO 169 (Indigenous and Tribal Peoples Convention, 1989) and the Nordic Sami Covenant, the Swedish Sami Parliament feels that there shall be a moratorium on all exploitation in Sápmi.*

- The Sami Parliament shall act for a long-term sustainable community development in Sápmi
- The Sami Parliament shall own the right to veto against exploitation
- Concerned Sami shall own the right to veto against exploitation
- Concerned Sami reindeer-herding and economic districts shall own the right to veto against exploitation
- The process shall proceed in accordance with the principle of free, prior and informed consent.

Before any exploitation is permitted, the Sami Parliament, concerned Sami and concerned Sami districts shall be in agreement about whether exploitation can be executed.

- Compensation for damage is passed on to rights owners. The party suffering damages shall be compensated for the loss of for example reindeer grazing grounds, fishing waters and hunting grounds.
- A minerals fee for exploitation (royalties) shall be placed in a fund for reindeer husbandry purposes, other Sami trades and Sami community development.

These items should be investigated and developed in a larger process. Concerned Sami and Sami districts shall be interpreted in a wider perspective. In cases where development is planned, consent is required from the Sami Parliament, concerned Sami and concerned reindeer-herding and economic districts. If any party says “no”, then this stops the exploitation plans.



# Proposals to Change the In-force Minerals Act

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## Exploration Permit

The basis for granting an exploration permit today is that these activities shall be able to be carried out with the least possible damage to both nature and the cultural environment. Although, experience shows that more comprehensive exploration activities result in disturbances in reindeer husbandry and other Sami trades. Those agencies supplying the permits have very little knowledge, least of all the exploration companies, of the consequences of the impact those working with exploration have on reindeer husbandry and other ways the Sami use the land.

According to the Convention on Biological Diversity, CBD, the traditional knowledge of the indigenous people is to be heeded and taken into consideration, and it should not be possible to prospect without the consent of the indigenous people.

The Sami Parliament feels that before an application for an exploration permit can be drawn up, the prospector must consult the Sami Parliament, concerned Sami and concerned Sami reindeer-herding and economic districts. Prior to the consultation, the prospector shall draw up a report on the planned operations and in what way they shall affect reindeer husbandry and Sami interests as well as land and landscape impacts, impacts on the cultural environment, hunting and fishing.

Especially important is to report on surrounding exploration permits and current exploitations that already have an impact on the use of the land. Such a first report is not meant to correspond to the demands of an environmental impact report, but shall be enough information so that the Sami Parliament, concerned Sami, concerned Sami districts as well as the Mining Inspectorate of Sweden can be able to take a position on the exploration permit. All too often, an exploration permit is granted without taking any consideration to the impact of the exploration activities on reindeer husbandry.

The report, together with an approval or rejection of the operations from the Sami Parliament, concerned Sami and concerned Sami districts, shall accompany the application to the Mining Inspectorate of Sweden.

In their assessment of permit for exploration, the Inspectorate must take into consideration previously submitted exploration permits within the same Sami district and their collective impact.

If the Sami Parliament, concerned Sami and concerned Sami districts approve the operations, the prospector and the Sami district as well as the Sami Parliament must be in agreement about the conditions of the work plan about taking consideration to Sami interests before it is sent to the Inspectorate and before it comes into force.

All changes to the conditions of the work plan while prospecting is taking place shall be approved of by the Sami Parliament, concerned Sami and concerned Sami reindeer-herding and economic districts.

The prospector must also set so high financial guarantees that the costs for the measures are covered. Early on, there should be a guarantee of decontamination and after-treatment.



## **Exploitation Concession**

An exploitation concession can only be granted after consensus from the Sami Parliament, concerned Sami and concerned Sami districts.

In their assessment of an exploration permit, the Mining Inspectorate of Sweden must take into consideration all previously-submitted exploration permits, other exploitations, other land infringements and the cumulative effects of these within the same Sami district and their overall impact.

A complete environmental impact report (EIA) concerning the impact of the operations on reindeer husbandry and other Sami land use shall be highlighted already at this stage. An environmental impact assessment on the use of land is not complete without social and cultural impact assessments. There is a need of a comprehensive view based on the Sami Parliament Eallinbiras program. The consequences for the entire program as well as the Sami community in general need to be investigated.

An EIA in this context is not only material for assessments by permit-granting agencies, but shall also be a support for the concerned Sami and concerned Sami districts to make their own decision on free, prior and informed consent or not. Although, it shall be duly noted that it is concerned Sami and concerned Sami districts that on their own decide on whether an EIA needs to be drawn up in order to be able to come to a decision on the matter.

## **Compensation for Minerals and Infringement**

Companies that mine mineral resources within traditional Sami land areas shall set aside funds.

