

International Organization for Self-Determination and Equality (IOSDE)

Shadow Report for CAT Committee review of the Report of Sweden
CAT Session 53, 3-28 November 2014

UN CAT: United Nations Convention against Torture and Other Cruel, Inhuman or
Degrading Treatment or Punishment

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About the International Organization for Self-Determination and Equality (IOSDE)

The International Organization for Self-Determination and Equality is a Sweden-based and Sweden-registered NGO working at both the grassroots and United Nations levels. IOSDE assists in matters of self-determination and equality, and offers both confidential and public assistance to peoples, communities or persons experiencing violations of their rights to self-determination and/or equality and advocates for genuine processes of Free, Prior and Informed Consent (FPIC) therein. IOSDE specializes in legal consultation and strategic advocacy utilizing international law, participatory decision-making, and networking for rights-based social change. IOSDE specializes in rights to culture, traditional territories, Indigenous Rights and the rights of Tribal Peoples, traditional healing, and gender, political and legal equality. IOSDE assists in decolonizing at all levels (from support for UN Decolonization, to self-determined strategizing and decision-making, to community and individual healing and equality) and offers supportive research, networking and writing. IOSDE supports traditional governance mechanisms and new governing mechanisms as well as traditional tribal and Indigenous laws with respect to international Indigenous, peoples' and human rights. IOSDE also assists in the creating of hybrid models of law and governance through both participatory methods and culturally-sensitive consultation. IOSDE respects diversity as well as the needs resulting from cross-cultural communication. IOSDE believes that an equal future starts with an equal now.

Background philosophy

The following are excerpts from the IOSDE Blog entry of the organization's Founder & Director, India Reed Bowers, on International Women's Day, 8 March 2014 (<http://iosde.org/3/archives/03-2014/1.html>):

“Concerning gender-based forced dependency and legal discrimination, Kenneth Karst wrote in 1974, ‘It is ... the right to be treated as one who is free to make independent choices ... that is undermined by the legal rules symbolizing a woman's dependency.’ (Karst, Kenneth, ‘A Discrimination So Trivial: A Note on Law and the Symbolism of Women's Dependency’, Los Angeles Bar Bulletin, Vol. 49, No. 22: October 1974). This issue of the freedom to make independent (or fair and collaborative) choices as a woman, versus being forced to be dependent due to rules and customs, directly parallels the striving for legal and political Self-Determination of Peoples, Tribes and Nations versus an unequal dependency on the State as non-State socio-political entities (or other forms of unequal external dependency, such as in business, if Statehood is the chosen form of Self-Determination). Too often money with strings attached and fears of retaliation are what hold women, groups, Peoples, Tribes and Nations back from striving for greater independence while maintaining a need and/or desire for non-violence.

[...] “As Catharine Goodwin expresses in her essay on gender discrimination in clubs and organizations, ‘To be stamped as inferior or a nonparticipant is particularly painful in the

context of a legal order that professes equality as a fundamental tenet.’ (Goodwin, Catharine M., ‘Challenging the Private Club: Sex Discrimination Plaintiffs Barred at the Door’, *Southwestern University Law Review*, Vol. 13: 1982, p. 271, footnote 230). We must ask ourselves not only *who* is being left out in the building of the Self-Determination process and achievement, but what *qualities* in such persons, what value systems, are being denied, destroyed, forgotten or excluded. We must both reclaim and create our own indicators for pain, exclusion and violence, internally within our social organizing systems- as States but also as groups, families, communities, Peoples, Tribes and Nations. And we cannot exclude women from this process or in having their own indicators of exclusion, as that is also a form of violence.”

The following are some brief notes from IOSDE to CAT, upon review of Sweden’s Report (CAT/C/SWE/6-7) re CAT’s List of Issues for Sweden (CAT/C/SWE/Q/6-7)

CAT List of Issues: Article 2, Paragraph 3

Considering freedom of movement as detailed above a restriction of liberty and a sort of detention: At present a lawyer is not provided to immigrants who have experienced domestic abuse with pending immigration cases upon leaving Swedish Citizen or permit-based spouses, rather, such immigrants must supply own lawyering if and until their case is decided, the decision is a negative decision, and the immigrant wishes to appeal. This puts an additional burden and stress on the applicant who is already fearful and traumatized and increases both hardship for the applicant in obtaining her/his rights, as per Swedish Alien Act Chapter 5, Article 16, in the immigration application process (which, keeping in mind, she/he has already been through and approved to move to Sweden via once before).

In fact, while in Sweden’s 2013 Report to the CAT Committee states, “60. The National Centre for Knowledge on Men’s Violence Against Women at Uppsala University has been commissioned to develop the national telephone support line, Kvinnofridslinjen, to assure the quality of the support it provides and to reach out to more women who are subjected to threats, violence and/or sexual abuse. The assignment runs for the period of 2011-2014”, it is also the case that when women contacting this hotline request referral to legal support in addressing their immigration cases, they have been referred to, for example, a private law firm in which the only immigration specialist is a man who has been rude, abrupt and disbelieving of the validity of abuse claims before asking victim’s questions during the designated free 15 minute phone consultation, further exacerbating the victim’s well-being and legal situation.

See Attachment A of this Shadow report.

IOSDE Recommendations:

1. Free legal consultation and representation, including specializing in issues of domestic violence, for immigration applications having left domestic abuse partners/relationship with domestic abuse partners having ended and reapplying for residence status as a result.

2. See also “*In Addition*” on page 7 of this Report.

CAT List of Issues: Article 2, Paragraph 4

To continue inclusion of those immigration seekers who have experienced trauma, torture or inhumane and degrading treatment, during the pending application decision stage it is nearly impossible for applicants to reach their immigration case handlers for information on their cases, even in the cases of domestic violence and integrity therein, including more exact duration of waiting period for a decision per-case (2 months? 6 months? 12 months?), any further documentation needed by immigration to support and/or review the case in a more expedited manner, or reason for waiting period are left as further trauma. See Attachment A of this Shadow Report.

IOSDE recommendations:

1. Increase access to information in regards to immigration application decision-making process via increased access to immigration case handlers and communication from them.
2. Increase number immigration employees in regards to be able to fulfill the above recommendation.

CAT List of Issues: Article 2, Paragraph 5

Sweden’s 2013 Report to CAT reads “19. The Aliens Act (2005:716) explicitly states that the Act is to be applied so as not to limit the freedom of aliens more than is necessary in each individual case.” While it may not be considered formal detention, the lack of freedom of movement of applicants who have left domestic partners who had been abusing them, and therefore must re-apply via the State Immigration thusly for a new residence permit, has the effect of detention. Such persons are unable, for the entire duration of their pending application decision, a total of 12-18 months unless otherwise specified, to come and go freely from Sweden. This restriction of mobility across the Swedish State border of domestically-abused immigrants is due to said immigrants not having documentation stating their right to continue to reside in Sweden while their residence decision is pending. This treatment is akin to treating a non-national immigrant victim as a criminal, when often times the Swedish citizen/resident criminal, the abuser, him or herself comes and goes freely as usual and has seen no consequences to his or her criminal actions against the applicant.

In cases where immigrant women in particular have been victimized and abused by their Swedish or permit-/document-holding spouses, often experiencing restricted freedom of

movement, lack of ability to settle down and trust in their home and stability in life, and negative effect on their work/career due to abuse, then must go on to experience such things at the hands of the State Immigration for up to 18 months during application processing- a situation that further traumatizes rather than helps to heal the victim whose peace and integrity are supposed protected (see Swedish Alien Act Chapter 5, Article 16). This bias occurs, affecting for example the applicant's ability to work and move freely as an abused woman who has left her abusive partner (see Exhibit A), despite the following found in Sweden's CAT Report: "130. During 2009-2011 the Swedish Migration Board ran the "Beyond Borders" project. The goal of this project was to reduce the risk of sexuality- and gender-related norms affecting the Swedish Migration Board's treatment and examination of cases." (Sweden 2013 CAT Report, p. 21).

See Attachment A of this Shadow Report.

IOSDE recommendations:

1. In such cases, application of the following articles of the Swedish Constitution, section "*Protection against discrimination*":

Article 12. No act of law or other provision may imply the unfavourable treatment of anyone because they belong to a minority group by reason of ethnic origin, colour, or other similar circumstances or on account of their sexual orientation.

Article 13. No act of law or other provision may imply the unfavourable treatment of anyone on grounds of gender, unless the provision forms part of efforts to promote equality between men and women or relates to compulsory military service or other equivalent official duties.

And section "*The European Convention*"

Article 19. No act of law or other provision may be adopted which contravenes Sweden's undertakings under the European Convention for the Protection of Human Rights and Fundamental Freedoms.

2. Documentation stating right to continue to reside in Sweden during Immigration-pending residence permit decision for domestic partnership/family immigrants who have left abusive relationships and therefore must reapply for new residence permits sans partnership, as protected under Swedish Aliens Act chapter 5 Article 16.

3. See also "*In Addition*" on page 7 of this Report.

CAT List of Issues: Article 2, Paragraph 6

This section in Sweden's 2013 Report to CAT lacks information from the Swedish Sami Parliament (technically a branch of the Swedish Parliament, but promoted as a form of self-governance of the Sami Indigenous People) on plans of action and data in regards to domestic violence in Sápmi on the Swedish side; in particular to note therein are Sweden's Report Articles 23, 27, 28, and 31.

As well, the paragraphs mention violence against women including “honour” and “forced marriage” related but fail to mention violence of Swedish Nationals against their “love immigrant” domestic partners, potentially further falsely racializing domestic violence against immigrants as an immigrant ‘other’ problem and not also one of Swedish national origin in regards to the source of domestic violence.

Some foreign women who go to some domestic abuse shelters in Sweden and who request to be referred to or connected with domestic violence specialist therapists and/or a lawyer to become educated on the Swedish legal system and domestic abuse procedures therein are denied such access with the answer ‘we don’t do that here’. Instead they are told that their only option is to meet with a lawyer, even if just for information, and then, in the same day, report their case to the police, at which point it is no longer in the victim’s hands to make a decision whether or not to undergo pressing charges. In other words, the domestic violence support systems in place at least some locations in Sweden do not support the empowerment, education, treatment and decision-making of the victim or foreign woman/victim, but rather focus on a direct shelter-police relationship instead, which merely repeats the authoritative decision-making a victim is often seeking to exit. (See Attachment A of the Shadow Report).

