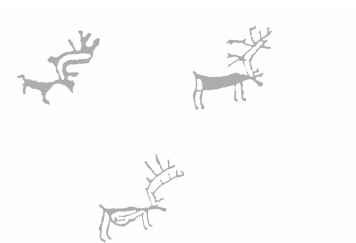


SÁMI REINDEER HERDERS – LAND AND IDENTITY

Non-recognition of indigenous land rights –
reasons, effects and potential developments
(the Sámi Indigenous People in Sweden)



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ABSTRACT

The cultures, worldviews and identities of the indigenous people of Sweden – the Sámi, have been shaped by the direct dependency on the resource base of their traditional land. Sámi identity as indigenous peoples is bound to the ancestral land, to the personal way they relate to its natural environment and to a fundamental feeling of *connectedness with the natural environment in its entirety*.

With the advance of the Swedish state into the northern territories the Sámi were displaced from their lands by variety of means. The big change, however, came in the 19th c. with the Swedish Sámi policy of assimilation and selective segregation, which hit on the recognition of Sámi identity and thus significantly decreased the number of Sámi who could claim their ancestral lands. Where could be found the reasons for the changes in politics towards the Sámi and what were the consequences of these changes? This study traces the history of interaction of the Sámi and the Swedish state since their initial contacts and looks at the developments in the political, legal, economic, and ideological realms which formed the relationship between the Sámi and Sweden.

The contemporary conflict between the two stakeholders is centered on the recognition of the Sámi status as indigenous people which will in turn provide for the recognition of their rights over the ancestral land. The land, which is the very foundation of indigenous people identity and has deep spiritual importance for them. To answer the question how the Sámi could maintain the fundament of their identity, the thesis studies the reasons behind the non recognition of indigenous rights of the Sámi in Sweden. By redefining the problem as conflict over land it looks into the interests, uses and claims of both stakeholders and tries to predict three possible ways of development of the present situation.

Keywords: *Sámi in Sweden, indigenous land rights, indigenous identity, Swedish Sámi policy, Sámi reindeer herding*

TABLE OF CONTENTS**ABSTRACT**

I. INTRODUCTION	p. 1
1. The Sámi in Sweden	p. 2
2. Problem outline	p. 2
3. Objectives and scope	p. 2
4. Research questions	p. 2
5. Research methods and materials	p. 3
6. Obstructions and limitations	p. 4
7. Problem conceptualization	p. 5
8. Summary of chapters	p. 5
II. CONFLICTING WORLDVIEWS	p. 6
1. The concept of Territoriality	p. 6
a. Sámi concept of Territoriality	p. 6
b. Concept of Territoriality of the Scandinavian state	p. 6
2. Land Ownership vs. Land Use	p. 7
3. Clash of worldviews	p. 8
III. HISTORY OF LAND USE AND CLAIMS OVER THE TERRITORY	p. 9
IV. REINDEER, HERDING, INDUSTRY AND THE ARCTIC ECOSYSTEM	p. 18
1. Sweden's northern environment and climate	p. 18
2. Sámi reindeer herding and land use	p. 18
3. Reindeer and land	p. 19
4. State industry and land use	p. 20
5. Conflicts over land	p. 22
V. LEGISLATION AND COURT VERDICTS	p. 23
1. History of Swedish Sámi Policy	p. 23
2. The Sámi in Swedish legislation today	p. 29
3. The Land conflict today	p. 31
VI. LAND, IDENTITY AND ENVIRONMENT	p. 34
1. Land and Indigenous Identity	p. 34
2. Sámi Traditional Beliefs	p. 35
3. Sámi Concept of Nature today	p. 36
4. The Importance of Nature for Sámi Identity	p. 36
5. Challenges	p. 38
VII. CHANNELS OF INFLUENCE AND POTENTIAL DEVELOPMENTS	p. 40
1. Channels of Influence on National level	p. 40
2. Transnational Ethnic groups Polity	p. 40
3. Channels of Influence on International level	p. 41
4. Scenario 1: Sweden and the ILO convention 169	p. 41
5. Scenario 2: The Example of Norway	p. 42
6. Scenario 3: Regional authority and common economic profits	p. 43
VIII. CONCLUSION	p. 44
IX. BIBLIOGRAPHY	p. 45

I. INTRODUCTION

1. THE SÁMI IN SWEDEN

The Sámi are Indigenous people of the Arctic whose traditional territory is cut today by the political borders of Sweden, Norway, Finland and Russia. The Sámi traditional homeland – the territory they occupied thousands of years before the Nordic states came into being and colonized the north – is called “*Sápmi*” (Sámi land).¹ Sápmi never had explicit borders, in the western perception of strict territorial boundaries, but it is well known which areas it covered and where it reached to. Sápmi in Sweden covers about 35% of Sweden's land area, or 157,487 km²,² and covers the mountain range area, the north of Sweden and to the south reaches as far as Härjedalen, Värmland.³

According to climate and vegetation Sápmi can be divided in four different geographical regions – the Arctic coast (to the north-west), the plateau (of Finnmark), the Scandian mountain range with adjacent forests, and woodlands in northern Sweden, Finland and the Kola Peninsula.⁴

The number of Sámi today is estimated at 70,000-80,000, of which about 40-50,000 in Norway, 17-20,000 in Sweden, 6-10,000 in Finland and 2,000 in Russia.⁵

The estimates vary greatly since there has not been systematic census on the number of Sámi and the official census does not ask for the ethnic origin of the citizens of each state. Assimilation and migration from the traditional territories also add to the uncertainty in numbers and modern Sámi official sources still base their numbers on studies from the 1970⁶ which only shows the difficulty in obtaining new and specific information about the Sámi population in Sweden. Today the Sámi are minority not only as a group within the state but also as population in their traditional territory – in northern Sweden the Sámi population is only about 10% of the total population. The same is in the rest of Sápmi – only in few settlements the Sámi are majority – five of them in Norway and one



**Sápmi, the Sámi traditional homeland,
overall about 600,000 km²**
source: IWGIA, 2006

¹ John T. Solbakk, *The Sami – one People in four countries*, Resource Center for the Rights of Indigenous People (updated 2006), http://www.galdu.org/govat/doc/eng_sami.pdf, (accessed March 12, 2007)

² *About Sápmi – map*, (Sámi Information Center, 2006), http://www.eng.samer.se/servlet/GetDoc?meta_id=1032, accessed March 12, 2007

³ Johan Eriksson, *Partition and Redemption. A Machiavellian analysis of Sami and Basque Patriotism* (Umeå: Umeå University, 1997), pp.77-78; Åke Jünge, *Paradigm Shifts in Southern Sámi research*, in *Discourses and silences. Indigenous peoples, Risks and Resistance*, ed. Cant, Goodall and Inns, (New Zealand: Levanger Videregående Skole, 2005), pp.57-68

⁴ Lars-Anders Baer, *The Saami, an Indigenous People in their own Land*, in *The Sami National Minority in Sweden*, ed. Birgitta Jahreskog, (Uppsala: The Legal Rights Foundation, 1982), p.12

⁵ Sami Information Center, *The Sami in figures*, (last updated 2006), http://www.eng.samer.se/servlet/GetDoc?meta_id=1536, accessed March 1, 2007

⁶ Sámi Information Center (updated 2006), Resource Center for the Rights of Indigenous People (updated 2007)

in Finland. In Sweden the most densely populated by Sámi is Norbotten county's inland – esp. Jokkmokk, Gällivare and Kiruna.⁷

2. PROBLEM OUTLINE

Before the expansion of the Nordic states to their territories, the Sámi were semi-nomadic hunter-gatherers, their economy and life style developed in the context of the natural resources, climate and seasonal cycles of the area. In the daily interaction with nature they developed a complex worldview central to which is *the personal connectedness with the natural environment*. Sámi identity as indigenous peoples is bound to the ancestral land, to the personal way they relate to the natural environment. In the long process of interaction with the Scandinavian state the Sámi were displaced from their land by a variety of means. The 19th c. Swedish Sámi policy of assimilation and selective segregation, based on nationalism and racism, hit on the recognition of Sámi identity – both as self-identification and as identification by the dominant majority. Sámi as ethnic identity was tied to the reindeer herding occupation, and the right to be engaged in that occupation heavily restricted by legislation. Thus, the majority of the Sámi were not Sámi anymore, were assimilated and lost their identity. Today, the Sámi in Swedish constitution and legislation are defined as ethnic minority and have their language and culture as civil rights of all minority groups within Sweden. The right for use of the ancestral lands, however, are being lost because of incomplete legislation which allows these rights to be contested in court, and political system which has economic interest in not managing the situation. The present struggle of the Sámi is recognition of their status as indigenous people, which would recognize also their rights over the ancestral lands.

The focal point of the conflict – the loss of the winter grazing lands of the Sámi reindeer herders (which concerns the right of the Sámi for their land everywhere) has several dimensions – political, legislative, cultural, economic, and environmental. In terms of legislation – the winter grazing lands are not territorially defined, which leaves for the courts to simply deny the rights for land use. The cultural dimension is that the Sámi, as indigenous people, are connected to their land on many levels, the land is the basis of their identity. The political dimension is that by not recognizing the indigenous status and land rights the state maintains full sovereignty over the natural resources in the area. The economic dimension is interwoven throughout – as reason and outcome. Last, but not least, the Arctic ecosystem is the resource base and the fighting ground of the conflict and is suffering the impact from all present and future developments. Thus, the problem spreads throughout all aspects of both societies and their environment – natural and institutional – and goes deep to the fundament of modern society and its clash with other, not necessarily outdated, values. It seems too complex to be understood, or elucidated, which is precisely the reason it was chosen for this thesis.

3. OBJECTIVES AND SCOPE

The study aims to explore the reasons behind the non recognition of indigenous land rights for the Sámi in Sweden. The consequent aim is to trace one of the outcomes of the conflict – the effect on the identity of Sámi reindeer herders. Finally, the study will outline possible future ways of development from the situation and try to look for potential points of co-existence.

The study considers the system: Sámi reindeer herders – the state of Sweden. However, since none of the two stakeholders has ever been isolated solely in this relationship, when necessary I consider processes of larger scale – political, economical, social, influential ideas – on regional and international scale.

⁷ J. Eriksson, *Partition and Redemption.*, pp.78-79

4. RESEARCH QUESTIONS

The connectedness with nature is important part of the identity of Sámi reindeer herders and is formed by daily contact with the ancestral lands. Given the modern mechanization of the occupation, which has decreased this contact, it could be lost. The question this study initiated with, was: *A. How can the Sámi reindeer herders maintain the connectedness with nature today?* The background research into the problem, however, showed that the ability of Sámi reindeer herders to maintain daily contact with the ancestral lands depends first of all on the recognition of their indigenous status and land rights.

Therefore, the question which has to be answered first is: *B. What are the reasons behind the non-recognition of indigenous rights for the Sámi in Sweden?* A schematic consideration of the problem, thus articulated, with the help of a CLD⁸, showed two specific questions that need to be answered: *C. How and why have the interest in the territory been changing, thus changing the claims over the lands?;* and *D. How and why have the legislation and court verdicts been changing?*

Once the nature of the conflict and its reasons are thus understood, could be considered one of the outcomes of the problem – Sámi identity and its personal connectedness with the natural environment. These questions are: *E. What is the importance of ancestral land for the indigenous identity (and the personal connectedness with nature);* and *F. What is the effect of the land conflicts on Sámi identity and the personal connectedness with nature.*

5. RESEARCH METHODS AND MATERIALS

The study approach was deductive⁹ – hypothesis formed by background theoretical study, which is to be checked and complemented against data collected in field work. The hypothesis was that Sámi reindeer herders today have maintained the personal connectedness with nature¹⁰ and it is important for their identity. In terms of epistemology – the interpretative position of hermeneutics (approach towards the problem, methods of collection of data and interpretation of the findings, based on deeper, holistic understanding of the problem and the relations between the separate units and the whole¹¹) fits my previous academic background (*European History and Philosophy and civilization of the Medieval world*) and mind set. It is also the best suitable for the subject of this study since my aim is to understand the problem as a system of interactions between variables.

My original research strategy was to combine literature survey with participant observation and qualitative open ended interviews. As is discussed in *Obstructions* below, the field study failed at the later stage of the research. The strategy thus had to center on literature survey, analysis of the problem using CLD¹², and few meetings with key people. I met with an academic and author in the field of Sámi rights – Ulf Mørkenstam from the university of Stockholm and with the Danish anthropologist Claus Oreskov, previously involved in the Sámi land rights struggle, both of whom were very helpful in providing additional information and connecting the scattered knowledge the literature provides. A long contact for meeting with IWGIA (the International Work Group for Indigenous Affairs, Copenhagen) ended with short written information received by email. In

⁸ *Causal Loop Diagram – plotting of the interconnections between the variables involved in a problem, by tracing the links of causality and feedbacks among all variables. The method is used to provide for deeper understanding of a problem, enabling analysis of its nature, potential effects and points of influence.

⁹ Alan Bryman, *Social Research Methods*, (Oxford: Oxford University press, 2004), p.9

¹⁰ *which the background literature study of traditional Sami religious beliefs (and their continuance into the present) showed to be fundamental for Sami identity and to have been formed in the daily interaction with nature.

¹¹ A. Bryman, *Social Research Methods* pp.13-14; Mats Alvesson and Kaj Skoldberg, *Reflexive Methodology: New vistas for qualitative research*, (London: Sage publications, 2000), p.66

¹² *see Problem Conceptualization, below, for outline of the understanding gained through the CLD

choosing the literature I have strived to find the balance between more recent studies and the in-depth researches of Sámi issues in Sweden. Literature on the historical interactions and legislation is not scarce and available in English, but the few very good books on Sámi identity and culture today are in Swedish language. I did a thorough search of the libraries throughout Sweden through the Libris network very early in the research process. The most useful sources I found in volumes about the modern issues concerning indigenous people throughout the world. This provided broader scope and better conceptualization about the interactions between dominant cultures and the problematic of indigenous people in the world system today. For the latest research about the Sámi I have used the official Sámi sources – such as the Centre for Sámi Studies at the University of Tromsø and the Resource Center for the Rights of Indigenous People, both in Norway, and in Sweden – the Sámi Parliament and the Sámi Information Center. Other useful recent reports were accessible online from IWGIA, TRN (Taiga Rescue Network Group, Jokkmokk). In some cases I have used the primary sources – such as the ILO 169, the UNEP report GEO 3 on the state of the environment, while in others, such as the Reindeer Herding Acts I have verified the information provided by different researchers discussing these, and tried to cross check most of the details. Some issues are so widely discussed they become common sense and the broad scope of my work cannot allow for in depth discussion of each document concerned. I also consulted different UN web sources for human rights and indigenous people and a number of reference works on history and human developments in the Lund University libraries, not all of them used and listed here. For the part of my study which concerns Identity, and since I could not perform my own field work, I have used previous studies on identity and the connectedness with nature. Timm Rochon's field work (in 1990 in Jokkmokk municipality in Sweden), found that today the Sámi pre-Christian concept of nature is still strong and important part of Sámi identity.¹³ The other field work I used is Tim Ingold's observations from the Skolt Sámi (in 1971-1972) and the Finns in Salla district (1979-1980), both in Finnish Lapland. The study is important for its comparison of the formation of personal identity in relation to the perception of the environment. Since my own research looks from wider perspective, at patterns and ideas, I have used the Skolt Sámi example (rather than be limited to specific geographic region) in discussing the extent to which Sámi identity is connected with the natural environment.

6. OBSTRUCTIONS AND LIMITATIONS

The financial aspect of such a research proved to be an important obstruction. The originally planned study included field trip to Jokkmokk, Sweden. The purpose was to perform a number of open ended qualitative interviews with local Sámi people and key figures, combined with valuable observation of the living culture – which has active presence in Jokkmokk. I established contacts with local people and representatives of the Sámi Parliament, the Sámi cultural institutions – the library, the school, the Ajtte museum, and TRN – an NGO which works with the impacts of timber industry on the local culture and environment. However, the representatives of a foundation who, I was assured in January, will finance my research, never returned my calls nor did let me know (including as of today) if that promise was withdrawn. I did not want to send questionnaire by email if there is a chance to go and talk personally with the same people and not lose the observation aspect of the personal investigation. The option of making interviews by phone was not considered appropriate, due to financial reasons and the lack of personal touch in such interview. However, with the realization that the field study is failing as an option, the scope of the work was broadened

¹³ Rochon interviewed 40 Sami, of which 14 – reindeer herders, 6 – in the arts and crafts sector and the rest were from educational institutions – teachers, researchers, academics and students, and from the administration.

to provide better insight into the situation and its ways for development. This larger scale could be considered as actually an advantage of the work here presented.

A limitation constantly experienced was the complexity of the problem. The problem had to be considered in its entirety, at least initially, for the author to be able to get insight into its complexity and interrelatedness with all aspects and variables. What mostly posed difficulties was the wide scope which had to be analyzed for a sustainability science study. It was difficult to balance between going too deep into one of the aspects or covering too superficially another. However, in depth and full covering of all could not be fitted in a Master thesis both as volume and as duration of the research. At the end, there are always aspects which could have taken more attention but part of the difficulty of doing interdisciplinary research is probably the need to rest with the understanding of *how* the problem could develop, rather than trying to find out *how much*. Also, discussions of the Sámi in Sweden from such *all-including*, sustainability science perspective do not exist, so I had difficulties collecting all the information from the different sources, reading a bulk of material to provide only tiny amount of information and yet leaving out some spots which cannot be covered at the present stage and by a Master thesis.

7. PROBLEM CONCEPTUALIZATION

The problem between the Sámi in Sweden and the state of Sweden today is a conflict for territory – both groups occupy one and the same finite territory, important for different reasons (thus differing claims), and used in different ways. The state has economic (and political) interest in the territory and the more that importance grows, the more will the state apparatus struggle to maintain control over the territory. The contesting group, the Sámi, have different interest in the territory, and its own pattern of land use. Both land uses are in conflict, with contradictory requirements for the natural environment. The more each of them takes from the territory for its own use, the less is left available for the other.

The Sámi, as indigenous people have immemorial right over these lands, given by the history of settlement and use of the land. The state has claimed the territory and its resources at the time of its expansion into the north since the late Middle Ages. From the perspective of the state, the territory was *terra nullius* – without ruling authority or territorial boundaries, thus free to claim and in its right to keep. From the perspective of the indigenous people, they have been always living on these lands, since *time immemorial* and their lands, cultures and lives were colonized and subjugated by the invading state. The incompatible worldviews of both sides – as the idea of *Nature and natural resources* (raw material for development or *commodity* for the one, and for the other – *sacred entity* whose different values and aspects are equally important and inseparable) add to the clash of cultures and value systems. The incompatible perceptions of especially crucial points as territorial boundary and land ownership provided for lack of understanding of the *other* and were decisive in the partition of Sápmi.

The ability of the modern state to set the framework and maintain political, economic and social control within its borders gives the means to take over the full control over the contested territory. The justification for that is found in the influential ideas and social paradigms, also created by the dominant majority. The policies applied (of assimilation) have fundamentally decreased the number of ethnic Sámi who could have land claims as indigenous people today.

The large scale industrial development in the area disturbs the balance of the fragile Arctic ecosystem, which impact the reindeer herders mental and physical wellbeing. The pressure for economic development on reindeer herding has brought mechanization of the industry, which despite its benefits for making labor easier has its impact on the environment. Another, even more fundamental impact is that mechanization detaches reindeer herding and the Sámi herders from nature. While their identity is continuously created in the daily contact with nature, the special

feeling of connectedness with the rest of the environment could eventually disappear with increasing modernization of the area. Possible solutions to the situation today could lie in finding a mutually beneficial economic activity on the common territory and some degree of decision making power for the Sámi in the territory.

