

Land is Life: Traditional Sámi Reindeer Grazing Threatened in Northern Sweden

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Edited by Kenyon Fields

Funded in part by Svenska Samernas Riksförbund and WWF

Acknowledgements

I would like to give grateful thanks to those who made this report possible through their generous financial support: Svenska Samernas Riksförbund (SSR, the National Association of the Swedish Sámi), World Wide Fund For Nature (WWF) International, Nussbaum Medien (the printing house), and my father, Dietrich Borchert.

Invaluable suggestions and comments on the report were kindly given by the reviewers: Olof T. Johansson, Chairman of Tåssåssen Sámi Community, Sámi politician and reindeer herder; Jörgen Bohlin, Lawyer for Svenska Samernas Riksförbund; Per Larsson, Forest Campaign Division, WWF-Sweden; Sarah Lloyd, Member of the International Reference Group, Taiga Rescue Network; Margaret Rainey, Manager of the Nordic Forest and Trade Network, WWF; Saskia Ozinga, Executive Director, Fern UK; and Martin Kaiser, Forest Campaigner, Greenpeace Germany.

Special thanks go to Kenyon Fields who showed endless patience transforming my “Swenglish” and “Deutschish” expressions into proper English – without his comments and support this report would probably never have been finished.

Jean-Paul Jeanrenaud of WWF International, Karin Behland-Lindahl of Taiga Konsult, and Ola Larsson of Taiga Rescue Network deserve additional mention. Many thanks to Maja Borchert, Rudolf Fenner, Fredrik Herrlander, Olof T. Johansson and Kristina Norderupp, who gave free use of the photographs. A big thank you too to Henrik Frånberg for the translation of the Swedish summary.

Over the course of the nearly two years that the Initiative ran, myriad supporters and advisors gave their creative input, advice, and sweat. It would be impossible to give proper mention to all, but let it be said that you were invaluable. You represent reindeer herders, other Sámi people, non-governmental organisations, lawyers, ecologists, journalists, politicians, the forest sector, expert consultants, historians, technicians and computer saviours, and dear friends.

One person in particular deserves special mention for his magnanimous efforts, inspiration, endless commitment, advice, humour, snowy castle and, most importantly, his invitation into the Sámi world. Thank you Olof (T. Johansson).

Last but not least, my biggest thanks must go to friends and family who have been a constant source of strength and support throughout and without whom the work would not have been feasible.

Nanna Borchert
May 2001



Kate Kärberg

Traditional Sámi summer dwelling site in the mountain area.

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About the author

After Master's-level studies of ecosystem science, Nanna Borchert moved to Sápmi, northern Sweden to work with the Taiga Rescue Network. Her work entailed forest protection and sustainable forest management, focusing on international networking with non-governmental organisations and indigenous communities. During 1998 she became involved in the Sámi land rights conflict, and in support of the Sámi reindeer herding communities being sued by small private landowners, she was asked to begin the Initiative described in this report. As information officer Ms. Borchert acted as the media contact and liaison with other stakeholders who either requested information about or wanted to cooperate with the reindeer herders. Having set up the Initiative and taken it as far forward financially as was possible, Nanna Borchert is now off to pursue other work in Alaska.

Foreword

We have undertaken this project with the intention of serving the various stakeholders who have cooperated with the Swedish Sámi reindeer herders over the last two years. These are the international Sámi community, indigenous groups worldwide, the community of non-governmental organisations, representatives from the forest-products industry and politicians concerned with forest management and indigenous peoples' rights. These parties represent a wide-ranging pool of interests and have shown an incredible ability to raise potent questions, both macro and micro in scale. Thus, this report has been written with a level of detail hopefully sufficient to address a wide range of questions. While a comprehensive knowledge of the conflict is not required to understand the Sámi situation, we have hopefully provided a study with enough depth to allow sympathetic readers to take action, based on this document, as they see fit. This report serves as both a resource and a springboard for further efforts to secure the Sámi position, and as an update of an action-in-progress.

Central to its theme are the underlying causes of the land rights conflict, the influence the joint Swedish and Sámi history has on today's situation (and how history is thereby part of the problem), and how the conflict can only be understood through a broad perspective in terms of time and stakeholders. The report's length is necessitated by the fact that we are trying to focus on a large web of events and players, not single, isolated factors. It is this web that has led to the current conflict, and it must be taken into consideration when seeking future solutions.

Conflicts between owners of small private land (forest) holdings and reindeer herders have existed for more than one hundred years; however, these tensions are now threatening the very existence of the Sámi herders. This report is based mainly on experiences gained while working on conflict resolution with the different stakeholders involved. Experiences from running the Initiative have of course coloured the body of

the text. While acknowledging that the conflict is highly complex in nature, and that no simple truth or easy solution exists, we believe it is possible to pinpoint – without risking superficiality or unreasonable bias – the main principles responsible for the culmination of the land rights conflict.