The rights holders – the Sami Parliament, concerned Sami and concerned Sami reindeer-herding and economic districts – own the right to a portion of the profits (royalties) from mineral and ore mining in accordance with the Article 26 of the UN Declaration on the Rights of Indigenous Peoples. Today the property owners have the right to a mineral compensation of 1.5 ppm of the calculated value of the ore that has been mined during the year. If there are several properties within the concession area, the compensation is determined according to each property's portion of the area. The company also pays 0.5 ppm to the government. All together, the company pays 2 ppm based on the mined ore.

Indigenous people's local community property rights to land grant a right to deny or accept access to their individual traditional areas. This means that such usually connects a coming grant of access with the requirement of a portion of the income from the use of natural resources. Usually the profit sharing for the use of natural resources in indigenous people's areas is included in an agreement.

The Sami Parliament feels that a portion of the funding from the companies operating within Sápmi shall be granted to Sami needs. This shall pertain to new establishments, current exploitations from now and in the future as well as retroactively.

The Sami Parliament feels that such funds shall reside in a fund under the Sami Parliament for reindeer husbandry and other Sami trades and Sami community development.

In addition, the rights holder shall be compensated for damages. Loss of for example reindeer foraging areas, fishing waters and hunting grounds shall be compensated to the injured party.



# How the Sami Use Their Land

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In 1977, the Swedish Riksdag pronounced that the Sami as an indigenous people in Sweden hold a special position. Sweden's overall objective for the Sami politics are for now to act for a living Sami cultural environment based on ecologically-sustainable reindeer husbandry and other Sami trades. Over time, there have been developments in the traditional methods for utilizing as well as the knowledge about natural resources.

Reindeer husbandry is carried out on nearly half of Sweden's land area. Reindeer husbandry is considered to be the foundation of the Sami culture with everything the reindeer have ever provided. The Sami hold the rights to reindeer husbandry.

According to the Reindeer Husbandry Act, the right to conduct reindeer herding in Sweden belongs to the Sami population. The right to reindeer herding is included in the category of special rights to property and is valid independent of agreement and is not limited in time. Equivalent to right to property, the right to reindeer herding is protected by the Swedish Constitution. Reindeer husbandry is one of the foundations of the Sami culture.

Other Sami trades such as duodji (handicrafts), hunting, fishing, Sami tourism, Sami food, Sami design, media, Sami farming are also included in the Sami culture and their customs with strong connections to land and water.

Many Sami live in an immediate and close relationship with nature. The Sami use of the land is based for the most part on using renewable resources. For thousands of years, the Sami have lived off that which the landscape provided and developed a way of living by using, but not exhausting, the natural resources. We want to pass on this way of thinking and its possibilities to coming generations. Many Sami do not live in direct relationship to nature but still cherish and practice the cultural customs and values. Environmental long-term thinking and managing natural resources is a central part of the development of the Sami culture and an ecological and financially sound community is the utmost guarantee for preserving the high environmental and cultural values found within Sápmi.

The Sami point of view on how natural resources should be used is a model for others who wish to find a suitable approach to how land and water should be used. In many ways, the majority community can learn from the way the Sami think. In these times when we all must find new ways to live to prevent climate change, the Sami approach can be a model for others. In this context, the Sami Parliament wishes to, in accordance with environmentally sustainable and long-term thinking, point out the need to invest more in taking advantage of already mined metals and recycling, rather than increased exploitation and new mining.

The environment, seen from the Sami perspective, is about the relationship between nature, man and the animals. All questions that touch on the relationship between them are environmental questions.

The Sami environment can also be seen from a landscape perspective. There are relationships and contexts in nature that have had and still have great meaning in the Sami community. Access to clean water and undisturbed land is a prerequisite for reindeer husbandry and other Sami trades and a viable Sami culture. The Sami Parliament's view on environmental questions is developed in the Sami Parliament's living environment program Eallinbiras.

Reindeer husbandry must be seen from a comprehensive point of view as a living and vital part of the Sami culture. Reindeer husbandry also depends on flexibility. The reindeer are steered by weather and surrounding disturbing factors. The reindeer need to have a variety of foraging grounds, where they can move around depending on the current weather conditions. This is an essential condition for both the well-being of the reindeer as well as the economic situation of the reindeer herder. The flexibility means that the reindeer herder may need to change the time for when a grazing area can or cannot be used, the way the migration shall be carried out and which route shall be chosen. The Sami reindeer-herding and economic district is also steered by set demands on orderly reindeer herding and to live up to environmental demands that are regulated in the Reindeer Husbandry Act. Reindeer herding and the reindeer are a condition for Sweden to be able to live up to the environmental objective of a Magnificent Mountain Landscape.

It is vital that the Sami land and waters are managed so that the needs of the Sami to use them for reindeer herding, hunting, fishing, culture, spirituality as well as other areas, are provided for first hand.