8. SUMMARY OF CHAPTERS

Chapter two outlines the idea of the fundamental difference between the worldviews of the two stakeholders. The most crucial of them has proved to be the concept of *territoriality* and the concept of *land ownership*. Chapter three discusses the history of interaction of the Sámi and the state of Sweden from their initial contacts. It shows the international and regional influences and national developments the state of Sweden was going through which defined to a great extent its political decisions concerning the Sámi. The chapter focuses on the use of territory throughout these processes and the subsequent claims both stakeholders had. Chapter four continues the discussion in today's conflict over the land and the conflict of reindeer herding and the state in use of the territory. Chapter five discusses the changes in legislation concerning the Sámi, throughout history, and the underlying reasons for that – economical, political, not least societal paradigms. Chapter six focuses on the impact the loss of land would have on the identity of the reindeer herders since it is bond to the land. Chapter seven attempts to outline future developments of the situation which could allow for the Sámi to maintain their land.

II. CONFLICTING WORLTVIEWS

1. The concept of Territoriality

The concept of territoriality is distinctly contrasting for both sides and has had a significant role in their political relationship. It was a major drawback in the Sámi struggle for recognition of their rights over the land and water.¹⁴ Even more fundamental than the clash of contradictory concepts itself was, as Forrest says, that the state considered its view on territoriality as “universal” and did not acknowledge that the Sámi concept differs and could be equally “true”.¹⁵

a) Sámi concept of territoriality

The key to understanding Sámi territoriality is the *sijdda* system – the basis of Sámi society as a social, economic and local decision-making form of organization. The *sijdda* was collective unit consisting of several families (with flexible number – two, three – up to ten) who were both living and fishing /hunting together. Each *sijdda* controlled certain territory which covers a broad area with different zones, used throughout the year for different purposes. In the spring and summer the *sijdda* allocated individual fishing and hunting areas to the families (the sub-boundaries depended on the size and needs of the family). In the autumn the families gathered together again in the shared dwelling and worked together to store food for the winter. During the winter the *sijdda* functioned as social place and legal council to settle disputes and manage contacts with the other *sijddas*. The territory of each *sijdda* was known and respected by the neighboring ones and within its area only its members were allowed to hunt and fish. However, some degree of cooperation and sharing of land in the boundary zones was possible¹⁶. The territory was shaped following seasonal migration and land use was adapted to the annual natural cycle. The *sijdda* system existed since the 1500 BC and the last surviving one was the Skolt Sámi *sijdda* – Suenjel where people continued living on fishing and hunting until the beginning of the 20th c.¹⁷ By the 11th c. the *sijdda* territories were more or less independent from each other, without central governing unit and serving as local authorities for economic, legal and social issues¹⁸.

The traditional homeland – Sápmi – even though diffusely defined, does have its borders and is internally separated into areas defined by types of livelihood and language differences. The Sámi language is divided in nine distinct separate languages further subdivided in many local dialects. Due to the geographical distances dialects far from each other could be difficult in communicating with each other. These cultural borders are not static and run across the borders of today's states.¹⁹

Thus, Sámi territoriality is characterized by mobility and diffused boundaries and is essentially incompatible with the territorial organization of the state (a politically integrated entity with a fixed territory and a central authority)²⁰.

b) Concept of Territoriality of the Scandinavian state

The Nordic kingdoms, before they met the Sámi, were federations of provinces with territorial units – the district (*härrad*) and the larger region (*län*), consisting of districts. Each

¹⁴ J.Eriksson, *Partition and Redemption*, pp.79-80

¹⁵ Scott Forrest, *The territorial dimension of state-Sámi politics*. in *Conflict and Cooperation in the North*, ed. Kristina Karppi and Johan Eriksson, (Umeå: Folkningsprogrammet Kulturgräns Norr, 2002), pp. 251, 165

¹⁶ Odner, in S.Forrest, *The territorial dimension of state-Sámi politics*, pp. 253-254

¹⁷ S.Forrest, *The territorial dimension of state-Sámi politics*, p.252; Magnus Mørner, *Land Rights of the Sami and the Indians*. in *The Sami National Minority in Sweden*, ed. Birgitta Jahreskog, (Uppsala: The Legal Rights Foundation, 1982), p.38

¹⁸ J.Eriksson, *Partition and Redemption*, p.82

¹⁹ J.Eriksson, *Partition and Redemption*, pp.78-80

²⁰ S.Forrest, *The territorial dimension of state-Sámi politics*, pp. 251, 253

territorial unit had a common assembly – *Thing* with regular meetings on a fixed place and with legal rules. There was a central power – a ruler (king) whose authority was represented in the territories belonging to him. The society was hierarchical and social status depended on property – the free householder (yeoman) who owned the land was higher in status than men in service, freed slaves and tenants, while slaves had the lowest status and men from the dynasty of the rulers had the highest. It was at the same time a democratic society – the assembly was a meeting of all free men, the king needed the support of the yeomen to be elected and stay in power and on local level the yeomen had stronger voice in local decisions and laws, especially in times of peace.²¹

As the Nordic kingdoms grew into military powers they developed locally strong military units. By the 13th the royal and ecclesiastical administration was organized and the king had central governing and legislative power.²² Still, justice stayed in the realm of the yeoman class for a long time and free people and their property were safeguarded by the law codes.²³

Territoriality for the Nordic state developed from clusters of settled population with central authority to the fluctuating boundaries of the Middle Age kingdoms, and to the fixed borderlines of the modern state. The idea of the sovereign state as an independent entity with definite borders, whose territory, natural resources and population are subject to its sole authority and protected from intrusion from outside – came with the Westphalian state in the 17th c., was strengthened with the consolidation of the nation-state in the 19th c. and is supported today by the principle of state sovereignty – a fundament in international law.

2. Land Ownership vs. Land Use

Land ownership in Scandinavia was one of the features defining its specific character during the feudal times – quite different from the rest of feudal Western Europe. The agrarian population in Scandinavia (including Denmark) was free and independent – legally and in practice their rights were secured and they owned their land.²⁴ Landownership was *allodial* (the land is owned without tax or other obligations and the title cannot be taken away). With the High Middle Ages and the growth of the church, land was increasingly owned by the ecclesiastical institutions – churches and religious houses (as seen from land registers from 13th–15th c. in Sweden) – large numbers of peasant property was passed to the church or the nobility in exchange for protection.²⁵ At that time peasant tenancy of land came to replace the peasant freeholder, although in Sweden the proportion of free holders was still more than one-half. Not surprising more tenant property existed in the southern parts of Sweden where the population was concentrated around the main settlements and important centers, while in more remote areas and to the north there were more freeholders.²⁶ At the end of the Middle Ages the Church was the largest land owner. With consolidation of the new Swedish state after the end of the Kalmar Union, Gustav I Vasa used the Reformation to support his confiscation of the Church lands to secure the needs of the state. The ideas of liberal property rights which came in the 17-18th century required fixed physical occupation and cultivation of the land to give recognition for land ownership. Following these ideas, in the 17-18th c. only private ownership was legalized in Scandinavia, while the collective land rights of the Sámi were denied (*see discussion in chapter V.1*).

²¹ American Council of Learned Societies (ACLS), *Dictionary of the Middle Ages*, vol. 10, Joseph Strayer, ed. in chief, (1988), pp. 698-701

²² ACLS, *Dictionary of the Middle Ages*, vol. 10, pp.700, 701; Vol.11, p.530

²³ ACLS, *Dictionary of the Middle Ages*, vol. 10, pp.702, 704

²⁴ ACLS, *Dictionary of the Middle Ages*, vol.11, p.701; Knut Helle, ed. *The Cambridge History of Scandinavia*, vol.1, (Cambridge University Press, 2003), p.776

²⁵ Medieval Scandinavia. An Encyclopedia, pp.371-375

²⁶ Helle, ed. *The Cambridge History of Scandinavia*, vol.1, p.777

The Sámi traditional world view was based on the perception of the environment as a living entity and on their personal connectedness with everything in the total environment – the land, the mountains, the animals, the vegetation, the winds (*see discussion in chapter VI.3 and 4*). In this worldview nature is not perceived as commodity, it cannot be owned, bought or sold. The Land is part of the total environment, as the Sámi are also and equal part of it. The land *is* the Sámi and they are the land; as landscape, the territory the Sámi move through in their daily life, it carries their history as peoples, it is the memory of their lives; as natural resource it is the provider of food and is venerated for that. For such worldview, at the time of the colonization of the Sámi territories, it would be unimaginable to understand and perceive the notion of claiming the land, owning the land or selling it as a commodity. Today, this worldview still exists among Sámi reindeer herders: “*It is very difficult for me to understand how someone can in fact own the land. Seen from the point of view of reindeer breeding, if anyone is the owner of the land, it must be the reindeer; they should own the lands on which they roam, and they were here before the human beings..*”, says Evdin Rensberg, reindeer herder of the Tännäs sameby, one of those involved in the land conflicts in Härjedalen and Dalarna, adding “*it is a mistake to consider nature that way (in terms of owning, possessing, etc.) but everyone says that civilization has arrived, so I think that civilization then behaves in a very uncivilized manner.*”²⁷

3. Clash of worldviews

In the Nordic state’s feudal system, based on agriculture, the physical occupation of the land gives the right to claim ownership by both peasants and nobility.²⁸ In the early stages of colonization of the north the perception of the northern territories was that they were *terra nullius* – *no-mans-land* since the indigenous people did not own the land, they simply *used* it in their annual migrations over vast areas. As the state extended to the north imposed its territorial organization over the local population included within the state – through taxation zones, the Lappmark borderlines, and cutting off territory for farms and settlements. It changed the structure of Sámi administration by shifting the center of all activities – marketplaces, legal sessions, social gatherings from the *sijdda* to the church. The *sijdda* shape also changes with the transformation of Sámi economy into breeding of tame reindeer – to fit the migration routes of the reindeers from the Norwegian Atlantic coast in the west and the coniferous forests by the Gulf of Bothnia in the east – it becomes long, narrow shaped in east-west direction. Before the final and definite political boundaries were drawn in the 19th c. the Sámi were in the strange situation of legally and politically divided and limited by unfamiliar for them territorial concepts, while at the same time still able to maintain some autonomy in their movement across the borderlines. After that, however, the division was final.

²⁷ Claus Oreskov, *A glimpse of Evdin Rensberg*, Indigenous Affairs, issue 2, (IWGIA: 1996), pp.20-21

²⁸ S.Forrest, *The territorial dimension of state-Sámi politics*, pp. 255-256

III. HISTORY OF LAND USE AND CLAIMS OVER THE TERRITORY

The following chapter is an overview of the history of interaction between the Sámi in Sweden and the state of Sweden. As it will be shown, the relationships of both actors were not enclosed in an isolated system, but a function of political, economic and intellectual processes of much larger scale. The states of Sweden, Denmark, Norway and Finland constantly interacted throughout their growth and consolidation, and national developments which impacted the Sámi were largely result of regional political processes. Thus a discussion of the relations between one of the states and the Sámi enclosed in its territory could not be done without considering the processes on larger, Scandinavian, even Nordic²⁹ scale. Moreover, before any political borders came into being, the Sámi across the traditional territory were free to move around as *One People* and that defines their transboundary claims today.

Early contacts

Before about the 9th c. and the first town settlements, the early Norse population lived scattered and based its economy on the natural resource availability of the area (similar to the Sámi in the north) – agriculture, cattle breeding, hunting and fishing.³⁰ The Viking expansion (when tribes from western Sweden, Norway and Denmark traveled to Western Europe and those from Eastern Sweden to Eastern Europe through Russia) was mostly for wealth seeking, even though in Western Norway (where there was little exploitable land), the expansion to Orkney, Shetland, the Hebrides and later Iceland was for colonization of more territory.³¹ Shortage of land and the pressure of increasing population might have been also the cause in Denmark, whose territory was small and densely populated.

The Sámi's predecessors came to northern Scandinavia after the Ice Age³² and lived as small communities of 20-30 people moving between hunting and fishing grounds depending on the season, and with time moved from the coastland towards the inland. The primary hunted animals were reindeer, moose and bear. Mid-Scandinavia was the meeting point of the Sámi and the Norse culture from the south. Studies based on archaeological material, historical sources and language research has determined that both cultures existed parallel to each other in mid-Scandinavia.³³

The first contacts with the Sámi in the Arctic were around the 9th c. for trade. With the expansion of trade routes in northwest Europe at the end of the 7th c. and the growth of fur trade – highly valued in the European courts – these trade contacts increased. The best furs come from places with cold winters, thus north Scandinavia and the lands east of the Baltic were strategic source of material for the west European trade markets.³⁴ The Nordic traders (including Finns and Slavs) obtained the furs from the indigenous population of the Arctic, thus the Sámi were the primary supplier of raw material in the trade. Sápmi in Scandinavia was divided into trade regions under the Burkarl chieftains who traded with the Sámi for fur and skin in return of flour, salt, metal

²⁹ *Scandinavian states (Norway, Sweden and Finland), Nordic states (Norway, Sweden and Finland and Denmark)

³⁰ ACLS, *Dictionary of the Middle Ages*, vol. 11, pp.528, 529

³¹ Helle, ed. *The Cambridge History of Scandinavia*, vol.1, pp.105, 106

³² The first people who arrived on the Scandinavian peninsula with the Great Migration of Peoples after the Ice Age (about 10 000 years ago), were nomadic hunter-gatherers who lived off the natural resources of these geographical areas. Based on archaeological evidence it is determined that from these people there is unbroken line of continuity leading to the present day Sámi culture. See: Åke Jünge, *Paradigm Shifts in Southern Sami research*. in *Discourses and silences. Indigenous peoples, Risks and Resistance*, ed. Cant, Goodall and Inns, (New Zealand: Levanger Videregående Skole, 2005), p.58

³³ Jan Åge Riseth, *So the last shall be first and the first last?* in *Discourses and silences. Indigenous peoples, Risks and Resistance*. ed. Cant, Goodall and Inns, (New Zealand: Levanger Videregående Skole, 2005), pp.35,57

³⁴ Helle, ed. *The Cambridge History of Scandinavia*, vol.1, p.107

goods and broadcloth.³⁵ The Burkarls were probably stronger as armed force but their economic interest in the Sámi and the vast territories with basically uncontrollable population should have made them cautious in dealings with the important suppliers. The furs were collected as tax from the Sámi and control of the area assured control over the fur trade.³⁶ During the initial stages of interaction, the territory was considered *no-mans-land*, vast wilderness and scattered population without any ruler or authority, while being source of natural resources with economic importance (animal furs) and local population skilled in obtaining them. The different perceptions of the Sámi and the Norse culture about ownership and territorial occupation were in the basis of the initial claims and control over the area by the Nordic kingdoms. The aim at that time, however, was not ownership of the territory, but economic control.

The Nordic kingdom

The Nordic kingdoms consolidated as political units in the late Viking-early Middle Ages. Denmark, small in territory and densely populated, was already strong in the 8th c. became kingdom around the 9th c. and dominated Scandinavia's medieval history, rapidly spreading its territory from the 10th c. to the north and the south, to territories of today's Norway, England and Germany. Denmark throughout most of the Middle Ages included Skåne, Blekinge and Halland – the three provinces mostly disputed with Sweden. Norway was under Danish supremacy from about 870 AD until 1814, thus it is referred here as Denmark-Norway. Sweden was the second strongest political power, competing with Denmark over territory and influence throughout the Middle Ages and gradually leaving it behind. Sweden spread its territory to the north-east, incorporated present day Finland from the 12th-13th c. until Russia took over in 1809 and is thus referred here as Sweden-Finland. Denmark, Sweden and Norway shared rulers, dynastic rivalries and succession struggles while Early kingdoms until in the 12th-13th c. Denmark became a centralized kingdom, Norway – in 13th-14th c. and Sweden – under the Folkung monarchy.³⁷

Sweden's aim to get control of the waterways into Russia brought the conquest into northeast Finland, Karelia and the republic of Novgorod in the 14th c. and the need to consolidate strong position in the northern territory. For a short time this attempt to achieve a strong political position included in its territory Norway and the three provinces Skåne, Blekinge and Halland – important for control of the Baltic sea route.³⁸ However in 1389 Margaret, the regent of Denmark took over the rule of Norway and Sweden-Finland (weakened by internal conflicts and losses) and united them under the Kalmar Union – challenged three times by the Swedish-Danish succession wars and officially broken in 1521 by Gustav Vasa. He proclaimed himself regent of Sweden and founded the new dynasty.³⁹ Under Gustav I Vasa (king of Sweden 1523-1560), Sweden becomes a strong and independent political power. He reforms the church into a Lutheran Church of Sweden and builds a strong, economically independent state, develops the government, army and bureaucracy and unifies them under the central power of the monarchy. This is the time when Swedish large scale expansion and settlement into the north really begins.⁴⁰

Early colonization

³⁵ Helle, ed. *The Cambridge History of Scandinavia*, vol.1, p.10

³⁶ see for example Johan Eriksson, *Partition and Redemption*, (Umeå: Umeå University, 1997), pp.77, 82

³⁷ Helle, ed. *The Cambridge History of Scandinavia*, pp.780-781

³⁸ ACLS, *Dictionary of the Middle Ages*, vol. 11, pp.531-532

³⁹ ACLS, *Dictionary of the Middle Ages*, vol. 11, pp.528-534; Byron Nordstrom, ed., *Dictionary of Scandinavian History*, (Connecticut: Greenwood Press, 1986), pp.240-242

⁴⁰ Nordstrom, ed., *Dictionary of Scandinavian History*, pp. 239-240, S. Forrest, p.256

In 1542 Gustav Vasa declares that land which is not settled belongs to “God, ourselves and the Swedish crown”. This is considered the official statement claiming the territory in the north of Sweden and its resources (land and animals) are to be utilized by the state.⁴¹ The privilege for tax collection enjoyed by the Burkarls was taken over by the state, fishing became subject to annual tax and land was to be utilized by settlement. The finances Gustav I Vasa needed to modernize the country’s organization were secured from local taxes, subsidies from abroad and mostly from the confiscated Church property.⁴²

Written documents from the period show that the Sámi were respected as the rightful users of the land – in a document from 1543 King Vasa emphasizes that the exclusive hunting rights of the Sámi above the Lapp territory border were to be respected under the threat of punishment and in a document from 1552 he declares protection of some Sámi villages for their possessions, property and all that which belongs to them, *moveable and immovable*.⁴³ As Mørner emphasizes, the taxes paid by the Sámi to the Crown at the time should be regarded more as tribute, recognition of sovereignty, than as leasehold paid for the use of lands.⁴⁴ A primary reason for this tolerance and regulations of non disturbance of the Sámi was the central role they played by contributing significantly to the royal treasury with taxes in the form of fur and skins. Thus, the Settlement Proclamation of 1673 says that settlers should not disturb the Sámi in exercising their trade and only to colonize land that is not used by the Sámi.⁴⁵

At the time of Gustav Vasa’s expansion the Sámi were semi-nomadic hunting and fishing people with seasonal use of the resources according to the climate.⁴⁶ The trade with the Swedish merchants provided for securing important food as butter and flour during the difficult winter months, which allowed some growth of the Sámi population. However in early 17th c. heavy taxes in fish, to feed the state army in the Baltic, and the decrease in reindeer population as result of the taxes, brought starvation. The need to secure resources brought the change to large scale breeding of semi-tame reindeer.⁴⁷ The *extensive* herding method⁴⁸ used also brought the change to “whole-nomadism”⁴⁹. This split up the collective organization (the *sijdda*) into smaller units to avoid the concentration of large herds on a single confined area and risk overgrazing the pastures. Also at that time were differentiated summer and winter grazing lands – in Sweden: mountains (summer) and forests (winter) and in Norway the coastal zone (summer) and the inland (winter).⁵⁰ The choice of seasonal pastures depends on many specific conditions related to the nature of the animal and are more specifically discussed in *chapter IV*.