The Sámi are spread across four nations in which they are a small minority facing a struggle of similar nature: the defence of their basic rights as indigenous peoples. However, the nature and nuance of their struggle in each nation differs according to the histories and legislation of the respective colonising nations. Penetrating each would be far too complex, generating confusion at best. Hence, we keep to the Swedish Sámi, with a small section of the report (2.3) reserved for an international comparison. Additionally, the land rights conflict covered in this study is but one of many challenges the Swedish Sámi face, each deserving their own exposition, yet remaining beyond the scope of this report. This report does not attempt an exhaustive analysis of the entire Sámi situation. The land rights conflict is not over, as the court cases remain open. For more information and updates, please visit the World Wide Web at <http://www.sapmi.se>

As indigenous peoples the Sámi are far from alone in their continued struggle against historical and current exploitive colonisation. Whilst this report is not intended as a 'guide', it offers other indigenous groups examples of how such peoples may join forces to secure their positions. The conflict the Sámi face is far from over. Thus, this story of lessons learned is at once a historical mapping of a longstanding conflict, a review of a conflict still unfolding, and a prompting for continued efforts on behalf of the Sámi and other indigenous peoples worldwide. Our desire is not to point a finger of blame at any party for the Sámi crisis, but rather to find a way forward through positive solutions in which the reader may also hopefully play a part.

Förord

Till samebyarna.

Initiativet till Renskogskampanjen togs av min sameby, Tåssåsen, när vi stod inför hotet av en andra rättsprocess angående rätten till vinterbete. Vi menade att omvärlden måste få upp ögonen för vad som pågår i Sverige, när den samiska renskötseins grundpelare hotas. –Utan rätt till vinterbete, ingen rensköttsel.

Hela kampanjen lades upp på engelska samt i viss mån tyska, spanska och svenska. Det är därför naturligt att även denna rapport är skriven på engelska för att kunna nå ut till så bred läsekrets som möjligt. En sammanfattning görs på svenska och tyska.

Den information om samer och modern rensköttsel som finns på andra språk än svenska är mycket liten och bristfällig. Även den på svenska är under all kritik. Vi hoppas att vi med genom-

förandet av Renskogskampanjen har kunnat upplysa och uppmärksamma människor i framförallt Europa om de hot mot, men även möjligheter, som finns för den samiska renskötseins i Sverige.

Denna rapport ska inte ses som en avslutning på kampanjen, utan som utvärderingen av ett etappmål, i kampen för våra samiska och alla ursprungsfolks rättigheter till sitt land.

Renskogskampanjen hade inte varit möjlig att genomföra utan det stöd, både ekonomiskt och emotionellt som många samebyar och enskilda samer ställde upp med. Jag vill rikta ett mycket stort tack till Er. Samt naturligtvis till Nanna utan vars helhjärtade engagemang det inte heller varit möjligt.

Olof T Johansson
ordförande i Tåssåsens sameby

Summary

The Sámi are the indigenous people of northern Scandinavia, of the area often called Lapland. This land they call “Sápmi” consists of the northern parts of Sweden, Norway, Finland and the Kola peninsula in Russia. The Sámi populated this area long before the present Scandinavian states emerged. The Swedish part of Sápmi includes most of northern Sweden, with core areas along the mountain range that forms the boundary with Norway. The Sámi are about 70,000 in number, of whom 17,000 are Swedish Sámi. About 3,000 Swedish Sámi still rely on reindeer herding for their living.

Their traditional way of living is characterized by close contact with nature, following the path of their reindeer between summer grazing lands in the mountains and winter grazing lands in the forests. As early as 800 AD documents describe an established reindeer herding system, managed by the Sámi and based on systematic use of the land. The Sámi are no longer a nomadic people; they have settled down and are more and more assimilated to the Swedish lifestyle. However, reindeer herding is still a traditional way of life and part of the Sámi cultural identity. Sámi still follow the reindeer when migrating from summer to winter grazing lands, though no longer by walking or skiing. Reindeer herding, although in modernised forms, is still the core of Sámi culture and the basis for existence of the Sámi reindeer herding communities.

The purpose of this publication is to inform the reader of the plight of today’s Swedish Sámi reindeer herders, who find themselves in a severely challenging and threatening legal situation. Also addressed are the actions the Sámi have taken in defence of their traditional ways and herding culture (‘the Initiative’). None of the problems the Sámi face are as yet settled, but there is little time left before legal processes might bring Western Europe’s last group of indigenous peoples to the brink of extinction.

