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**Submission for the UN Human Rights Committee´s review of Sweden during its 116th session, 7-31 march 2016**

**Report from Sami Parliament in Sweden**

**1.(b)**

The Sami Parliament is a popularly elected body and a government agency and the highest representative organ of the Sami people in Sweden. Through amendments to the Instrument of Government the Sami people are now recognized as a people in the Constitution and since 1977 recognized as an Indigenous people in Sweden.

**However the State of Sweden does not fulfill their obligations towards the Sami People. The decision**made by the Swedish State Parliament in the creation of the Sami Parliament in Sweden in 1993 stated that the Sami Parliament shall not be a body for self-determination for the Sami People. In this way, little has changed since the creation of the Sami Parliament, except for the Swedish State documented opinion as Sweden stated in its answer to the Universal Periodical Review in its 2014 review report that the self-determination of the Sami through the Sami Parliament lived up to the requirements of the UNDRIP.

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. 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.

N**o formalized consultations** or FPIC procedures between the Swedish and Sami political leaders in Sweden on matters affecting the Sami exist, even though the Sami Parliament has long pushed for a creation of such, the cultural funding from the State to the Sami Parliament has decreased since the original budget in 1993, and this whilst the Sami Parliament budget is, in fact, decided by the State in its allocations. Operating as an administrative branch of the Swedish State Government as an Indigenous Sami Parliament is not enough. Despite what the state of Sweden might present to the international community, the Sami People living within Sweden continue to struggle for true and actualized justice, equality and self-determination.

On matters of language and education, the state created, without consulting the Sami Parliament, a temporary project aiming to rapidly create more teachers in the Sami languages. However it will take most of the applicants 8 years to become a teacher because they are not allowed to apply for CSN, student aid. Only Sami employed by municipalities are in fact able to enroll and since they work, they can only study part time and it will take them twice as long as an ordinary education to become a teacher. Meanwhile, another generation of Sami children pass through the Swedish school system without being allowed to speak, develop or learn the Sami language more than an average of 45 minutes a week.

Sweden has faced international criticism from the UN, European Council and many other actors, as well as repeated reports and demands from the Sami Parliament because of the situation for Sami children in the school system, but there seems to be little interest in true betterment and the Sami Parliaments suggestions are disregarded. The lack of teachers, scheduled time, funding, adequate laws and systems leaves Sami children and youth without their language and identity.

**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 the Sami as a People can pass on to our children and future generations as a living culture. The richness and complexity of the Sami cultural practices is being diminished by State policies and decisions.

The Government stated that during the period concerned several court rulings have mentioned the International Covenant on Civil and Political Rights. All these cases concern the reindeer herding or reindeer husbandry of Sami villages and Article 27 of the Covenant. In its judgment of 21 December 2010 (case no. M 145-10) which concerns the construction and operation of a windfarm in a particular area, the Land and Environmental Court concluded that a permit for wind turbines was contrary to Article 27 of the Covenant. Therefore the company’s application could not be granted. - The decision was overtuned upon appeal and

Supreme Administrative Court granted the permit.

Swedish law does not meet the Swedish human rights commitments when it comes to Sami´s rights to land and water, language or culture. The 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 has protection under international law to natural resources to maintain the Sami culture and reindeer pastures. The Sami Parliament considers that Sweden must ratify the ILO 169. Authorities which decide on the exploitation of natural resources in the Sami must have the tools to be able to decide to land is primarily of reindeer husbandry.

24.(a)

The Sami feel that their lands are so incredibly pressed that they cannot withstand any further exploitation. 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. Of Sweden’s total ore production, more than 96% comes from the mines in Sápmi. 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.

The Government allows and supports the acceleration of exploitation or the natural resources in the traditional territory of the Sami people, against the will of the Sami People. The mining legislation has changed in that Sami Parliament get referrals to applications for exploration permits on minerals and may submit its opinion. However in practice these submissions from the Sami Parliament are not taken into account or given any consideration and thus has no actual inpact. Sami Parliament demands vast changes in the Mineral Regulation to ensure the right for free, prior and informed consent (FPIC) for the Sami Parliament, Sami villages and Samis who are affected.

A Sami village is not a traditional village, but a administrative and economical organisation created with the intention of keeping reindeer. It is regulated by the Reindeer Husbandry Act, the only law regulating Sami land and water rights today.

The Reindeer Grazing Act provides for certain protections in regard to land use but the implementation of this law distinguishes reindeer herding Sami from those who are not, thus granting rights based on property and profession and unnecessarily causing divisions within the Sami people. No land or water rights are granted to the non-reindeer herding Sami population, as they are not members of the Sami villages, effectively denying the Sami the broader rights linked to land and water, both as a livelihood and in relation to rights to culture, health, and dignity as a people. As a consequence, non-reindeer herding Sami are excluded completely in the mining prospecting processes, even when mining projects are of concern for the larger Sami community. In certain cases the majority of the local Sami population has been denied standing in court process against mining companies.

The Sami Parliament is not singled out by the Government and authorities to lead or participate in assignments that directly affect the use of land in the Sami territory. These assignments are instead given to other authorizes.

24. (b)

Sami Parliaments in the Nordic countries discussed the work of the Nordic Sami Convention at parliamentarians conference in Umeå in February 2014. The Sami Parliaments require that negotiations be finalized in 2016 and will not accept further delay. The Sami Parliament also recommends the Swedish government to prioritize the immediate ratification of ILO 169.

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. Sweden’s Equality Ombudsman has agreed to

collaborate in the process.

Suggested recommendations, Question 24:

• Sweden should ratify ILO Convention No. 169 as a matter of urgency and review all laws and policies to place them in accordance with the Convention;

• The Government should ensure the timely negotiation and adoption of a Nordic Sami Convention in line with well-established principles on the rights of indigenous peoples;

• The Government should initiate legislation to ensure an absolute right to free, prior and informed consent to any exploitation of natural resources in traditional Sami territory, as per the right to self-determination established by international human rights treaties to which Sweden is a party. In exploitation of land and water ensure that the all Sami concerned are included in the process hence respecting the Sami as a People;

• The Government should establish a truth commission on the treatment of the Sami people throughout Sweden’s history and establish procedures for redress and compensation for historic and present human rights violations of the Sami people

24. (c)

Sami individuals, organizations and Sami villages have to themselves to 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 200833 and remains today. In addition, the Swedish Legal Aid system is not a collective provision, even for the Sami people or communities, but is only for individuals- something in itself that is a violation of UN Treaty Body conclusions and recommendations and EU policy.

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.

25.

 The Sami Parliament has demanded that the Minister of the law on national minorities and minority languages 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 language rights legislation and maybe in other legislation expressly provide what the individual has the right to request of the principal performing LSS.
Disabled Sami are not included today's language rights law and has no right to support or service in the Sami language. The implementation of the Sami peoples rights 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 Sami people's needs in municipal and government sectors.