Despite the vast space available for both settlers and Sámi, there were occurrences of local disputes over the access of natural resources. The climate was harsh and settlers had to complement their subsistence by hunting and fishing as well. However, it appears from written documents that

⁴¹ Mørner, *Land Rights of the Sami and the Indians*, p. 39

⁴² Nordstrom, ed. *Dictionary of Scandinavian History*, pp. 239-240

⁴³ Mørner, *Land Rights of the Sami and the Indians*, p.40; Rolf Sjölin, *The Saami in Swedish Politics*. in *The Saami National Minority in Sweden*, ed. Birgitta Jahreskog, p.78

⁴⁴ Mørner, *Land Rights of the Sami and the Indians*, p.40

⁴⁵ Sami Information Center. *History*, (last updated 2006), http://www.eng.samer.se/servlet/GetDoc?meta_id=1218, (accessed March 12, 2007)

⁴⁶ Sami Information Center. *History*, (last updated 2006), http://www.eng.samer.se/servlet/GetDoc?meta_id=1115, accessed March 12, 2007)

⁴⁷ Roger Kvist, *Swedish Saami Policy, 1550-1990*. in *Readings in Saami History, Culture and Language – part III*, ed. Roger Kvist, (Umeå: Center for Arctic Cultural Research, Umeå University, 1992), pp.64-65;

Hugh Beach, *The Saami of Lapland, Minority Rights Group Report*, No.55, (1998):p.7

⁴⁸ following the reindeers on their annual migration routes in a nomadic life style. It required vast and open spaces to allow the herds to move constantly in the search for pastures.

⁴⁹ Beach, *The Saami of Lapland*, p.7

⁵⁰ Beach, *The Saami of Lapland*, p.7

Gustav Vasa and his successors issued special letters of protection for the Sámi which recognized and affirmed the right of the Sámi to use the land which is their by “rights sanctioned by the use of centuries”.⁵¹ According to Mørner there was distinction between the category *Tax-paying Lapp* and *Tax-paying farmer* and *Crown farmer*.⁵² The Sámi in the 17th century were still able to continue acting independently in relation to land, trade, customs and beliefs.⁵³ Moreover the diffuse borders of medieval Fennoscandia allowed for the continuance of the Sámi territorial perception of the Sijdda.⁵⁴

Throughout the Middle Ages Sweden-Finland and Denmark-Norway competed for position in the north, aiming at access to the fishing resources along the coastline of the Arctic Ocean, control of the trading routes to Archangelsk⁵⁵ and control of the fur trade with Europe. The importance of the trade for the economy of the state and the role the Sámi played as provider of fur guaranteed them protection and tolerance.⁵⁶ The medieval kingdoms ability to levy taxes on the local population on regular basis gave the right to claim a territory. This claim did not give full (sovereign) authority, nor provided for strict borders (as they were still regularly shifting during that period), thus there were overlapping areas of state authority – overlapping taxation zones and for example the Anar district in the 17th c. was paying taxes to Denmark-Norway, Sweden-Finland and Russia.⁵⁷ The semi-nomadic life style of the Sámi and the remoteness from the main settlement centers which proved to be difficult to manage, gradually added resettlement of southern populations towards the methods for claiming the territory (tax collection, trading and missionary activities⁵⁸). Thus, in the period, the interest of the kingdoms in the Sámi territory transformed from economic control over the area to territorial control.⁵⁹

The Scandinavian state

In the 17th c. Sweden becomes a great political power in the region and internationally. Gustav Adolph II (king of Sweden 1611-1632), lays the foundations of the modern Swedish state and achieves domestic and diplomatic stability. Europe at the time goes through the turbulent and significant changes that will be brought by the The Eighty Years' War (1568–1648) of Netherlands' independence from Spain and the Thirty Years' War (1618–1648) which started as religious war against Roman Catholic absolutism and developed into escalating territorial and dynastical wars throughout Europe. The treaty of Westphalia in 1648 which ended the wars changes the European balance of power – from now on the absolutist empire headed by one pope and emperor is no longer a political entity, and the new structure of Europe as community of individual states is formed.⁶⁰ The sovereignty of the state, its religion, its nation, its territory are to be protected from trespassing from outside.

Sweden's political role in the conflict is due to its anti-Catholic ideas and its support of the protestant rivals of the Holy Roman Empire (Austria and Bohemia). The territories it gains from the

⁵¹ letters (*Gustav Vasa, Johan III, Karl IX, Queen Kristina*) in Mørner, *Land Rights of the Sami and the Indians*, p.44-45

⁵² Mørner, *Land Rights of the Sami and the Indians*, p.40

⁵³ Gunlög Fur, *Saami and Lenapes meet Swedish colonizers in the seventeenth century*, in *Readings in Saami History, Culture and Language* – part III, ed. Roger Kvist (Umeå: Center for Arctic Cultural Research, 1992)

⁵⁴ J. Eriksson, *Partition and Redemption*, p.83-84

⁵⁵ Sami Information Center. *History: Sápmi's history*, (last updated 2006), http://www.eng.samer.se/servlet/GetDoc?meta_id=1228 (accessed 12 March 2007)

⁵⁶ Sami Information Center. *History: Sápmi's history*

⁵⁷ J. Eriksson, *Partition and Redemption*, p.83; Sjölin, *The Sami in Swedish Politics*, p.77

⁵⁸ J. Riseth, *So the last shall be first and the first last?*, p.37

⁵⁹ S. Forrest, *The territorial dimension of state-Sámi politics*, p.256

⁶⁰ Encyclopædia Britannica Online, *Thirty Years' War*. Encyclopædia Britannica, <http://search.eb.com.ludwig.lub.lu.se/eb/article-9072150>, (accessed 4 April, 2007)

treaty – in Germany, and later the strategic Skåne it regains in 1658, make it supreme political power on the Baltic. To secure that position there was significant effort in isolating Skåne from Denmark and integrating it into Sweden, by severe “Swedification process” which brought also the bloody Scånian War (1676–1679), lost by Denmark in the final battle in Lund. Thereafter Sweden became the unquestionable power in the area and succeeded in the fast political and cultural assimilation of Skåne which by the 19th c., was not a disputed question anymore.⁶¹ With the same pattern of securing its position in the territory the state will turn towards its northern territories.

Gustav Adolph reformed the state administrative structure – local governments, the court system (Supreme Court), and division of the country into 23 counties (län) each under a governor. With the increased support for education (gymnasia and strengthening of the University of Uppsala), the colonization of the north also got another aspect – missionary and educational activities aimed to transform the culture of the indigenous people. The northern territories were getting “closer” in different aspects, not least concerning the transportation system – roads to the north have been developed since the 13th c., now enlarged, cleared through forests and connecting the provinces. The financial losses of the state as result of the warfare changes of the mid 16th- mid 17thc. (gunpowder), and the discovery in 1634 of the silver mine in Nasafjäll (in Sápmi) intensified the interest in the northern provinces. The Sámi and their reindeers were used in the mining activities or transportation, and although they were paid in flour, salt, tobacco, liquor and even by tax exemption it was not voluntary work and refusal was heavily punished. In response, many people fled with their animals to Norway. Mining continued – for copper, iron and other silver deposits, and led to increased settlement and colonization of the territory.⁶² Settlement of the southern population was important, as seen from the special privileges the Lappmark Proclamation of 1673 gives to those Finnish or Swedish who settle in the Sámi region – an exclusion from 15 years of taxes and from serving in war.⁶³

The Sámi were hunting, fishing and reindeer herding, while the settlers were farming and keeping livestock and both groups were able to coexist without interference. This was due not only to their different uses of the land but also to the state policy to keep different groups and trades apart (*see discussion in chapter V*). Most probably at that time was the separation of Sámi reindeer herders into Mountain-Sámi and Forest-Sámi (although probably for about a century existed mixed forms and shifts between the two and no definite divisions between semi nomadic and whole nomadic life style). Both groups’ economies were based on wild reindeer, the Forest Sámi also depended largely on fishing, while the Mountain Sámi complemented in the winter with fishing (although a definite distinction cannot be drawn here as well). By mid 17th c. the Mountain Sámi herding method was predominantly *extensive* due to the beneficial policies for taxation and land use (which secured and protected pasture land for reindeer herding, as result of the growing importance of reindeer herding for trade). Thus, Mountain Sámi economy became specialized and less diverse. The territory secured for their yearly migration stretched from the Norwegian coast to the Swedish woodlands. The Forest Sámi on the other hand moved within a smaller area, owned less reindeers and their economy depended on a combination of herding, hunting and fishing. In cases of conflict about pastures between the Forest and Mountain Sámi the latter were supported by the state, due to their importance for the economy. It is interesting that such distinction between Mountain- and Forest-Sámi is not found in Finland or Norway.⁶⁴

⁶¹ Encyclopædia Britannica Online, *Skåne question*. Encyclopædia Britannica, <http://search.eb.com.ludwig.lub.lu.se/eb/article-9068072>; (accessed 4 April, 2007)

⁶² Gunlög Fur, *Saami and Lenapes meet Swedish colonizers in the seventeenth century*, pp.42-44

⁶³ R.Kvist, *Swedish Saami Policy, 1550-1990*, p.66

⁶⁴ G. Fur, p.43; H. Beach, *The Saami of Lapland*, p.7

With these developments the Sámi, especially the Mountain Sámi, became more dependent on goods from the outside, and their ability to trade – dependent on large reindeer herds. At the annual winter markets in Swedish cities the Sámi traded skins from reindeer, fox, wolf, bear, wolverine, otter and squirrel, and boots, gloves and dried fish for cloth, flour, salt, liquor, tobacco, knives (the blades), sulphur, silver, copper, brass, guns, bullets and lead. In the summer they traded with Norwegian traders feathers, cheese and skins for oxen, cows, goats, sheep, fish and tobacco, and in the fall traded reindeer skins for silver, blankets and fish.⁶⁵ The Sámi had a certain authority which was respected by the state and had a say in the prices and items that were to be traded. They also insisted on their freedom of movement and trade. By late 17th c., to control the Sámi trade, the state established fixed places for trade and “authorized” merchants, and also tied the taxes to the land, not to the population. This was done to secure the valuable trade with the Sámi within Sweden and limit the Swedish Sámi from trading with Norwegians or other people.⁶⁶

The nation-state

Sweden’s supremacy in the Baltic was challenged by the alliances of Denmark-Norway, Saxony-Poland and Russia against Sweden in the Great Northern War (1700-1721) which replaced Sweden as the major northern European power with Russia.⁶⁷ Meanwhile the Sámi were left outside the conflict in relative autonomy and strong local position due to the significant revenues from reindeer herding.⁶⁸ However, with the international stabilization, the states focus on the internal process of state consolidation, which was accompanied by enforcement of state borders and intensified colonization of the inland of Sápmi. With that increased the need of official regulations for land use and tenure and the state took over the decisions, until now made by the Sámi, as of which areas to use for pastures and for how long⁶⁹. Thus, with the stabilization of the sovereign state the Sámi as an autonomous group became destabilized.⁷⁰

At that same time, however, in the Lapp Codicil to the border treaty between Sweden and Denmark-Norway of 1751 (The treaty of Strömstad) the Sámi were acknowledged their rights over the land. The codicil concerned the Sámi in both countries and allowed their free crossing of the national border with the reindeers, even at time of war, while limiting the payment of taxes to only one of the two countries to avoid double taxation.⁷¹ The codicil is very interesting because it recognizes special rights to use of lands to a non-state group and it is a transboundary territorial right in the period of strengthening of the national borders.⁷²

The increased waves of settlements and the reindeer herding, now a large scale industry, were creating conflicts over the different patterns of land use – agriculture and herding. These were intensified by the conflicts over complementary subsistence – hunting and fishing.⁷³ Settlers were bringing herders to court for damages caused by the reindeers and the conflict developed into what it is today – different patterns of use of one finite area. Until the mid-18th c. the economic importance of the Sámi still reflected in state policy and gave them protection, as for example in the

⁶⁵ G. Fur, p.45

⁶⁶ G. Fur, pp.45-46

⁶⁷ B. Nordstrom, ed. *Dictionary of Scandinavian History*, pp.230-232

⁶⁸ Sami Information Center. *History: the colonization of Sápmi*, http://www.eng.samer.se/servlet/GetDoc?meta_id=1218, (accessed 26 March, 2007)

⁶⁹ J. Eriksson, *Partition and Redemption*, p.85

⁷⁰ J. Eriksson, *Partition and Redemption*, p.84-85

⁷¹ M. Mørner, *Land Rights of the Sami and the Indians*, p.44-45.; J. Eriksson, *Partition and Redemption*, p.85

⁷² * The ideas behind the creation of the codicil are discussed in Chapter V.1: History of Swedish Sami Policy

⁷³ Sami Information Center. *History: the colonization of Sápmi*, http://www.eng.samer.se/servlet/GetDoc?meta_id=1218, (accessed 26 March, 2007)

Lappmark Regulation of 1749 which limits the hunting and fishing rights of the settlers “to ensure they do not encroach on the Sámi's trades”⁷⁴.

Small scale partitioning of the Sámi territory to cut out suitable lands for homesteads has reached the southern coastal parts of Norrland by 1683, Jämtland by 1752 and Västerbotten by 1780. Then the territory was cut right through by large borders, *Lappmarks*, in areas reserved for hunting, fishing and herding by the Sámi. The Lappmark regulation of 1751 distinguished the coastal farming communities from the inland hunting grounds, fishing waters and grazing land (which are reserved for Sámi and homesteaders). The natural resources were to be divided among the homesteaders and the Sámi according to their needs, which were not conflicting since the Sámi land use was to be protected by the settlers, as stated in the regulation.⁷⁵ The same notion is reflected in the instructions to Lapp bailiffs of 1760 saying that both homesteaders and “Lapp peasantry” should “each keep to their own correct means of livelihood”⁷⁶, since both ways of using the land were considered important for the economy.

Under the influence of the liberal ideas of property rights after the mid-18th c., Sámi use of land is not recognized as adequate to give right to ownership and their common rights for use of the land are not respected. The Sámi territory is increasingly cut in sections which are distributed to settlers-farmers from the south. By the mid 18th c. nearly all rights to land and resources of the Sámi are lost and the state has claimed ownership over the land.⁷⁷ With the spread of farming the Sámi rights outside the Lappmarks are restricted and then gradually the areas shrink.⁷⁸ It is an interesting shift of the signification of the Lappmark borders – initially designed to protect the Sámi territory from encroachment by settlers and agriculture, it turned into confining the Sámi out of the way of agriculture and farming. Parallel to the shrinking of the Sámi areas was the increase in Christian missionaries to the Sámi⁷⁹.

Nationalism

Two developments, fundamentally important for the creation of the modern state also had fundamental negative impact on the Sámi – the strengthening of the political borders of the nation-state and the growth of nationalism in the process of nation building. In 1852 Russia closed the border between Norway and Finland for reindeer migration, while still allowing Swedish Sámi migration into the summer grazing lands in Finland and Norway. This resulted in Sámi populations from Finland and Norway migrating into Sweden to be able to follow the old grazing routes.⁸⁰ In 1889 the border between Sweden and Finland was closed and strictly monitored, and several Sámi districts in Sweden, Norway and Finland had to find new grazing lands or give up reindeer herding.⁸¹ Norway became Swedish in 1814 by the treaty of Kjell when it was exchanged for German territory by Denmark. This forced union with Sweden created a wave of nationalism sentiments in Norway, in opposition to the union and to Sweden. The new union required a number of reindeer herding conventions to regulate and limit the areas and time of the year the Sámi from both sides could spend across the border. With the growth of nationalism in Norway grew also the intolerance towards the Swedish Sámi crossing the border.⁸² The union was broken in 1905 when

⁷⁴ Saami Information Center. *History: the colonization of Sápmi*

⁵⁷ M. Mørner, *Land Rights of the Sami and the Indians.*, p.44; R. Kvist, *Swedish Saami Policy, 1550-1990*, p.67

⁷⁶ M. Mørner, *Land Rights of the Sami and the Indians.*, p.44

⁷⁷ S. Forrest, *The territorial dimension of state-Sámi politics*, p.257

⁷⁸ H. Beach, *The Saami of Lapland*, p.7

⁷⁹ Hugh H. Beach, *The Saami of Lapland*, p.7

⁸⁰ Marainen and P. Otnes, in J. Eriksson, *Partition and Redemption*, p.87

⁸¹ Marainen, in J. Eriksson, *Partition and Redemption*, p.87

⁸² J. Eriksson, *Partition and Redemption*, p.88

Norway declared independence. Its process of nation building, national identity and strengthening of the political and territorial autonomy was done in strong opposition to Sweden. In this process, the Sámi reindeer herders from Sweden lost their summer grazing lands in Norway. As a response to that, the Swedish government resettled compulsorily the Sámi from the affected territories to the south (from Karesuando to Jokkmokk).⁸³ This created other problems – the Sámi who lived in the southern area had different reindeer herding method – *intensive* (the animals are closed within a certain area and kept together all year round), while the herding methods of the northern Sámi were *extensive* (the animals go around freely to graze during the spring and are separated in smaller groups to migrate for the winter grazing). Thus, the resettlement created internal conflict of cultures among the Sámi. These internal conflicts within the group will increasingly grow as result of the outside pressures in the following centuries.

For the course of one century (mid-18 to mid-19) the Sámi position changes from one dominating the economy of Lappland and the trade of northern Sweden to a minority in their own territory, a marginalized group with not much voice in decision making about their life, culture, and activities on the land. The inland of the territory is used for cattle herding, agriculture and mining, the last industry particularly important for the state economy.⁸⁴ The Sámi would not have had a strong position in courts. Their marginalization was reflected in the demographic conditions as well – the nomadic Sámi had highest infant mortality not only in Lappland but for Sweden⁸⁵.

The economic interest of the state in the territory and the perception that is it *terra nullius*, which never changed, gave the incentive to maintain its access to the resources and the strategic area. With stable political borders and sovereignty over its territory the state could secure access to the natural resources of the territory and full control over their exploration through its administrative and legislative system. Sámi reindeer herding was thus restricted by series of laws which had different ideological background in the three Scandinavian countries, but the same result – it deprived the Sámi pattern of use of the land (*see section V.1, pp.29-30*).

At the end of the 19th c. modern transportation and the arrival of railroad in the north (and with it – steady supply of food and goods) were some of the reasons for changes in the way of life for the Sámi – towards more stationary life style, eventually settled all-year-round.⁸⁶ When reindeer herding (and hunting or fishing) was not enough to make a living the Sámi in the Swedish part of Sápmi were complementing the family economy by stock farming with cows. Stock-farming has been used by the Sámi before, but in this period it was accompanied by transition to settled life and more profound changes in the way of life. Stock-farming became year-round occupation and now women had to stay home and take care of the cattle while men migrated with the reindeer to the winter grazing areas. The work during the summer in securing the hay for the winter was demanding and occurred during the years' most intensive period of reindeer herding⁸⁷, thus transforming the work load and roles within the family. By the beginning of the 20th c. two thirds of the Sámi in Jämtland and Västerbotten have become settled, similar numbers were in Jokkmokk and the same transformation went throughout Sápmi.⁸⁸ The changes to settled life style did not change the conflicts with settlers over land. The Mountain Sámi had conflicts with the settlers for the winter grazing areas in the forests (the one side arguing that the fires destroy the animals' food, the other side arguing the reindeers destroy the hay left out to dry (the cattle food), and the Forest Sámi,

⁸³ Marainen, in J. Eriksson, *Partition and Redemption*, p.88

⁸⁴ M. Mørner, *Land Rights of the Sami and the Indians*, p.49; R. Kvist, *Swedish Saami Policy, 1550-1990*, p.68

⁸⁵ R. Kvist, *Swedish Saami Policy, 1550-1990*, p.68

⁸⁶ Krister Stoor, *Reindeer herding and stock-farming in the Swedish part of Sápmi*. in *Readings in Saami History, Culture and Language* – part II, ed. Roger Kvist (Umeå: Center for Arctic Cultural Research, 1991), p.85

⁸⁷ K. Stoor, *Reindeer herding and stock-farming in the Swedish part of Sápmi*, pp. 85-90

⁸⁸ K. Stoor, *Reindeer herding and stock-farming in the Swedish part of Sápmi*, pp. 85,90

who were settled closer to lakes, to complement fishing and hunting with cattle breeding, had conflicts with the Swedish settlers for the nearby meadows.⁸⁹

The welfare state

The nation-building process which continued in the 20th c. had huge impact on the Sámi. What was fundamentally damaging was not simply the nation building processes *per se* but the fact that, as Eriksson says there were *separate* nation-building processes in each state.⁹⁰ Apart from the Norwegian definitive disassociation from Sweden, Finland became independent from Russia in 1917-1918 and started its own nation building process. Then Russia became the Soviet Union and together with its Sámi population was shut off from the rest of the world, and was to undergo different economic, social and cultural processes, not less damaging for Sámi culture and economy. All of these have significant effect on the unity of the Sámi people all across the state borders, in terms of loss of land, economic sustenance, culture and identity.⁹¹

After the WWII the interest of the state in its northern territory shifts its focus again – from territorial control of political importance to exploitation of the natural resources of economic importance. The Nordic states became welfare states, now aiming at maximization of profits for better living conditions and higher standards. The Rationalization programme aimed to make reindeer herding more efficient and productive, thus hoping to raise the living standard of the Sámi⁹² (*see discussion on p.32*). Today the territory is used for industrial activities – hydro-electric power, forestry and mining, tourism and recreation. All these are land demanding – not only for the extraction of raw materials but also with the structures complementing penetration in the territory (roads for transportation, settlements for the labor force, recreation structures⁹³).