THE SÁMI WAY OF LIFE

In summer the reindeer graze in the mountains, feeding on grass, leaves, herbs and fungi. In

winter, they move down to forested lands where they may find shelter and food in the long, cold arctic winters. (See Map 1 on page 6.) The forest provides a shallower layer of softer snow that the reindeer can dig through to obtain the ground lichens needed as basic winter survival food. Tree-hanging lichens, found in old forests, are important as fodder, especially when lichens on the ground cannot be reached due to ice and ice-covered snow.

For the Sámi and their reindeer there are, generally, three conditions that must be met to ensure that reindeer survive the winters in the forest:

1. The Sámi must be granted permission to access forest lands, which are currently under multiple ownerships, for a roaming style of reindeer grazing;
2. These forests must have a good supply of ground-growing lichens; and
3. A percentage of these forests must be old forests with a good supply of tree-hanging lichens.

In most forests these conditions are not met. Since the 1960s, forest management practices consisting of clear-cut logging, monoculture plantations and other new techniques have been dominant in Sweden. Soil management practices, common for plantations, destroy the layer of ground lichens significantly. Clear-cuts compact the snow and thus hinder the availability of ground lichens. Modern forestry has been an impoverishing factor for both reindeer grazing and biological diversity. Large areas of winter grazing land have deteriorated. Despite this, the Sámi are not trying to bring an end to forestry – they simply want to be allowed the traditional right to reindeer grazing in the forests.

According to the Reindeer Husbandry Act, the Sámi have customary rights to graze reindeer on private land. This law does not specify the exact locations for which such rights are valid, and thus about one thousand owners of small private land (forest) holdings are pursuing this loophole in efforts to eradicate Sámi herding rights from their land.

A GROWING CONFLICT OF INTEREST

Small private landowners (SPLOs) are now claiming that the reindeer are causing damage to their pine plantations by rubbing their antlers against young trees. It is true that such damage exists on a small scale, although the observed (investigated) damage is small in comparison with damage caused by wild moose. SPLOs live off the timber from their forests, which is sold to mills where wood, pulp and paper products are produced. Around 70% of the sawn products and about 80% of the paper produced in Sweden are exported to Western Europe, mostly to the UK, Germany, the Netherlands and France. These SPLOs own 50% of Sweden's forests, and represent a powerful political force in Sweden today.

In recent years several Sámi reindeer herding communities in Sweden have been sued by groups of SPLOs, who now refuse access to reindeer on their forested land. Lacking the specific form of written documentation required by the courts, the Sámi are likely to lose their traditional winter grazing rights in these court cases, and will then be forced to give up reindeer herding in areas where the forests are owned by SPLOs. On State land, and in forests owned by large forest companies, the grazing rights of the Sámi are fully respected. However, no physical boundaries distinguish these areas. It is thus impossible to keep the reindeer away from private land. The State and all large forestry companies are content to allow winter grazing in their forests and create no problems for the Sámi because reindeer herding does not harm the forests, or if so, it occurs in such a marginal way that it can easily be overlooked. The Sámi are asking the SPLOs to follow the path that the other major landowning factions have taken; i.e. to respect Sámi customary grazing rights. The Sámi position is by no means an attempt to create an enhanced economic situation for their practice; rather, it is a humble request to respect the relationship they have maintained until recent times with Swedish interests on traditional Sámi land.

The practice of reindeer herding has not changed significantly in terms of volume or range since early times, and the current number of animals is significantly lower than the permitted limit. What has changed is the attitude and posi-

tion of the SPLOs which has led to aggressive legal action against the Sámi. The SPLOs claim that a healthy co-existence of herding and forestry is not possible. Although the logging practice engaged in by the SPLOs is detrimental to herding, the Sámi have never tried to stop it. Their desire is for both practices – herding and forestry – to be allowed in Swedish forests. Such multiple-use allows neither party to monopolize the forest as a resource.

The Sámi do not question the democratic right of the SPLOs to address their concerns in court. Neither do they care for land ownership quarrels. While the Sámi are not saying no to forestry, the SPLOs want to remove the traditional practice of reindeer herding to exclusively control the private forests for their timber producing interests. Neither forestry nor reindeer herding can claim superior rights to the forests in northern Sweden. This calls for rules governing the co-existence of both of these land uses on the same land. Mutual respect for both trades and compliance with the fact that both parties may experience damage to their interests are needed. Sámi reindeer herding rights must be securely guaranteed by a comprehensive law.