Moreover, the report mentioned in Sweden’s CAT Report in paragraph 48 (Sweden 2013 CAT Report, p. 9-10), *Women and children on the fringes of the law*, found online, is only readily available in Swedish. Which means that women most vulnerable to the very abuse supposedly written about, analyzed and studied, non-Swedish-speaking immigrants, cannot access the information, dispute it, utilize it, be empowered or otherwise by it, add to it, discuss it or write about it. This while Sweden’s Report to CAT also states an awareness of language disability contributing to dependency and domestic violence in its Report to CAT, paragraph 55. (Sweden 2013 CAT Report, p. 11)

IOSDE recommendations:

1. In the case of Sápmi, See Attachment B of this Shadow Report. See also Attachment C, IOSDE’s ‘Access to Justice’ 2014 UN EMRIP intervention, section 1: State-recognized self-governance with no judicial system”.
2. Increase professional therapy-related provided in/referred by domestic violence shelters, including but not limited to domestic violence therapy experts.
3. Provide free legal information and advising services to domestic violence victims.
4. Publish all official documents, studies, resources, websites, laws and reports relating to domestic violence and immigrant women in immigrant languages.

CAT List of Issues: Articles 10, 12 and 13, Paragraphs 17, 18 and 26

In response to Sweden's 2013 report to CAT in the corresponding sections, in particular paragraphs 140, 141, 146, 147, 150, 189, 190, please see Attachment C of this IOSDE Shadow Report, consisting of IOSDE's statement regarding police violence during the Gállok peaceful protests against mining in 2013, and Attachment D, IOSDE's legal brief submitted in the Swedish Court system in support of the removal of criminal charges against the Gállok Human Rights Defenders (still charged under the criminal code).

IOSDE Recommendations:

1. That in such cases Sweden applies CAT Convention Articles 14 and 16.
2. That Sweden enlists the assistance of NGOs, such as IOSDE, with expertise in a wide range of Human Rights, including Indigenous Rights, in the training of law enforcement officials and authorities.

In Addition:

IOSDE recommends a re-examination of the following Article of the Swedish Constitution:

Article 25. For foreign nationals within the Realm, special limitations may be introduced to the following rights and freedoms:

1. freedom of expression, freedom of information, freedom of assembly, freedom to demonstrate, freedom of association and freedom of worship (Article 1, paragraph one);
2. protection against coercion to divulge an opinion (Article 2, sentence one);
3. protection against physical violations also in cases other than cases under Articles 4 and 5, against body searches, house searches and other such invasions of privacy, against violations of confidential items of mail or communications and otherwise against violations involving surveillance and monitoring of the individual's personal circumstances (Article 6);
4. protection against deprivation of liberty (Article 8, sentence one);
5. the right to have a deprivation of liberty other than a deprivation of liberty on account of a criminal act or on suspicion of having committed such an act examined before a court of law (Article 9, paragraphs two and three);
6. public court proceedings (Article 11, paragraph two, sentence two);
7. authors', artists' and photographers' rights to their works (Article 16);
8. the right to trade or practise a profession (Article 17);
9. the right to freedom of research (Article 18, paragraph two); and
10. protection against violations on grounds of an opinion (Article 21, sentence three).

IOSDE recommends that this re-examination above be performed in accordance with the *United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)* and Sweden's obligations therein, as well as Sweden's obligations to UN CERD and UN CEDAW amongst other UN Treaties, EU obligations, and also in the spirit of the following Article from the Swedish Constitution:

Chapter 1. Basic principles of the form of government:

Article 2. The public institutions shall promote the opportunity for all to attain participation and equality in society and for the rights of the child to be safeguarded. The public institutions shall combat discrimination of persons on grounds of gender, colour, national or ethnic origin, linguistic or religious affiliation, functional disability, sexual orientation, age or other circumstance affecting the individual.

Thank you.

IOSDE CAT SHADOW REPORT ATTATCHMENT A

To: Attn: [CONFIDENTIAL]
Migrationsverket, [CONFIDENTIAL]

From: [CONFIDENTIAL]

[CONFIDENTIAL] September 2014

Re: Pending immigration case and need for interim documentation, consideration of nature of case and expedited process. Personal Number [CONFIDENTIAL].

Dear [CONFIDENTIAL],

I hope you received my voicemail message from [CONFIDENTIAL] August 2014; your outgoing message stated that you would be away on vacation until [CONFIDENTIAL] September 2014. I hope your vacation went well and you feel glad to be back to work, and that you are also enjoying the shift from summer into the autumn season.

As you know from my voicemail of [CONFIDENTIAL] August 2014, I am contacting you because I have been struggling very much- financially, career-wise, emotionally- due to not yet receiving a decision for my case with Migrationsverket. This hardship is happening because of the lack of documentation that allows for me to come and go freely from Sweden while my case is pending, as well as the emotional situation of having left an abusive, controlling relationship where I was constantly threatened to lose my home immediately as a form of control and where my movement and societal and career participation was restricted, which now feels also restricted and stability in question in the situation of waiting everyday to finding if Sweden is going to order me to leave my home, career and life I have made, or let me stay.

As you know I had been advised on the phone by a Migrationsverket employee to file my March 2013 application with a request for an expedited process, due to needing to be able to travel for the work that I do, and I did this. While I missed an important work request in the Philippines (where I was meant to help victims whose family members have been murdered, tortured, and have had their rights violated as well as network and make new colleagues and speak) so as to come to our immigration interview that we had agreed to, and you had said that that was a good thing that I stayed for the interview instead going to the work travel, you were at the same time understanding of my situation overall re my needing to work and travel for that, and had asked me when my next needed travel dates would be from that point (late April) that I knew of so far- I replied May, July, and August, to which you had responded that a decision would most likely come in June or July, that it should be OK to travel on my [CONFIDENTIAL] passport in the interim, and that I should be able to attend those obligations. It is now mid-September and I have still heard nothing from Migrationsverket, and had made the decision to not lose more than I already had and to travel for the work anyway as we had talked about. Three of the four obligations I had told you about then were at the United Nations, to advocate as a Human and Indigenous Rights Specialist (as Director of my NGO) for oppressed groups at UN Treaty Body sessions and mechanisms- the UN Permanent Forum on Indigenous

Issues (UNPFII, May), the UN Expert Mechanism on the Rights of Indigenous Peoples (UN EMRIP, July), and the UN CERD (Convention of the Elimination of all Forms of Racial Discrimination) Committee review of various States including the USA (August). The fourth obligation of mine this summer that I kept for travel abroad was a plea from Mindanao, in the Philippines, for my work as a Human and Indigenous Rights Specialist and International Criminal Law interpreter to assist in the assessment of massive human rights violations, from murders to forced displacement to false criminalization, in militarized regions of Indigenous Peoples and from the groups and families/leaders/human rights defenders that requested my presence.

Recently, in the past couple of weeks, I have missed a major and important conference of the United Nations, the SIDS, Small Developing Islands, Conference in Samoa, which I was supposed to attend August 29 - September 4. This Conference last happened 30 years ago (according to a colleague), and was a place where people like myself and my organization, accredited to attend and participate, were networking as Civil Society and experts and specialists with each other and SIDS government officials, UN leaders and local persons to create partnerships for the continuing and creative development, including social and creative and multi-cultural, human-rights-based institutional development (which is my specialty and my passion for the years to come). I was unable to attend because, simply, I do not have a paper or card stating that I can come and go freely from Sweden, my home and work base.

When I was returning from the Philippines in early August from work there in Mindanao, as mentioned above, I was told by the Swedish border/passport control at the airport that technically I should not be let back into Sweden, even though I have a pending residence permit renewal/application, due to the fact that my residence permit card had expired in late March. I told him what I do for work, that my work is international (human rights law) and that I was told to ask for an expedited case and I did and nothing has happened yet, and that I don't know what to do about it all, what can I do. He asked me in turn if I had filed before my permit expired and I said yes. He told me that technically he was not to let me back into Sweden, but that at this point in time it was not worth it to them (them meaning maybe passport control or Immigration?) to do that, to block me from coming home, but to know that I have been warned and that next time I can be not let back in, and that even traveling within the Schengen Area is not allowed due to my not having documentation of right to be here, and that the police can arrest me anywhere in the Schengen Area at anytime. ...but arrest me for what? For moving here and obeying the laws and creating a life here as a committed person and leaving an abusive relationship and waiting patiently for Migrationsverket to approve/decide my case, while somehow still doing my work and helping to changes lives and make a difference in this world, and falling in love with my new home and community and village and the Sweden I am getting to know, and not also lose my career and well-being and stability amidst all I have already lost due to an abusive man.

Now I am supposed to travel abroad again, to New York to the United Nations World Conference on Indigenous Peoples (a UN General Assembly High-Level Session) parallel events and various meetings with such organizations as Amnesty International

and Indigenous groups who ask for and about my professional presence via my organization, and then I am to speak at a parallel conference happening just after that in the Netherlands, organized by Indigenous organization and persons and where various EU Parliamentarians and UN officials will also be speaking and participating, with a wide range of audience from students to professors to activists. This travel is all from the 17th September to 30th or so of September 2014. Today is the [CONFIDENTIAL] of September. Then, I continue to have travel for work in the months to come, on and off, after that (just like anyone in my field or another international line of work). Now in addition to the usual reasons, I need to be able to do the travel to do the work as donor, who has been impressed by my work at the UN through my organization, is offering funding to my organization so that I can be employed as the Director and the organization maybe operate on a funded basis for several months. I cannot do this if I cannot travel and work freely from and back to Sweden, where my organization is registered and I live. If I lose the organization due to being forced to move out of Sweden, I lose all access that I have to the UN, as NGOs are what Civil Society participation at the UN consists of. I have worked so hard for this and am a valuable contributor in my field and to society, and I continue to build the organization and look forward to garnering more funds at time passes to employ persons and have more projects and continue to build the networks and connections.

