



Submission from the
Sámi Parliament in Sweden
to the 3rd cycle
Universal Periodic Review of
SWEDEN

12 July 2019

About the Sámi Parliament in Sweden

The Sámi Parliament in Sweden (Sámediggi in North Sámi language), established through the Sámi Parliament Act in 1993 is the popularly-elected representative body of the Sámi people in Sweden. The Sámi Parliament also functions as a government agency on Sámi issues.

The overall task is to advocate, promote and protect Sámi rights and interests in order to ensure their economic, social and cultural development. The activities carried out by the Parliament cover a wide range of areas such as Sámi economic development; including traditional livelihoods, reindeer husbandry, hunting and fishing, strengthening and revitalizing the Sámi languages, promoting and protecting Sámi cultural expression, cultural heritage and traditional knowledge.

The Sami Parliament would like to provide the following submission to the 3rd cycle UN Universal Periodic Review of SWEDEN for the 35th Session of the UPR Working Group of the Human Rights Council (20-31 January 2020).

The submission focuses on the progress on the implementation of recommendations pertaining to matters of relevance to the Sámi people in Sweden based on assessment of their situation and recognition of their rights. The submission also presents some recommendations for the UPR Working Group to consider in its review of Sweden.

(Word count: 2807 words)

I. Introduction

1. The Sámi people is recognized as a (indigenous) people and minority under Swedish legislation.¹ The dual status of the Sámi as minority and indigenous people means that several different international and regional HR-specific instruments apply. The recent government official report on proposals towards improved policy on minorities² states that minority policy and indigenous policy should be kept separated and that the Act on Minorities and Minority Languages should not relate to matters concerning indigenous groups. This mindset and the dual status of the Sámi sometimes complicates the development and application of relevant policies and legislation concerning the recognition and fulfillment of Sámi rights.
2. In Sweden there has been stronger emphasis on minority rights, including strengthening measures, policies and legislation concerning the five recognized national minorities. As such many of the recommendations made during the last UPR review³ will be addressed through Sweden's efforts on these matters. However, the rights of the Sámi as indigenous people are more far-reaching and include other areas than those of minorities (i.a. land-rights, self-determination). The Sámi Parliament therefore recommends this review session to put particular focus and emphasis on Sweden's implementation of the Sámi people's rights as an indigenous people in Sweden.

II. Language rights⁴

3. To acknowledge that 2019 is declared the International Year of Indigenous Languages, our submission firstly highlight improvements, concerns and recommendations regarding Sámi language rights.
4. Although there have been positive developments on Sámi language revitalization and recognition of Sámi language rights since the last review, we note that our self-determination in language-related matters is not ensured. There are still limitations to the Sámi Parliament's mandate to allocate financial resources and to ensure that Sámi can be adequately taught.

A Sámi Language Act

5. The Sámi Parliament is currently working on the development of a Sámi Language Act, which would bring together the language rights of the Sámi people and thereby constitute an extension of protections of the Sámi languages. A language act would also clarify the responsibilities of the authorities to protect and strengthen the Sámi languages, including in education and social services and would encourage the society to make further efforts with regards to Sámi language rights.
6. A Sámi Language Act could help harmonize Sweden's obligations under international and regional human rights law, such as the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities.

¹ The Instrument of Government (Regeringsformen) section 1 article 2 and Act (2009:724) on National Minorities and Minority Languages

² SOU 2017:88

³ See recommendations 145.92,94-99 A/HRC/29/13

⁴ The Sámi Parliament publishes annual reports on the status of the Sámi languages. In its report from 2018, the following focus areas are highlighted <https://www.sametinget.se/127479>

Giellagáldu

7. Sámi Giellagáldu is the transnational collaboration body for Sámi language preservation, standardization and promotion. These functions are important, and necessary for the coherent development of all the Sámi languages. The Sámi Parliaments have, on numerous occasions, stressed the importance of a permanent structure, with secured funding for Giellagáldu. Discussions between the states and Sámi Parliamentary Council⁵ has been ongoing for several years to find a permanent solution which, finally seem to be underway.

Language centers

8. There are two Sámi language centers on the Swedish side of Sápmi.⁶ In 2018, the Swedish government tasked the Sámi Parliament with investigating how the activities of the language centers can be developed. From consultations with Sámi organizations it became clear that there is an explicit need for more language centers and more intensive language revitalization measures.