Limiting reindeer grazing to the mountain area (the summer grazing area which is not contended over by any party) is not possible since only the tree-hanging and ground lichens growing in forests can ensure the survival of the reindeer during the six months of winter. The extent of available winter land determines the size of the reindeer herds. Without the right to graze on privately owned forest lands, the Sámi reindeer herding communities will face problems feeding the current number of reindeer. Thus, for herding to continue as a practice, the Sámi need both winter (forest) and summer (mountain) grazing lands. Those forest lands owned by the private parties taking the Sámi to court contain the majority of important grazing lands. The Sámi will lose twice if the court cases continue, firstly if they lose the winter grazing right (which is basically enough to end reindeer herding altogether), and secondly through financial ruin. The Sámi reindeer herding communities are faced with the enormous costs of the court cases, and may have no herding to fall back on economically.

The court cases, currently seven in number, have thus become a question of survival for the reindeer herding Sámi communities. Perhaps the most difficult aspect of these cases is that they are based on a seemingly unattainable demand: the Sámi are required to provide written proof of their longstanding inhabitancy and use of Lapland (Sápmi) and of their relationship with reindeer in order to retain rights to herd reindeer on what are now private non-Sámi land holdings. The Sámi have been in the areas in question since times immemorial. They do not own any land because they never needed to – that is, until colonisation of Sápmi intruded upon their traditional ways.

The Sámi language bears no relation to the Germanic language of the State, Swedish. The Sámi language is based on oral tradition and storytelling, and only in the last century did it receive a system of grammar and become developed into a written language. Many old Sámi can neither write nor read, but can speak perfect Sámi. Thus the Sámi kept no written records of a traditional subsistence practice engaged in since ancient times. Additionally, their ancient rotational herding system is based on the continual movement of their herds over a large area. This indisputably is the case in the archaeological record and Sámi oral history. Yet they are being required to prove that, for 90 years in each of these parcels, their movements have involved every piece of the disputed lands.¹ This situation is equivalent to proving one's residence of a particular town by proving that one has traversed each street in the town regularly over a 90-year period!

The irony is that the Sámi's customary rights to graze reindeer, on private as well as on State land, is confirmed in legislation. The loophole is that the legislation does not state any clear geographic boundary where these rights exist, and in case of conflict leaves it up to the Sámi to prove their customary rights in the courts. That is what is happening today. Ever since the first reindeer herding law was established in 1886 there have been disputes about Sámi customary rights to winter grazing of their reindeer on private land. And ever since, the Swedish State has not taken its responsibility to bring the conflict to an end.

ESCALATING PRESSURE ON THE SÁMI

The majority of Swedish small private land owners have not joined in the suits against the Sámi and do not have a problem with winter grazing by reindeer on their land. Unfortunately, their voices cannot be heard by the public above those of the thousand or so landowners suing the Sámi. And of these, it takes only a few more aggressive SPLOs to threaten reindeer herding entirely. Despite this, the landowners have tended to work in herds. For example, in the first court case (Härjedalen), 700 land holders sued the Sámi on about 500 separate forest holdings. Compensation to the landowners for supposed damages and all costs of the legal processes for both parties may ultimately have to be paid by the Sámi. These costs are very large, amounting to some SEK15 million (US\$1.7 million) in 2000 alone.

As the rights held by the Sámi have gradually decreased, free space – a basic requirement for their lifestyle and livelihood – has also diminished. The Sámi lifestyle is constantly threatened through land exploitation from such practices as forestry, damming, mining, road building, and acid rain. While these have all slowly eroded the possibilities for the Sámi to carry out reindeer herding and to keep their traditional way of life, it was not until the court cases of the past decade that the end has truly been in sight. Consequently, recent efforts have been made to raise awareness in the international community of the Sámi's plight.

Other attempts to find solutions have been created, although none of these have borne fruit to date. Some Sámi reindeer herding communities have suggested a system in which the State compensates individual landowners for damage to their plantations by reindeer. Some of the SPLOs involved in the processes are prepared to accept reindeer grazing on their land if they receive such compensation, yet the Swedish State has continually ignored or rejected the idea. It has also denied Sámi pleas for financial help with the court cases, so that they may at least be fully represented. To date there has been only one instance of State aid, and several Sámi communi-

¹ Specifically, this requirement demands that such 90-year proof must begin with the year 1972 and work backwards, documenting Sámi use of the lands from at least 1882 onwards. 1972 is significant because of changes made in legislation at that point. Such issues are beyond the scope of this report.

ties must now represent themselves in place of lawyers in several of the cases because of a lack of funds.

There are two more immediate issues of concern which may result in short-term solutions. The first is a market-based approach. The Forest Stewardship Council (FSC) is an independent organisation which supports environmentally appropriate, socially beneficial, and economically viable management of the world's forests through forest certification programmes. FSC recognizes indigenous peoples' rights and the Swedish FSC standard in particular ensures Sámi grazing rights on traditional winter grazing land. Encouraging buyers of wood from the forests of the SPLOs suing the Sámi to accept only FSC-certified wood may lead to enough pressure on the landowners to either drop their cases, or have their forests FSC-certified. The FSC would only certify forests whose landowners respect traditional rights.