Today there is no collective picture of how the Sami use their land. To increase understanding, it is important that all parties in an exploitation case take part in the current research that illustrates how reindeer are impacted by disturbances. It is important to see the effects of disturbances both on a regional level and on cumulative, long-term effects. Many Sami districts feel that their lands are so incredibly pressed that they cannot withstand any further exploitation.

There are many Sami outside Sami reindeer-herding and economic districts that use land and waters to make a living through hunting, fishing and farming. They must also be ensured their rights to land and water. Great consideration taken to these is a demand. Even these voices must be heard in this context.

The Sami lands also contain the Sami cultural history and a spiritual dimension. The Sami spirituality is reflected in, for example, a large portion of the village names and names in the terrain bear witness to the Sami spiritual connection to the land (holy mountains and other places). This is expressed in Article 25 of the UN Declaration on the Rights of Indigenous Peoples, which says that indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

## **Appendix 1 The Mining Inspectorate of Sweden**

Exploration, exploitation, prospecting and mining all require adhering to strict laws and regulations, which of course vary depending on which country they are carried out. The Mining Inspectorate of Sweden is the agency responsible for decisions concerning permits for exploration and mining. Information about the processes, regulations, laws are available on their website <http://www.sgu.se/en/mining-inspectorate/>.

## **Appendix 2 Responsible Mining Enterprises**

Within international law there is also a close connection to the ethical guidelines, which many international financial institutes and larger companies commit to. The work with CSR (Cooperate Social Responsibility) is becoming increasingly more interesting, particularly for the slightly larger companies. The World Bank does not approve, for example, investments in an indigenous peoples area if a social consequence analysis has not been carried out.

In working to support a sustainable approach in relationship to the Sami and other indigenous peoples in the Arctic, CSR constitutes a very important instrument.

### **OECD guidelines**

The OECD guidelines for multinational enterprises are common recommendations to enterprises from 39 governments. The guidelines were negotiated in 1976 and have been renegotiated five times since, the latest of which was in 2011.

The guidelines make up a part of the OECD Declaration on International Investment and Multinational Enterprises. The OECD member countries have committed to promoting the guidelines by, among others, establishing a National Contact Point (NCP). The Swedish government has stated that they expect Swedish enterprises to follow the OECD guidelines.

The OECD guidelines for multinational enterprises contains among other items:

General – Respect human rights, contribute to sustainable development and the education of the employees.

Information – Provide good information about their operations as well as products and services, both financially as others.

Environment – Strive for continuous improvement. Protect the environment, health and safety, for example, through environmental management systems and to apply the precautionary principle.

Develop and supply products and services without inappropriate environmental impact.

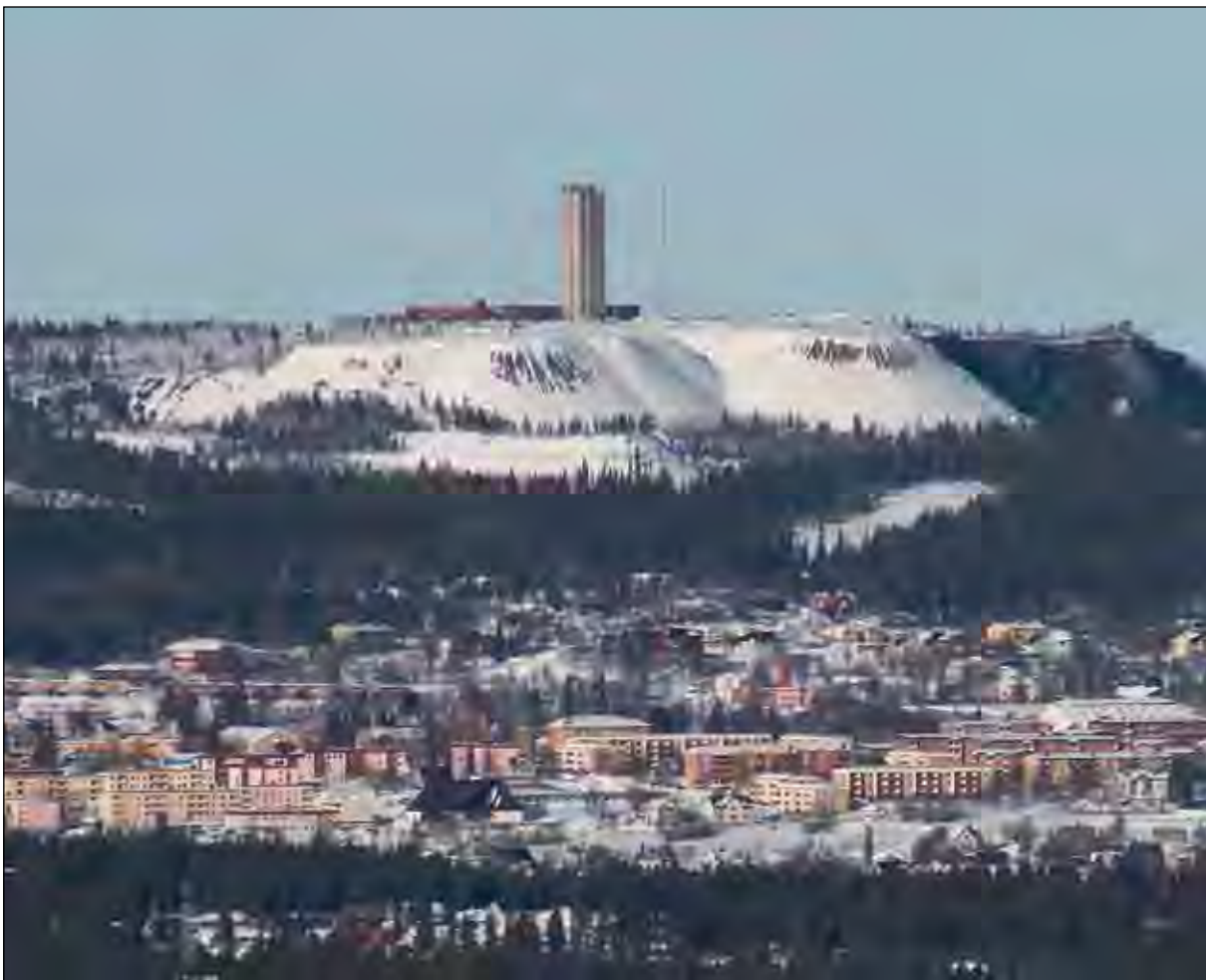
Regarding the respect for human rights, enterprises shall apply guidelines with appropriate care regarding the risk of having a negative effect on human rights. Special caution is attributed operations that have an impact on the rights of indigenous peoples.