About the travel itself, I also have a multiple weeks-long United Nations Mechanism to attend [CONFIDENTIAL] this autumn. This I also cannot attend freely if I do not have documentation showing that I have the right to re-enter Sweden. I am currently planning as a project of my organization, [CONFIDENTIAL], to conduct Human Rights training workshops around Sweden, which I a project close to my heart and that I plan to have as an ongoing work of the organization, both in Sweden and abroad.

My work, as I had explained in my Migrationsverket residence permit application from March 2013, is as an International Human Rights and Indigenous Rights legal specialist/advocate and well as non-profit/NGO organization Director (and a Consultant), of the organization that I founded upon moving here and that is registered here in Sweden. This work requires for me to be able to come and go from Sweden to travel to both places outside and inside of the Schengen Area and internationally, from the United Nations Headquarters in New York, to the UN Headquarters in Geneva, to all other parts of the world where I am requested to be and there are human rights violations, such as the Philippines, the South Pacific, Indonesia, etc, where communities and individuals need my expert and compassionate legal analyses, advocacy and assistance to end their own human rights violations experienced as victims and peoples/persons. The human rights organization that I have founded and direct, as you know, is registered and based here in Sweden, and is thus a Swedish human rights organization, and Sweden can be proud of the work my organization does, instead of restricting my mobility when I have done no wrong. I have only left an abusive relationship and honestly provided the information to Migrationsverket and wait patiently for a decision.

As briefly mentioned above, in addition to and due to my hard work in building the organization over the past year and a half, the organization has a donor interested in and

waiting to fund the organization for several months, including my employment as Director. I am also being asked to give whole-school lectures to schools of all grades in various places abroad international from my organization, both for teaching about Human and Indigenous Rights but also for fundraising for the organization, and I cannot do this, or the other usual work I do, or accept the funding easily, without every time I go to do this work risking not being able to re-enter my own home and NGO base of Sweden.

I take my work in this world very lovingly and seriously, not only as a self-made woman who has survived and achieved despite many uphill struggles in her life, but also because I believe the suffering in the world can be changed, and that I can, and do, have a unique set of skills and abilities compared to others in my field internationally and even here in Sweden- both as a woman and person that people trust and turn to for support. As the founder of my organization and as a person residing in Sweden I am able to enable and collaborate in enabling the issues otherwise silenced or oppressed to be addressed and heard- those who are often made voiceless to be able to speak again.

The unnecessary restriction on my mobility that has lasted almost 6 months now since my application, which is happening due to the fact that I left my abusive relationship that originally brought me to Sweden just before the 2-year renewal of my Swedish residence permit, is damaging my own personal mental health and ability to heal from my traumas from the abuse that I left just prior to application, and is creating new trauma due to the damage it is creating to my career and life in general in the context of creating a stable life I can depend on not being taken away from me. It is also affecting those lives and mental states of the people I am, as a result, unable to help with my skills and expertise freely with travel to see them, who feel, from afar and in impoverished and conflict-ridden parts of the world, that Sweden's blocking of my movement to address their needs, even if due to a pending immigration application, reflects a view of the Swedish State/authorities about their (the peoples') rights as persons and peoples needing remedy and help, as not being treated as important or of concern in restricting my mobility to travel to them, their workshops and meetings, etc. It feels horrible and torturous to be in this situation after all I have been through with the relationship abuse, and sad to not be more supported by Sweden at-present in my need to move forward.

Being in the unique position of going through this process both of domestic violence in Sweden as a 'love'-immigrant and then, upon leaving the relationship just short of my residence permit renewal, of the restrictions of my rights, as an immigrant with a pending renewal/replacement permit application in Sweden, as a woman, and as a human rights international law specialist as well as trained in the diversity of options in the world for application and manifestation of human rights as well as criminal justice (restorative justice, etc), has provided me with an unforeseen amount of insight into positive changes that can be made to improve this Migrationsverket system for domestic violence victims who are 'love'-immigrants as well as in Sapmi, [CONFIDENTIAL]. Instead of being treated like a criminal myself, unable to leave the country, etc, I would like to move forward in a positive and healing way now and feel that I can live my life in Sweden fully and without fear of deportation/order to leave or continued mobility and resulting work restriction.

I spend long hours crying for everything that is happening due feeling trapped by the situation I am in while my application is pending for so many months, this at a time when I need to rebuild my life in the parts that it was damaged and move forward to parts, such as my NGO and new home, which I salvaged. That I am being blocked from my dreams and work as well as helping those who need me, who in turn are also losing precious lives, rights, well-being, lands and more while I wait patiently and silently, dutifully, for Migrationsverket to validate my right to stay in Sweden or at least to come and go freely to do my work, is too much hardship after coming out of the abuse that was also restrictive and disruptive of stability.

It is sad and frustrating for me as a skilled, intelligent, socially-aware, hard-working and experienced woman to be going through these experiences of things that can be improved in the systems and society [CONFIDENTIAL] as an immigrant victim, rather than as an immigrant who has been recognized for her skills and hired professionally or as a consultant with an empowered and empowering, both financially and societally, job position for the Swedish or Sami governments to offer my thoughts and analyses of these and other rights-concerned situations. I feel I can offer, still and maybe even more so, after all I have been going through, much insight into how these systems can be changed so as to further meet international human rights standards while still respecting the sovereignty and dignity of Sapmi and Sweden. This is what I do. I live here in Sweden and I want to work for the peoples and the governances and systems with analyses, and not just be a stereotypical begging-for-inclusion/respect immigrant or domestic violence victim. I believe that the best can still come out of all of this.

There are National, Regional and International laws to protect women like me, including but not limited to protection against gross violation of a woman's integrity, rights to peace and work, and alien settlement rights post-domestic violence. However, real-time delay in their application means that a woman like me then falls victim again to an outside force again and the point of the laws is defeated, telling her she cannot freely come and go, work, see old family or friends, or possibly even continue the life she has created in Sweden, and that this is all outside of her control. What I ask is that my case be looked at for what it is and with a swift and positive decision: a woman who has been through horrible times and restriction due to domestic violence, got out, and has a strong life here she is working hard for with love for the work and home based in Sweden. If needed and possible for them, I can provide substantiating documentation, in addition to what was already provided with my application and in our interview, from professionals at a domestic violence clinic and in therapy session of the domestic abuse and violence I have been through at the hands of my ex sambo here in Sweden. Also, you may ask me for more evidence, or any other materials needed to make a decision of any kind re my application.

Currently with organization funding in the waiting, as discussed above, my work will soon be for some time mostly through the NGO/non-profit I have founded, based on human rights law and institution analysis and creative structuring and restructuring of laws, policies and political and legal/authority institutions. I will also still have my

business to continue developing as a consultant, in addition to calling Sweden my home, first and foremost, with the stability deserved and needed after domestic violence to heal in time as-needed.

In fact, sadly, now I see why the experience of fear of expulsion and hardship/psychology of restricted movement in this application process and other such things is enough to make a woman consider staying in the abusive relationship, so as to not go through all of this, which is a big problem I think should be addressed by Migrationsverket, in further developing the system of processing of domestic abuse victims' applications. In my abusive relationship, for example, I still was able to come and go freely from Sweden (except when feeling deflated or beaten down) to do my work as a human rights advocate- the restrictions he made, more and more, however, were in my movements, opinions, needs as-expressed, newness/diversity of ideas and solutions, and life [CONFIDENTIAL], our family and home, and the relationship. Now I have left that but find myself even further restricted, by the State, in my rights and movement and what is promised for stability, when I have done no wrong for my situation in Sweden to continue like this, having already gone through the immigration process once and willing to provide whatever else is needed to process my application in the way Migrationsverket needs. But my feeling is that nothing I have done should cause the State treat me as a criminal-type or questionable character legally by restricting my movements or personal and career development, in fact measures should be taken to do the opposite for a domestic violence victim- to focus on enabling her strengths, skills, life- so as to be a part of the healing process. I have left [CONFIDENTIAL], essentially, to leave the domestic violence, and to continue to settle with the life I have be making and need.

I have told you much of my domestic violence story up to the date of my residence permit renewal application; being traumatized and creating the application alone, and in the midst of the months I was fleeing and re-settling, made it hard to know if I told everything I would need to, every instance of violence, if I was remembering everything as I tried to put it on paper. I tried my best, alone and scared at the time. Now more things come and go from my memory like waves, remembered incidents of abuse and things that happened that I forgot to tell you in interview or application, etc. I know this must be normal when a woman under so much trauma and stress goes through this process alone like I do and did. I hope everything I have provided and told you already is enough, so that I may move forward in seeking justice in the ways I need (and for those my work and NGO serve), with the stability of home and work in place through right to stay in Sweden, for the strength I need to continue. Recently my ex has come to me and admitted to everything, crying, wanting to make it all right after doing so much harm. I think to tell you this because in our interview you had asked me if he admitted to what he had done, and the answer was not simple- that he denied, for example, instances I would bring up, and then when I would prove them he would say I deserved it or come up with some other threat or avoidance. Now, he is admitting all (so he says), crying and expressing he has had crisis and learned about himself and done much soul-searching. He currently says, on his own initiative after approaching me without warning or invitation (including at the United Nations but also locally), that he wants to address what he has done in the

relationship so as to right the wrongs, including meeting with professional help. This has happened in the past month and is a brief description.

I look forward to your response. Please help me to continue to settle in Sweden freely and independently, so that I may create all of these changes in a thriving manner as a currently-single, professional, society-contributing woman immigrant domestic abuse survivor based in Sweden. Please do help me to correct this mobility and stability situation in regards to my residence permit application swiftly.

With all best wishes,

[CONFIDENTIAL]

IOSDE CAT SHADOW REPORT ATTATCHMENT B

Recommendations from India Reed Bowers, B.A. LL.M., for the Swedish Sami Parliament in regards to domestic violence resources and other possible personal integrity violations in Sápmi on the Swedish Side:

1. Development and implementation by the Sami Parliament (Swedish) of a comprehensive domestic violence resource package for Sápmi on the Swedish side, including but not limited to:

- Recognition of those in all areas of Sápmi already working on and asking for any of these changes, including works coming from Umea University and SSR re domestic violence in Sápmi, the Sami Women's Forum and those who created and contributed to the one-day conference on domestic violence in Sápmi this spring in Oslo hosted by the local Sami organization there.
- A Swedish-side Sápmi domestic violence hotline (multi-lingual, available also to non-Sami persons and youth in relationships with Sami partners, who might feel more a part of Sami society than Swedish, etc).
- Swedish-side Sápmi domestic violence shelter(s).
- Commissioned, community-based research into the root causes of domestic violence in Sápmi (Swedish side or all sides), for example including analyses of gender dynamics and change in gender equality and relationships due to colonization (or not), societal (Sami and Swedish) pressures, power structures re sameby membership and Sami society hierarchies, colonial histories including boarding schools and Christianization and land loss as well as changes in family structures, leadership and lifestyle, alcoholism, identity pressure, mechanization of herding and social, mental and collectivity re definitions of health, including domestic violence and gender-influenced issues as health indicators.
- Established domestic-violence related structural and/or cultural link with all local police and/or a newly-developed Sápmi justice system, via the Sápmi (Swedish side) shelter(s) and hotline.
- Community-based domestic violence awareness workshops.