Education on and in the Sámi languages

9. There is consensus among language workers and scholars that education plays a central role in how language is transmitted to the next generation. Therefore, possibilities of education in the Sámi languages are crucial for its existence. We note that the shortage of teachers, who can both teach in Sámi and teach the Sámi languages, is acute. Also that there are serious shortcomings of the municipalities' fulfillment of their responsibility to provide education in the Sámi languages. The Swedish National Agency for Education's education efforts in cooperation with Sámi allaskuvla offers hope that a small part of the need for teachers may soon be met.
10. Available and functional higher education in Sami languages is a prerequisite for the future recruitment of teachers, preferably in combination with scholarships, aiming to make this course of study more attractive to prospective students. The lack of Sámi language teachers at university level continues to be a great concern.

Recommendations:

II. a) That Sweden actively supports the Sámi Parliament in its efforts to establish a Sámi Language Act.

II. b) That Sweden intensifies its efforts to assist the revitalization of the Sámi languages.

II. c) That Sweden undertakes measures to increase the amount of teachers who teach in Sámi and teach the Sámi languages at all levels of the education system.

III. Self-determination

11. The constitutional structure of the Sámi Parliament with its dual role as a parliament of the Sámi people and a government agency has been subject to criticism in several international HR-reviews.⁷ The Sámi Parliament is dependent on funding provided by the

⁵ The Sámi Parliamentary Council was established in 2002 as a body of cooperation between the three Sámi Parliaments. It consists of 21 representatives from the Parliaments. Russian Sámi have observer status to the Council. The presidency rotates between the Parliaments and their Presidents.

⁶Sápmi is the name of the Sámi homeland in Norway, Sweden, Finland and Russia.

⁷ See recommendation 39 b, CCPR/C/SWE/CO/7; 16, E/C.12/SWE/CO/6 and 81, A/HRC/33/42/Add.3

Government. It is furthermore obliged to report to the Government on its activities and allocation of funds and to follow directives and instructions from the Government on the same.

12. During the past years, the Sámi Parliament has requested the Government to be assigned additional mandates on Sámi issues, i.e. to be assigned National Focal Point under article 8 (j) on traditional knowledge of the Convention on Biological Diversity, to be responsible for the archive and management of Sámi tangible and intangible cultural heritage, to be responsible for statistics collection relating to reindeer herding and traditional livelihoods. So far, these requests have not been met.
13. There has been some progress lately as more responsibilities are transferred to the Sámi Parliament and its budget has been increased. This makes it possible to grow capacity and resources. However, the self-determination will continue to be highly limited until the Sámi Parliament has the power to influence relevant decisions, decide its activities and priorities and has sufficient funding of its own to allocate as desired.

Act on Consultation

14. One step in the right direction towards Sámi self-determination is to ensure the right of the Sámi people to meaningful participation and influence decision-making processes on matters affecting them. This is the purpose of the proposed Act on Consultation which has been underway in negotiations between the Government and the Sámi Parliament for several years. The progress towards reaching an agreement is slow but moving forward. After coming to a halt in the Summer of 2018 the Sámi Parliament is glad to report that there is now a new proposal of the Act which has been circulated for comments in July 2019.

Truth and Reconciliation⁸

15. In May 2014 the Sámi Parliament voted to support the establishment of a truth commission on the treatment of the Sami people throughout Sweden's history. In June 2019 the Sámi Parliament handed over a formal request to the Government on the establishment and funding of a Sámi truth commission. Such a commission is an important contribution to the recognition of the structural human rights violations of the Sámi people.

Recommendations:

III. a) We reiterate previous recommendation from the Special Rapporteur on the Rights of Indigenous Peoples that Sweden should introduce reforms to ensure that the Sámi Parliament has greater independence from State institutions and authorities, to review the Sámi Parliament's statutory status and functions, to ensure its independent decision-making powers and to ensure that adequate funding is allocated the Parliament to carry out its work as a popularly elected body.

III. b) That Sweden adopts an Act on Consultation on matters affecting the Sámi.

III. c) That Sweden establishes a Sámi truth commission in accordance with the request of the Sámi Parliament.

⁸ See recommendation 16, E/C.12/SWE/CO/6

IV. International frameworks on indigenous peoples' rights

16. Sweden has received many recommendations regarding the ratification of the ILO Convention 169. However, less attention is paid to Sweden's fulfilment of other important indigenous rights frameworks.