The conflict for the different patterns of land use today is focused on reindeer herding and its requirements of the territory and on the other hand – the profit oriented development activities of the state. Geographically it is focused in mid-central Scandinavia, the meeting point of the Norse and the Sámi culture some hundred years ago, but its impact will be felt throughout Sápmi and the entire Sámi society in Sweden. It involves economical, political, legislative aspects, and also the culture, traditions and identity of the Sámi, not least it is tightly related to the environment, the management of natural resources – both flora and fauna. The next chapter discusses the meeting points of all these aspects today.

⁸⁹ K. Stoor, *Reindeer herding and stock-farming in the Swedish part of Sápmi*, pp. 88

⁹⁰ J. Eriksson, *Partition and Redemption*, p.89

⁹¹ J. Eriksson, *Partition and Redemption*, p.89

⁹² H. Beach, *The Saami of Lapland*, p.9

⁹³ H. Beach, *The Saami of Lapland*, p.10

IV. REINDEER, HERDING, INDUSTRY AND THE ARCTIC ECOSYSTEM

Sweden's northern environment and climate

Sweden is cut from north to south by the Scandinavian mountain range which outlines the western border with Norway. The mountains have bushy vegetation, large patches without trees and abundance of lakes and rivers. The largest part of Sweden is covered by the boreal forests – mountain and inland coniferous forests, dominated by pine and spruce. In northern Sweden the border with the bare mountains above the tree line is signified by birch forests. The climate is cold with long winters and cold summers. The limited number of species in the taiga are adapted to survive the cold and the snow – they either migrate, hibernate, change to winter fur or change their food during winter.⁹⁴ The reindeer live throughout the taiga and is also highly adapted to the cold, as will be discussed below. The Sámi homeland within Sweden covers northern- to central Sweden, with concentration along the mountain range.

Sámi reindeer herding and land use

The Sámi today are settled, most of them in urban areas but even the reindeer herders' life does not differ much from that of Swedes, enjoying the benefits and costs of modernization and mechanization. Reindeer herders spend time with the herds away from their families only during the periods of intensive herding work. During the 20th c. and the rationalization period reindeer herding became an economic industry focused on meat production. Since the 1980s technology is a common part of herding – the Sámi today use snowmobiles or helicopters for collecting and trucks for transporting the animals when necessary (the traditional ways are still simultaneously used)⁹⁵. These make the costs higher than the income and demand bigger herds (at least 400 reindeer would be adequate to sustain one family from solely herding). Since there are limits to the number of animals that can be owned most herders combine their incomes from hunting, fishing, handicrafts from animal residues, or take jobs in the local industries. Individual reindeer owners work together, in communities for the herding itself and share the costs of equipment. Among the Swedish Sámi about 3 000 depend on reindeer herding for living.⁹⁶

Reindeer herding has developed in response and by adaptation to changes in the natural environment. Unlike other modern economies with domesticated animals, like cattle farming, reindeer herding is based on humans adapting to the land and the animal's natural cycles and not vice versa. The Sámi in Scandinavia divide the year into eight seasons according to climatic changes: *Late winter* (March-April); *Spring* (May-June): the snow melts; *Early summer* (June): the polar day period starts (the sun not setting under the horizon); *Summer* (July-August): growth of grass and leaves; *Late summer* (August) and *Autumn* (September-October): the leaves change their color and the nights are getting colder and darker; *Early winter* (November): the leaves fall, days are shorter and colder, the polar nights starts; *Winter* (December-April): cold weather and during the day or at night appear the Northern Lights, after January the sun appears again.⁹⁷

⁹⁴ Saami Information Center, *Animals and Nature: Reindeer*, http://www.eng.samer.se/servlet/GetDoc?meta_id=1238, (accessed 25 April, 2007); Nanna Borchert, *Land is Life: Traditional Sami Reindeer Grazing Threatened in Northern Sweden*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), p.20

⁹⁵ Saami Information Center. *The Saami – an indigenous people in Sweden*, eds. Karin Kvardordt, Nils-Henrik Sikku, Michael Teilus, (Västerås: Sami Parliament, 2005), p.23

⁹⁶ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), pp.23, 20

⁹⁷ Resource Center for the Rights of Indigenous Peoples. *About the Sami People: Get to know the Sami country*, <http://www.galdu.org/web/index.php?sladja=25&vuolitsladja=9&giella1=eng>, (accessed 29 April, 2007)

Reindeer husbandry does not leave many tracks on the land, especially compared to such industries as forestry, mining, etc., which is today the main problem the Sámi face in courts – they cannot prove their history of land occupation. Reindeer husbandry is, however, land intensive in a sense that it demands extensive areas with sufficient carrying capacity and seasonal diversity of pastures. During the calving season in May the herders and herds are on the calving grounds – those need to be protected against the cold winds and be open for the warming sun – thus more or less hilly areas with a southern slope and patches of ground without snow. Protection from predators and external disturbances is important to allow the calves to grow, feed and learn from their mothers. The marking of the calves is in June and from then to September is the period of intense grazing on the summer pastures. Gaining weight is important for the survival of the winter and the herds need to be undisturbed to do that. In hotter summers mountain reindeers move higher to the mountains where there are snow patches and the forest reindeers move to the forests to hide from the mosquitoes and the heat. Towards the end of the summer mushrooms become a significant source for the accumulation of fat. In September, just after the intensive feeding and before the mating period (of September-October), some males are slaughtered. From November, with the first snow, reindeers have to start feeding on lichen and move down to the winter grazing lands. While the animals are kept together during the summer, for the winter migration each *sijdda* collects their animals and migrates with them to the winter grazing lands where they stay until April, guarding the herds from distance against predators. With the spring the reindeer has to move towards summer pastures since the pack of snow makes it difficult to reach the lichen. Southern slopes are important part of the migration routes back to the summer pastures since they provide the required sun exposure and less snow.⁹⁸

Reindeer and land

The Scandinavian reindeer (*Rangifer t. tarandus*) is well adapted to cold and long winters. Its winter fur is compact, curly and the hairs are hollow which insulates the body. The hooves are wide, keeping the reindeer from sinking into the deep snow and enabling it to dig for the food through the snow. The cold blood coming from the hooves (the venous blood) is heated up by arterial blood in vascular balls while in the legs, before it reaches the heart. The inhaled air is warmed up by blood vessels in the nostrils and the loss of heat with exhaled air is minimal. Thus its body temperature keeps it alive even in extreme Scandinavian winters. In the summer, since the reindeer does not tolerate heat, it looks for colder spots to cool down – thus the reindeer summer grazing lands are high in the mountains, where there are patches of snow and the appropriate climate and vegetation. There, the reindeer feed on around 250 different plant species – grass, leaves from willow and birch, herbs and fungi. They build fat to survive the cold winters with considerably less food, when they migrate to forested areas of lower altitudes, constantly burning out their fat. The winter food is the reindeer lichen (*cladina*), ground lichens (*cetraria*, *cladonia*, *sterecaulon*) and tree lichens (*alectoria*, *bryoria*, *hypogymnia*). The reindeer can survive also on green winter plants (brushwood and types of grass), shoots and roots of the plants in marshes, but it does not eat any parts of the coniferous trees while they are in the winter grazing lands in the forests.⁹⁹

The reindeers in Sweden are called “mountain”- and “forest”-reindeer to signify the type of reindeer herding that they are used for, but they are both the same specie, of the same family as the

⁹⁸ N.Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), pp.26-27; Centre for Saami Studies. *Basic Concepts in the Reindeer Husbandry*. in *Sustainable Reindeer Husbandry*, <http://www.reindeer-husbandry.uit.no/online/indexonline.html>, (accessed 5 May, 2007), p.18

⁹⁹ Saami Information Center, *Animals and Nature: Reindeer*, http://www.eng.samer.se/servlet/GetDoc?meta_id=1238, (accessed 25 April, 2007); N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), pp.24-25

caribou (but different subspecies). The mountain reindeer migrates from the mountains where it spends the summer to the coniferous forests in winter, while the forest reindeer is in the forest all-year round. They differ in weight (a mountain reindeer bull could weigh 100-150kg before slaughter time, while a forest reindeer bulls could weigh to 180kg), since forest husbandry is more stationary and the summer pastures in the forests are more nutritious. The forest deer also migrates on open areas or swamps in the summer and into the forests to hide from the hot weather. The winter pastures for both are the same.¹⁰⁰

The reindeer migrates for food – it is defined by the climatic conditions of the taiga and is its adaptive mechanism to survive the cold. Its destination for winter migration is defined by the availability of food. The forests provide food and shelter from the harsh climate which cannot be found elsewhere during the winter. The reindeer can smell the lichen through the snow cover (under a 70cm deep snow cover, or more – if the snow is porous) and is equipped to dig it out, but snow with ice crusts or hard ice surface make the lichen inaccessible. The reindeer, thus, needs the forest grounds where the winds are not so strong as in the open mountain spaces and the tree branches contain most of the snow pack (which would be otherwise on the forest floor). The snow on the forest ground is softer and more shallow and allows for the digging out of the lichens.¹⁰¹

The forest has to have some specific characteristics to ensure the survival of the reindeer – there must be availability of ground lichens and tree hanging lichens, both of which are important food. Tree-hanging lichens require old and undisturbed forests to grow (120-210 year old spruce forests are best, although pine and birch forests are also good). In Sweden there are very few such old forests today due to intensive logging in past and recent years. Moreover, methods for logging as clear-cutting and seed tree lodging directly destroy the hanging lichen. Lichens have annual growth rate of 10% per year and regenerate for about 80 years – thus if a second round of clear cutting occurs within that period the area is permanently lost for pasture. Ground preparation techniques as scarification and ditching destroy the ground lichen. Additionally, logged areas are open for the wind and the snow and the ground cover is hard and tick, difficult if not impossible to penetrate.¹⁰² Reindeers lose considerable energy during the winter – to maintain their body requirements, in the search for food and for the migration itself. They can lose between 20 and 40% of the body weight during the winter, depending on the severity of the condition.¹⁰³ Even if the ground lichen is not destroyed but simply inaccessible (due to logging which covers the floor with decaying tree waste for example), the reindeer cannot afford to lose energy and evades the pasture also for the future, thus changing its migration route. This is time consuming, at the end the reindeer might burn more energy and require additional food, not to mention accidents to both people and animals which might happen on unfamiliar routes and the loss of the pasture for the future routes.¹⁰⁴

State industry and land use

Approximately 40% of the productive forest land in Sweden is owned by the forestry industry – seven large forest companies, 5% is owned by the State, 5% by public owners as the Church,

¹⁰⁰ Saami Information Center, *Animals and Nature: Q&A*, http://www.eng.samer.se/servlet/GetDoc?meta_id=1132, (accessed 25 April, 2007)

¹⁰¹ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), pp.25, 26

¹⁰² UNEP. *GEO 3: Forests: The polar regions*, pp.116-118. The Global Environmental Outlook, 2002, http://grida.no/geo/geo3/english/pdfs/chapter2-3_forests.pdf, (accessed 1 May, 2007);

N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), pp.26, 28

¹⁰³ Taiga Rescue Network. *The role of Old-Growth forests in Sami reindeer herding*. by Jarmo Pyykko and Outi Jääskö, (TRN Factsheet, 2004), http://www.taigarecue.org/_v3/files/pdf/100.pdf, (accessed 25 April, 2007), pp.1-3

¹⁰⁴ Taiga Rescue Network. *The role of Old-Growth forests in Sami reindeer herding*. by Jarmo Pyykko and Outi Jääskö, (TRN Factsheet, 2004), http://www.taigarecue.org/_v3/files/pdf/100.pdf, (accessed 25 April, 2007), pp.1-3

municipalities etc, and 50% is owned by small private land/forest owners¹⁰⁵ (from now on referred to as SPLOs). SPLOs (about 340, 000 individuals) have used the land for both small scale forestry and farming. While in the industrialization period forestry has been commercially profitable, today it is not – due to transportation costs (the sawmills are in the south-east coast), the competition of cheap timber imports from the Baltic (which forms part of the State industrial exports), and the forestry subsidies, which are no longer paid. Thus the owners cannot have economy only on forestry and either move to urban areas or shift to farming.¹⁰⁶ However, 60% of the total timber production in Sweden comes from these private forests, thus the important political position of the private owners and the Forest Associations have in influencing local legislation and politics.

The natural resources of northern Sweden provide for significant part of its economy. The forest sector accounts for 15% of the total product exports, Sweden is the largest net exporter – about 70% of the sawn products and 80% of the paper produced in Sweden goes to Western Europe – UK, Germany, France and the Netherlands.¹⁰⁷ Sweden is world famous producer of steel and is major exporter of hydro-electric power to Scandinavia. Since the early 20th c. over 75% of the water power production was in Norrland, spreading from Jämtland (by the 1930s) to Norbotten (by the 1980s) and today the great majority of rivers in Norrland have been dammed.¹⁰⁸

The Timber industry has passed through several stages – the practice of logging until an area is cleared and then moving to another one and so forth brought shortages of timber and spared only the most inaccessible forests by the beginning of the 20th c. This was followed by the “Scandinavian Model” of tree plantations forestry, combined with clear cutting of the old forests. Tree plantations forests are monocultures which are regularly cut and replanted for high yield. These intensely managed forests lack the characteristics of a healthy forest with old trees, wet forests, dead wood, and opportunity for lichens to grow.¹⁰⁹ The timber industry is at the focal point of the conflict with reindeer herding today, due to the court cases and the loss of rights for grazing on the winter territories. Its environmental effects and effect on the natural habitat and behavior of the reindeer have already been discussed above.

The Tourism industry is another important point of potentially conflicting land use. “Potentially”, because despite the roads, vehicle movement, tourism facilities – as hiking paths, hotels, camping grounds, all of them disturbing reindeer herding, it does provide jobs for the Sámi reindeer herders as well. It is a point of potential possible coexistence of the Sámi and the state, where they could find common economic benefits. There are, however, conflicts between reindeer herding and tourism – while the existence of tourism here depends on the preservation of unspoiled natural environment, it does not necessarily accept reindeer herding, especially in its modernized form. The promise that brings tourists to the Arctic is to explore “the last wilderness of Europe” and with the escalating urban climate of noise and atmospheric pollution this promise will be ever increasing its worth. It is, naturally, disturbing for the tourist to see snow mobiles and helicopters in the wilderness while enjoying the peace of “unspoiled” nature. The Sámi and their reindeer are part of the attraction but it is the perception of the Sámi as indigenous culture living in harmony with nature that attracts, not modern people, what they are. To what extent does the tourist acknowledge the right of the local people to be modern people and enjoy the benefits of modernization and economic development the same way they, after all, enjoy its drawbacks?

¹⁰⁵ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), p.34-36

¹⁰⁶ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), p.34-36

¹⁰⁷ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), p.36

¹⁰⁸ SNA. *National Atlas of Sweden*, vol.: Infrastructure, Leif Wartenson, chief ed., (Kiruna: SNA, 1992), pp. 91-93

¹⁰⁹ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), pp.36-38;

UNEP. *GEO 3: Forests: The polar regions*, pp.116-118, http://grida.no/geo/geo3/english/pdfs/chapter2-3_forests.pdf, (accessed 1 May, 2007);

The above mentioned industries are accompanied by developing infrastructure and facilities for the workers, by ever increasing road networks which cut across migration routes, disturb grazing and calving grounds and limit the access to the few available pastures left.¹¹⁰ As result of the land stress created by industries, herding now requires even more land to be able to provide the necessary quality and quantity of food, and to find suitable pastures.¹¹¹ Moreover, these industries have serious negative effects on the fragile Arctic ecosystem which is extremely vulnerable to disturbances and pollution since the breakdown and recycling of pollutants and the overall recovery of the ecosystem is much slower at low temperatures. Some of these are already mentioned and the subject is broad by itself, but to name only few more – roads and vehicle movement damage the permafrost, hydro-electric power industry, by damming of rivers, eradicates fish populations from rivers, tributaries and natural lakes, disturbs the ice cover of lakes in winter, etc. for the Sámi these mean not only loss of calving and grazing lands (and sacred places of spiritual significance) but also the chance to complement their diet by fishing.¹¹² The effect from logging on biodiversity is that more than 2 000 forest species – animals and plants are on the Swedish Red list¹¹³

Conflicts over land

The territorial boundaries of the Sámi herding communities follow the natural migration routes of the reindeers – they are shaped as long and narrow strips starting from the mountains in the north-west and going south-east, following the river valleys into the forest lowlands and coastland.¹¹⁴ The migration routes pass through forest lands which are cut into patches with different owners (the state, private owners, the church).¹¹⁵ The state, large forest companies and some private owners allow the Sámi and their reindeer herds to pass through their property. Scattered among these, however, are privately owned lands where the Sámi rights for winter grazing pasture are not respected. These small private landowners have been bringing the Sámi to court in the past decades and with the court verdicts which rule that Sámi have no right to pass through that territory, the winter grazing lands are being lost in an escalating manner.

In fact, it is not only herding – other sources of income for the Sámi as fishing and hunting which were before part of their special rights, are no longer. Since 1993 small game hunting and fishing on government land in the Sámi territories (above the cultivation line), is allowed to everybody. The waters, set aside for Sámi fishing, thus decreased from 15-20% to 5% of the total number of fishing waters.¹¹⁶

The conflict between the different uses of the land is not new, and has always been an issue given the finite resource base and the need of both Sámi and settlers. However, coexistence was possible, (as history shows) and is possible today (as the recognition of Sámi rights on some private land shows). The protection the state gave to the Sámi though was at a time when the Sámi were bringing revenues to the state economy. Today the natural resources of the northern territories are way more significant and reindeer herding is not. The Sámi claims for the territory only threaten the exploration of natural resources and the economy of the state. Thus, through its institutional framework and the power it gives, the state can maintain sovereignty over the territory (full control

¹¹⁰ H. Beach, *The Saami of Lapland*, p.10; Timm Rochon, *Saami and Dene concepts of nature*. (Umeå: Center for Arctic Research, 1993), p.41-42, 49

¹¹¹ T. Rochon, *Saami and Dene concepts of nature*, p.50

¹¹² T. Rochon, *Saami and Dene concepts of nature*, pp. 41,50; H. Beach, *The Saami of Lapland*, p.10

¹¹³ UNEP. *GEO 3: Land: Arctic region*, p.87. The Global Environmental Outlook, 2002, http://grida.no/geo/geo3/english/pdfs/chapter2-2_land.pdf, (accessed 1 May, 2007).

¹¹⁴ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), p.24

¹¹⁵ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), p.29

¹¹⁶ Sami Information Center. *Trades: Fishing*, http://www.eng.samer.se/servlet/GetDoc?meta_id=1536, (accessed 13 March, 2007)

over its resources), by diminishing the position of the group with opposing interests and rivaling claims. On this scale the uses of land are truly in conflict. The pressure on reindeer herding from the state land use today comes from two sides – from the institutional framework through which the Sámi lose their land rights, and on the other hand from the environmental impact of industrial activities which change physically the landscape and impact the ecosystem (also by locally and internationally produced pollution) and the animals – the resource base of the industry. The landscape and the health of the ecosystem are important for the indigenous people not only as resources, but as basis for their identity. This will be considered in *chapter VI*, while the processes which led to the present legislative framework will be discussed in the following *chapter V*.