2. A Sami Parliament internal Code of Ethics and Behavior: a guideline for both politicians and staff re acceptable and not acceptable behavior in the workplace as employees and as communities leaders/representatives, including reference to accountability in cases of violation of the Code which can include a wide range of results from counseling to time away or service to others to termination from position, as well as reference to the above proposed complaint mechanism as a tool for this process.

3. An internal Sami Parliament complaint and resolution mechanism: either one for all Parliaments or one for specifically the Swedish Parliament, or both. This serves the purpose of receiving and process and resolving/deciding/mediating (or passing on to another mechanism for resolution) complaints of ethical and/or legal violations related to staff or politicians etc of the Sami Parliament. The mechanism should include within its own functional capacity access to, as-needed, to a mediation specialist, therapist/social worker and lawyer (ideally including with knowledge of international law) with skills in

Sami culture and issues and/or possibly Indigenous issues overall. Violations can include sexual harassment, unlawful intimidation, physical harm, manipulation of documents, abuse of power, etc. Should be confidential in procedures unless otherwise noted.

4. Create strategy to address and resolve un-accounted for domestic violence as well as other violations/abuses committed by leadership in the Sami Parliament and increase awareness and visibility therein.

5. A Sápmi justice system (and Swedish-side external complaint and resolution mechanism). Swedish Sami Parliament only or for all Sami Parliaments. Methods and laws/rules of justice can be formulated to be Sami-culture-appropriate and also from comprehensive research re Indigenous justice systems around the world, including but not limited to restorative justice, traditional leadership and religions, tribal courts, and innovative non-Indigenous justice systems and accountability mechanisms/process. This mechanism, or an additional one, could also serve as an external complaint and resolution mechanism for within-Sápmi or Swedish-side Sápmi Sami conflicts and/or harm/violations, as well as a space of resolution should the internal Parliament complaint mechanism have a case outside of its scope of mandate. In the case of a formal justice system, the scope of jurisdiction would need to be considered alongside the Swedish juridical system so as long as Sápmi continues to decide to exist and build within the respective colonial States versus being an independent territory and/or political structure.

6. A formal strategy of the Swedish Sami Parliament including some or all of the following topics:

- A commitment to working on social change, healing and equality in Sápmi re domestic violence- specifically towards women and in the contexts of power and hierarchies, bullying, violence, depression, and acknowledgement of the importance of internal, all-inclusive and collective social justice in Sápmi alongside and equal to the importance of external land, cultural/social and political justice for Sápmi, collectively, in Sweden.
- Raising of Sami/Sápmi awareness of immigrant issues and struggles, including those that mixed-race and immigrant/non-immigrant couples attempt to face together against the odds, as tied to many of the same oppressions Sápmi has faced/faces, faced by immigrants both in Sápmi and Sweden, including forced assimilation of immigrants in the Scandinavian region, prejudice as outsiders and/or not speaking Swedish, and restriction of freedom of movement by the State, as well as the particular oppressions, both societal - Swedish and Sami - and familial, in this region often faced by female (and at times male) ‘love immigrants’: invisibility, forced lack of own equal identity/history, being controlled, disempowered/disadvantaged, or dominated due to compromised situation as an immigrant (no car/license, change or loss/sacrifice in career, cost of transition, no place to ‘go back to’ or friends/family for immediate support, no knowledge of the systems or language skills, etc) and domestic violence (often enabled by the social imbalance of power dynamic).

- Appropriate and needed efforts and resources to addressing domestic violence in Sápmi, including as a component of health and also collective mental and social health, as well as gender equality and cultural value therein and resources for the needs of women, and a promise to address these issues and create mechanism/resource solutions, even if it means shifting funds and spending from other costs the Sami Parliament members and staff benefit from internally, such as budgeting for travel-based meeting costs and any unusually high salaries.

7. Undergo Swedish Sami Parliament capacity-building research inquiry as to for what reasons the Sami People and individuals both do and do not have faith in the Swedish Sami Parliament, and create changes within the Swedish Sami Parliament and public and community dialogues accordingly to adapt the Parliament to the peoples' ideas and needs systematically and collectively-equally, with an emphasis on equal representation of issues including women, sameby members and non-members, youth and low-income individuals and families, as well as mixed Sami/non-Sami families and relations.

8. An ongoing availability (and internal awareness-building of the availability) of a confidential social worker/therapist for any and all Swedish Sami Parliament staff and politicians to have access to as-needed, with referral for family therapies.

9. Family and partner inclusion at celebratory events and festive occasions, and on an equal and visible basis, including but not limited to recognition dinners and holiday occasions.

10. A furthering of the development of Sami self-determination, as envisioned by the Sami People and upon local, community-based education, discussion and inquiry re self-determination, including but not limited to legal-political-territorial relations with the Swedish State therein.

IOSDE CAT SHADOW REPORT ATTACHMENT C

Agenda Item 5: Access to Justice, EMRIP 7th Session, 2014
International Organization for Self-Determination and Equality (IOSDE)
Joint Statement by India Reed Bowers and Atama Andrew Ambrose

We would like to address access to justice in regards to not only claims of rights violations but also in the context of who creates definitions and mechanisms of self-determination and non-self-governing territories, as well as access to transmittals and transmitting of information therein, such as to/from the United Nations Decolonization Committee, State and non-State court and political systems, and Peoples and populations. Access to justice includes the control over and full participation in creating these political and legal definitions and mechanisms and how they are applied, and accessibility of justice includes mechanisms addressing violations of self-determination as well as own transmittal of information in regards to colonialism.

1. State-recognized self-governance with no judicial system

We are concerned about underreporting and lack of access to justice for human rights violations, for example in situations of violence against women, violations of FPIC, and in limited participation in self-governance, when a State-created or State-recognized colonial or hybrid-style self-governance mechanism is used as a form of self-determination of an Indigenous People, such as in an Indigenous Parliamentary system, but with no parallel internal justice, complaint or resolution mechanism. For a people governed by both State and State-model Indigenous mechanisms, but who can only turn to the State for justice, access to justice is significantly inhibited. **We recommend** that EMRIP examine the level of participation and access to justice in such instances of partial self-determination, in particular in situations where persons or groups might not report justice/rights issues for lack of access to self-determined methods/mechanisms of justice.

2. State-controlled definitions of Tribe, Indigenous and otherwise

Leaving out unrecognized tribes from access to judicial procedures, for example in protecting sacred sites, traditions, leadership and lands, creates a severe situation of access to justice. In the United States "unrecognized" tribes have little to no standing with which to hold the US government and its mechanisms accountable for any wrong doings in the scope of the rights of Tribes within the US system. For example as in the cases of the Winnemem Wintu and Chief Caleen Sisk claiming rights for her Tribe over land and housing, the Tribe has had to make such claims as a Incorporation and individuals and not a Tribe, in effort to protect sacred sites and traditional lands and grave sites, without sovereign rights in the process of access to justice and self-determination. In these cases Tribes such as the Winnemem Wintu have been forced to drop US agencies, such as the Bureau of Indian Affairs and the Bureau of Reclamation, as responsible parties within lawsuits. **We recommend** that access to justice includes the notion that there is little if any access to justice when a non-Indigenous State determines who is and is not Indigenous or a Tribe or otherwise through State-controlled self-determination procedures and mechanisms.

3. Unresolved claims to the right of self-determination and decolonization, including territorial and political independence, sovereignty and recognition of Peoples as legal, self-governing entities equal to States.

More than 80 previous colonies currently Members of the United Nations have become so through UN Decolonization and independence, however Indigenous and Tribal Peoples have almost entirely been blocked from this process due to out-of-date definitions of colonialism such as the blue/saltwater theory, which excludes contiguous land bases, and due to unjust UN Decolonization procedures, such as transmittal of information concerning non-self-governing territories as accessible to States and not Peoples themselves, and State-controlled voting and self-determination procedures during Decolonization. Where Indigenous and Tribal Peoples have a lack of access to UN Decolonization and all forms of self-determination as defined by the UN General Assembly and UN Decolonization there is a lack of access to justice: the justice of not only declaring violations of self-determination, but in creating self-determination, as self-determining Peoples throughout the process.

General Assembly adopted resolution 1803 (XVII), on Permanent sovereignty over natural resources, stating that “violation of the rights of peoples and nations to sovereignty over their natural wealth and resources is contrary to the spirit and principles of the Charter of the United Nations and hinders the development of international co-operation and the maintenance of peace”, acknowledging in the same Resolution that liberation movements (movements seeking justice) are legally legitimate and youth shall be raised with a knowledge of dignity and equality in respect for the right of peoples to self-determination.

We recommend that Peoples themselves must be able to submit to the Trusteeship Council claims to being non-self-governing territories eligible for UN decolonization without State interference, and that lack of access to this procedure is a lack of access to justice. As well, **we recommend** General Assembly (GA) Resolution 2625 concerning the following methods of self-determination as necessary options for the assurance of access to justice: “The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people”, and that Indigenous Peoples and Tribes must be treated by such judicial mechanisms as the ICJ and ICC as self-representing and self-determining Peoples in all international judicial procedures, investigations and mechanisms.

