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Sámi, the indigenes people in Sweden

The Council of Europe Advisory Committee makes visits now and then to Sweden in order to monitor the implementation of the Framework Convention for the Protection of National Minorities in Sweden. As, we are almost sure that the only information you have been given, according to the Frame Convention, by the Swedish authorities is about the group who carry on reindeer herding.

Therefore, we want to give you information about the existents of a group of Sámi who the Swedish government has made invisible ever since the Reindeer Grazing Act went into force 1928. The Swedish government has had and still has a great reluctance to talk about this subject.

We will also give you a better knowledge and understanding about the impact the Swedish “Lappish shall remain Lappish” policy have to the Sámi people in general. Finally, we want to give you the present living conditions and situations about the Sámi people in general that are living in Sweden.

There are about 70 000 – 80 000 members of The Indigenous People called Sámi who are living in the north parts of Norway, Sweden, Finland and Russia, of whom there are about 20 000 members, living in Sweden.

Among the Sámi people in Sweden, about 2 000 (10 per cent) carry on reindeer breeding and have the exclusive right to exercise and utilize the reindeer breeding rights, according to the present Reindeer-Herding Act of 1971 (Rennäringslagen (1971:437)).

History

As far back as the middle of the 16th century, the reindeer-herding region was divided into different geographic areas by the Swedish government. They were called Lappish Tax land “Lappskatteland”. (Hereafter: Tax Land). Each of those Tax lands was given to a Sámi with full ownership. The boundaries were marked with mounded stones, provided with entry into land register of title (försedd med lagfart), taxed and officially registered in cadastre as landed property (införda i jordebok).

That means that the owner had the right to sell the hole or parts of the Tax Land and buy another if he wanted. He was the only one who had the right to reindeer grazing on the land. Everyone who carry on reindeer- herding or were fishing and hunting on a specific land had to pay charges to the owner

The owner was also the manager of the Tax Land and had to collect taxes, for the state, from members of his own household and from them who carried on reindeer - herding, or were fishing and hunting on his land.

In connection with the establishment of the borderline between Denmark – Norway and Sweden in 1751 the Border Treaty was provided with an appendage called The Lappish Codicil (Lappkodicillen).

The Codicil confirmed the existents of Tax Lands and Byxel Lands (Norwegian) and that those were private. The Codicil also regulated not only the rights but also the reindeer grazing issue between the two countries. In the Codicil there also stats “Lappmännen beträffande” that means the Sámi was mentioned in general. As the Codicil is, an appendage to the Border Treaty of 1751 it cannot be cancelled by either of the stats without cancelling the Border Treaty itself.

On 3 February 1995 the Swedish government made the decision that the Border Treaty inclusive the Lappish Codicil was still in force between Norway and Sweden. (Skr. 2004/05:79).

Land accesses such as Lappish Tax Lands were, according to the ordinance of 21 February 1789 by Gustav the third, the king of Sweden at that time, equal to the nobilities land possessions.

Those conditions, above mentioned, lasted until 1886 when the first Reindeer Grazing Act went into force. Through this law, the Tax Lands were confiscated and ceased to exist without any compensations to the owners.

The former Tax Lands were put together into suitable geographic areas called Lappbyar and the reindeer grazing right that once were private changed over to be collective. Instead of peaceful enjoyment of possession, from now on, the Sámi were treated as nomads without land property.

The third Reindeer Grazing Act went into force 1928 divided the Sámi people into two different groups. Sweden made then the decision that only the Sámi who carried on reindeer breeding should be members of the Sámi Village and be regarded as Sámi, whereas the greater part were put into the assimilation box covered and provided with seal. In that box, Sweden's main thought was that those who were locked out should forget their history, culture, background and the rights belonging to the Sámi in general.

Thus, the Swedish Sámi policy is only addressed towards the reindeer-herding group, not to the Sámi people in general.

