



Stockholm, 4 May 2021

Transitional justice measures to address the legacy of serious violations of human rights and humanitarian law committed in colonial contexts

Submission on Sweden and special comment on Colombia and indigenous peoples

1. Please indicate which mechanisms have been established in the concerned country to hold accountable persons accused of committing or bearing responsibility for gross violations of human rights and serious violations of international humanitarian law in colonial contexts. If such mechanisms were not adopted, please explain why. Please indicate the challenges and opportunities encountered in investigating, prosecuting and sanctioning such crimes.

There are no such special mechanisms in place. The current situation is one where violations of human rights probably would not amount to gross violations of human rights or serious violations of international humanitarian law. However, the effects of past violations related to the colonisation of Sápmi by the Swedish state and private colonisation encouraged and facilitated by the state, are seen still today. State measures have also contributed to divisions within the Sami people, creating serious internal conflicts. The state furthermore, in despite of numerous recommendations from UN human rights institutions, has yet not ratified ILO 169 and at its adoption, made clarifications to the UN Declaration on the Rights of Indigenous Peoples including the government's interpretation of limiting nature concerning the right to free, prior and informed consent in matters that effect the Sami people.¹

Groups of Sami have challenged the state in civil courts attempting to re-conquer rights that were lost along years of colonisation. The most important recent case is the one of the Girjas Sami village, challenging the state for the right to regulate themselves hunting and fishing rights on the their lands, which had been lost to the state, i.e. the state had taken over the right and responsibility to regulate hunting and fishing rights. The case went all the way to the Supreme Court where the Sami village in 2020 was granted the right to regulate hunting and fishing rights. However, despite the verdict of the Supreme Court, the state has not recognised the same right to other Sami villages. This leaves the other Sami villages to decide whether or

¹ <https://www.un.org/press/en/2007/ga10612.doc.htm>

not to sue the state in order to re-conquer the same right for their respective villages. This practice, where the rights have to be re-conquered in court is both costly and time consuming and should be replaced by active and progressive measures by the government to fulfil and protect the rights of the Sami people.

Regarding the Girjas Sami Village trial it is also worth mentioning the racist language used by the lawyers representing the state and their questioning of academic research in favour of the Village as being “biased”. Furthermore, the many threats and acts of intimidation received by members of the Village during and after the trial and the unsatisfactory protection and law enforcement on part of the state in these and other cases of hate crimes against the Sami.²

Potentially on the positive side is the recent creation of a parliamentary committee which is to look into the effects of the Girjas ruling and other issues related to the Sami people.

2. Please indicate which measures have been established in the concerned country to inquire on and establish the truth about gross violations of human rights and serious violations of international humanitarian law committed in colonial contexts. If such mechanisms were established, please indicate how was the outcome of the inquiries made public and conveyed to victims and civil society in the affected country as well as to civil society in the former colonizing power. If such mechanisms were not adopted, please explain why. Please indicate the challenges and opportunities encountered in this regard, whether victims and affected communities have been effectively consulted in the design and implementation of these measures, and whether a gender perspective was adopted.

No official measures have yet been taken but there is an ongoing dialogue between the Swedish government and the Sami Parliament in Sweden which is intended to lead to the establishment of a truth commission. A committee of the Sami Parliament conducted a consultation within the Sami community in Sweden regarding the creation of a truth commission which delivered its report 31 March 2021.³

A non-governmental truth and reconciliation initiative was concluded by the Swedish Church – an institution highly involved in the historic repression of the Sami people for centuries when acting as the state church and as such a key representative of the state in Sápmi. From the year 2000, the church was separated from the state and in 2016 – as a part of a process that was initiated already in the 1990s – the church published a white paper on its role in the repression of the Sami people.⁴

3. Please indicate which measures have been established in the concerned country to provide reparation to victims of gross violations of human rights and serious violations of international humanitarian law committed in colonial contexts. If such processes were established, please indicate which type of reparation was provided to victims (for example: restitution, compensation, satisfaction, and/or rehabilitation). If such measures were not adopted, please explain why. Please indicate the challenges and opportunities encountered in

² Please refer to this article in English for a short explanation: <https://www.thelocal.se/20200226/reindeer-shot-and-tortured-after-hate-and-threats-towards-sami-village/>

³ https://www.sametinget.se/rapport_sanningskommission

⁴ <https://www.svenskakyrkan.se/forskning/the-church-of-sweden-and-the-sami-a-white-paper-project>

this regard, whether victims and affected communities have been effectively consulted in the design and implementation of these measures, and whether a gender perspective was adopted.

No major measures were adopted more than the return of the remains of Sami people from state institutions and an excuse pronounced in 1998 by the then minister for Sami issues. The excuse was nevertheless not followed by a change in political measures and treatment of the Sami people on part of the national government. Sweden has however recognised the Sami both as a people, a minority and an indigenous people.

4. Please indicate which measures have been established in the concerned country to memorialize the gross violations of human rights and serious violations of international humanitarian law committed in colonial contexts. If yes, please indicate whether memorialization processes were established in the affected country and /or in the former colonizing power. If such measures were not adopted, please explain why. Please indicate the challenges and opportunities encountered in this regard, whether victims and affected communities have been effectively consulted in the design and implementation of these measures, and whether a gender perspective was adopted.

No significant measures have been adopted.

5. Please indicate which measures have been established in the concerned country to guarantee non-recurrence of the gross violations of human rights and serious violations of international humanitarian law committed in colonial contexts. If such mechanisms were not adopted, please explain why. Please indicate the challenges and opportunities encountered in this regard, whether victims and affected communities have been effectively consulted in the design and implementation of these measures, and whether a gender perspective was adopted.

No significant measures have been adopted and historical developments still have a serious impact on the lives of the Sami people today – both as individuals and as collectives.

6. Additional comment on Sweden:

Sweden also has a history of colonial power through its colony Saint-Barthélemy in the West Indies and through this and other engagements has played a role in slave trade, including through the Swedish Africa Company and the colony Cabo Corso in today's Ghana. This historic role has not been addressed by the state.

7. Additional comment on Colombia and indigenous peoples in general:

Please refer to the attached report “Indigenous peoples’ participation in transitional justice – opportunity for change? Lessons from Colombia” also available in English on our webpage and in Spanish (summary):

<https://mrfonden.se/wp-content/uploads/2020/12/indigenous-peoples-participation-in-transitional-justice.pdf>

<https://mrfonden.se/wp-content/uploads/2020/12/participacion-de-pueblos-indigenas-en-justicia-transicional.pdf>