Lastly, **we recommend** that EMRIP examine violations of access to justice by UN Member States, such as in the case of the Federation of Malaysia and the non-honoured safeguards of 18 points of Sarawak and 20 points of Sabah, especially Point 12 of the non-honored safeguard 'Special position of indigenous races' and of the right to secede in Point 7. Moreover, **we recommend** that EMRIP explore the ways in which all the diverse Indigenous Peoples, as methods of access to justice, have worked for and achieved self-determination, including in the context of formal political and territorial decolonization,

such as in States of the South Pacific, and secession, and consider these models of self-determination as examples, in part, of access to justice, of the Indigenous and Tribal right to decolonization *sans uti possidetis* and including the right to freely determine political status, including selfrepresentation at the United Nations as members equal to States but not necessarily forming States, with own indigenous governing systems, cultures and legal traditions to further diversify and enhance the growing bodies of International Law.

IOSDE CAT SHADOW REPORT ATTATCHMENT D

1 September 2013

IOSDE demands an immediate and urgent halt of all mineral prospecting- and mining-related activity in Gállok due to Negligence, Violence, and unresolved Indigenous Land Rights

IOSDE calls for all authorities in violation of Indigenous Rights and/or contributing to the lack of peaceful and timely, rights-based land dispute resolution to immediately address the issue of the violence caused by the Swedish Police against the peaceful protestors, activists and Human Rights defenders at the site of Gállok/Kallak on Indigenous Sámi territory.

All State-permitted and police-supported mining and mineral prospecting on the Sámi lands of Jáhkågasska and Sirges samebyar and on the Swedish side of Sápmi, as represented by the Swedish Sámi Parliament, must come to an immediate halt for reasons of physical integrity, emotional and mental health and safety, and with commitment to Indigenous Rights-based conflict resolution.

Swedish Police have been used by Jokkmokk Iron Mines AB (JIMAB) and thus Beowulf Mining to protect company and State's own illegal business interests alike (see IOSDE letter to the Prime Minister Reinfeldt, dated 31 July/ 1 August, 2013). The Swedish Police have been doing so with force, violence, and illegality against the Swedes, Sámi, and others including international tourists supporting the protest. Moreover, threats to the protestors and human rights defenders from others in the area further exhibits the danger they are in and traumatic and psychological stress they are under during- and post- police violence. The peaceful protestors and human rights defenders are being forced to live in a constant state of readiness for attack from both police and others in the area. These physically and psychologically damaging conditions are completely unnecessary in a State like Sweden, where the resources exist for the State to immediately remedy the current situation by calling for an immediate and urgent halt to the mining-related activity in the face of unresolved land conflict and admittedly unresolved Indigenous Land Rights application by the State.

The violence of the Swedish Police at Gállok has been against people of diverse backgrounds supporting Sámi land rights and a healthy environment and people. For the State, business interests and municipality to permit and/or turn a blind eye to violence, and ongoing violence, against peaceful protestors is unacceptable and furthers Human Rights violations, causing trauma, further conflict, and injuries in a situation where the State and municipality, as well as the mining company, are already in International Human Rights violation in a Sámi area(s). Now, a new situation of urgency and gravity has been occurring- that of conflict-based, State- and authority-enabled violence and neglect towards peaceful protestors.

During the August 22-23, 2013 UN CERD (United Nations Committee for the International Convention on the Elimination of all forms of Racial Discrimination)

review of Sweden, the Swedish delegation admitted that application of Indigenous Sámi land rights by the State of Sweden have not yet been resolved within the State. Especially given the State's admitted awareness of its own unresolved short-comings concerning Sami land rights, IOSDE sees the inaction on the part of all Swedish and business interest authorities involved in the land dispute, in regards to the safety of the rights-based activists and peaceful protestors, as existing within the category of the highest of human rights violations in a democratic society- permitted violence to Human Rights defenders. That all Swedish and business interest authorities have, instead of halting the mineral prospecting activities as soon as police violence had occurred, continued to let violence be played out against both Sámi and non-Sámi Human Rights defenders in the middle of an unresolved land dispute is unacceptable, negligent, and further violates International Law and the health and safety of humans and well as the peaceful goals of International Law and Human Rights all are beholden to by very nature of their own legal existence.

It is time for a complete and urgent halt to all mining-related activities in the area and in the Sápmi territory of Sweden until Indigenous Sámi land rights have been established formally and in accordance with Sweden's and all Peoples' duties under International Law. IOSDE will not accept the violence and rights violations inflicted on peaceful protestors caught in the middle of an unresolved Indigenous Land Rights violation conflict.

IOSDE also calls for *all authorities in violation of Indigenous Rights and/or contributing to the lack of peaceful and timely, rights-based land dispute resolution to make statements condemning all forms of violence, especially violence associated with unequal power dynamics and illegal land acquisition during the era of colonialism and modern land-grabbing* - a wrong which the Swedish-State-supported founding of the Sámi Parliament was meant to change for the Sámi People and Sámi territory, Sápmi.

Any action taken on the part of the police, State or municipality in support of mineral exploration and/or mining on Sámi land without Free, Prior and Informed Consent is in violation of International Law and puts Indigenous Peoples, their supporters, and nature in harms way and has already caused unacceptable injuries and trauma to Human Rights defenders, Indigenous people and peaceful protestors present. As of 28 August 2013 the Sámi Parliament based in Sweden has publicly stated its position on mining and mineral exploration in Sápmi, and the State(s), companies, police and Municipalities acting within Sápmi must act accordingly as consent for prospecting and mining *has not* been granted to the State or companies by the Sámi (see Appendix 1, **“Sametinget kan inte acceptera exploateringen av Sápmi”**, Statement by the Swedish Sámi Parliament, 27 August 2013).

IOSDE calls for *all authorities in violation of Indigenous Rights and/or contributing to the lack of peaceful and timely, rights-based land dispute resolution to directly address and resolve historical and current violence connected with colonialism and militaristic-like force and tools and/or weaponry used in conjunction with all forms of illegal land-grabbing-* methods which are still happening in Gállok, for example,

today, to both Sámi Indigenous people and their supporters at the hands of the Swedish State, municipality, mining interests and police. Gállok is Sámi land. The persons supporting the issues there for the health of the lands and its rightful owners are a diverse group, including persons who are, technically and by current law, a mixture of being represented by both the Sámi Parliament and the Swedish State. All authorities are responsible for the well-being and safety of the people and peaceful Human Rights defenders.

IOSDE calls for all authorities in violation of Indigenous Rights and/or contributing to the lack of peaceful and timely, rights-based land dispute resolution to make a statement against all forms of violence, and to address the trans-national right of all persons to physical safety and well-being, which overrides any business or State interests or methods of authority, and is the responsibility of all of humanity.

In making such a statement, the authorities in violation of Indigenous Rights and/or contributing to the lack of peaceful and timely, rights-based land dispute resolution can participate in the next era of rights-based and safety-sensitive historical change.

The protest group in Gállok is diverse and open, and are standing up peacefully for what is right by International Law. All protestors deserve an apology for the lack of action of the part of all authorities in regards to their physical safety in the presence of the police and the struggle against land-grabbing of Indigenous land and harm to the natural environment. All mineral prospecting activities in Gállok must stop.

IOSDE would also like to point out to all responsible persons the world-wide phenomenon of such violations of the Human Rights to Life, Health, Dignity, and so forth all humans face when forced to defend Indigenous Land Rights where the State has failed to act according to International Law and undergo appropriate, formal, and transparent decolonization and/or land rights evaluation and application in a timely fashion with respect to Free, Prior and Informed Consent (FPIC). For further example of this international issue at hand of violence committed against Indigenous Rights and Human Rights defenders and peaceful protestors, see the 30 August 2013 Statement by the Cordillera Peoples Alliance (CPA), “**Stop the Bombings and Militarization in Mountain Province!**”, from the Philippines, Appendix 3. The Swedish State must take the challenge and responsibility to directly address such historical and current violence Indigenous Peoples and their supporters face.

For further details in regards some of the violations of the Police, on behalf of mining, mineral prospecting and the Swedish State, please see the Press Release “**JIMAB äventyrade människoliv – med polisens hjälp**”, 26 August 2013, by Nätverket Gruvfritt Jokkmokk, Föreningen Urbergsgruppen Jokkmokk samt Kamp Gállok, attached as Appendix 2 to this letter. Of particular concern to IOSDE are counts listed as numbers 9, 11, 12, 13, 14 and 16, violence on the part of the police inflicting scrapes, cuts and bruises, violations of the safety and integrity of the bodies of women, and psychological and emotional trauma due to violence and the need to be in a constant state of simultaneous recovery and vigilance.

All mineral prospecting activity in Gállok must be halted *immediately* for both the safety and well-being of the Human Rights defenders, peaceful protestors, activists, and the Sámi communities of Sápmi and in respect and application of Indigenous and Human Rights and peaceful, legal, non-violent resolution.

Photo examples attached.



1. Police-inflicted bruises on the arm of Sámi protestor Hanne Sofie Utsi, Gállok.



2. State-permitted mineral prospecting on Sámi land without FPIC, Gállok.

Appendix 1

(see <http://sametinget.se/61174>)

Sametinget kan inte acceptera exploateringen av Sápmi

Sametingets uttalande uppläst i Gáallok den 28 augusti 2013. Uttalandet antogs av ett enigt plenum dagen innan.

Med anledning av de pågående gruvexploateringarna i hela Sápmi, däribland den påbörjade provbrytningen i Gáallok/Kallak i Jokkmokk samt gruvplanerna i Rönnbäck i Björkvattsdalen, Tärnaby, som utgör uppenbara brott mot de mänskliga rättigheterna och samernas rätt som urfolk att bestämma över sin kultur, sitt land och sin livsmiljö, kräver Sametinget:

- Att svenska staten stoppar all pågående prospektering, samtliga nya undersökningstillstånd, arbetsplaner och koncessionsansökningar, i avvaktan på att Sverige lever upp till internationell urfolksrätt, särskilt principerna om Free Prior and Informed Consent/Fritt Informerat Förhandssamtycke som måste implementeras i alla frågor som berör urfolket samerna.
- Att Sametinget ges rätten till avgörande inflytande över samiska marker.
- Att lagstiftningen ändras så att det samiska folkets behov av funktionella land och vatten ska väga tyngre än utländska riskkapitalisters vinstintressen.
- Att riksintressena omvärderas, så att långsiktiga intressen värderas högre än kortsiktigt vinsttänkande.
- Att en hållbar livsmiljö genomgående prioriteras, med fokus på nutida och framtida generationers möjligheter till sin egen kultur, fysisk och psykisk hälsa samt att utöva och utveckla långsiktigt hållbara samiska näringar.
- Att de samiska näringarnas behov, såsom rennäring, jakt, fiske, duodji, turism m.m, av funktionella arealer aldrig får hotas av kortsiktiga exploateringar. Den grundlagsskyddade renskötselrätten måste respekteras.
- Att de kulturella och psykosociala konsekvenserna måste beaktas i all samhällsplanering i Sápmi.