Regardless of whether or not national legislation takes enough consideration to the human rights, the enterprises shall as a minimum apply the Convention on Human Rights, Convention on Civil and Political Rights and the Convention on Economic, Social and Cultural Rights. Concerning the rights of indigenous peoples, refer specially to the UN Declaration on the Rights of Indigenous Peoples.

### *International standards*

There are a great many different standards, guidelines etc. for enterprises to commit to, for example the Global Reporting Initiative (GRI). Some of the general aspects for responsible mining operations can be summarized with:

- Focus on social and environmental impacts, which are investigated before operations begin. Such investigations can take up to two years before they are complete.
- No social or environmental consequences are to be held secret for those who are affected by the operations. Groups of people affected, including local communities, own the right to independent technically and judicially knowledgeable advisors to be able to participate and cooperate with the impact investigations.
- If those who are affected by the planned operations do not want the mining project to continue, this is to be respected by the company.
- Mining operations shall not have an all too extensive impact on biological diversity or land and water resources.
- Responsible mining companies uphold all international conventions and guidelines regarding their social and environmental responsibilities.
- It must be ensured that all relevant costs for the mining operations' social and environmental impacts on the local community are reported.
- Necessary guarantees must be set so that the social and environmental obligations held by the company can be carried out.



## **Appendix 3 Minerals and Mines within Sápmi Today**

### **Minerals**

The mining industry in Sweden estimates increasing their production of metal ores by 150 % between 2011 and 2020 – from about 60 million tonnes to almost 160 million tonnes. A similar trend can be traced foremost in Finland. Even Norway predicts a development, even though they are from rather low initial levels. There are quite a few projects planned all over Scandinavia, mainly concerning iron ore but also base metals, and in Finland, precious metals.

### ***Mining industries in parts of Sápmi – the counties of Norrbotten and Västerbotten***

The employment in mines concerns mainly LKAB's iron ore mines in the municipalities of Kiruna and Gällivare as well as in Boliden's copper mine in Äitik, in Gällivare municipality. Västerbotten has more active mines than in Norrbotten, but the volume produced and numbers employed are less. There are advanced plans for new mines in both Västerbotten and Norrbotten. Of Sweden's total ore production, more than 96 % comes from the mines in this region. Under 2011, there were 13 mines operating in Sweden, whereof 10 are in the region – 4 mines in Norrbotten and 6 mines in Västerbotten.

### ***National and regional minerals strategy work***

#### **National minerals strategy**

During 2012, the Swedish Government worked on producing a strategy for long-term and sustainable use of Sweden's mineral resources, as an answer to the comment the European Commission presented on an integrated vision for the challenges on the raw produce market. The work has been carried out by the Ministry of Enterprise, Energy and Communications together with other ministries. The Geological Survey of Sweden has assisted the government in preparing the Minerals Strategy.