Another approach to resolving the land rights conflict is through a political move. Sweden has been involved in the creation of the International Labour Organisation's Convention No.169 ("the Convention"), addressing indigenous and tribal peoples' rights, but has not as yet signed it. Nations adopting the Convention agree to assure certain rights in areas such as indigenous land claims. The glaring hypocrisy of Sweden's actions of promoting the Convention internationally while simultaneously ignoring indigenous issues at home is now becoming apparent internationally. The Sámi demand that Sweden ratify this Convention in respect of its own indigenous people, namely the Sámi.

THE INITIATIVE

The Sámi have concluded that they have minimal chances of winning the legal cases since they are unable to provide the courts with the written evidence of their traditional land use. It is unlikely that the government will resolve the conflict – at least not quickly enough. Therefore a crisis-based international information campaign (the Initiative) was deemed necessary. In December 1998, the Sámi community of Tåssåssen took on the project, in co-operation with several other Sámi reindeer herding communities, which ran until June 2000. This report

marks the closure of the Initiative. Intensive and broad networking with national and international organisations was carried out, and information was disseminated to all potential allies and counterparts. This included the general public, media, non-governmental organisations, politicians and timber market stakeholders (i.e. the forest industry, their buyers and end consumers) in the main consumer countries of Swedish wood and paper products.

The objective was to find a solution by making the case known internationally. International attention was and is needed in order to create a platform for dialogue in Sweden. At the same time, the Sámi are continuing to work constructively for a local and/or national resolution process in Sweden. Much of the fuel for the Initiative has come from the increasing number of requests made by the international public and organisations for information about the conflict.

The main messages disseminated have been:

- 1 Respect Sámi traditional rights;
- 1 Allow multiple forest-use in Sweden;
- 1 Promote responsible forest management in Sweden;
- 1 Conserve high conservation-value forests (old-growth or forests with high biodiversity); and
- 1 Promote FSC, bringing together the demands of the above points, especially highlighting that FSC respects indigenous people's rights.

On a more concrete level the political goals were to:

Short term:

1. Get the small private landowners challenging Sámi winter grazing rights to agree to let their court cases 'rest' while a political solution was sought (a five-year moratorium);
2. Establish an independent international commission to investigate where the traditional winter grazing rights are valid;
3. Set up a government-financed compensation fund to compensate the SPLOs for damage to their forests by reindeer grazing.

Long term:

4. As an expansion of point 1, get the small private landowners challenging Sámi grazing rights to withdraw their court cases against the reindeer herding communities, and agree not to start new ones;
5. Get the SPLOs challenging the Sámi grazing rights to certify their forest management according to FSC standards as a minimum, if not through the FSC itself.

Effective information and lobbying work was carried out, aimed at combining different groups or sectors with common interest in well-managed forests, both from a social and environmental perspective. FSC constitutes the perfect opportunity to build coalitions of different forest interest groups (economic, ecological, social) in defence of social and environmental values. Allies were found amongst environmental groups, indigenous peoples' support groups, politicians, wood-related industry, timber buyers and end consumers.

Attention, interest and sympathy for the Sámi case have increased significantly and made the case known nationally and internationally, both amongst the general public and in the forest-related market place. Although the Initiative ran for only a year-and-a-half for reasons of funding, several NGOs took up the Sámi case and continue to work actively with it. Thus, the work will not be dropped immediately, even though the co-ordinated Initiative has come to an end.

The Sámi land rights conflict is a perfect example of how minorities and indigenous peoples worldwide are forced to assimilate and give up their traditional cultures and lifestyles. Many indigenous peoples around the world face similar conflicts, desperately defending their land