Samer är enligt Sveriges grundlag ett folk med internationellt erkända urfolksrättigheter. I FN arbetar alla länder för att ge urfolken tillbaka de rättmätiga rättigheterna till sitt land och sin kultur. Redan i FN:s konvention och mänskliga fri- och rättigheter 1966, ges alla folk i världen rätt till självstyre. Detta har förtydligats alltmer i det internationella arbetet med folkrätten. Konventioner har tillkommit för att stärka rättigheterna till barn, kvinnor, arbetare med flera utsatta grupper i samhället. Urfolkens rättigheter till sitt land, sin kultur och utveckling har tydliggjorts i den s.k. Urfolksdeklarationen 2007 och i ILO-konventionen 169, konventionen om Biologisk mångfald samt ett flertal andra konventioner, deklARATIONER och resolutioner i FN.

Vi anser det förkastligt att statens mineralstrategi och översyn av minerallagen går tvärtemot regeringens uttalade strategi för de traditionella näringarna i Arktis. Den mineralpolitik som Sverige i dagsläget driver bygger på en fortsatt kolonisation av det samiska folket och Sápmi.

En fortsatt exploatering av Sápmi är något som Sametinget inte kan acceptera. Sametinget kommer att fortsätta verka för en långsiktigt hållbar samhällsutveckling och alla samers fortsatta möjligheter att leva och verka i Sápmi.

Uttalandet antogs den 27 augusti 2013 av ett enigt plenum samlat i Jokkmokk

Håkan Jonsson, styrelseordförande
Stefan Mikaelsson, plenums ordförande

Appendix 2

(see <https://www.facebook.com/groups/545562282176205/doc/560183294047437/>)

Pressmeddelande 2013-08-26

JIMAB äventyrade människoliv – med polisens hjälp

Onsdagen den 21 augusti 2013 inledde Jokkmokk Iron Mines AB (JIMAB) provsprängningsarbeten i Kallak/Gállok. På flera olika punkter, listade nedan, blev människor som var på plats kränkta, hotade och/eller utsatta för våld av både JIMAB, polisen, privatpersoner och Securitasvakter. Många händelser och ageranden under den här dagen är beklämmande, men sett övergripande är ändå det värsta att bolaget helt struntat i det minimum av säkerhet som Länsstyrelsen avkrävt i arbetsplanen för provbrytningen – och att polisen med tal och handling stöttade JIMAB i överträdelserna. Det här vittnar om att JIMAB och polisen struntade i människors fysiska säkerhet. Vidare har det framkommit att polisens avlysning av området var oriktig och felaktig.

Vi som skickar det här pressmeddelandet är Nätverket Gruvfritt Jokkmokk, Föreningen Urbergsgruppen Jokkmokk samt Kamp Gállok. Vi känner att trots den stora mediabevakning som förra veckans händelser förde med sig finns fortfarande en rad punkter som aldrig togs upp eller som förljogs.

Händelserna är polisanmälda.

1.

Vid 15.30-tiden på eftermiddagen sprängde JIMAB den första salvan i det provbrytningsdike som är beläget längst åt sydväst. Elina Ambjörnsson befann sig då på ca 25 meter avstånd, uppe i ett träd. Polisen tillät JIMAB att spränga trots att hon helt uppenbart befann sig inom säkerhetsavståndet på 250 meter.

Markus Nyström, som hade sms-kontakt med Ambjörnsson, fick vid samma tidpunkt besök av polisman 223. När varningssignalerna för sprängningen inleddes förklarade 223 för Nyström vad det var som lät. Nyström frågade under samtalet som följde om 223 skulle bidra till att stoppa sprängningen i provbrytningsdiket ca 60 meter från Nyström, alltså ett av dikena inom vars säkerhetsavstånd han befann sig. 223 svarade då att han ej skulle stoppa en sprängning med motiveringen att han måste lita på sina överordnade och att han bara lyder order. Nyström valde då att självmant klättra ner och låta sin handling lagföras eftersom det för Nyström vad självklart att polisen inte skulle kräva av JIMAB att de höll sig till minimikraven för säkerhet som Länsstyrelsen godkänt i arbetsplanen för provbrytningen. Nyström repeterade detta inför andra poliser och i närvaro av insatsledaren Roine Norström. Ingen av poliserna verkade berörd. (Se bilaga 1).

Det är alltså två olika fel/brott som här begåtts. Det första är att JIMAB medvetet överträdde de säkerhetskrav Länsstyrelsen krävt att bolaget efterföljer i arbetsplanen. Bolaget visade sig villiga att riskera människors fysiska säkerhet för att kunna fullborda provbrytningen. Och för det andra krävde inte heller polisen att bolaget efterföljde säkerhetsföreskrifterna i arbetsplanen. Vare sig polisen eller JIMAB gjorde några ansatser att säkerställa avstånd. Polisen, JIMAB, Securitasvakter och privatpersoner ("medborgargardet") agerade alla utan hänsyn till säkerhetsföreskrifterna. Insatschefen Roine Norström gick senare under kvällen ut i media och hävdade att ingen befunnit sig inom säkerhetsavståndet, vilket var en lögn.

2.

Journalister från SVT Uppdrag Granskning intervjuade en av demonstranterna, Elina Ambjörnsson, som hade klättrat upp i ett träd ca 25 meter från ett av provbrytningsdikena. Rolf

Ritzén, anställd av Nickel Mountain och anlitad av JIMAB för att organisera provbrytningen, försökte köra bort journalisterna som vägrade lämna området. Därefter kom insatschefen Roine Norström och hävdade att journalisterna inte fick befinna sig inom säkerhetsavståndet på 250 meter från provbrytningsdiket. Om de inte avlägsnade sig skulle de bli anklagade för olaga intrång. Journalisterna lämnade då platsen. Ca 3 timmar senare tillät polisen att JIMAB detonerade sprängladdningarna i diket trots att Ambjörnsson fortfarande befann sig i trädet. Senare framkom genom Nordnytt avslöjande att uppgifterna om avlysning av området genom Länsstyrelsen var oriktig.

Elina Ambjörnsson
 Niklas Nordmark, journalist Uppdrag Granskning

3.
 Enligt arbetsplanen hade JIMAB rätt att utföra sprängningar till klockan 16.00. Under onsdagen den 23/8 pågick sprängningsarbetet till strax innan 18.00. Också nästföljande dag pågick sprängningsarbete till 18-tiden, eller längre.

Markus Nyström
 Liz-Marie Nilsen

4.
 Privatpersoner som är för en gruvetablering i Kallak släpptes in på provsprängningsområdet. Väl inne på området agerade de som ett slags medborgargarde som vaktade området och bevakade demonstranter som hade klättrat upp i träd. När en grupp av dessa upptäckte en av demonstranterna, Markus Nyström, som klättrat upp i en tall, ringde en av dem, Ove Snell (Randijaur), till någon och rapporterade att Nyström befann sig utanför säkerhetsområdet (gissningsvis ringde han till någon ansvarig för sprängningarna). Han fick även hjälp av Arne Forsman (Randijaur). I efterhand har avstånden till provbrotten stegats upp till 60 respektive 70 meter från två av provbrytningsdikena. Det angivna säkerhetsavståndet var 250 meter. Snells och Forsmans uppskattning av avståndet skedde utan att visuellt se provbrytningsdikena, GPS, eller uppstegning av avståndet. Från sin position ca 8 meter upp i en tall kunde Nyström se bägge provbrytningsdikena. Nyström sa detta till Snell som då inte ville medge vad samtalet egentligen handlat om. (Se bilaga 2).

Förutom att privatpersoner som starkt positiva till en gruvetablering tilläts agera medborgargarde inom säkerhetsområdet är flera saker felaktiga. Dels var det avstånd som Snell och Forsman rapporterade mycket längre än det faktiska avståndet som Nyström befann sig från provsprängningsdikena, och dels att Snell och Forsman, som inte arbetar för JIMAB och som saknar kompetens när det gäller sprängningsarbeten, tilläts ansvara för uppskattningen. Nyström påtalade detta för en polisman med nummer 223 som sa sig heta Jörgen, som senare var den polisman som lagförde Nyström. Polisman 223 sa då att han inte ansåg att det var någon fara och var ovillig att säkerställa det faktiska avståndet.

Markus Nyström

5.
 När Markus Nyström upptäcktes samlades en grupp ur medborgargardet runt trädet där han befann sig. En polisman (223) med hund samtalade kort med Nyström och gick sedan vidare. Nyström befann sig nu ensam med ca 10 personer ur medborgargardet runt sig. Rolf Ritzén, anställd av Nickel Mountain AB och anlitad av JIMAB för att organisera provbrytningen, sa då att de skulle hämta en stege och ta ner Nyström (som hängde helt i sele och slingor). Nyström påtalade då att de inte hade befogenhet att göra detta eftersom hans brott inte var allvarligt nog att

innebära fängelsestraff. Då svarade Ritzén: "Vi behöver inget fängelsebrott, bara vi får tag i dig". Nyström blev då rädd då han i sammanhanghet upplevde detta mycket hotfullt sagt. Han upplevde sig utelämnad åt en mob med människor som sa till honom att om han inte kom ner skulle de komma upp med stege och skära ner honom, ett fall på ca 8 meter, och som skulle misshandla honom om han klättrade ner.

Markus Nyström

6.

Under dagen informerade polisen att de inte skulle ta ner demonstranter som klättrat upp i träd innanför säkerhetsavståndet för provsprängningarna. De hävdade att JIMAB skulle spola rent och utföra andra arbeten och att demonstranter som klättrat upp i träd därför inte skulle prioriteras. Detta var desinformation ämnad att få demonstranterna att självmant klättra ner. Senare tillät polisen att JIMAB sprängde i provbrottsdikena utan att ta hänsyn till att demonstranter befann sig långt innanför det angivna säkerhetsavståndet (se punkt .