#### **Regional minerals strategy for the counties of Norrbotten and Västerbotten**

The County Administrative Boards of Norrbotten and Västerbotten have jointly produced a proposal to a common regional minerals strategy for the two counties. The bearing vision of the minerals strategy is that the counties of Norrbotten and Västerbotten in a decisive manner shall contribute to that Sweden shall be the world-leading mining nation. The Sami Parliament wishes to point out that the strategy focuses on the development the mining sector has shown over the past few years, but omits the fact that the entire mining sector is characterized by returning cycles with considerably lower profitability due to the instability and vulnerability of the minerals market. The dependency on business cycles is of vital importance for the local communities that are affected by the mining projects, most of all from a long-term sustainable perspective, where the environmental and social consequences can be far more costly than what the mining project can eventually produce.

The Sami Parliament feels that the regional strategy omits argumentation about short-term profits in the form of employment opportunities versus the social costs that are generated if the mining project is not long-term. There should be a larger analysis of the impact on opposing interests and in which cases and under what conditions the mining project can be approved of from a comprehensive point of view. It is also important to point out that the Sami trades contribute to both immediate employment opportunities and secondary work/activity opportunities to many of the small communities in both Västerbotten and Norrbotten counties.

## Appendix 3

## **Statement from Sami Woman Reindeer Herder for this Report and the UN Special Rapporteur on the Rights of Indigenous Peoples\***

**9 August 2015**

“I want to be interviewed, I want my story and the stories of other women in reindeer herding to come out to the world. But as much as I fear the consequences of my own sami-community, that is nothing compared to my fear for what the Swedish society would do with that information. The hatred against Sami and especially Sami in reindeer herding is becoming harder and harder to live with, and I won’t risk giving them information to use against us. We really need to address these issues within ourselves first because I don’t trust the Swedish society.

The general level of knowledge in the majority society, Sweden, about Sami people and our culture is almost non-existent. And if they know something at all about us, the first thing is that a reindeer herder is a Sami man, never a woman. This is very tragic and problematic for women in reindeer herding.

An example... When my male [reindeer herding] colleagues need medical care and they visit the (Swedish) health-center they immediately receive help, and since it is so important for them (working with animals that need daily care) to get well soon, they get sent to specialists and so on. I’ve had the same problems as my [male reindeer herder] colleagues, but when I go to visit the same health-center, the doctor tells me I need to sell my reindeer because it is too hard for a women to work with reindeer and I should leave that to the men. This has happened to me on several occasions during the last 15 years.

Women’s issues are never discussed [in Sápmi], and the women who try to talk openly about gender equality soon stop. Almost everywhere in Sápmi there are only or mostly men in positions of influence/power/authority. Women who try get bullied and silenced, and those who have the strength or/and possibility to continue do so knowing people are talking behind their backs, and have to be prepared to be subjected to taunts and jibes. When in my twenties I called myself a reindeer herder; I don’t do that anymore. I still do the same job with the reindeer, but I call myself reindeer keeper. It’s easier that way, I don’t get questioned all of the time.

The Swedish health care system is built on the Swedish culture. The lack of cultural knowledge and understanding is critical when it comes to treating people, especially when it comes to mental health issues. I have two close friends that have committed suicide, and I know at least ten other Sami that have killed themselves, and I have first-hand experience of trying to find help after a suicide attempt. Most of the psychologists I went to ended up making the situation worse, at first I had to teach them about my culture and then came having to address their prejudices about the Sami.”

*\*The author of this Statement chooses to remain anonymous. She is open to and positive about talking with the Special Rapporteur in greater depth. Her contact information can be obtained confidentially by the Special Rapporteur from the author of this Report.*

## Appendix 4





Anders Sunna, *Indigenous love*, 2008-2013

## Appendix 5



**The 4<sup>th</sup> Sami Parliamentary Conference held on 20 February 2014 in Ubmeje/Umeå, for Sami commissioners from Finnish, Norwegian and Swedish parliaments and participation by Russian Sami representatives as well, has decided on the following joint pronouncement<sup>1</sup>:**

*We confirm our commitment* to support the earlier parliament conferences in Jåhkåmåhkke/Jokkmokk, Ruávinjargâ/Rovaniemi (2008) och Girkonjárga/Kirkenes (2011) as to the realisation of the adopted declarations,

*We demand that the Finnish, Norwegian, Swedish and Russian* states contribute to the realisation of the goals in the climate policy strategy that the Sami Parliamentary Council adopted in 2010,

*We remind* that Article 1 on self-determination in The Convention on Civil and Political Rights also applies to indigenous peoples and their right to decide on the use of natural resources,

*We emphasise the connection of the Sami culture* to nature and the importance of a clean environment for the future of the Sami culture,

*We extend* our deep concern for the indigenous peoples in Russia, foremost the Sami, where the situation in Russia has deteriorated, and appeal to the Russian state to improve the rights of indigenous peoples,

*We emphasise* that the Nordic Sami Convention is very important to the Sami as a people and *extend* our great concern for the continuing alarmingly slow progress of the convention negotiations,