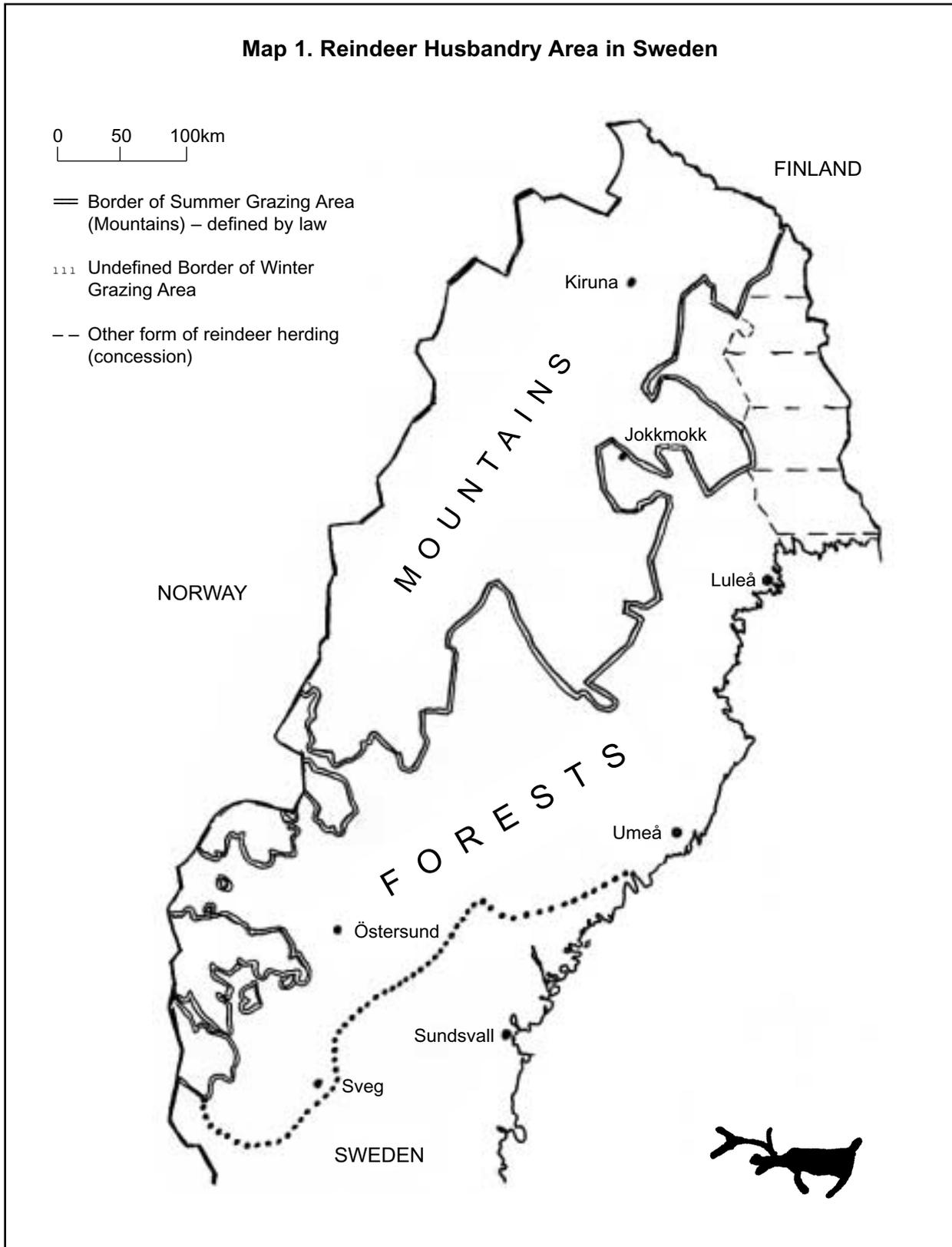
rights with minimal chances of success owing to a lack of written documentation, as usually required in legislation. Several indigenous groups have expressed their interest in the Initiative. By making this publication available, the Sámi would like to share their experiences and lessons learned with other indigenous peoples or local groups and hopefully encourage them to become active themselves in defence of their rights.

A QUESTION OF SURVIVAL

Most locally based conflicts, particularly those involving land rights and land-use practices, are complex matters. As one investigates more deeply, the more complex the issues become. They remain especially confusing to the outsider or casual reader not familiar with the local internal politics and external pressures. It is not within the scope of this publication to address every detail of the Swedish Sámi land rights conflict. However, there lies at the heart of this matter some basic, emotive but irrefutable points.

To the Sámi, land is life. The right to have access to winter reindeer grazing land is a question of survival for the Sámi and their culture. Their culture has steadily been pulverised and pushed aside by the colonising Swedish culture. Their rights and language have been systematically taken away, and their traditional religion lost to the messages of incoming missionaries. Their land has been exploited, and they are losing their right to use it as they always have. Like most indigenous peoples of the world, the Sámi have experienced hardships no people should, and this continues today, in the twenty-first century. A fundamental question stands before us: Are we willing to add the Sámi to the growing list of vanished cultures?

Map 1. Reindeer Husbandry Area in Sweden



Sammanfattning

Samer är ursprungsfolket i norra Skandinavien, ett område som även kallas Lappland. Detta område som samerna själva kallar för Sápmi innefattar de norra delarna av Sverige, Norge, Finland och Kola-halvön i Ryssland. Samerna befolkade detta område långt före de Skandinaviska ländernas uppkomst. Sápmi består av i Sverige, de norra delar med kärnområdet efter fjällkedjan som bildar en naturlig förbindelse med Norge. Det finns ca 70 000 samer varav 17 000 av dem är svenska samer. Ungefär 3 000 av de svenska samerna bedriver aktiv rensköttsel som huvudsaklig näring.