This lifelong deception is very difficult to brake through, especially as the main reason for the Swedish decision was to protect a vulnerable group. Even more difficult to see through the bluff is it when the group who is regarded, by the Swedish government, as vulnerable (The Sámi villages) defend the system by referring to their exposed situation. They cover in the system with a seductive clothing of human rights, protection of indigenous people and now also the United Nations Declaration on the Rights of Indigenous People.

Consequently, when Sweden mentions Sámi, among other things in the Swedish European Union Treaty, Protocol 3, the target group is the reindeer industry.

In reality, the Sámi people consists of a reindeer herding and a non-reindeer herding group even if Sweden regards only the reindeer-herding group as Sámi whereas the other group does not exist from a Swedish point of view. Besides, the non-reindeer herding group is the greater part with about 18000 people (90 per cent).

The Sámi, regard themselves as a people without divisions in any specific groups.

Sweden has made and still makes great efforts to integrate and assimilate the non-reindeer herding group into the Swedish society. Nevertheless, they do are Sámi even though they are not practicing reindeer keeping.

The Sámi people have, through history, carried on not only reindeer herding but also other kinds of businesses and occupations. Therefore, there is a fact that not all Sámi are reindeer herders but are to be found in most kinds of branches and in Sámi related occupations also.

The Reindeer-Herding Act, which entered into force on 1 January 1971 states that the reindeer breeding rights belong to the Sámi people in general and are based on immemorial tradition. The Act also states that, if you want to carry on reindeer keeping and utilize the reindeer breeding rights you must be a member of a Sámi Village (Sameby), (hereafter: Village)

A Village is an organisation similar to a common economic association. Each village consists of a geographical grazing area as well as an administrative entity through which the daily work of reindeer herding is organized. The reindeer breeding is the only activity that is permitted in a Village. If a member decides to leave a Village for other employments or businesses, the member concerned has no right to remain as a member anymore.

As the Reindeer Herding Act admit that the village itself can choose their own members has resulted in the defence of “the Lappish shall remain Lappish” policy is still running.

It is possible to become a member in two different ways; first, you will be member by birth, secondly you may apply for a membership. If the Village find you, your qualification all right, and your relationship close, enough they possibly choose you as a member.

This restriction has led to that a limited number of persons have the right to utilize the reindeer breeding rights. The same restriction has simultaneously caused that the non-herding group-which is the greatest part with many women, totally lost all there rights in favour of the reindeer-herding group.

As there is difficult to become a member of a Sámi Village unless you are a member by birth, therefore the non-reindeer herding Sámi without any relationship are practically prohibited to practise the reindeer herding occupation. To prohibit people to practice employments, businesses or carry on companies is not allowed by the Swedish legislation. That means that Sweden has an occupational related view of who would be regarded as Sámi.

Manny official reports have been made about the Sámi but only the reindeer-herding group is the target group. The official reports are (SOU: 2005:116, SOU 2005:17, 2005:79 and SOU 2006:14)

Those official reports pay no attention to the Sámi in general but to the reindeer-herding group only.

The Chancellor of Justice (JK) has been noticed about the situation and has sent an additional consideration to the government where he call attention to those official reports pay altogether too high degree emphasize the significance of the reindeer breeding at the cost of the Sámi people in general.

According to the Chancellor of Justice judgement, further consideration is necessary about the official reports with respect to what he has said in his additional consideration. The Chancellor of Justice additional consideration (Dnr 2081-06-80) will be sent as an enclosure to this document.

ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries

The Swedish official report on the ILO Convention No. 169 (SOU 1999:25) (hereafter: Convention) states that the Swedish regulation of persons (Sámi in general) who have the right to exercise and utilize the reindeer breeding rights does not conflict with the Convention.

According to the Convention, Sweden has to, within the frame of the definition of indigenes people given in article 1 of the Convention, and in consultation with them, decides the group of persons whom the Convention will be ratified on.

From Sweden's conventional view of who are Sámi and from the policy pursued in the issue, the group of persons will be recognized as the reindeer-herding group.

In our opinion, the Convention concerns all members of an indigenous people in a country not only parts of the people.