*We are happy to note* the Swedish constitution recognizes the Sami as a people, and *remind* that the Norwegian and Finnish constitutions recognize the Sami as an indigenous people,

*We demand* that the Finnish, Swedish and Russian states ratify the ILO Convention 169 and that the Norwegian state implements it legally, also in terms of the Sami historical rights to the natural resources of the oceans,

*We remind* that the Swedish, Norwegian, Russian and Finnish states have ratified the UN Convention on Biological Diversity and based on the convention shall secure the diversity of nature and the culture of indigenous peoples, and *demand* that the states hasten the realisation of the convention together with the Finnish, Norwegian and Swedish Sami parliaments and the Sami organisations in Russia,

*We demand* that the Swedish, Norwegian, Russian and Finnish states undertake to realise the UN Declaration on the Rights of Indigenous Peoples and refer to UN special reporter James Anaya's report of 2013 to the UN general assembly , where the legal bearing of the implementation of the declaration is pointed out,

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<sup>1</sup> 91 parliamentarians were present. The polling resulted in 66 *Yes* votes, 13 *No* votes and 3 were cast *Blank*. 9 abstained from voting. *Fremskrittpartiet*, from the Norwegian Sami Parliament, submits a written reservation. *Norkalottfolket* and *Fastboendes Lista*, parties also adherent the Norwegian Sami Parliament, submit a written reservation. The Finnish Sami Parliament submits a written reservation.

*We remind* that in 2010, the UN special reporter James Anaya submitted a report on the situation of the Sami in Norway, Sweden and Finland and *demand* that Russia, Norway, Sweden and Finland respect the recommendations of the report together with the Norwegian, Swedish and Finnish Sami parliaments and with the Russian indigenous peoples,

*We remind* of the recommendations by the UN indigenous people reporter concerning natural resources, extractive industries and indigenous peoples (A/HRC/24/41) and *demand* that the Norwegian, Swedish, Finnish and Russian states respect the recommendations and pursue them together with the Norwegian, Swedish and Finnish Sami parliaments and with the Russian indigenous peoples,

*We confirm* our commitment to support a sustainable development and *demand* that the Swedish, Norwegian, Russian and Finnish state carry out Rio +20 "The Future We Want", together with the Norwegian, Swedish and Finnish Sami parliaments and with the Russian Sami organisations.

**We hereby declare the following;**

*Article 1*

The Sami are an independent people, whose region Sápmi is divided between four states. Sápmi is the traditional region of the Sami and our common home, where since time immemorial the Sami have basic rights to land and water, including ocean and natural resources.

*Article 2*

The Sami right to self-determination grants the right to independently decide, with help from our political body, what development we want for our community and in what way we want to manage and use the natural resources in our areas, in accordance with international law and based on Sami rights.

*Article 3*

The Sami are an indigenous people who own the right to their traditional lands, water and natural resources. The Sami popularly-elected body, the Sami parliament, is to be able to influence decisions concerning Sami rights, culture, natural resources and use of lands. The States shall negotiate with the Sami parliaments and in a reliable manner achieve consensus at every level – local, regional, national and international. The Sami parliament shall participate in decisions on questions concerning legal, political, economic, cultural and social progress.

*Article 4*

We Sami shall own the right to work with our own traditional livelihoods in our own traditional areas of settlement in accordance with our cultural traditions and rights. The Sami parliaments and local Sami communities shall be consulted, in accordance with the principle of free, informed prior consent, on traditional Sami livelihoods in our traditional areas of settlement in accordance with our cultural traditions and rights.

*Article 5*

We Sami are affected by State's and companies' economic, political and military interests in the Arctic and its natural resources. Oil and gas exploitation, increased transportation on Arctic Ocean transport ways that open up, increase the risk for potential environmental damage. The northern regions are the home of indigenous peoples. The region's natural environment is vulnerable and all economic and political operations in the region affect the indigenous people's possibilities to exist.



Together with the negative consequences of climate change, an unsustainable exploitation of the Arctic will be devastating to the Sami culture and its future.

#### *Article 6*

The future of the Sami people, our survival, our economic possibilities, our livelihoods, traditions, historical rights and our traditional knowledge are all connected to our traditional areas and water. The natural resources shall continue to provide for our people and preserve our valuable cultural inheritance for future Sami generations.

#### *Article 7*

For planned establishment of mineral exploitation in traditional Sami land areas there shall be a free, informed prior consent from the Sami people and rights holders. The Sami people and rights holders shall in accordance with the rights of indigenous peoples receive a reasonable allotment of the turnover from these exploitations. For minerals exploitation and its associated activities, such as infrastructure, the Sami people shall be compensated.