Deras traditionella levnadsvillkor karaktäriseras av den nära kontakten med naturen. De följer sin renhjord mellan sommarbetesland i fjällen och vinterbetesland i skogarna. Dokument från så långt tillbaka som år 800 beskriver ett etablerat system för rensköttsel under ledning av samer baserat på systematiskt användande av landområden. Samerna lever inte längre som ett nomadfolk. De är bofasta och alltmer anpassade till den svenska livsstilen med modernare hjälpmedel i både hemmet och i arbetet. Rensköt-seln bedrivs dock fortfarande på traditionellt sätt och är en del av den samiska kulturen. Idag följer de renskötande samerna fortfarande i renarnas spår mellan sommar och vinterbetesmarkerna men inte längre till fots eller på skidor. Rensköt-seln, fast i modernare form, är fortfarande kärnan i den samiska kulturen och ekonomiskt avgörande för många samer. Den är en viktig del som tradi-tionell livsstil och kulturarv.

Meningen med den här publikationen är att uppmärksamma läsaren på vilket utsatt läge den svenska samiska kulturen har, ställd inför många svåra utmaningar och lagliga hot mot sin existens. Vi vill också uppmärksamma läsaren på vilka sätt samerna försvarar sina traditioner och sin rensköt-selkultur. Ännu har inga beslut fattats kring de problem samerna står inför, men det återstår inte lång tid innan den lagliga processen tar västra Europas sista ursprungsfolk till randen för sin existens.

OOO

Under sommaren betar renarna i fjällen och

lever av gräs, blad, örter och svamp. (Det finns en annan form av rensköttsel -skogrensköt-seln -som i vissa områden bedrivs hela året i skogen). Vintertid flyttar de ner till skogsmark där de finner skydd och mat under den långa kalla årstiden. I skogen är det mindre och mjukare snö än på fjället så det är lättare för renen att gräva sig igenom för att finna de lavar som växer på marken. Hänglav, som växer i gammelskogen, är en annan viktig föda som renen kan komma åt då marken är täckt av hårdpackad snö eller is. Renen äter inte annat av träden än just denna hänglav.

Det finns tre förutsättningar för att skogarna ska kunna utnyttjas för vinterbete:

1. Samerna måste garanteras tillträde till skogs-marker, dvs. tillåtelse att bedriva rensköttsel på skogsmark.
2. Skogarna måste innehålla god tillgång på markväxande lavar.
3. Viss procent av skogen ska innehålla gammelskog med hänglavar.

I de flesta skogar uppfylls inte dessa förut-sättningar. Sedan 60-talet har intensivt skogsbruk med kalhyggen, markberedning och planteringar dominerat i Sverige. Det moderna skogsbruket har utarmat och skadat skogarna sedan man började kalhugga stora skogsområden. Ny teknik och plantering enligt ekonomiskt bärande koncept ersatte naturliga skogar. Gödning av marker har förstört tillväxten av mossor och lavar. På kalhyggen blir snön tätt packad och det leder till svårigheter för renen att komma åt mat. Modernt skogsbruk har blivit till ett men för rensköt-seln liksom för den biologiska mångfalden. Stora områden av vinterbetesland har blivit förstörda på detta sätt. Samerna försöker inte att stoppa skogs-bruket – de vill bara tillåtas behålla sina tradi-tionella rättigheter till sina vinterbetesmarker.

Enligt Rennäringslagen, har samerna sedvanerätt att beta sina renar på privata skogs-marker. Lagen preciserar emellertid inte exakt var dessa betesmarker är belägna. Ett tusental små markägare (skogsmark) utnyttjar detta kryphål i lagen för att få de samiska rättigheterna att inte gälla på just deras markområde.

OOO

Gruppen med de mindre markägarna gör gällande att deras markområden skadas av renarna. De framför argument som att renarna skadar tallplanteringarna genom att feja hornen mot de unga plantorna. Det är sant att skador som detta uppstår men undersökningar har visat att renens skadeverkan är liten i jämförelse med vad älgen åstadkommer. Markägarnas utkomst av sin skog är i huvudsak timmer som säljs till sågverk och pappersbruk där det förädlas till halvfabrikat som virke, papper m.m. Ungefär 70 % av sågat timmer och ca 80 % av allt papper som är producerat i Sverige exporteras till länder som Tyskland, England, Holland och Frankrike. Alla dessa små markägare äger tillsammans 50 % av den svenska skogen och tillsammans är de en stark politisk maktfaktor i Sverige.