Ratification of ILO no. 169

17. Despite numerous recommendations on the matter⁹, Sweden has still not ratified the ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries. The Government of Sweden, to gloss over its responsibilities often refers to this issue as a matter of the Riksdag. It is true that the Riksdag is responsible for deciding on laws. However, proposals for new legislation, or amendments to existing laws, usually come from the Government through Government bills. The Government, consequently has the authority to propose the Riksdag to ratify the ILO 169 and adopt a law on its incorporation.¹⁰
18. In June 2019 the Sámi Parliament handed over a formal request (hemställan) to the Government to ratify the ILO 169 with the involvement of the Sámi people and to develop a time plan for the work.

Implementation of UNDRIP

19. Sweden voted in favor of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007 and stated in its explanation of vote that it is their hope that the implementation of the Declaration will improve the situation of indigenous peoples. Furthermore, that the Swedish Government looks forward to pursuing a dialogue with the Sámi representatives on the implementation of the Declaration.
20. In 2014, Sweden – through the adoption of the General Assembly Resolution on the outcome document of the World Conference on Indigenous Peoples¹¹ - reiterated its commitment to fulfil the ends of the Declaration. In para 8, states commit themselves to cooperate with indigenous peoples to develop and implement national action plans, strategies or other measures to achieve the ends of the Declaration. As of today Sweden has not adopted such action plan or strategy. The Sámi Parliament has raised this issue with the Government and expressed our wish to commence and conduct this work in close partnership. There are national action plans on human rights, however these do not address the rights of the Sámi and are not developed with the purpose of implementing the Declaration.
21. Sweden is unwilling to acknowledge its obligations under the Declaration and often refers to its non-binding status despite its content reflecting customary binding norms and rights. Furthermore, Sweden's understanding of the Declaration, and its explanation of vote is not up-to-date with that of the international community. It is also not updated on recent developments regarding its interpretation and implementation. One of the reasons for this being Sweden's passive participation at international fora such as the UN Permanent Forum on Indigenous Issues and UN Expert Mechanism of Indigenous Rights.

⁹ See recommendation 39 d, CCPR/C/SWE/CO/7; recommendations 145.2-4; A/HRC/29/13 and 14 f, E/C.12/SWE/CO/6

¹⁰ This is how the European Convention for the Protection of Human Rights and Fundamental Freedoms became law in Sweden. See Government bill 1993/94:117 and Act 1994:1219

¹¹ A/RES/69/2 Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples

Nordic Sámi Convention

22. Unfortunately, we regret to inform that the Nordic Sámi Convention still has not been completed and adopted.¹² Negotiations on the Convention have been under way between Sweden, Norway, and Finland and the Sámi Parliaments in the three countries since before the first cycle UPR review of Sweden. The purpose of the Convention is to strengthen domestic norms for Sámi rights in accordance with international standards and to harmonize legislation relating to the Sámi in the three countries. The Convention, containing a chapter on Sámi governance, is a crucial instrument to ensure Sámi autonomy and reform inadequate national legislation.
23. The States involved in the drafting aimed for its completion by March 2016. In January 2017, following renewed discussions, the Governments of Sweden, Finland and Norway initialed a draft Convention to its respective Sámi Parliament. After deliberations within the Sámi Parliamentary Council a few minor, but vital amendments were submitted by the Council to the Governments on the 7th of June 2018. The Council did not receive any response from the States regarding its amendments and therefore again in a letter from 11th December 2018¹³ requested the states to respond to the submitted amendments and reiterated the importance to finalize the work on the Convention.
24. Another seven months have passed, and the amendments have yet not been addressed by Sweden. We express concern over the significant delays and the perceived lack of response and commitment from Sweden on this matter.

Recommendations:

IV. a) That Sweden initiates a process to draft a Government bill on the ratification of the ILO Convention no 169.

IV. b) That Sweden, in the light of recent years' development of international indigenous law, revises its explanation of vote and clarifies its understanding of the Declaration as binding customary law.

IV. c) That Sweden establishes a Sámi strategy and national action plan in close partnership with the Sámi people with the aim to achieve the ends of the Declaration.

IV. d) That Sweden accepts the amendments requested by the three Sámi Parliaments, finalizes its negotiations and adopts the Nordic Sámi Convention without further delay and no later than 2020.