States with Sami settlements shall demand from the industry, in particular the minerals industry, a prompt greater efficiency in the work with environmental monitoring and reducing environmental pollutants. Norwegian, Finnish, Swedish and Russian states shall strengthen their environmental legislation and penalties for environmental crime. Mining operations carried out in traditional Sami areas are liable to compensate for the damage afflicted in those traditional Sami areas in the form of a recurring compensation as well as active measures to improve the environment.

#### *Article 8*

Norway, Sweden and Russia shall renew mining and mineral legislation in accordance with public international law. It is absolutely necessary that Finland's mining act does not deteriorate with the consequence of weakening the present Sami culture.

#### *Article 9*

The Swedish, Finnish and Norwegian states shall consult their respective Sami parliaments and Russia their Sami organisations when exploitation of natural resources is planned on traditional Sami lands. The value of the Sami culture shall be evaluated and damage that affects the Sami culture be avoided, for example in accordance with the Convention on Biological Diversity, Akwé:Kon guidelines.

#### *Article 10*

We Sami parliament members see that the Sami can still experience being made invisible and structural discrimination by state agencies. The Sami culture, traditional Sami livelihoods and the Sami language have to give way to the majority culture's economic and political needs. The Sami can also be confronted with hate crimes in their everyday lives and increasingly in the social media.

The oppression of Sami and lack of understanding means to justify the destruction of the natural resources on Sami lands to benefit the majority culture. The Sami will have to fight for their rights and against ignorance, prejudice and racism. For the sake of our culture's survival, we Sami must be ensured the right to exist in a tolerant environment where our own traditions and cultural expressions are respected.

#### *Article 11*

We also support the UN Committee on Elimination of Racial Discrimination's (CERD) requests, for example about the mining plans in Rönnebäcken; that Sweden stops all present work until CERD has addressed the question.

## Appendix 6



## Economic and Social Council

Distr.: General  
14 February 2013  
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### Permanent Forum on Indigenous Issues

#### Twelfth session

New York, 20-31 May 2013

Provisional agenda item 6\*

#### Discussion on the World Conference on Indigenous Peoples

### Study on the rights of indigenous peoples and truth commissions and other truth-seeking mechanisms on the American continent

#### Note by the Secretariat

Pursuant to a decision taken at its eleventh session (see E/2012/43, paragraph 113), the Permanent Forum on Indigenous Issues appointed Edward John, Mirna Cunningham and Álvaro Pop, members of the Forum, to conduct a study on the links between the rights of indigenous peoples, truth commissions and other truth-seeking mechanisms on the American continent, to be submitted to the Forum at its twelfth session.

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\* E/C.19/2013/1.



*Deciding the mandate of a truth commission*

80. Truth commissions are created according to a legal mandate established through decrees or laws or negotiations between the parties, specifying their objectives, powers, focus of inquiry, composition and period of activity. The commissions should consider the following guidelines:

(a) The objectives of the commission should clearly include the stipulation that it will ensure that the rights of indigenous peoples are respected to the fullest extent possible, specifically identifying the rights that appear to have been violated during the period under examination.

(b) The mandate should state that established and developing international human rights law will guide the commission's activities, including specific instruments regarding the rights of indigenous peoples.<sup>67</sup>

(c) The members of the commission should include indigenous peoples at all levels, including as commissioners, monitors or staff, and their nomination and appointment should be conducted transparently and in consultation with indigenous peoples.

(d) The commission should secure the support of the appropriate government authorities at the national and local levels to facilitate genuine consultation, and should be allowed to enter into agreements with indigenous communities.

(e) The commission should be empowered to request and obtain effective cooperation from law enforcement authorities to ensure effective and culturally appropriate protection for indigenous communities offering information.

(f) The mandate should specify which abuses committed against indigenous communities fall under its jurisdiction. These abuses may include genocide, persecution, slavery, forced displacement, and other context-specific inhumane acts. Attention should be paid to violations of the rights of self-determination, access to ancestral lands and territories, and the practice of a specific culture and language.

(g) Notwithstanding the limited temporal scope of a truth commission, the mandate should specify that the commission should pay attention to the structural and historical causes of violations, including colonization and other forms of marginalization of indigenous peoples.

(h) Notwithstanding the limited territorial scope of the commission, when the indigenous peoples included in the inquiry are separated by international borders, the mandate should specify that the commission will be empowered to seek international cooperation.

(i) The mandate should recognize the legal and cultural value of indigenous practices of storytelling as valid sources to determine facts and determine responsibilities.

(j) The mandate should specify that all indigenous and non-indigenous persons who are the subject of negative findings shall have their rights to due process respected.

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<sup>67</sup> International Labour Organization Convention No. 169 and the United Nations Declaration of the Rights of Indigenous Peoples.



(k) The national authorities responsible for approving the mandates of commissions should provide enough time for meaningful consultation before approving the mandate. If external circumstances prevent full consultation with indigenous populations, governments should consider suspending the application of the mandate to such populations until consultation is carried out.