Niklas Nordmark, Uppdrag Granskning
Elina Ambjörnsson

7.

Enligt överenskommelse med JIMAB hade medlemmar i Jåhkågasska Tjiellde rätt att under provbrytningsarbetet röra sig fritt på provbrytningsområdet. Polisen stoppade dock medlemmarna Jessica Länta och tio andra medlemmar från Jåhkågasska och Sirges samebyar vid avspärningen på grusvägen. Detta efter samråd med arbetsledaren för provbrytningen, Urban Mattsson. Detta trots att privatpersoner som är positiva till en gruvatablering släpptes in. Senare framkom genom Nordnytt avslöjande att uppgifterna om avlysning av området genom Länsstyrelsen var oriktig.

Jessica Länta

8.

Catarina Holmbom, boende i Björkholmen och som har häst med föl i Randijaur och Björkholmen, hade blivit lovad av Urban Matsson att bli varnad för sprängningarna via sms. Detta för att hon skulle ha god tid att ta in fölet och stoet från hagen. Någon varning via sms framkom aldrig till Catarina. JIMAB förvarnade henne dock via massutskick innan sprängningarna då en person från bolaget delade ut flygblad i byn.

Catarina Holmbom

9.

Hanna Sofie Utsi drog upp en skylt/stock från diket upp på vägen. Det var enligt Utsi tungt att bära så istället försökte hon putta upp skylten/stocken. Då kliver polisens insatschef, Roine Norström, fram och sparkar efter henne och knuffar henne sedan våldsamt ner i diket. Hon landar på rygg på andra sidan diket. Norström ryter sedan: "vill du skada människor, eller?"

Händelsen filmades och publicerades på kuriren.nu:

<http://www.kuriren.nu/nyheter/?articleid=6918886>

Hanne Sofie Utsi

10.

Hanna Sofie Utsi begärde, när hon greps, att få tala med myndighetspersoner på samiska och krävde tolk. Insatschefen för polisinsatsen, Roine Norström, hånskrattade och sa: "Fixa en då!" Johanna Ekström påtalade då att det var hans jobb att göra detta. Åt detta fnös Norström.

Hanne Sofie Utsi

11.

En person hällde bensin över sig själv och hotade att tända på och därmed begå självmord. Han hade tändstickor i handen samt sprang mot eldstaden (två stora tjärstubbar brann). Polisen fångade honom, klädde av honom kläderna och satte honom i en buss. Där fick han sitta i uppskattningsvis 3-4 timmar. Han stank av bensinen och det luktade bensin i hela bussen. Övriga trodde att vederbörande hade skickats till sjukhus men när de upptäckte att han var kvar frågade Johanna Ekström honom om han ville ha ambulans, vilket han ville. En privatperson tillkallade då ambulans. Vi anser att det rimligtvis borde vara polisens ansvar att tillkalla ambulans så snart som möjligt då en person hotat att begå självmord, och som dessutom är indränkt i bensin.

Johanna Ekström

12.

Johanna Ekström försökte göra polisanmälan på plats då en person inte hade fått läkarvård på flera timmar (se punkt 4). Polisen i bussen vevade upp bilrutan och körde därifrån.

Johanna Ekström

13.

Polis försökte ta ner Elina Ambjörnsson från det träd hon hade klättrat upp i. En polisman befann sig i en grävsropa som försökte nå Ambjörnsson. Polismannen höll då om Ambjörnsson på ett sätt som hon inte kände sig bekväm med. Kontakten var för närgången. Han berörde henne mjukt över ben, höfter, mage och axlar.

Elina Ambjörnsson

14.

När polis försökte ta ner Elina Ambjörnsson från det träd hon hade klättrat upp i skar de sönder hennes säkerhetssele och säkerhetslina samt drog i henne utan någon hänsyn till faran de försatte henne i. Hon befann sig då på ca 6-7 meters höjd. Efter att polis skurit av lina och sele uppmanade de henne att komma ner eftersom det var farligt, så farligt att hon kunde dö om hon föll.

Elina Ambjörnsson

15.

En konstinstallation som placerats på vägen revs tidigt på morgonen av vakter från Securitas som vaktat provbrytningsdikena. Vi anser inte att vakterna hade rätt att göra detta.

Markus Nyström

16.

En demonstrant från Italien, som inte talade svenka och knappt engelska, begärde tolk när han anhölls i nära 6 timmar. Polisen nekade honom detta.

Simone Zito

Appendix 3

(see

<http://www.cpaphils.org/campaigns/Stop%20the%20Bombings%20and%20Militarization%20in%20Mountain%20Province.CPA.pdf>)

Cordillera Peoples Alliance (CPA)

For the Defense of Ancestral Domain and for Self Determination

August 30, 2013

Stop the Bombings and Militarization in Mountain Province!

While the Filipino people are demanding for the abolition of the pork barrel system, we are confronted with yet another situation where national government, AFP and PNP spends the people's money over something senseless. Today, August 30th aerial bombings and ground military operations of the police and military shook Mountain Province, immediately affecting at least the northern communities of Sagada and upland communities of Bontoc.

CPA strongly condemns this, and we call for an immediate stop to the military operations before community properties, livelihood, and resources are destroyed and before any civilian becomes a victim of the military bombings and operations. We demand for the accountability of State armed forces, and we call on the local officials of Mountain Province and the Cordillera, all peace-loving individuals and organisations, to condemn the militarisation and push for the resumption of the peace negotiations of the GPh and NDFP to address the roots of the longstanding armed conflict towards attaining genuine, just and lasting peace.

Initial reports from our chapter in Mountain Province reveal that directly targeted by the aerial strikes and bombings are hunting grounds, *uma*, and water sources, very close to the rice fields and communities. The destruction of these poses serious economic impact to our indigenous communities, with the contamination of water sources and threat to food security. We fear that the bombs will hit pipelines supplying water to the communities like Mainit and Guinaang. The area has been historically, massively, and repeatedly bombed, indiscriminately fired at and the communities historically militarized resulting in various forms of human rights violations. Local livelihood is badly affected as well. Tourist guides in the northern barrios of Sagada alone are losing as high as P4,000 daily due to the military operations. This does not include yet the drivers, vendors, restaurants and inns also badly affected. These are even on top of the psychological and social impact, trauma and terror effects of bombings and indiscriminate firing, and the destruction to properties.

The military operations taking place in Sagada and nearby communities is Oplan Bayanihan. Oplan Bayanihan is militarization, the destruction of indigenous peoples' territories and resources, and the violation of our ancestral land rights. The Malibcong bombings earlier this year is Oplan Bayanihan. The rape and sexual harassment of young women in Mankayan in 2012 is Oplan Bayanihan.

We, the people, do not gain a single thing from all of these. We ask, how much was spent for the military operations in Sagada? How much exactly is national government spending for Oplan Bayanihan? How much discretionary fund and PDAF was used? How much is a bullet? a bomb? an attack helicopter? aviation fuel? To think that indigenous peoples in the Cordillera and the rest of the country are historically marginalised and neglected, and to think that it is the people's

money and resources systematically corrupted and spent on senseless doings. These are the very resources used to kill people, destroy ancestral lands, communities, *papayew*, forests and watersheds. Is this the ‘tuwid na daan’ so hyped up by PNoy? We are enraged at this and we condemn this.

As Commander-in-chief of the Armed Forces, PNoy and his chain of command is accountable for human rights violations in indigenous peoples’ territories, for the damage and destruction inflicted to the communities. Stop the bombings, militarization, human rights violations. Use the peoples’ money for services and welfare of indigenous peoples, not for bombs and bullets!

Reference:

AB Anongos, Secretary General

IOSDE CAT SHADOW REPORT ATTATCHMENT E

[IOSDE Legal Brief submitted to Gällivare Court by defense attorney in the below court cases]

IOSDE Statement re Gällivare Tingsrätt [Court] and the cases of Malin Norrby, Anna Söe and Adam Ekengren, arrested and charged 29 July 2013, court date 28 November 2013

Gällivare Tingsrätt must exonerate (acquit of all charges) Human Rights Defenders Malin Norrby, Anna Söe and Adam Ekengren, defenders of Indigenous and Human Rights at the mineral exploration & testing and proposed mining site of Gállok, or Kallak, in Sápmi/Sweden.

The arrests of Malin Norrby, Anna Söe and Adam Ekengren on 29 July 2013 for charges including egenmäktigt förfarande, våldsamt motstånd and förgripelse mot tjänsteman go against the principles of the United Nations (UN) in its *Declaration on human rights defenders* (see the following paragraph) for States and other actors, including Sweden and its courts and justice system(s), in the protection, inclusion and non-criminalization of Human Rights Defenders. The *Declaration on human rights defenders* exists as a backbone to the promotion of Human Rights and International Law due to the fact that Human Rights Defenders are the very persons who, on the ground, are risking their own lives and well-being¹, in both non-violent forms as well as in self-defense when attacked or violated, in the defense and promotion of Human Rights; Human Rights Defenders protect the very Human and Indigenous Rights² that States have, in International Law, agreed to and signed to abide by. In the current cases Malin Norrby, Anna Söe and Adam Ekengren have been acting as Human Rights Defenders in Gállok, or Kallak, in Sápmi/Sweden, due to the fact that the State of Sweden has been allowing for mining and mineral exploration and testing to business (third parties) without the *Free, Prior and Informed Consent (FPIC)*, as is required by law (see the following paragraph on Sweden and UN CERD for more), of the local and Indigenous Sámi People affected.

Recently³ the United Nations Special Rapporteur for human rights defenders⁴, Margaret Sekaggya, formally warned in a report that “Human rights defenders working on behalf of communities affected by large-scale development projects are increasingly being branded ‘anti-government’, ‘against development’ or even ‘enemies of the State’”⁵ and that “Human rights defenders trying to help communities affected by projects such as the construction of hydroelectric power stations, dams, and roads or the operations of various extractive industries

¹ See IOSDE’s *Statement to Immediately halt all mineral prospecting- and mining-related activity in Gállok due to Negligence, Violence, and unresolved Indigenous Land Rights*, 1 September 2013, <http://www.scribd.com/doc/164891197/IOSDE-Statement-to-Immediately-halt-all-mineral-prospecting-and-mining-related-activity-in-Gallok-due-to-Negligence-Violence-and-unresolved-Indigen>.