IV. LEGISLATION AND COURT VERDICTS

1. HISTORY OF SWEDISH SÁMI POLICY

The following discussion of Swedish Sámi policy from the time of the large scale planned expansion of the state into the northern territories in the 16th c., traces the changes in policy, legislation and court verdicts until present time. While there cannot be strict separation into different periods since effects of policies from previous periods often continued and mixed with later ones, for clarity they will be outlined in several main periods. These are based, to a degree, on the division by Roger Kvist in his article “Swedish Sámi policy 1550-1990” in which key decisions and policy changes define a period, and are complemented with discussions of some court verdicts and important ideas in society which resulted or intensified the official policy or the trend in verdicts. The discussion shows a trend in displacing the Sámi with the increase of the state’s economic interest in the territory, which is combined with the political and social processes of the times. Many authors agree that it was in the 19th c. when the official policy towards the Sámi takes a radical change compared to the otherwise more or less gradual process of integration of Sámi and Nordic cultures, more characterized by cultural and genetic exchange.¹¹⁷ However, while Kvist sees discriminatory policies in several of the earlier periods¹¹⁸, I would argue that these in effect depressing policies were still simply an effect of the “natural” processes within and among the modern states that were created, consolidated and became what they are today precisely throughout the years of interaction with the Sámi. I would say it is in modern times, with the 19th c. new paradigms of the western liberal type of society that the Sámi became subject to specifically discriminatory policies.

Early colonization period (mid-16th–early 17th c.)

The policy towards the indigenous people was based on the economic and territorial interest of the kingdom which required good treatment of the locals to secure income from taxes and good position in the strategic area. The assize courts combined juries from the Sámi and the Burcarls and Sámi traditional legal system existed parallel to the new courts. The Christian Church settles in the territory to speed up the process of cultural transformation and moved the trade centers into the church centers.¹¹⁹ The Sámi were protected by special letters and royal decrees which recognized and affirmed their right to use the land – which is theirs by “rights sanctioned by the use of centuries”¹²⁰. According to Mørner, the tolerant view of the Vasa dynasty towards the natives could be also attributed to the canonistic tradition of tolerance. According to Pope Innocent IV (1243-54), leading representative of the *canonistic tradition of tolerance*, “anyone could take possession of that which was not already possessed by another, while no one was allowed to take possession of that which was held by others, since that would be breaking the natural law, inherent to all people: “do unto others as you would have them do unto you”.¹²¹ This tradition, according to Mørner, had strong influence throughout Europe at that time and in similar cases – for example in 15th c. Poland

¹¹⁷ See for example: Roger Kvist, *Swedish Saami Policy, 1550-1990*. in *Readings in Saami History, Culture and Language* – part III, ed. Roger Kvist, (Umeå: Center for Arctic Cultural Research, Umeå University, 1992), pp.63-77 or Ulf Mørkenstam, *Group specific rights as political practice*. in *The politics of group rights. The state and multiculturalism*, ed. Ishtiaq Ahmed, pp. 35-60. (Oxford: University press of America, 2005)

¹¹⁸ R. Kvist, *Swedish Saami Policy, 1550-1990*, p.75

¹¹⁹ R. Kvist, *Swedish Saami Policy, 1550-1990*, pp.64-65

¹²⁰ In M. Mørner, *Land Rights of the Sami and the Indians*, pp.44-45

¹²¹ * The same attitude and possible origin for it can be seen in the Hapsburg monarchs’ official policy towards the Spanish American Indians in their land rights issues, during the same period and under similar relations of colonization. In M. Mørner, *Land Rights of the Sami and the Indians*, p.56

the legal scholar Paulus Vladmiri defends the land rights of the Lithuanians (not Christians at the time) against the German Order at the Council of Konstanz. A case like this one, stands out very distinctly from the general ideas of society at the time and must have reached the Vasa kings and had its influence on Swedish Sámi policies, assumes Mørner.¹²²

Mining and natural resource extraction (17th c.)

With the establishment of monarchical absolutism in 1680 came policy based on regalistic ideas. In 1683 King Karl XI issued forest regulations for Norrland which distinguished privately owned forests from the rest (which should belong to the Crown). These forests were to be used for fuel in the mining industry which is why the territory claimed by the crown covered only forest areas, leaving out the mountains with bushy vegetation (which is not good for fuel). Mørner notes that the document shows positive attitude towards the Sámi and their ownership rights of land, but that had nothing to do with securing the needs of the state.¹²³ These forest regulations are used as basis for another policy in the mid-18th c. during another wave of regalism in domestic policy, but then they are taken out of the context of the time and used in another situation, for the detriment of the Sámi¹²⁴.

The indigenous population had to be converted into Swedish citizens and kept within the Swedish territory to ensure the territorial riches are to be used by Sweden. The church is again used as political tool and to facilitate the process of conversion, all activities – court sessions, tax collection and trade fairs, are held in the churches.¹²⁵

Colonization and Christianization (late 17th – mid-18th c.)

Before the mid 18th c. the legal status of the Sámi concerning land was the same as the farmers' – none of them owned the land, and both paid taxes to use it. Sámi could inherit and pass on the land they use and the tax paid for the use of the land (the tax is paid by the family, not individually) secures the land as their property “by custom”.¹²⁶ Despite the intense colonization, Sámi rights were still respected in legal disputes. The assize courts had many Sámi members and there was continuation of the old customs in settling property issues. Sámi customary rights were acknowledged by the courts and court disputes were in Sámi favor (as the case in Kemi Lappmark when settlers were ordered to cease burn-beating of the land which was disturbing the game Sámi hunted¹²⁷).

The differences in land use were coming at the focus at that time. Governor Johan Graan (Sámi by origin) wrote in 1670 a report to the Swedish authorities suggesting further colonization of the Sámi lands by Swedish and Finnish citizens. The land register of the Sámi lands he made as part of the report was done, according to Kvist, with the political aim to give the Sámi land use the same legitimacy the farmers' land use has.¹²⁸ According to Olofsson, the recognition of Sámi's land use which followed and the realization that their economy is part of the total economy of the country, ended the mining activities which were so distressing for Sámi and reindeer.¹²⁹ Johan Graan wrote that besides the land which is wanted by the Swedes for farming, there are other lands – marshes

¹²² M. Mørner, *Land Rights of the Sami and the Indians*, p.56

¹²³ M. Mørner, *Land Rights of the Sami and the Indians*, pp.41-42

¹²⁴ the decision of the District Court in Jämtbygden, in M.Mørner, p.44

¹²⁵ R. Kvist, *Swedish Saami Policy, 1550-1990*, pp.65-66

¹²⁶ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), p.32

¹²⁷ Sámi Informaiton Center. *History: The colonization of Sápmi*,

http://www.eng.samer.se/servlet/GetDoc?meta_id=1218, (accessed 26 March 2007)

¹²⁸ R. Kvist, *Swedish Saami Policy, 1550-1990*, p.66

¹²⁹ Sven I. Olofsson, R. Kvist, *Swedish Saami Policy, 1550-1990*, p.66

and forests, some of which are not used by the Sámi and could be used by settlers, without this to trespass the rights of the Sámi.¹³⁰ Thus, it was possible for the different land uses to coexist (*the parallel theory*). This was backed by the policy since the 16th c. to separate different groups and trades apart, “to diminish the state’s transactional costs for revenue collection”.¹³¹ Because of this, or because Sámi trade was acknowledged as more profitable than farming (as Kvist writes¹³²), the Lappmark Proclamation of 1695 which encouraged settling in the area for farming, included that “settlers should clear arable and pasture land and that excess burn-beating should not occur”¹³³. After that, until after mid-18th c. Sámi land was considered equal to freehold farm land – it could be inherited, bought and sold and was private as long as the taxes were paid.

In the cultural sphere, however, the traditional Sámi beliefs were not tolerated – the church, now strong and organized, succeeded to subvert Sámi religion, despite the strong opposition. At a court session in Arjeplog in 1682 the jury and the people refused to give up their traditional system of beliefs, which was then investigated by the Supreme Court and one person was executed for upholding his beliefs (in 1693).¹³⁴ There were destructions of sacred objects as the shaman drum and persecutions of the shamans.

The turnover (mid-18th – mid-19th c.)

In the beginning of the period the Sámi were still of greater importance for the state economy and the conflicts with settlers were obstructing their contribution. Thus, the notion to protect the Sámi is expressed in the Settlement ordinance of 1749, which while encouraging the important settlement of the area (by farmers), restricted their hunting and fishing rights for the benefit of the Sámi.¹³⁵ The increased colonization of Lappland was accompanied by church missions with strategic measures Sámi schools in the churches (in the 1720-30s) and the clergy were forced to learn Sámi language. The court verdicts over different uses of land were usually in favor of the Sámi, until about the 1780s.¹³⁶ The Lapp Codicil (to the border treaty of Sweden and Norway of 1751), called the Sámi *Magna Carta* for its significance for Sámi land rights ever since, secured Sámi traditional land use across the national borders and despite times of war.¹³⁷ The Lapp Codicil is, according to Mørner, result of the influence of some European ideas on Nordic law at the time. At the time of the 16th c. Spanish conquest, Francisco de Vittoria stated that the Indians were the true owners of land “both from public and private standpoint”¹³⁸. H.Grotius (1625) and S.Pufendorf (1672), in turn influenced by de Vittoria, wrote about the right for collective ownership which is derived from collective occupation. This idea of theirs in turn influenced Henrik Stampe, one of the authors of the treaty with the Lapp Codicil.¹³⁹ Thus, as Riseth says, colonization of a national territory does not imply transfer of the land title to the colonial power and the indigenous people are still “equal parties”¹⁴⁰, which same view is in the basis of modern indigenous rights law¹⁴¹ (and was expressed by the Lapp Codicil). Also, at that time it was still taxing the subjects, not the land that was giving the state

¹³⁰ M. Mørner, *Land Rights of the Sami and the Indians*, p.41

¹³¹ R. Kvist, *Swedish Saami Policy, 1550-1990*, p.66

¹³² R. Kvist, *Swedish Saami Policy, 1550-1990*, pp.66-67

¹³³ Sámi Informaiton Center. *History: The colonization of Sápmi*, http://www.eng.samer.se/servlet/GetDoc?meta_id=1218, (accessed 26 March 2007)

¹³⁴ R. Kvist, *Swedish Saami Policy, 1550-1990*, p. 67

¹³⁵ R. Kvist, *Swedish Saami Policy, 1550-1990*, p. 67

¹³⁶ R. Kvist, *Swedish Saami Policy, 1550-1990*, pp. 67-68

¹³⁷ M. Mørner, *Land Rights of the Sami and the Indians*, p.44-45, J. Eriksson, *Partition and Redemption.*, p.85

¹³⁸ in Mørner, p.45; see also: J.Riseth, *So the last shall be first and the first last?*, p.41

¹³⁹ *as Hernik Stampe himself writes in his study on Finnmark, in Mørner, p.45

¹⁴⁰ J.Riseth, *So the last shall be first and the first last?*, p.41

¹⁴¹ J.Riseth, *So the last shall be first and the first last?*, p.40, 52

sovereignty over a territory. Thus, the Sámi brought the land with them when they became subjects of the Norwegian state, not the other way around¹⁴².

However, in this period, for only the course of one century the position of the Sámi took a drastic turnover – they became minority without any voice, lost their land rights and their traditional land was partitioned and became property of the state and private individuals. What are the reasons behind such a drastic change? The 18th c. came with the ideas of the Enlightenment in the context of the Age of Reason, the Scientific revolution and the new ideas about the individual and its relations with the society and the state. It gave the intellectual basis for the independence revolutions and created the today dominant form of society with the ideas of liberalism, capitalism and democracy. However, while the Enlightenment philosophes proclaimed universal rights for all, some of them also expressed racist views – this is one of “internal strains” of the Enlightenment, as Callinicos calls it (T. Jefferson who drafted the Declaration of Independence in 1776 with the ideas of the Scottish Enlightenment philosophes that “all men are created equal”, given the inalienable rights of “life, liberty and the pursuit of happiness”, at the same time in another document expressed “suspicion” that “the blacks, whether originally a distinct race, or made distinct by time and circumstances are inferior to the whites in the endowments both of body and mind”).¹⁴³ With the Enlightenment came John Locke’s idea of liberal property rights, according to which private property is a basic human right. However, private property, while it is right of the individual and cannot be claimed by others, is derived from labor – i.e. the land has to be used and worked on. This paradigm became the basis of the state, the societal relationships, economy, individual citizenship rights. The effects on the indigenous people was that they were excluded from the chance of obtaining property rights because of the pattern of land use. Since the Sámi did not cultivate the land, it was not theirs, it was *terra nullius*.¹⁴⁴ In Finnmark, for example, it was formulated by the Department of Finance that, “Sámi land use did not constitute a base for land acquisition.” The new paradigm became the basis of judicial theory and legislation.¹⁴⁵ In Sweden, the Sámi land was considered property of the state and they were its tenants, with usufruct rights and no right for inheritance of land. The right to grant titles to Sámi land previously held by the courts now was given to the country administration (where the Sámi were not in position to appeal). The court verdicts of land and fishing right conflicts were regularly lost by the Sámi when confronted by agricultural interests. The individual property right took over the collective rights of the Sámi and through series of settlement acts and agriculture laws the ancestral lands became private property.¹⁴⁶

Around 1867 the mountains were set aside for the Sámi reindeer grazing with the Cultivation line running from north to south, outlining the mountain area, west of which – the now Sámi area, the settlers could not settle. The rest of the Sámi territory continued to be divided into parcels and the process was from south northwards.¹⁴⁷

Assimilation and selective segregation (mid-19th – late 20th)

Segregation was featured only in Sweden, according to Eriksson, while the other two states had assimilation policy.¹⁴⁸ The differences come from the specific contexts of the Nordic states. Norway

¹⁴² Thomas Cramer, Otto Jebens, in Steinar Pedersen, *State of Saami ownership of land in Finnmark? Some remarks on Saami rights and historical evidence*. in *Readings in Saami history, Culture and Language – part II*, ed. Roger Kvist, (Umeå: Center for Arctic Cultural Research, Umeå University, 1992), p.73

¹⁴³ Alex Callinicos, *Social Theory*. (Cambridge, UK, 2005), p.31

¹⁴⁴ J.Riseth, *So the last shall be first and the first last?*, p.41

¹⁴⁵ S. Pedersen, *State of Saami ownership of land in Finnmark?*, pp.69-81

¹⁴⁶ S.Forrest, *The territorial dimension of state-Sámi politics.*, p.257; R.Kvist, *Swedish Saami Policy, 1550-1990*, p.68

¹⁴⁷ M.Mørner, *Land Rights of the Sami and the Indians*, p.48

¹⁴⁸ J.Eriksson, *Partition and Redemption*, p.89, see also: R.Kvist, *Swedish Sami policy 1548–1992*

and Finland were going through strong nationalism period with rapid cultural, economic and political development. In Norway, Sámi politics was based on the ethnic policy of protecting the Norwegian nation against the influence of all other nations and ethnic groups, for the fear of loosing the “Norwegian” culture.¹⁴⁹ Norwegian nationalism, growing in opposition to Sweden, was intensified by the Finns migration to Norway and the fear of “Finnization”. Thus the Sámi suffered increased Norwegianization, especially in regards to language.¹⁵⁰ The reindeer herding laws in Norway were stricter than in the other two states, because they were meant to protect the economic interests of Norwegian farmers, forest owners and fishers, above all.¹⁵¹ In Finland the loss of Sámi rights came out of the need to strengthen political borders and secure resources for economic development – it was to the advantage of the new state to have full control over Lapland (the high costs of timber in the later 19th c. made forestry in Lapland more important economically than agriculture, let alone herding).¹⁵² In Sweden the policy was based on economic development. Sweden’s profits from reindeer herding became insignificant by the late 19th c., while the conflicts with farmers were increasing. Thus, it had no interest to protect herding anymore.¹⁵³ The economic reasons were backed up by the ideas of Social Darwinism.

This paradigm was the second fundamental development in the realm of ideas which displaced the Sámi as a group. Although named after Darwin’s theory of evolution in the natural world, the theory that nature and society evolve the same way, by natural selection, was an idea of the time, not influenced by Darwin, but by the evolutionist Herbert Spencer (1820-1893).¹⁵⁴ This evolutionary social theory saw the history of the different kinds of society as a process of evolution in which by natural selection only the fittest survive¹⁵⁵. Since evolution applies on the scale of races and cultures, humanity evolves from the many different races into a perfected race. The forces of production were the basis on which different kinds of society were distinguished and the weaker were transformed into the stronger. Thus there were superior and inferior races and cultures.¹⁵⁶ Out of this comes the idea that Indigenous societies, based on their forces of production (and non settled life style) are inferior culture, doomed to die out. The influence of these ideas in Sweden came through the German Ernst Hæckel and could be easily found in the famous statement by Supreme Court Justice Knut Olivercrona of 1884, at the drafting of the Reindeer Grazing Act of 1886: “...an unalterable condition for all peoples in the advancement toward a higher civilization is permanent settlement. Those peoples unwilling to give up nomadic life must remain on an inferior cultural level, make way for more civilized settled groups and, in the end, grow smaller and smaller until they become extinct. .. the state, whose interest must lie in the promotion of a higher civilization is completely justified in favoring land cultivation.”¹⁵⁷ The influence of Social Darwinism on Swedish legislation and in the social paradigm was especially noticeable by the 1880s, in the sudden change

¹⁴⁹ S. Forrest, *The territorial dimension of state-Sámi politics*, pp. 260-262

¹⁵⁰ H. Beach, *The Sami of Lapland*, p.5

¹⁵¹ S. Forrest, p.260

¹⁵² S. Forrest, pp.261-262

¹⁵³ S. Forrest, p.261

¹⁵⁴ *according to A. Callinicos, Spencer published articles formulating this theory two years before “*the Origin of Species*” – in A. Callinicos, *Social Theory*, p.100

¹⁵⁵ **Survival of the fittest* was Spenser’s phrase, justifying social hierarchy as result of natural selection – in Callinicos, *Social Theory*, p.105

¹⁵⁶ Callinicos, *Social Theory*, pp.100-108

¹⁵⁷ Knut Olivercrona, statement in the Supreme Court concerning the Lapps in 1884 – in Tomas Cramèr, *All Men are created equal – even in Jämtland?* In *The Sami National Minority in Sweden*, ed. Birgitta Jahreskog, (Uppsala: The Legal Rights Foundation, 1982), p.132

of Oliverkrona of his opinion about the Sámi and in the preparation documents for the Act of 1886.¹⁵⁸

The paradigm of Social Darwinism came at the time of industrialization, the colonization of territories with indigenous people of the Great European Powers and thus provided for justification for territorial claims. It had its origin in the Enlightenment ideas as well – seen also in the certain level of paternalistic policy James Mill exercised in India¹⁵⁹ and came at the time of expansion of the European powers to other continents, colonization and rapid industrial development of the European states. Moreover, in early 19th century Hegel wrote that the self interests of individuals and groups should give way to the interest of the state,¹⁶⁰ which in the context of nationalism and growing sovereign state, gave further strength to the assimilation policy towards Sámi. From 1877 the Sámi language and culture are assimilated through the school system¹⁶¹. The policy of assimilation was complemented by protectionism, based on the idea that the Sámi are not capable for agriculture while they are better adapted to utilize other territories which no one else is, thus it is to the benefit of the state to protect their nomadic way of life.¹⁶² This led to the Nomad School Act of 1913 and the system of separate schools for nomadic children – the hut schools (kåtaskolor) which were to artificially keep the Sámi kids in nomadic life style. The kåtaskolor lasted until 1940 (and the School Act of 1938). The separation between nomadic Sámi and the rest of the Sámi (who were sent to Swedish schools and assimilated) lasted until 1962 when officially Sámi schools were opened for the others as well, but by 1975 only 5% of the Sámi school-children went to Sámi schools.¹⁶³ Another outcome of the policy was the voting right which was linked to ownership of property and payment of taxes – the settled Sámi had right to vote, while the herders, who did not pay taxes, did not.¹⁶⁴