(l) The act of adoption of the mandate should involve indigenous peoples and recognize their traditions to witness, solemnize, and legitimize the mandate.

#### *Establishment of commissions*

81. Truth commissions are usually established when the commissioners are appointed. The initial activities of a commission include interpreting its mandate, determining a methodology for the inquiry, planning and allocating resources, establishing offices, and hiring staff. When a truth commission is mandated to investigate abuses against indigenous peoples, it should consider the following guidelines:

(a) Adequate consultation should be carried out to nominate, vet and appoint commissioners.

(b) The commission should include indigenous commissioners and non-indigenous commissioners should be persons who are committed to the rights of indigenous peoples.

(c) In appointing its staff, the commission should ensure that indigenous persons are represented, particularly in units that will be responsible for gathering information and conducting outreach campaigns. All staff of the commission should receive appropriate training to ensure knowledge of and respect for indigenous languages and cultures.

(d) The commission's offices should be located in a manner that maximizes access by indigenous participants. Mobile teams should be created to ensure that deponents in remote areas have an opportunity to participate in the process.

(e) In determining the method of inquiry to be used, the commission should include forms of transmitting knowledge and offering testimony common to indigenous cultures, ensuring that participants can use the language that they find appropriate.

#### *Operations of truth commissions*

82. Commissions established to investigate violations suffered by indigenous peoples should consider the following guidelines:

(a) Publish and disseminate a declaration of principles that will guide their work, including specific guarantees to ensure respect for indigenous peoples and maximize their participation in the process.

(b) Secure the advice of indigenous organizations, through bodies such as committees or organizations of survivors and elders; and contact international bodies that promote and protect indigenous rights.<sup>68</sup>

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<sup>68</sup> In particular, the United Nations Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the United Nations Special Rapporteur on the rights of indigenous peoples, and relevant regional bodies.

(c) Conduct outreach to indigenous communities with accurate information, responding to any specific questions from indigenous populations; and build alliances with indigenous organizations to assist with outreach campaigns and depositions.

(d) Outreach to non-indigenous populations should have a strong educational component to explain the importance of recognizing the violations committed against indigenous peoples and encourage and facilitate cooperation of different indigenous and non-indigenous communities, in order to overcome the legacies of conflict.

(e) The commission must take effective measures to ensure that depositions and evidence-gathering are culturally appropriate to indigenous communities and persons and in their mother tongue. The commission must balance diverse methods of testimony, both individual and collective. In the case of collective deposition, the commission should ensure that the voices of indigenous women and children are heard.

(f) In cases concerning the search for missing and disappeared persons, the commission should observe the rituals that the community considers most appropriate in the different phases of exhumation, identification, and devolution to the families,<sup>69</sup> and provide psychosocial assistance and support to families in keeping with indigenous traditions.

(g) Public hearings of the commission involving witness testimony should be conducted in accordance with indigenous customs for receiving, listening to and comforting witnesses. Participation in public hearings must be subject to free, prior and informed consent.

(h) Standards of evidence by commissioners should value and respect indigenous forms of testimony that may be different from archives or written records, in particular indigenous oral tradition and performance.

#### *Reporting by truth commissions*

83. Truth commissions should consider the following proposed guidelines:

(a) The structure of the report should be meaningful and relevant to indigenous communities, respond to their questions and respect their narrative techniques. The indigenous contribution to the findings and recommendations of the commission should be recognized and guaranteed.

(b) The report's findings should recognize the dignity of indigenous peoples and clearly state that the abuses committed against them are ethically and legally unacceptable. The commission should clearly detail fact, context, political responsibility and, when appropriate, presumptive responsibilities for violations.

(c) The report should include recommendations on transformative action, promoting the full enjoyment of indigenous rights, particularly self-determination, access to land and territory, and cultural rights.

<sup>69</sup> It should be noted that exhumation practices violate the traditions and perspective of some indigenous communities, including the Asháninka people in Peru.

(d) The report format should ensure maximum dissemination among indigenous populations, including video and audiovisual versions; indigenous language versions and educational summaries.

(e) The presentation of the final report to the highest authorities in the State should include solemn ceremonies respecting indigenous customs and symbolism.

*Following up on reports*

84. Truth commissions should consider the following proposed guidelines:

(a) The legal mandate of the commission or its report should call for the establishment of a successor institution, which should engage in direct dialogue with the Government in order to implement the commission's recommendations. The institution should be established with the prior, free and informed consent of indigenous peoples.

(b) Preservation of the commission's records should ensure guaranteed access and use by indigenous communities and persons, while respecting the guarantees of privacy and due process afforded to those documents in the existing legal framework.

(c) Recommendations that may affect the rights of indigenous peoples should be implemented after consulting them and obtaining their free, prior and informed consent.

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