² See IOSDE’s *Letter to the Prime Minister of Sweden*, dated 30 July/1 August 2013, <http://www.scribd.com/doc/157071040/IOSDE-Letter-to-Prime-Minister-Reinfeldt>.

³ See UN press release, “Rights defenders increasingly branded “enemies of the State” over development projects, UN expert warns”, 29 October 2013, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13912>

⁴ As of 2008 Mrs. Margaret Sekaggya; find out more about the Special Rapporteur on the situation of human rights defenders here: <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>.

⁵ UN press release, “Rights defenders increasingly branded “enemies of the State” over development projects, UN expert warns”, 29 October 2013, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13912>

were being ‘harassed, stigmatized and criminalized for doing their work’⁶. Ms. Sekaggya also emphasized that, “States have an obligation to provide protection to those claiming their legitimate right to participate in decision-making processes and voicing their opposition to large-scale development projects.”⁷

State protection of Human Rights Defenders and the inclusion of Human Rights Defenders in decision-making processes, rather than the criminalization of their human-rights defending actions, is so crucial to the system of International Human Rights (and Criminal) Law that the United Nations has a Special Rapporteur on the situation of human rights defenders⁸, a United Nations “Declaration on human rights defenders”, officially entitled the *United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*⁹, and an instructional UN *Commentary to the Declaration*¹⁰ written by the Special Rapporteur so as to assist States and all other actors implement the *Declaration on human rights defenders*. See Appendix 1 attached to this statement for relevant descriptions and Articles from the texts mentioned, which States and all persons, businesses and mechanisms are beholden to.

The fact that the State of Sweden is violating its own international, legal commitment to its own citizens, and the Sámi People, as well as the international community and International Law in regards to Human and Indigenous Rights, in allowing for mining and mineral prospecting as per the current Mineral Laws of Sweden has already been stated¹¹ by the United Nations CERD Committee (the *Committee on the Elimination of Racial Discrimination*, advising in regards to the ICERD or the *International Convention on the Elimination of All Forms of Racial Discrimination*) publicly and formally and to delegates of the Swedish State.¹² In no way should

⁶ UN press release, “Rights defenders increasingly branded “enemies of the State” over development projects, UN expert warns”, 29 October 2013, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13912>

⁷ UN press release, “Rights defenders increasingly branded “enemies of the State” over development projects, UN expert warns”, 29 October 2013, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13912>

⁸ As of 2008 Mrs. Margaret Sekaggya; find out more about the Special Rapporteur on the situation of human rights defenders here:

<http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>.

⁹ United Nations, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, Adopted by General Assembly resolution 53/144 of 9 December 1998,

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/RightAndResponsibility.aspx>.

¹⁰ UN Special Rapporteur on the situation of human rights defenders, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, July 2011,

<http://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf>

¹¹ See UN CERD Committee proceedings of August 2013.

¹² See UN CERD, *Concluding observations on the combined nineteenth to twenty-first periodic reports of Sweden, adopted by the Committee at its eighty-third session (12–30 August 2013)*, 23 September 2013, CERD/C/SWE/CO/19-21: “17. The Committee notes with concern that a bill on Sámi rights was to be submitted to the Parliament in March 2010 reflecting on the outcomes of various inquiries into Sámi land as well as resources rights, but the draft bill was rejected by the Sámi Parliament and other interest groups during the preparatory process. The Committee also expresses its concern that the State party allows major industrial and other activities affecting Sámi, including under the Swedish Mining Act, to proceed in the Sámi territories without Sámi communities offering their free, prior and informed consent (arts. 5 (d) (v)). Recalling its general recommendation No. 23 (1997) on indigenous peoples and previous concluding observations, the Committee recommends that the State party take further measures to facilitate the

State and local courts and police or any other authorities to harm, criminalize, or otherwise degrade Human Rights Defenders who are protecting these rights. Moreover, that local Jokkmokk police force and the Swedish justice system have been and are being used to protect illegal business actions, instead of Human Rights Defenders, is also in violation of the UN Declaration on human rights defenders. In fact, the State should rather be investigating judicially the mining and supporting companies and entities at fault for not abiding by International Human and Indigenous Rights legal standards and their utilization of the State police system against Human Rights Defenders therein. As UN Special Rapporteur on the situation of human rights defenders, Mrs. Margaret Sekaggya, explains,

“In cases involving non-State actors [in violation of the Rights of Human Rights Defenders] — including private companies and illegal armed groups — it is paramount that prompt and full investigations are conducted and perpetrators brought to justice. Failure by States to prosecute and punish such perpetrators is a clear violation of article 12 of the Declaration on Human Rights Defenders. Addressing the issue of impunity is a key step to ensuring a safe environment for defenders (A/HRC/13/22, para. 42).”¹³

Gällivare Tingsrätt must release Human Rights Defenders Malin Norrby, Anna Söe and Adam Ekengren with no charges, so as to adhere by the very International legal and Human Rights standards and instruments Sweden is beholden to. Real-time application of International Law and Human Rights standards States have agreed and subject to must be put into practice by local, regional and State judges, lawyers, authorities and legal systems so as to give life to and maintain the reality of Human Rights. Anything less shows the lack of Sweden to abide by its own International promises.

For further understanding of the obligations of all persons, authorities, businesses, States and otherwise to abide by the Rights of Human Rights Defenders, please see the Annex 1 to this Statement, as well as the United Nations Factsheet *Human Rights Defenders: Protecting the Right to Defend Human Rights*¹⁴ and the United Nations’ *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*¹⁵ and its supplementary *Commentary*¹⁶.

adoption of the new legislation on Sámi rights, in consultation with the concerned communities, building on the studies undertaken into Sámi land and resource rights which are considered mutually acceptable. The Committee also recommends that the State party adopt legislation and take other measures to ensure respect for the right of Sámi communities to offer free, prior and informed consent whenever their rights may be affected by projects, including to extract natural resources, carried out in their traditional territories.”

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fSWE%2fCO%2f19-21

¹³ UN Special Rapporteur on the situation of human rights defenders, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, July 2011, <http://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf>, p. 10.

¹⁴ United Nations Factsheet Number 29, “Human Rights Defenders: Protecting the Right to Defend Human Rights, <http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>

¹⁵ United Nations, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, Adopted by General Assembly resolution 53/144 of 9 December 1998, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RightAndResponsibility.aspx>.

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¹⁶ UN Special Rapporteur on the situation of human rights defenders, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, July 2011, <http://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf>

Appendix 1

Excerpts from the UN Special Rapporteur on the situation of human rights defenders' *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*¹⁷:

Chapter I – The right to be protected

“[...] The State's duty to protect the rights of defenders is derived from each State's primary responsibility and duty to protect all human rights, as established in:

- The Universal Declaration of Human Rights (Article 2),
- The International Covenant on Civil and Political Rights (Article 2),
- The Convention on the Elimination of All Forms of Discrimination against Women (Article 3),
- The European Convention on Human Rights (Article 1),
- The African Charter on Human and Peoples' Rights (Article 1), and
- The American Convention on Human Rights (Article 1).

The right to be protected and the Declaration on human rights defenders

The State's duty to protect human rights defenders is provided for in the preamble to the ***Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*** as well as in its articles 2, 9 and 12:

Article 2

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.
2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

[...]

Article 12

¹⁷ UN Special Rapporteur on the situation of human rights defenders, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, July 2011, <http://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf>

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.
2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.
3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

As the Declaration on human rights defenders contains a series of principles and rights that are based on human rights standards enshrined in other legally binding international instruments, such as the International Covenant on Civil and Political Rights, the State's duty to protect all human rights includes the protection of the rights of human rights defenders. Thus, for instance, the right to life, the right to privacy, and the rights to freedom of association and expression should be protected from violations not only by State agents, but also by private persons or entities. This duty should apply at all times (A/65/223, para. 31).

[...]

On the other hand, States should act with due diligence to prevent, investigate and punish any violation of the rights enshrined in the Declaration. In other words, States should prevent violations of the rights of defenders under their jurisdiction by taking legal, judicial, administrative and all other measures to ensure the full enjoyment by defenders of their rights; investigating alleged violations; prosecuting alleged perpetrators; and providing defenders with remedies and reparation (A/65/223, para. 34).

[...]

Harmonizing domestic legal frameworks with the Declaration

States should harmonize their domestic legal frameworks with the Declaration on Human Rights Defenders. To enhance the protection of defenders and ensure that the rights and freedoms referred to in the Declaration are guaranteed, it is paramount that States review their national legal frameworks and abolish legal or administrative provisions impeding the work and activities of defenders (A/HRC/13/22, para. 63).

In this context, States should verify that their security legislation, including their intelligence and counter-intelligence legislation, is not used to impede the work of defenders. States should also translate and disseminate the Declaration on Human Rights Defenders and organize training for law enforcement officials and judges on the rights contained in the Declaration (A/HRC/13/22, para. 64).

[...]

Common restrictions and violations

[...]

(b) Prosecution of defenders and criminalization of their activities: States increasingly resort to legal actions to violate the human rights of defenders denouncing human rights violations. Defenders are arrested and prosecuted on false charges. Many others are detained without charge, often without access to a lawyer, medical care or a judicial process, and without being informed of the reason for their arrest (A/HRC/13/22, para. 31).

[...] In many countries, trade unionists, members of NGOs and social movements face repeated arrests and criminal proceedings for charges of “forming criminal gangs”, “obstructing public roads”, “inciting crime”, “creating civil disobedience” or “threatening the State security, public safety or the protection of health or morals”. Moreover, human rights defenders, including defence lawyers, providing legal assistance to other defenders or victims of human rights violations are threatened, denied access to courthouses and their clients, and arrested and charged under various criminal provisions. The multitude of arrests and detentions of defenders also contributes to their stigmatization, since they are depicted and perceived as troublemakers by the population (A/HRC/13/22, para. 32)

.....

IOSDE requests the Court see also the following article of the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*:

Article 9

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.¹⁸

¹⁸ United Nations, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, Adopted by General Assembly resolution 53/144 of 9 December 1998, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RightAndResponsibility.aspx>.