Since the parallel theory, the ethnic definition of a Sámi has been connected with the means of livelihood – hunting, fishing, herding, opposed to the Swedish or Finnish settlers occupied in agriculture. In government policy life style was used to define ethnicity, despite the fact that as time progressed many Sámi did settle. This defined the policy of selective segregation – from the 1870s protectionist policy to Sámi culture was applied only to those who practice reindeer herding. With the decreasing number of Sámi in reindeer herding was decreasing also the number of ethnic Sámi. The Sámi – herders were under paternalistic law and state control of herding (the control was aimed to improve the bad practices of the Sámi herding which cause conflicts and damages to agriculture). The Sámi who did not want to or could not claim rights to pursue herding were not considered Sámi and assimilated. By this is both encouraged a shift to *progressive* occupations as farming, and the Sámi are being *civilized*, and is also decreased the number of ethnic Sámi population. Thus, by 1975 20% of the non herding Sámi could not understand the Sámi language, 40% could not speak it, 65%

¹⁵⁸ Gunnar Eriksson, *Darwinism and Sami Legislation*. In *The Sami National Minority in Sweden*, ed. Birgitta Jahreskog, (Uppsala: The Legal Rights Foundation, 1982), pp. 89-100

¹⁵⁹ *While writing about democracy in his Essay on Government, he was also looking at the Indians as backward peoples, not capable of ruling themselves. While chief executive of the East India Company, which ruled British India until 1858, he tried to impose on the local Indians political, economic and legal doctrines because they could not manage themselves, in A. Callinicos, *Social Theory*, p.32

¹⁶⁰ in J. Riseth, *So the last shall be first and the first last?*, pp.42,52

¹⁶¹ R. Kvist, *Swedish Saami Policy, 1550-1990*, p.69

¹⁶² conclusions by the Royal commission on Sámi schools – in R. Kvist, *Swedish Saami Policy, 1550-1990*, p.70

¹⁶³ R. Kvist, *Swedish Saami Policy, 1550-1990*, p.70

¹⁶⁴ R. Sjølin, historical study of Sami political participation in Sweden (Sjølin 1996, 2002), in Eva Josefsen, *The Sami and the national parliaments. Channels of political influence*. Resource Center for the Rights of Indigenous Peoples, (2003), <http://www.galdu.org/govat/doc/politicalinfluenceevajosefsen.pdf>, (accessed 15 May, 2007)

could not read and 85% could not write it.¹⁶⁵ The Sámi (nomadic) culture was considered inferior and doomed to die out, thus the Sámi were supposed to settle and be assimilated to survive.¹⁶⁶

The Grazing Acts

The Reindeer Grazing Acts reduced the rights of the Sámi and took control over reindeer herding. The aim of the first Reindeer Grazing Act of 1886 was to regulate the relations between herders and settled population by spatially separating their different activities. By replacing the common law with special law it defined the Sámi as different from the rest, thus the laws and freedoms applicable to all were not applicable to those who have a different, *special* status. The Sámi lost land ownership and the individual rights for pastures became commonly hold right of the Sámi village (the Act of 1898). The Acts also create internal divisions within the Sámi as a group – the 1886 Act gave grazing, hunting and fishing rights only to reindeer herding Sámi and divided the fishing Sámi from them. Still, under this Act and the one from 1898 all Sámi were free to take on the reindeer herding occupation. However, under the 1928 the right to choose this occupation was restricted – it was given if direct family member was engaged in herding. This Act also created the Catch 22 of Sámi identity defined as reindeer herder and the right to engage in herding given to only those who are Sámi – members of a sameby.¹⁶⁷ By this definition was removed the possibility to complement income by combination of activities – agriculture, herding, hunting, fishing, thus when a herder was not able to live entirely on herding and had to leave the occupation, the Sámi ethnic identity was lost as well.¹⁶⁸

20th c. and the minority status

The *rationalization policy* of the beginning of the century has three successive stages – initially it aimed to limit reindeer herding from damaging agricultural practices (by fences, herd size restrictions, restrictions on the number of herders and the herding methods), then aimed to transform reindeer herding into efficient and profitable industry to improve the socio-economic welfare of the Sámi (as result of the international sentiments after WWII and increasing attention to the treatment of minorities within the states, and also the creation of the Nordic welfare state in the post war years). Finally it aimed at environmental protection, since it was believed Sámi form of herding is example of the tragedy of the commons and causes overgrazing. The state intervention in the herding system resulted in less ability of the system to function as it was and thus to more state intervention.¹⁶⁹ For the transition in methods (and transition to use of technology) the state gave subsidies and compensations.¹⁷⁰ The international processes after WWII changed the national Sámi politics in all Scandinavian state – with the UN Declaration of Human Rights in 1948 the Sámi were granted human rights – i.e. civil rights (as individuals, citizen of the Swedish state, not as *people/nation*), were allowed to live in houses and ten years later their language was allowed to be spoken and taught in schools.

2. THE SÁMI IN SWEDISH LEGISLATION TODAY

¹⁶⁵ R. Kvist, *Swedish Saami Policy, 1550-1990*, p. 69-70, S. Forrest, *The territorial dimension of state-Sámi politics*, pp. 259, 261

¹⁶⁶ in S. Forrest, *The territorial dimension of state-Sámi politics*, p. 260

¹⁶⁷ in R. Kvist, *Swedish Saami Policy, 1550-1990*, p. 70; Åsa Dahlström, *Negotiating Wilderness in a Cultural Landscape*. (Uppsala: Uppsala University, 2003), pp.52-57

¹⁶⁸ S. Forrest, *The territorial dimension of state-Sámi politics*, p. 261; Ulf Mørkenstam, *Group specific rights as political practice*. In *The politics of group rights. The state and multiculturalism*, ed. Ishtiaq Ahmed, (Oxford: University press of America, 2005), pp. 44-45

¹⁶⁹ S. Forrest, *The territorial dimension of state-Sámi politics*, pp. 262-264

¹⁷⁰ Åsa Dahlström, *Negotiating Wilderness in a Cultural Landscape*, pp.37-39

The Sámi are recognized in the constitution of Sweden as ethnic minority. As such, they have the right to use their own language with the authorities in several settlements (Kiruna, Gällivare, Jokkmokk and Arvidsjaur) – and it is recognized as official minority language by the council of Europe's minority language convention signed by Sweden in 2000.¹⁷¹ They also have their own news programme on the TV, own radio, own newspaper. However, they do not have status as indigenous peoples.

International developments in the recent decades have improved the position of indigenous peoples – international legislative instruments as UN International Covenant on Civil and Political Rights of 1966 and the ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries. Concerning indigenous peoples within the borders of the state, these should be the common guide on treatment and rights for these peoples. However, a major criticism against the international system today (which Rebecca Lawrence expresses¹⁷²) is that indigenous people are seemingly supported as such while at the same time the issues concerning them are treated together or interchangeably with the rights of minorities. The fundamental difference between individual minority rights and the collective rights of indigenous people is based on the more political connotation of indigenous rights, and the connection of these with the land. Sweden has ratified the UN Covenant on Civil and Political Rights which concerns the rights of the minorities, while it has not yet ratified (for many years) the ILO Convention No. 169 which concerns the land rights of indigenous people.

a) The Sámi Parliament in Sweden

The Sámi relate to the nation state's political structure through the Sámi Parliament, which was established by the Sámi Parliament Act of 1992. The parliament is more public administrative body with consultative power (subject to Swedish authority), elected from the Sámi population. Sámi affairs are responsibility of the Swedish Ministry of Agriculture, Food and Fisheries – for Sámi and reindeer husbandry issues, and the Ministry of Culture and the Ministry of Education and Science – for language, culture and schools.

b) The Reindeer Husbandry Act of 1971

According to the Act, the Sámi have the exclusive right for reindeer husbandry and the right to graze over the land throughout the year in the mountain area and during the winter months (from 1 October to 30 April) on the winter grazing land in the forests. While the mountain area is clearly outlined, no borders for the winter grazing lands below the mountains are stated in the Act. It only says that reindeer herding can be carried out “below the mountain area” (below the agricultural line)¹⁷³, in the forest lands, where “reindeer husbandry has been traditionally carried out at certain times of the year.”¹⁷⁴ Moreover, it says that since the lower border – the end of the winter grazing lands to the east “cannot be defined” anybody who questioned the customary rights of the Sámi should do that in court. Thus, the right of the Sámi to pass through the lands they have used traditionally for winter grazing of the reindeers applies only in cases when legal decisions do not deny these rights.¹⁷⁵ Sámi who are members of a sameby have the right to engage in reindeer herding. However, it should be noted the herding right is not individual, but collective right. It is

¹⁷¹ Saami Information Center. *Language: Language legislation*, http://www.eng.samer.se/servlet/GetDoc?meta_id=1187, (accessed 7 May, 2007)

¹⁷² Rebecca Lawrence, *Sami, citizenship and non-recognition in Sweden and the European Union*. In *Discourses and silences. Indigenous peoples, Risks and Resistance*, ed. Cant, Goodall and Inns, (New Zealand: Levanger Videregående Skole, 2005)

¹⁷³ Åsa Dahlström, *Negotiating Wilderness in a Cultural Landscape*, p.54

¹⁷⁴ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), p.43

¹⁷⁵ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), p.43

given to the sameby as a unit and through it to its members. Thus it is different from the other civil rights in the legal system. In the conflicts over land these two conflicts collide since the right for ownership and the right for reindeer herding are both protected by the Swedish constitution.¹⁷⁶

c) The Swedish Forestry Act

Sweden was the first world country to develop the Forest Stewardship Council standard (in cooperation with environmental organizations, the forestry sector and the Sámi people). It is incorporated in the Swedish Forestry Act since 1993 and about 45% of Swedish forest land – the state and industry lands are certified under the FSC standard. According to the Forestry Act the Sámi reindeer herders have the right to graze on the land and they should be considered and consulted within the area of their grazing activity. However, there are no strong measures to implement the Forestry Act and generally the state applies double standard when it comes to forcing the private sector to comply.¹⁷⁷ The reasons for that could be found in the importance of the private forestry land owners for the state forestry sector.

d) Small game Hunting Law

At the same time as the Swedish Parliament established the Sámi Parliament, it issued a bill (in 1993) according to which it takes over the administration of small game hunting on the territory of the Sámi summer grazing lands.¹⁷⁸ This means hunting on the Sámi traditional grounds which was before privilege of the sameby and is in the area of the calving and grazing grounds is now open to all Swedish citizens. The verdict of the Taxed Mountain Case, some decades before that, interestingly, acknowledged Sámi herding and fishing rights in the mountains but only hinted on the hunting rights, without specifically stating they are Sámi right as well.¹⁷⁹

3. THE LAND CONFLICT TODAY

In 1960 the Altevattn case questioned the rights of two Swedish Sámi districts (Talma and Saarivuoma) to grazing land around Altevattn (Altesjavri) in Norway. The area was of interest to the Norwegian authorities for hydroelectric power generation. The judgment in 1968, however, was based on the Lapp Codicil and gave the Swedish Sámi access to the district.¹⁸⁰ In 1966 the Sámi claimed ownership of the grazing lands in the mountain territories in Jämtland and Härjedalen in the Taxed Mountains case (Skattefjällsmålet). The legal struggle continued to 1981 and the verdict of the Supreme Court of Sweden said that the Sámi do not have rights of ownership over the land, since land title as collective indigenous right was not acceptable. However, while their claim for ownership was declined, the rights to use the land got better legal protection.¹⁸¹ The verdict was important because it was the start of Sámi fight in the courts – in the past couple of centuries they were not allowed to contest in courts and the legal issues were handled by the police administration of the board of treasury. The Supreme Court verdict ruled that the usufructuary land rights of the Sámi are independent rights under civil law, not coming out of parliamentary legislation. Thus, they were placed in a different situation.¹⁸²

Jünge discusses as possible reason for the judgements of the Swedish Supreme Court in the Skattefjällsmålet and Härjedalen cases a 100 year old paradigm. The Invasion Hypothesis of Y.Nielson – the theory that the Sámi have come to the mountain and forest areas south of Namdalen

¹⁷⁶ Åsa Dahlström, *Negotiating Wilderness in a Cultural Landscape.*, pp. 52-53

¹⁷⁷ Per Larsson, in Nanna Borchert, p.38-39

¹⁷⁸ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), p.55

¹⁷⁹ Birgitta Jahreskog, ed., *The Sami National Minority in Sweden*, (Uppsala: The Legal Rights Foundation, 1982)

¹⁸⁰ J. Eriksson, *Partition and Redemption*, p.96

¹⁸¹ in J. Eriksson, *Partition and Redemption*, p.99, R. Kvist, *Swedish Sámi Policy, 1550-1990*, pp. 72-73,

¹⁸² R. Kvist, *Swedish Sámi Policy, 1550-1990*, p. 73

and northern Jämtland as late as the 17-18th thus had no right to claim history of use in the area.¹⁸³ The theory was created during the time of Social Darwinism and quickly became the scientific foundation for Sámi reindeer herding legislation in both Norway and Sweden and can be found, according to Jünge in the foundation of the assimilation policy. It has been referred to in Judgments of the Supreme Courts of both Sweden and Norway in the 1990s.¹⁸⁴ An example is the Norwegian Supreme Court judgement of 1997 in the Aursunden case which declined the right for reindeer herding in an area north of Lake Aursunden – an area in the interior of reindeer herding district and important for movement and grazing of reindeers. The judgement was based on a verdict by the Supreme Court made in 1897 for the same area, which was, itself, based on Nielsen's Invasion Hypothesis. That verdict said that the Sámi cannot use private property lands for reindeer herding.¹⁸⁵

A significant change comes at this time in Norway – the Alta river case (1978-1981) which was the Sámi struggle against the state industrial activities at the Alta river in Northern Norway. The river was chosen for hydroelectric power dam and the project was threatening grazing territory, the salmon populations in the river and the Sámi settlements along the river. The strategy of the Norwegian Sámi was to cover several fronts – by engaging the media, civil society and environmental organizations, by negotiations and lobbying the government, activist protests and legal confrontation. The resulting national and international attention and response forced the Norwegian government to cancel the project. The Alta case is always mentioned as a cornerstone in the Sámi struggle for their land as it showed the power of Sámi transboundary solidarity and the importance of international influence on national decisions. It also did change Norwegian Sámi policy – with the Sámi Act of 1987 the indigenous status and language of the Sámi was recognized and the Sámi Parliament in Norway established. Then, Norway took the leading role in affecting Scandinavian Sámi policy – in 1983 Sweden set up commission on Sámi rights which started investigating issues about the legal status of the Sámi, the culture and the language and a Swedish Sámi Parliament. Finland also responded, though with slower pace.¹⁸⁶

The somewhat strengthened position of Sámi herders as result of the Taxed Mountain case and the Alta river case, combined with the increase in Reindeer population (result of the Chernobyl catastrophe and the reindeer meat market collapse) brought discontent and anti-Sámi attitudes among farmers, private loggers, forest companies and hunters. This was triggered further by the new requirements imposed on logging companies in the area to consult the Sámi before undertaking large scale logging activities. Thus, in 1990 three forest companies and a group of small private landowners from the territory of the winter grazing area, bring five Sámi herding communities to the district court in Sveg, claiming the Sámi have no customary right to graze below the mountains. In 1992 the forest companies withdraw from the court case and seek out of court agreement with the Sámi which results in guarantees of the Sámi right to use the land of these companies for herding. About 700 individual SPLOs (small private land owners), however continue the lawsuit. In 1996 the District Court of Sveg ruled that the Sámi had no winter grazing right on the properties of these SPLOs – which is a substantial part of the winter grazing land of those Sámi communities. Moreover, it said, “*no winter grazing right exists on any questioned land spot outside the mountain area..*”, which meant that the right to graze in any area beyond the mountains is not acknowledged. Considering the needs of the reindeers for the winter grazing lands (as was discussed in chapter IV.2 and 3) the industry cannot exist without these lands. The herding

¹⁸³ Å. Jünge, *Paradigm Shifts in Southern Sámi research*, pp.60-64

¹⁸⁴ Å. Jünge, *Paradigm Shifts in Southern Sámi research*, pp.58-63

¹⁸⁵ Å. Jünge, *Paradigm Shifts in Southern Sámi research*, pp.63-64

¹⁸⁶ J. Eriksson, *Partition and Redemption*, pp.99-104

communities (Idre, Tännäs, Mittådalen, Handölsdalen and Tåssåsen) appealed the judgment to the Court of Appeal in Sundsvall, however, in 2002 the Court of Appeal repeated the verdict. The five communities further appealed to the Supreme Court – about the judgment of the Court of Appeal, but in 2004 the Supreme Court decided not to hear the case.¹⁸⁷ Thus, with this case was created a precedent for not recognition of Sámi grazing rights on private property beyond the mountains. That brought and escalation of cases into the courts.

The court verdicts generally are based on the lack of proof of Sámi occupation of the land. Specifically, the courts request written documentation, which the Sámi cannot provide due to the nature of their land use. It leaves no visible traces and there is no specific documentation on Sámi titles to land that was issued by the state in the past. Especially in rotational herding it is difficult to find traces, since the entire winter grazing area is divided into sectors, the use of which rotates each year. There might be more than 90 years before herding returns to a particular pasture sector and thus in the memory of local owners the Sámi have never been there.¹⁸⁸ The courts require written proof for at least 90 years of continuous grazing use of each of the pieces of land which are contested.¹⁸⁹ Since Sámi traditions are only oral they have been providing evidence in the form of accounts by specialists in different fields – such as archaeologists, historians, scientists which finds proofs in the past history of the Sámi within Sweden showing, from documents and physical evidence about Sámi occupation of the land.

Those SPLOs who sued the Sámi, persist in seeking court decision and not the out-of-court settlement the Sámi try to arrange. More so, since the Sámi are obliged to pay the costs of the trial and after a precedent has been made, the court verdicts all follow the same trend – the Sámi being denied grazing rights in the contested private lands. There were six more cases after Härjedalen verdict, all in the period 1996-1998. In these, (with Härjedalen they are seven), 12 Sámi communities are sued by about 1,000 SPLOs. The territories where the Sámi rights for winter grazing lands are denied spread from the southern part of Sápmi (central Scandinavia) throughout northern Sweden – the southernmost sameby being sued is Idre and the northernmost two – Gällivare and Udtja. The cases were brought to the District courts of Östersund, Umeå, Skefteå and Luleå and the winter grazing rights in Härjedalen, Jämtland and Dalarna are as result, lost to the Sámi.¹⁹⁰ The Sámi also bear the costs for the trials and thus the impact further aggravates – with the inability to continue herding the sameby cannot find the resources to continue law suits, while if they do not contest the verdicts they do not have the land rights. Thus, in 2000 Idre, Gällivare and Udtja communities ceased their legal defense due to lack of funds.

The Sámi ask the government to appoint commission which would investigate and define the borderline, signifying where are the winter grazing lands. Then, this has to be implemented in the legislation – the Reindeer Herding Act of 1971.¹⁹¹ The borderline has to be one, single border, since it is one winter grazing territory. Multiple small fences outlining patches of lands where the reindeer cannot pass through are a very negative outcome, since these lands are both pasture lands and on the way of migration routes to the uncontested areas.¹⁹² The Sámi ask the legislative body to cease the court procedures until a border commission outlines the territory and the Act is amended, or until they manage to reach out-of-court agreements with the SPLOs.¹⁹³

¹⁸⁷ Anneli Jonsson – in Taiga Rescue Network. *Our land – our life. Indigenous peoples' land rights*. TNR factsheet, written by Janice Barry and Jessica Kalman, (TNR, 2005), http://www.taigarescue.org/_v3/files/pdf/181.pdf, (accessed 25 April, 2007), p.4

¹⁸⁸ C. Oreskov, personal conversation on 8 May, 2007

¹⁸⁹ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), pp. 42, 53-54

¹⁹⁰ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), pp.52-54

¹⁹¹ N. Borchert, *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), p.47

¹⁹² N. Borchert, p.47

¹⁹³ N. Borchert, pp.49-50,

On local scale the conflict is led between the Sámi reindeer herders and the local land owners and associations. Still, it is the State who is in the decision making position and who by not influencing the situation (by appointing commission, or providing for the long requested financial help for the Sámi to be able to continue the court cases), in fact does influence its development. The position of the Swedish state is that Sámi reindeer grazing rights are recognized on state territory (by implementing the FSC certificate). According to Nanna Borchert there is no effort to promote the FSC among the local private owners and generally the state is reluctant in acting.¹⁹⁴ There are political reasons behind the State's position in the conflict. Private forest owners are members of regional Forest Owners Associations (FOAs) which have their own sawmills and forest companies and handle about 40% of the wood coming from the private lands. The large scale forest industries depend on the wood coming from private lands as does the state export. The Federation of Swedish Farmers (LRF) is an umbrella organization of these FOAs which protects the rights of Swedish farmers, land and forest owners, and agriculture cooperatives and has strong political influence on the state and also on the national forest policy and its implementation.¹⁹⁵ At the time of the Härjedalen and successive cases, in the 1990s there was also a change in the tax system in the north.¹⁹⁶ With the anti-Sámi feelings in the north which today are locally aggravated and indeed not a national policy, the government would not promote the Sámi when the local population is already dissatisfied and moreover the conflict is especially with the forest associations who have political influence and economic role for the state industry.