V. Land rights

25. To have access to our lands and exercise control over how it is used and managed is essential to the Sámi people. The lands are fundamental to our livelihoods, culture and languages; to our environment, kinship, intergenerational transmission of our knowledge, well-being, food systems and spirituality. The issue of rights to land and natural resources is therefore front and center of the Sámi Parliaments everyday efforts.
26. The commercial use of land for resource exploitation and extractive industries, large infrastructure projects, mining activities, energy installations, forestry activities, increased recreational activities and tourism, carnivore population management and the impacts of climate change are all recognized as threats to Sámi livelihoods and culture.

¹² See recommendation 39 a CCPR/C/SWE/CO/7 and 14 e, E/C.12/SWE/CO/6

¹³ Decision of the Sámi Parliamentary Council SPR-S 69/2018

27. If Sámi land rights would be fully recognized and the norm of free, prior and informed consent would be respected, the Sámi would have the possibility to impact and influence decision making processes on land use and management and these threats would be decreased.
28. Countless recommendation has been made by special procedures, UN treaty bodies, to Sweden regarding the lack of protection of Sámi land rights.¹⁴ Regrettably, the Sámi Parliament cannot report positive progress on any of these recommendations.
29. The Rönnebäcken case is still ongoing and additional mining concession permits are to be decided by the Ministry of Innovation and Enterprise shortly. Since the last review, we want to highlight a growing area of concern, namely Sweden's understanding and implementation of Sustainable Development Goal 7 of the Agenda 2030. The implementation of this Goal¹⁵ creates a tangible conflict of interest with the tasks of the Sámi Parliament as set out in the Sámi Parliament Act. Large industrial scale wind mill parks, are established on Sámi lands without their consent. Although some Sámi communities have won court cases against some of the developers we see no changes in Government policy and priorities. Instead the Governments' interpretation and national implementation of SDG 7 overrides the Sámi peoples' rights and interests in the name of "achieving green sustainable energy" although it contradicts the very spirit and the purpose of the Agenda.

Recommendations:

V. a) We reiterate previous recommendations (see footnote 14) including that Sweden amends sector legislation on i.a. mining to conform with obligations under international human rights law.

V. b) That Sweden reviews its action plan of Agenda 2030 and conflict of interest concerning goal 7 and collects the views of the Sámi people on this matter.

VI. Lack of data

30. There is no official statistical data on Sámi wellbeing, economic development social status etc. This lack of data makes it challenging to present a comprehensive picture of livelihoods, industry/business, well-being and health, culture and social development, rights recognition, discrimination and the nature of change over time.
31. The Sami Parliament is responsible for the production of some statistics (e.g. on the reindeer industry), but has limited resources and mandate with which to develop and monitor indicators in relevant areas. While the Sami Parliament has an electoral roll which could be a useful source of data, it cannot use this list to produce statistics due to the legislative prohibition of government agencies collecting data on ethnicity. Even collection of such data on voluntary basis is prohibited by law.

Recommendations:

VI. a) We reiterate previous recommendation¹⁶ and that Sweden should make legislation amendments to allow for collection of data on the Sámi with their free prior and informed consent.

¹⁴ See recommendations 82 and 83, A/HRC/33/42/Add.3; 14, 14 a-d, E/C.12/SWE/CO/6. 17 a)-c) CERD/C/SWE/CO/22-23

¹⁵ That Sweden should be the first fossil free welfare state, Swedish Action Plan 2018-2020 of Agenda 2030.

¹⁶ Recommendation C.5, CERD/C/SWE/CO/22-23

VI. b) That Sweden should enhance the role and capabilities of the Sámi Parliament in statistics collection.

VII. Establishment of a National Human Rights Institution¹⁷

32. In February 2019 the Ministry Publication (promemoria) regarding proposals on the establishment of a National Human Rights Institution (NHRI) in Sweden¹⁸ was presented and circulated for comments to government agencies, civil society and others. The process is still ongoing and the Sámi Parliament awaits the final conclusions and outcomes.
33. The Sámi Parliaments welcomes the steps taken towards the establishment of a Swedish NHRI. However, we are concerned about the proposal not fulfilling the Paris Principles pertaining to independence, which would hinder the institution from receiving A-status. We would also like to raise concerns on how the proposal is not adequately ensuring that all international human rights law and instruments on rights of indigenous peoples will be covered by proposed mandate and work of the institution. We are also concerned about the lack of references to have Sámi representatives or knowledge on Sámi rights represented within the institution.



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¹⁷ See recommendations 145.10-14, A/HRC/29/13

¹⁸ Ds 2019:4 Förslag till en nationell institution för mänskliga rättigheter i Sverige