Accordingly, there is fully possible that Sweden decides to ratify the Convention, only on the members of Sámi villages (10 per cent of the Sámi people) and leave out the non-reindeer herding Sámi who also has the same rights but are prohibited to exercise and utilize them.

Before a decision, in our opinion, Sweden finally has to decide who the Sámi is in reality. Are the Sámi identified as an industry or as a people? If they are identified as an industry, there is important in political, economic, cultural, juridical and in convention contexts accentuate that there is not about an indigenous people and ethnicity but just about an industry.

If there is all about an industry, the thought about a ratification of the Convention should be annulled, because, in that case there would be nothing to ratify.

The United Nations is a political and religious independent organisation and, in case, the Swedish ratification will be accepted in this restricted form already mentioned, the United Nations, in our opinion, will make a political decision in favour for an occupational related group and a special business and not to the Sámi in general.

Presume that Sweden decides to ratify the Convention after all, with the reindeer herding group as the target and the Convention incorporates into the Swedish legislation.

An interesting question arises whether such legislation conflicts against the European Convention on Human Rights, Protocol 1 about possession of property, where 90% of the indigenous people Sámi lose their property in shape of the reindeer breeding rights.

The European Convention on Human rights is incorporated into the Swedish legislation (RF 2:23)

The draft of the Nordic Sámi Convention

In this issue, there are the same conditions as in the ILO Convention itself. As the Swedish official policy is pursued towards the reindeer-herding group, the Sámi in general is not included in the draft. Among other things, the protection of Sámi industries is mentioned in the draft. The most important industry is already protected by Swedish legislation (The Reindeer herding Act), that is the reindeer herding industry.

We urge Sweden to change their Sámi policy, from the present, pursued towards the reindeer-herding group to the Sámi in general instead, and make that group to be the one whom the Nordic Convention will be ratified on.

The Sámi parliament (Sametinget)

The Sámi parliament (Sametinget) (hereafter: Parliament) is a democratic institution which was established 1993. Its main task is to decide what is best for the Sámi in general and from that point of view put forward the issues that need to be discussed with the authorities concerned.

Yet, during the sixteen years the Parliament has existed, no progress has been made in favour for the Sámi who have been put out through the Swedish legislation except for the right to participate in the parliament election, every four year.

Every motion proposed by, the only non-reindeer herding party Jakt -och Fiskesamerna in the parliament, has been denied. The present majority who supports the reindeer-herding group has the advantage of the Swedish “Lappish shall remain Lappish” policy through which they have access to Sámi rights and want to keep it all to themselves. Therefore, they do everything possible to keep the policy running.

The reason for this specific situation is the result of the historical treatment of the non-reindeer herding Sámi ever since the Reindeer Grazing Act of 1886.

We greatly appreciate the recommendation of the Advisory Committee to consider increasing the role of the Sámi Parliament in areas other than reindeer industry.

We do hope that will help to put forward the issue of a change to a new Swedish policy towards the Sámi in general and the “Lappish shall remain Lappish” policy will be put out forever.

Conclusions

This report is meant to inform the European Council Advisory Committee about the present state of circumstances for the Sámi in general in Sweden. In our opinion, there is important for you to know about this side of the Sámi issue that Sweden is not very inclined to talk

about. We hope that the Advisory Committee will add to consider this specific issue concerning the non-reindeer herding group in this document mentioned, with future monitoring of the implementation of the Frame Convention in Sweden.

The issue is complicated with two groups, where one has the practical right to exercise and utilize the Sámi rights while the other has no rights at all, but before the time of the restriction according to the Swedish legislation, the Sámi was regarded as one united people.

As soon as Sweden has solved their conditions to the Sámi in general, officially recognized them as a people and basically change their policy to the original population by ending the “Lappish shall remain Lappish” policy and a paradigmatic shift takes place, the prerequisite for an accede to both of the Conventions ought to be better.

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Yours faithfully

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Enclosure: The additional consideration of the Chancellor of Justice (Dnr 2081-06-80)