All these developments are especially intriguing with the position Sweden has today (and struggles to maintain) on the international stage – as protector of human rights and supporter of indigenous people and minorities. There are numerous researches in Sweden for the Third world, especially Africa, or Vietnam, or India, and plenty of funds supporting research and development programmes for the indigenous or local people in these places – far away and in the southern hemisphere. The immigration programmes some decades ago, the impressive level of gender equality and personal freedom of expression (going as far as homosexual marriage) – all these do place Sweden very high on the list of democratic countries, promoting human rights. Also, the tradition for free access to the countryside on both private and public land (Allemansrätten) based on the idea that all should be able to enjoy nature, while be respectful and take care of it, is something very rare for Europe today. It is ironic that the Sámi are not regarded as indigenous people in Sweden, while those outside are. The Sámi are rather perceived as a disturbing insect, constantly drawing the attention but not really being able to do anything. The diminishing land rights have multiple effects throughout the Sámi society – not least cultural. The identity of indigenous people is connected with their land. What will happen with the identity of the Sámi reindeer herders if the reindeer herding culture disappears? If it was the one thing helping them keep their pride in who they are?

¹⁹⁴ N. Borchert *Land is Life*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), pp.45-51

¹⁹⁵ N. Borchert, p.36

¹⁹⁶ R. Kvist, *Swedish Sámi Policy, 1550-1990*, pp.73-74

V. LAND, IDENTITY AND ENVIRONMENT

Land and Indigenous Identity

“*Our land is our life*” – The fundamental importance of the traditional land for the indigenous people throughout the world is not less valid for the Sámi in Scandinavia and Russia. As Lars-Anders Baer says (and the same concept is repeated throughout Sámi publications), “our Sámi land is literally speaking the foundation of our existence as a people and an absolute requirement for our survival as such,” and “the future of the Sámi as a people and of the Sámi way of life and culture is inseparable from the question of our rights to land and water in the land where the Sámi live”. The land is the “source of natural development of the Sámi economy and culture and a guarantee for future generations of the Sámi of the freedom to choose a Sámi alternative.”¹⁹⁷

The history of the Sámi is the history of their land – of Sápmi and of their interaction with that land. The cultural and religious traditions which define Sámi society have been formed by thousands of years of interaction with the natural environment of this particular area. So, it is only natural that the future of Sámi society as such is bound to their ability to interact with the land in the future. Of course Sámi society changes as times change, it has done so in the past and will do so in the future. The fight for land rights does not contain a desire to stay static, to preserve frozen cultural traditions as they were once upon a time. It is in the nature of Sámi culture to change and adapt in response to the environment and so it will, as we can see today – the Sámi are modern people, actors on the free market, members of international and trans-national organizations, internationally celebrated artists, singers, etc. As Tim Ingold writes, Northern native people have never aimed to remain bound to fixed routines, “forever reenacting the practices of their ancestors. Traditional society, in that sense, has never existed in the North. Rather, people have aimed to *keep on going*, through improvisation and adjustment in response to a close perceptual monitoring of ever-changing environmental conditions.”¹⁹⁸ Sámi struggle for their land today is part of the international struggle for human rights, for democracy and freedoms, for the right of every peoples and individual human beings to have the decision making power over their own life. What the Sámi want is right for self-determination and this is bound to the right to land, because their land is part of their identity and the basis for their culture.

The formation and development of the individual is shaped by the environment it grows in – its context – defined by norms, worldview, the daily life style, the way of thinking, the behavior. As Israel Ruong says, “*Man is a product of genetic heritage and environment, i.e. cultural heritage. The environment is a cultural heritage reflected in the language, the songs and dances, the mythology... in the pursuit of food and in protection against the cold, both by clothing worn and by housing construction.*”¹⁹⁹ The indigenous people’s setting is the natural environment. Their life style, religious beliefs, culture, mentality – develop in close interaction with nature. Thus, their identity – the *Sáminess* the individual recognizes in him or her self is connected to the traditional land. Depending on the conditions of the natural environment, different areas in Sápmi have developed different cultures. In the northern Scandinavian mountains there is nomadic reindeer culture, in the northern forests there is more settled life style among the forest Sámi, in areas around big fishing lakes and along the Norwegian coast there is Sea Sámi culture. The languages has rich terminology for climate conditions, the type of snow, how long ago it snowed, what are the

¹⁹⁷ Lars-Anders Baer, *The Saami – an indigenous people in their own land*, p.11

¹⁹⁸ Tim Ingold, foreword, in *Cultivating Arctic Landscapes. Knowing and Managing Animals in the Circumpolar North*, ed. David G. Anderson and Mark Nuttall, (New York-Oxford: Berghahn Books, 2004)

¹⁹⁹ Israel Ruong, *Saami Usage and Customs*. in *The Sami National Minority in Sweden*, ed. Birgitta Jahreskog, (Uppsala: The Legal Rights Foundation, 1982), p.32

conditions for skiing, crossing the area with reindeers, etc. – there are separate words for untouched snow, for melting snow, for old prints from reindeer hooves, for fresh ones, etc.²⁰⁰ The Traditional Ecological Knowledge of indigenous people which science today is trying to record and document because it recognizably contains proven ways for survival in harsh environmental conditions is, as Tim Ingold says, “*wisdom that one grows into*”, not information that can be transmitted or recorded²⁰¹. The tradition of the reindeer herding culture is orally transmitted highly specified knowledge of the reindeers and the natural environment they move through, and a set of skills and insights gained through daily practice within that environment. That is why the culture cannot be artificially preserved. It is, however, part of the identity of the indigenous people and as such they have the right to maintain it.

A fundamental point in Sámi traditional culture is what we today would call the “concept of Nature” – the perception that man is an integral part of the total environment – the forest, the animals, the climate and the interconnectedness of everything. Because of the perception that they are *in* the environment, the Sámi themselves probably would not have defined their idea of nature as a concept, as something standing apart from themselves. The Sámi *concept of Nature* is important for the present discussion in two ways – firstly, because it is to show that the environment – the land, the forests, the animals, etc. is an important part of Sámi identity; and second, because from that concept comes an attitude of respect towards all human and non-human aspect of nature and that defines certain pattern of interaction with the environment. This pattern of interaction with the increasing pressures on the Sámi’s personal connection of nature, might change, to be replaced by the western pattern of use of the environment, whose impact we are well familiar with. Before discussing the importance of nature for Sámi identity today and its potential role for their impact on the environment, I would like to outline the fundamentals of the concept of nature as it was in Sámi pre-Christian religion.

Sámi Traditional Beliefs

The traditional religious beliefs of the Sámi reflected the fact they lived in direct contact with nature. Their dependency on the environment for survival created a way of living that followed the natural cycles and was lived in response and constant adaptation to the changing environmental conditions. Out of the dependency on nature developed the perception that nature is provider of food, mother taking care of them. They perceived the total environment, what we call “nature” – as a living, sacred entity, everything in the environment surrounding them was alive. In the Sámi cosmological hierarchy the Sun is the supreme Sun god and the natural powers are among the other gods – there is the god of thunder, the wind god, etc; below them are the spirit-beings which rule every aspect of nature. Since everything is alive – animals, plants, trees – they can be communicated with, through the help of the spirit beings. The shaman (*noai’di*) – a seer and healer, uses the sound of the drum to change into alternative state of consciousness and thus *travel* to the under world (or upper world), where he can establish contact with the spirits of everything in the environment and influence the visible world (what we today call reality). For the old religion of the Sámi the spiritual and the material worlds were *real* in one and the same way.²⁰²

The Sámi worshipped nature for providing everything they need for life (food, shelter, clothing) and although their interaction with nature was based on the material necessity to provide food, the

²⁰⁰ Sami Information Center. *The Saami – an indigenous people in Sweden*, Karin Kvardordt, Nils-Henrik Sikku, Michael Teilus, eds, (Västerås: Sami Parliament, 2005)

²⁰¹ T. Ingold, *foreword* in *Cultivating Arctic Landscapes, Knowing and Managing Animals in the Circumpolar North*, ed. David G. Anderson and Mark Nuttall, (New York-Oxford: Berghahn Books, 2004).

²⁰² For more information (in English) about the fascinating subject of Sámi *shamanism* see for example Louise Bäckman and Åke Hultkrants, *Sámi pre-Christian Religion*, (Uppsala: Almqvist&Wiksell Intr’l, 1984)

economic activities – hunting, gathering, fishing were not secular, they were sacred activities. Hunting and fishing were accompanied by offerings to nature – hunters with game, fishers with fish, and these interactions with the environment were based on mutuality – on giving and receiving, on care and respect. This world view was the basis of their culture.²⁰³

Sámi Concept of Nature today

In a study on the traces of the old beliefs among contemporary Sámi, Timm Rochon found that to some degree the old perception of nature still exist today.²⁰⁴ With the understanding that as Sámi culture differs from place to place and the preservation of the pre-Christian religious beliefs would differ as well, depending on local context and many other variables, I will use the results from the study as an example, without the pretence to be representative of all Sámi living on traditional territory (reindeer herders and non-reindeer herders), and certainly not of the urban settled Sámi who are not in everyday contact with nature. In the following discussion of Rochon's respondents views "Sámi" refers to the Sámi in Jokkmokk which have been interviewed by him.

Importance of Nature for Sámi Identity

One of the main themes that can be traced from Rochon's presentation of the respondents answers is the importance of Nature for Sámi identity today. As the discussion of the respondents answers show, the Sámi have a feeling of personal connectedness with nature, something expressed by many people was that the Sámi "belong" to nature. They consider themselves an integral part of the surrounding natural environment, as one herder has said "Everything is the Environment. I am part of the forests and the mountains... For Swedes it is a national park."²⁰⁵ "There is a strong and clear sense of identifying oneself with the natural surrounding environment, there is no alienation from nature", writes Rochon.²⁰⁶ The acknowledgment that Sámi culture is derived from nature is still there, and as one man said, "the Sámi develop with nature. They belong to nature". All respondents spoke of themselves as being a part of nature, one integral aspect, as are all others, even the inanimate organisms, the idea of the environment, of "nature" is a total, all encompassing idea, there is no distinction between animate and inanimate things and no differences in their importance.²⁰⁷ Many of them have spoken repeatedly, creating a common theme, about the personal communication with nature, about feeling "at home" in nature, that it is their home and their "life".²⁰⁸ One man has said that he was happiest in the forest, because "you can talk to the animals and the plants." Communicating with nature could also take the form of greeting nature or asking permission to set up your *kota* (the tent) in a specific place.²⁰⁹ The Sámi feel they are part of the environment, where everything is alive and they communicate within themselves with everything else. "Everything has a soul in nature. You cannot understand that unless you are in it."²¹⁰

The Sámi concept of nature today is still very much an outcome of dependency and reliance on the environment. Even though today's fiscal economy and state control of Sámi economy have lessened the dependency for survival on nature and shifted and complicated it, by putting external stresses on this interaction, the Sámi while still relying on the environment "for food, protection,

²⁰³ T. Rochon, *Sámi and Dene concepts of nature*, pp.31-37

²⁰⁴ T. Rochon, *Sámi and Dene concepts of nature*. (Umeå: Center for Arctic Research, Umeå university, 1993)

²⁰⁵ T. Rochon, *Sámi and Dene concepts of nature*, Findings of field research: p.55

²⁰⁶ T. Rochon, p.55

²⁰⁷ T. Rochon, p.46

²⁰⁸ T. Rochon, pp. 44-46

²⁰⁹ T. Rochon, p.47

²¹⁰ T. Rochon, p.47

climate and animals”²¹¹, also describe a spiritual reliance – the forest is their “home” and a place they feel “better, more relaxed and at ease”.²¹² The importance of Nature for them comes from that dependency/reliance and the subsequent respect, and also because they *care* about it – and that is because they feel they are part of it. “Sámi culture is a way of life”, has said one woman, “It is not *being* Sámi, it is *living naturally*”.²¹³

How much are the old traditions gone? According to one female respondent, in the summer, when the herders are in the mountains, old and new generations together, the old traditions and communication with nature is maintained – they keep silent in the evenings to keep the bad spirits from waking up, the place you sit on in the *kota* has a certain meaning, there is specific place for the fire, the place of the food is the holy place.²¹⁴

Many of the respondents have spoken of nature as being “holy”, others have referred to only special places as holy. These places are considered something private, something sacred and highly value for individual people or for their whole family. Such places are sacred in their entirety – as one man says, “in my family we had a sacred place where one stone was... the trees were also sacred, the whole place was sacred to such an extend that it was even important how the sun shined into this area.” This is a very personal relationship, personal experience, which is part of who and what you are. However, as the same person says, “Now it is gone (the sacred place), flooded by the dam”.²¹⁵

The way the Sámi feel about the environmental pollution and the activities of modern extraction industries in their lands is also indicative of the spiritual and personal significance of the natural environment of particularly their lands. The discussion of the study responses traces a feeling of enormous pressure from the outside world on Sámi land and society, both interconnected and as if equally suffering the pressures. The same sentiment is part of the general body of material written by Sámi concerning the effects of the modern world on the lands they feel connected with, with “their lands”. What seems to be the primary problem with the modern extraction industries for the Sámi is the way they operate today, the “manner they are presently using” which destroys nature.²¹⁶ Many of the respondents also have said that now after their land has been destroyed, the outside world is destroying the air.²¹⁷ There is a great feeling of insecurity for the future of especially people in traditional occupations, since they are directly influenced by the encroaching on their lands, by the insignificant position they are squeezed into in relation to state political and legislative framework, the lack of ability to make decisions for their own future and the future of the lands and environment. Now, the uncontrollable encroachments have become even more so, as they come in the form of transboundary pollution, produced far abroad with significant negative effects on the Sámi natural environment, affecting the food of the animals, the animals themselves, and the health of the people.

Another study, made by Tim Ingold among the Skolt Sámi and the Finns in the Salla district gives another interesting information on Sámi identity. Ingold’s article is comparison of these two groups (in Finnish Lapland), based on his field work observations among them. He discusses the formation of personal identity in relation to the livelihood occupation and to the perception of the environment. Neither of the two groups can be representative of their entire ethnic group, however, some general trends of similarity could be seen. The comparison is especially interesting because

²¹¹ T. Rochon, pp.44-45

²¹² T. Rochon, pp.54-55

²¹³ T. Rochon, p.45

²¹⁴ T. Rochon, p.45

²¹⁵ T. Rochon, p.48

²¹⁶ T. Rochon, p.50

²¹⁷ T. Rochon, p.51

both of the groups were resettled when Finland separated from Russia and their original homeland was left in Russia.

Ingold observed, for the formation of personal identity in relation with the others, that while Finnish farmers were “fiercely individualistic”, the Sámi individualism was “fundamentally relational” – a personal autonomy which has grown in continuous involvement with others in the practical context of work.²¹⁸ The importance of the land for the personal identity is again fundamental for the Sámi people. Ingold finds an important distinction when discussing land for both groups – one between *land* and *landscape*. For the Sámi it is the *landscape* – “the morphology of the environment through which a person moves” in his daily activities, which has imprinted on it the history of their lives. They remember the past by looking at the landscape, they “find in their surroundings a constant reminder of who they are and where they have come from.” Thus, the longing of the older people for their lost homeland, was not expression of nostalgia, or “longing for the past, but rather a desire to return to an environment that would give shape and meaning to their present lives.” The Skolt Sámi “had their identity cut from beneath them with the loss of their homeland. “For the Salla people, it was the *land* – as Ingold says, something *upon* which, rather than *within* which people work. In transforming the land and overcoming the natural environment and the hardships of the work, the Salla people were building their identity. For the Sámi, the environment was “a course to be followed rather than resistance to be overcome. One works with the world, not against it.”²¹⁹

Expressions of Sámi culture – as the handicrafts and especially the joik are based on that same connectedness with the environment. Traditional Sámi handicrafts are still made, as they have always been, from the materials nature has given – antlers and wood, leather, pewter thread, root, fabrics, etc²²⁰. and *through* them the artist relates to the land in himself. The Sámi joik, the oldest form of music in Europe, is not exactly a song, although it sounds like one, but “a way to remember” as Johan Turi has called it. It probably has its roots in the old, pre-Christian shamanic tradition, since the Sámi believed in the creative potential of the sound. The joik which might or might not have words is not written or recorded music, it is improvised music, which expresses the essence of that which is joiked as the joiker feels it in himself. People can have their personal joiks which somehow describe them, as can animals, the land, a place. A joik is not *about* something it is the thing *itself* – you do not joik about it, you *joik* it, as they say. By joiking a person, animal or place the joiker feels closer to its object, he, as Beach writes, is “opening himself to his subject, filling himself with it; in a sense he remembers by becoming it”.²²¹

Challenges

Sámi traditional beliefs developed as intrinsic part of the daily life style. The heavy prosecution and different methods the Swedish state put into the efforts to eradicate the traditional beliefs gradually succeeded in replacing them with Christianity, through Laestadianism in the 19th c. The anthropocentric focus of Christianity must have changed the idea of equality and interconnectedness of all in the total environment. Though, Rochon’s study shows that at least among his respondents in Jokkmokk Christianity was maintained on the surface, as a protective layer while the old beliefs exist until today – for example many of the respondents said they have either consulted a shaman or

²¹⁸ T. Ingold, *Work, Identity and Environment: Finns and Saami in Lapland*. in *Arctic Ecology and Identity*, ed. S.A. Mousalimas, (Budapest: International Society for Trans-Oceanic Research, 1995), pp.60-62

²¹⁹ T. Ingold, *Work, Identity and Environment: Finns and Saami in Lapland*, pp.63-67

²²⁰ H. Beach, *The Sami in Lapland*, p.13

²²¹ H. Beach, p.13; Saami Information Center. *Culture: Joiking*. (updated 2006), http://www.eng.samer.se/servlet/GetDoc?meta_id=1187, (accessed 15 May 2007)

know somebody who has.²²² Economically, the increasing dependency on supplies from the state since late 18th c. created the shift towards money economy²²³ and replaced the dependency on nature with dependency on the Swedish state. The transformation of reindeer herding into profit seeking industry in the rationalization period of the 20th c. and today's ever increasing pressure for profits and especially the mechanization of herding all add to increasing detachment from nature.

The connection with nature and the Sámi identity as one who lives in nature, has probably survived for only the minority of the Sámi who live their daily life interacting with nature – the reindeer herders. It is, however, threatened today by modern life style and mechanization. Modernization provides homes with electricity and running water in the strive for better living conditions. The mechanization of herding has made the economy easier in terms of labor but by taking away the direct dependency on nature it has created detachment from nature. With the detachment disappears the *respect* for nature. Many of the respondents of Rochon's study have felt that people "had to go against their respect for nature to live in a technological world".²²⁴ A woman has said, "People take only what they need (from nature), not more. But money pressures Sámi to take."²²⁵ There is great stress from the dependency on money, the pressure for efficiency and the high costs of the needed mechanical equipment. "The costs of modernization are heavy", said a respondent²²⁶, and as overall most of them felt, technology and modernization create a gap between people and nature, "you don't learn about the forest – there is no time now... in the car you cannot experience nature, you miss it. Those who lose the most are the women and children as they are the ones who are not in the forests." Modernization also brings loss of skills and the knowledge of how to work in nature, as a herder said, "...you lose the feelings for animals and people. In earlier days you spoke to people about nature and the reindeer, now you don't. Now it is money..."²²⁷ Most of the respondents said that now "harmony is gone", and many found that respecting nature is difficult because of the mass destruction and radical changes in the natural environment around them.²²⁸

As Rochon concludes his discussion, the Sámi concept of nature is in many ways difficult to practice today, their view on the environment as part of them and themselves as part of the environment are overrun by the modern world and the *modern* perception of nature as object of either exploitation or recreation – benevolent or malevolent, it is in both cases an outsider perception of the environment. The modern world is irreversibly detached from nature... The Sámi reindeer herders thus, are living in a dilemma of being modern people, with the right to enjoy the benefits of adequate living standards, forced into mechanization of the traditional industry to be able to compete and be an actor in international economy, while at the same time, holding to an understanding of man and his place in the universe as intrinsic part of the environment – a worldview which is constantly contested by everything in the modern world – from paradigms to daily surroundings. The ancestral land is the only link they have with that Sáminess which says, "without nature, the Sámi experience is different" and "Sámi culture is a way of life – it is not *being* Sámi, it is *living naturally*".

²²² T. Rochon, *Sámi and Dene concepts of nature*, Findings of field research: pp. 46-47

²²³ T. Rochon, pp.40-41

²²⁴ T. Rochon, p.46

²²⁵ T. Rochon, p.46

²²⁶ T. Rochon, p.53

²²⁷ T. Rochon, p.52

²²⁸ T. Rochon, p.57

VI. CHANNELS OF INFLUENCE AND POTENTIAL DEVELOPMENTS

Channels of influence on national level

As citizens of the state the Sámi have the right to vote for the political elections of the National Parliament and also to run for representatives in its political parties. Although some parties take Sámi issues on their political agenda, there is always the risk of the Sámi within a party to be outrun by the national prioritized issues, which might be to the detriment of the Sámi.²²⁹ Since the first national Sámi meetings in Trondheim and Östersund in 1917 and 1918, the Swedish Sámi have taken decision not to cooperate with Swedish political parties.²³⁰ Thus, while the Norwegian Sámi took on a political strategy since the Alta case in the beginning of the 20th century, and the Finnish Sámi use the Sámi Parliament, the Swedish Sámi exercise pressure on the Swedish Parliament through the Sámi organizations (the national Sámi organizations and the Sámi political parties and the Sámi Parliament which represents all in the Swedish Parliament). However, the Sámi Parliament, being a consultative body of the government does not have much power of influence on Swedish national politics.²³¹ Since the establishment of the Sámi Parliament some Sámi parties have been running in the municipal elections (in Jokkmokk and Jämtland)²³².

Transnational ethnic group polity

In the system Sámi – the Swedish state, as the study has shown, neither of the two stakeholders has been isolated only in the relationship with the other one. The Sámi have lived scattered throughout the entire territory covering parts of what is today Norway, Sweden, Finland and Russia and before any borders came into being, they were *One People*. While the world was enclosing into small isolated patches of lands, each with its own political and economic face the Sámi were divided and shaped accordingly. Today the patches are opening to one another, borders do not guard and isolate but define local characteristics, or at least that is the idea in Europe. The Sámi as a political entity were weakened with the strengthening of the nation states, today with the weakening of the importance of the nation state ethnic minorities become more powerful actors than ever before. With the global economic interdependence, communication and access (transportation) and the changed political system after the WWII, the ethnic group emerged as political actor which does not outrun the state as the fundamental unit in international politics, but complements it and transforms the system from “interstate” to “transnational”²³³ and with the increasingly diminishing importance of borders, the ethnic group can reach beyond the state authority, because it is intra societal and transboundary, argues J. Stack.²³⁴

Cooperation of the Sámi across borders and their recognition as One Peoples with one homeland (which was divided by imposed borders) is the fundamental claim of their international cooperation. Sápmi, however, as Johan Eriksson argues, is a social and political construction of the present day, it has not existed as one unit before, neither have the Sámi lived together – but dispersed across the not strictly defined territory.²³⁵ Thus, the creation of Sápmi is result of the

²²⁹ Eva Josefsen, *The Sami and the national parliaments. Channels of political influence*. Resource Center for the Rights of Indigenous Peoples, (2003), <http://www.galdu.org/govat/doc/politicalinfluenceevajosefsen.pdf>, (accessed 15 May, 2007), p.35

²³⁰ Eva Josefsen, *The Sami and the national parliaments. Channels of political influence*., <http://www.galdu.org/govat/doc/politicalinfluenceevajosefsen.pdf>, (accessed 15 May, 2007), p.18

²³¹ Eva Josefsen, <http://www.galdu.org/govat/doc/politicalinfluenceevajosefsen.pdf>, p.37

²³² Eva Josefsen, <http://www.galdu.org/govat/doc/politicalinfluenceevajosefsen.pdf>, p.19

²³³ John Stack, Jr., *Ethnic Identities in a transnational world*. (USA: Greenwood press, 1981), pp.6-7

²³⁴ J. Stack, *Ethnic* pp.17-42

²³⁵ J. Eriksson, *The construction of Sápmi – towards a transnational polity?*, p.239-240

efforts of the Sámi to be recognized, by uniting while remaining within the borders of each state, since neither they nor any state or European institution will allow a Sámi sovereign state.²³⁶ The concept of Sámi is adapting, according to Eriksson, to the changing political rhetoric – in the 20th c. it was referred to as “nation”, while since the 1990s it is referred to as “region”, with the EU and the idea of the Europe of the regions and the financial support for domestic and transnational regions (as is the Barents region cooperation). Sápmi is “marketed” with the creation of flag, national hymn and commemoration day to “adapt to the symbolic practices of the nation state”.²³⁷

Channels of influence on international level

Today the Sámi Parliaments in Sweden, Norway, Finland and Russia communicate and collaborate on Sámi issues under the umbrella organization of the Sámi Council (NGO, established in 1956). The Sámi Council then works with the national Parliaments in the respective states and since 1980 on EU level in the Forum for Indigenous Affairs. Internationally the Sámi work with the World Council of Indigenous Peoples, the Human Rights Council, the Nordic Council, and the Euro-Arctic Barents Region cooperation.

Indigenous peoples’ rights over their ancestral land are protected under international law by such legal instruments as the International Covenant on Civil and Political Rights, the ILO Convention No. 169 Concerning Indigenous and Tribal Peoples, the Convention on the Elimination of all forms of Racial Discrimination, and the United Nations Declaration on the Rights of Indigenous Peoples. States that ratify these legal agreements have the obligation to implement them in the national legislation, to protect the rights of the indigenous people. In the UN bodies dealing with indigenous issues are the UN Permanent Forum on Indigenous Issues and the UN Working Group on Indigenous Populations which was appointed to create the Draft Declaration on the Rights of Indigenous Peoples during the First Decade of the World’s Indigenous Peoples (1995-2004). Its mandate is now extended to be able to propose a final declaration.

The ILO Convention N.169, which Sweden has not yet ratified, is in the focus of the debate of land rights and the Sámi in Sweden. It says that indigenous and tribal peoples should have control over their economic and cultural development – way of life, identities, languages, beliefs, institutions – within the framework of the States where they live in.²³⁸ Among general human rights and respect for cultures, it deals with the importance of decision making power over the ancestral land. What are the prospects of Sweden ratifying the convention and why it has not done so yet? This, together with the question if ratification will really solve the problems is discussed in Scenario 1 of the potential developments of the present situation.

Scenario 1: Sweden and the ILO convention 169

Sweden supported the Convention in its initial stages and the drafting process.²³⁹ In 1999 Sweden received the report from the ILO inquiry on what has to be done so it can fulfill the requirements of the ILO 169, which suggested the establishment of Boundary Demarcation Committee to identify and outline the area the Sámi have traditionally occupied (and the area they have had access to and used for their traditional practices). Such is the requirement of Article 14 of the Convention that the state first identifies the ancestral territory and then implements in its legislation the boundaries of that territory where it should protect the indigenous people use of land. The Committee has

²³⁶ J. Eriksson, *The construction of Sápmi – towards a transnational polity?*, p.239-240

²³⁷ J. Eriksson, *The construction of Sápmi – towards a transnational polity?*, p.242

²³⁸ ILO, *ILO C. No.169*: Preamble, <http://www.ilo.org/ilolex/english/convdisp1.htm>, (accessed 25 April, 2007)

²³⁹ Nanna Borchert, *Land is Life: Traditional Sami Reindeer Grazing Threatened in Northern Sweden*, <http://www.oloft.com/landislife.pdf>, (accessed 6 May, 2007), pp. 58

presented report on such territory (in 1999)²⁴⁰ but there has been no action taken by the government towards the ILO 169 since.²⁴¹ Obviously there is reluctance in acknowledging territory to the Sámi. The not ratification by Sweden today is hardly due to the protection of indigenous peoples rights as – liberty and equality, health, education, living standard, (Article 2.1, 3, 4.1 and 4.2) since it is a multicultural society and welfare state with several minority groups protected by the constitution. The point of conflict is the territory – according to the Convention the indigenous people have the right to participate on all levels of the decisions making process and in the implementation of programmes for national and regional development which may affect them, (including, among others, “their spiritual well-being and the lands they occupy or otherwise use”), and the right to exercise control “over their own economic, social and cultural development.”²⁴² Participatory approach and consultation with them is essential as is assessment of the social, spiritual, cultural and environmental impact of development projects, which is to be done with indigenous peoples.²⁴³ Thus, since the use of the territory and its resources (above and under ground) have to be beneficial to the indigenous people’s lives, cultures and well being and be developed together with them, the state sovereign (and unchecked) use of the resources is under threat. Considering the importance of timber extraction for Sweden and the political power of land owners who would not consent to discussing their decisions on land use with the Sámi (especially in the heated local conflicts of today), it is not very likely that Sweden ratifies the ILO 169. There is an option of doing so, under International pressure and especially on Nordic scale level – from Norway. This, then brings the question to – how did Norway ratify the ILO. Following the example of Norway (which led the way in Nordic Sámi politics with its distinct turn in the 1970s) is the possible development of Scenario 2.

Scenario 2: The Example of Norway

The Nordic states have, especially since the after WWII era, growing regional cooperation – in harmonization of laws and policies, common labor market, etc. The Nordic Council is their cooperation concerning Sámi issues. The current proposal for Nordic Sámi Convention also aims to harmonize Sámi legislation within the Scandinavian states. The convention includes provision recognizing Sámi rights for self-determination and is mostly based on the ILO 169²⁴⁴, however, the response by 2006 in Sweden has been mostly negative, especially on local level – “several Swedish organizations, local administrations and communities think that the Sámi will have better rights than the Swedish population in the Sámi area”²⁴⁵. Certain level of improvement could be expected through intra state influence and pressure from Norway. However, the Sámi would probably not be completely satisfied with the results, since the Nordic states, as have shown have been careful with giving out decision making power. As for example the Nordic Council – financial support for the Sámi Council was accompanied by keeping the Sámi – as minority group, with some authority and freedom of expression but – outside decision making position for the critical land question.²⁴⁶

Recent developments in Norway show a positive trend which could influence Sámi politics in Sweden. In legislation – in the period 1995-2001 a court case contesting Sámi rights for grazing

²⁴⁰ *named SOU 2006: Sami’s customary land

²⁴¹ Sille Stidsen, *Sápmi – Sweden 2006*, IWGIA, (personal correspondence with Annette Kjærgaard, 3 May, 2007)

²⁴² ILO, *ILO C. No.169*: Article 7.1, <http://www.ilo.org/ilolex/english/convdisp1.htm>, (accessed 25 April, 2007)

²⁴³ ILO, *ILO C. No.169*: Art.6 and Art.7, <http://www.ilo.org/ilolex/english/convdisp1.htm>, (accessed 25 April, 2007)

²⁴⁴ IWGIA, *The Indigenous World 2006*, ed. Sille Stidsen, regional ed. for the *circumpolar north* Kathrin Wessendorf. (IWGIA, Indigenous World publications, 2006), <http://www.iwgia.org/sw6419.asp>, (accessed April 23, 2007), pp. 43-44; J. Eriksson, *The construction of Sápmi – towards a transnational polity?*, p.246

²⁴⁵ S. Stidsen, *Sápmi – Sweden 2006*, IWGIA, personal correspondence with A. Kjærgaard, (received 3 May, 2007)

²⁴⁶ J. Eriksson, *Partition and Redemption*, pp.93-94

over private property, was ruled in a verdict by the Supreme Court itself, acknowledging that Sámi grazing rights are valid also on private property.²⁴⁷ There is a chance that this case becomes a precedent, due to the high level of the verdict²⁴⁸. In territorial politics Norway passed the Finnmark Act in 2005 (Act No. 85, relating to legal relations and management of land and natural resources in the county of Finnmark), Article 3 of which ends with partial incorporation of ILO 169 into Norwegian national law and gives the Sámi half of the seats in the Land Management board.²⁴⁹ Together with that, was passed the *Procedures for Consultations Between Central Government Authorities and the Sámi Parliament* aimed to facilitate “a partnership perspective” between the Norwegian government and the Sámi Parliament.²⁵⁰ However, how did Norway implement the ILO 169 in the 1991? The fiercely disputed Article 14:1 says: “*The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized.*” The Norwegian government interpreted the article in its implementation, saying that strongly protected usufruct rights are sufficient to fulfill the paragraph of the article. The ratification was based on this view by the Government and the ILO has not deemed necessary to contest that.²⁵¹ Also, in the drafting of the declaration Sweden, Finland, and Norway, among others, have jointly proposed replacement of “ownership and possession” with “ownership, possession, *or use*” which then would allow the governments to decide at their discretion in which form to recognize the land rights.²⁵² Since the ILO did not accept the amendment, it is clear why Sweden is halting the process. If it follows Norway’s example, it is a matter of time to see how will it interpret the Convention, but it will hardly be as fully as the Sámi want it.

Scenario 3: Regional authority and common economic profits

As this study has shown, the conflict of different patterns of land use has not been a problem in times when the Sámi were of economic importance to the state (see chapter 2) – on the opposite, they were protected against settlers. Thus, I would argue, if the Sámi are profitable to the state economy they could maintain relative regional authority (autonomy will not be possible). If Sweden follows the Norwegian example with the ILO it could follow the type of land management in Finnmark now – the county land is managed by a board (consisting of both the Sámi Parliament and the Finnmark county as equal parties), which has decision making power as private owner of 96% of the land.²⁵³ According to the Reindeer Herding Act of 1971 the Swedish Sámi sameby cannot engage in other economic activities than herding. The report of the Reindeer Herding Policies committee in 2001 however, has suggested for a more diversified sameby – with cultural and economic functions, more similar to the function of the sijdda before.²⁵⁴ If that happens the samebys can engage in a large scale, united industry which could express and support their cultural traditions. One such area with great potential is the Tourism industry which is carried out in the Sámi traditional area today by both Sámi and non-Sámi and is based on two fundamental promises – the “last wilderness of Europe” (the Arctic environment) and the Sámi culture – reindeer sledges, reindeer meet, sleep over in a Sámi hut, etc. By allowing diversified sameby economy the state would allow the tourism industry to be substantially enriched by what the Sámi have to offer – in

²⁴⁷ Å. Jünge, *Paradigm Shifts in Southern Sámi research*, p.64

²⁴⁸ *According to Jünge in *Paradigm Shifts in Southern Sámi research. The Invasion hypothesis under scrutiny.*

²⁴⁹ IWGIA, *The Circumpolar North*. in *The Indigenous World 2006*, (2006), pp.27-73, <http://www.iwgia.org/sw6419.asp>, (accessed April 23, 2007) pp.40-42

²⁵⁰ IWGIA, *The Circumpolar North*. in *The Indigenous World 2006*, pp.39-40

²⁵¹ John B. Henriksen, *The legal status of Saamiland rights in Finland, Russia, Norway and Sweden*. Indigenous Affairs, issue 2 (IWGIA: 1996), p.12

²⁵² J. Henriksen, *The legal status of Saamiland rights in Finland, Russia, Norway and Sweden*, pp.12-13

²⁵³ IWGIA, *The Circumpolar North*. in *The Indigenous World 2006*, pp.40-42

²⁵⁴ Åsa Dahlström, *Negotiating Wilderness in a Cultural Landscape.*, p. 33

terms of handicrafts, music, etc. Apart from the economic benefit, there is the image benefit, which Sweden, based on its politics for human rights and equality seemingly strives for – as a tolerant, democratic state. State that allows for thousands year old culture on its lands to flourish rather than constantly express its dissatisfaction on the international stage, definitely would acquire a better image internationally (which does affect the economic position as well).

VII. CONCLUSION

In the 17th c. coexistence between the Sámi and the settlers was possible and promoted (by the parallel theory), precisely because both groups utilized the land in a different way. These same industries (forestry, farming and herding) today have the same local conflicts but aggravated and with severe consequences for the Sámi. What happened meanwhile to create such profound changes in the position of the Sámi and the attitude towards them?

The Modern world is dominated by the liberal western type of society, shaped by the ideas of the Enlightenment about the individual, society and the state. The fundamental importance of the individual and its freedoms brought the individual property rights, thus creating a tension with the communal rights of the Sámi and their use of land as opposed to private ownership of land. The Age of Industrialization (and the consequent need of resources for economic growth) and the growth of nationalism (with the creation of nations and nation-states) found justification for the displacement of the Sámi in the paradigm of Social Darwinism, which comes from the context of the new age. The paradigm of the time was institutionalized into the national legislation and Sámi policy, to become the dominant discourse – which is still the same today.

In that discourse, the Sámi are *the other*, they are foreign and their own *truth* is unconceivable, thus the different perceptions of territory and relationship with the land have clashed and the differences not understood – the dominant has taken over. The definition of a Sámi as reindeer herder, once institutionalized, has become part of the discourse. It is still difficult to be changed – the Sámi are, to the majority, *those people with the reindeers in the north*.

Today the Sámi people struggle for recognition of their status as indigenous people on national and international level. The non recognition in Sweden is based on stubborn economic interest. However, internationally, where their rights and struggles are seemingly recognized and supported, it is interesting to see how the discourse of the modern world is fundamentally unavoidable – on EU level as well the Sámi are framed in the debates on minority rights (and for example in the EU Constitution of Europe where minority and indigenous rights are considered as one, while there is fundamental difference – minority rights are based on individual rights, while indigenous rights are group, collective rights.²⁵⁵) As Rebecca Lawrence says in her critique, by not speaking about indigenous rights, the Constitution, which is to provide a single legal foundation of Europe, constitutes a form of citizenship, based on individual rights and silences the other, similarly to the hierarchical views on cultures of the colonial times.²⁵⁶

The Sámi today try to fight on the terms of the dominant, to speak its language and play by its rules. They adapt to the dominant one, to be able to translate their requests and perceptions. By opposing so fiercely, they show resilience of the culture to maintain itself, that adaptability of the Arctic Indigenous Peoples who keep on going regardless of how the environment changes – before the natural, today the political – it is the setting the move in and have to keep on moving.

Considering this adaptability the Sámi identity will probably outlast. An open question however, remains that specific part of their identity – the connection with nature. Will that become incorporated in the dominant paradigm of perception towards nature or not? What conditions would be better for the old Sámi identity to persist (“old” – the one that needs the connectedness with the natural environment) – the condition of constantly having to reinstate itself against the dominant pressure, or a state of no pressure on the culture, but economic collaboration with the majority in a relationship of mutual benefit which could provide for coexistence and another *parallel theory*. As a conclusion from this thesis I would argue for the latter.

²⁵⁵ Rebecca Lawrence, *Sami, citizenship and non-recognition in Sweden and the European Union*. pp.105-106

²⁵⁶ R. Lawrence, pp.103-113

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Sámi Information Center, (Östersund, Sweden): <http://www.eng.samer.se/>

The Sámi Parliament in Sweden, (Kiruna, Sweden): www.sametinget.se

UNEP. GEO 3 (Global Environment Outlook 3): <http://grida.no/geo/geo3/english/pdf.htm>

IWGIA – International Work Group for Indigenous Affairs, (Copenhagen, Denmark): <http://www.iwgia.org>

TNR – Taiga Rescue Network, (Jokkmokk, Sweden): <http://www.taigarecue.org/>

Office of the UN High Commissioner for Human Rights: <http://www.ohchr.org/english/>