Under senare år har flera samebyar blivit stämnda av mindre markägargrupperingar som nu dessutom vägrar renarna tillträde på sina marker. I brist på nedskrivna dokument som skulle kunna styrka samernas traditionella sedvanerätt till betesmarker och som efterfrågas av domstolarna, ser samerna ut att förlora sina vinterbetesmarker i dessa rättegångsprocesser. Resultatet av detta blir då att samerna får ge upp vinterbetesmarkerna i områden som ägs av de mindre markägarna. På marker ägda av staten och marker tillhörande större skogsbolag respekteras däremot samernas sedvanerätt till bete. Det är dock praktiskt omöjligt att bedriva verksamhet inom dessa marker eftersom det inte går att hålla renarna borta ifrån de konfliktområden, som går omlott med de statliga och större markägarnas marker.

Den svenska staten och de större markägarna tillåter vinterbete på sina marker för att de anser att renskötseln inte skadar skogen. De menar vidare att även om viss skada kan påvisas är det av sådan marginell omfattning att de kan ha överseende med denna.

Samerna vädjar därför till de mindre markägarna att följa de övrigas beslut, nämligen att tillåta samerna fortsätta med sin sedvanerätt till bete på dessa marker.

Den samiska inställningen är på inget sätt ett försök att nå ekonomisk vinning, det är snarare

en ödmjuk önskan till fortsatt respekt över det väl fungerande förhållandet man uppnått med svenska intressen på sameland fram tills nyligen.

Renskötseln har inte förändrats i nämnvärd omfattning vad det gäller tillvägagångssätt eller områdenas storlek sedan begynnelsen. Antalet renar är för närvarande betydligt lägre i antal än vad som är tillåtet. Det är de mindre markägarnas attityd och ställning som har förändrats och lett till aggressiva lagliga åtgärder gentemot samerna. Markägarna menar att renskötsel och skogsbruk inte kan, på ett sunt sätt, existera förenligt. Även om skogsavverkningen som markägarna bedrivit varit skadlig för renskötseln i området, har aldrig samerna haft någon avsikt att stoppa detta. Istället tycker samerna att båda näringarna – skogsbruk och renskötsel – ska tillåtas i Svenska skogar. På så vis får ingen ensamrätten till skogens tillgångar.

Samerna ifrågasätter inte markägarnas rätt att framföra sina angelägenheter inför domstol. Samerna bråkar inte om äganderätten till markerna. Samt åter igen, samerna är inte emot skogsbruket. De mindre markägarna säger nej till renarna och vill därmed behålla kontrollen exklusivt över sina skogar för sina skogsbruksintressen. Varken skogsbruk eller renskötsel ska kunna göra anspråk på ytterligare rättigheter i Sveriges norra skogar. Det behövs regler som ska styra den samtida förekomsten av de båda brukarna inom samma område. Det krävs både respekt och förståelse för de skador som båda parterna kan åsamkas inom detta.

OOO

Att begränsa renskötseln till fjällområdena, där renen har sitt sommarbete, är omöjligt då hänglav och marklavar som växer i skogen är en förutsättning för renarna att överleva under vinterhalvåret. Det är tillgången på vinterbetesområdena som avgör storleken på renskötseln. Utan rätt till vinterbete på privat mark kommer samebyarna få problem att föda de antal djur man förfogar över idag. Således behöver samerna både sommarbetesland (fjällen) och vinterbetesland (skogarna) för att kunna fortsätta sin verksamhet. De skogar som ägs av de privata markägare som stämt samerna, innefattar till största delen viktiga vinterbetesområden.

Samerna kan komma att förlora på två sätt om dessa rättsprocesser fortsätter. För det första riskerar samerna att förlora vinterbetesrätten, vilket i sig räcker för att omöjliggöra renskötelsen överhuvudtaget. För det andra genom att samebyarna kommer bli ruinerade av de höga rättegångskostnaderna så att fortsatt verksamhet med renskötsel blir ekonomiskt genomförbart.

Rättegångsfallen, för närvarande sju till antalet, har alltså kommit att bli en fråga om överlevnad för de renskötande samebyarna. Den kanske viktigaste aspekten i fallen är att de är grundade på ett tillsynes ouppnåeligt krav: Man ber samerna visa skriftliga dokument som kan styrka att de under lång tid varit invånare och brukat markerna i Lappland (Sápmi). Vidare vill man de ska visa på vilken betydelse renen haft för samerna genom tiderna och hur renskötseln bedrivits sedan urminnes tider på vad som idag är privatägd skogsmark.

Samerna har funnits på de ifrågasatta skogsmarkerna sedan urminnes tider. De har aldrig ägt någon mark av den enkla anledningen att det aldrig funnits något behov – så har det varit, tills koloniseringen av Sápmi inkräktade på deras traditionella rättigheter.

Det samiska språket har inget samband med den germanska språkgrenen, som svenska härrör sig från. Samiska språket är baserat på muntliga traditioner och historieberättande och inte förrän under senaste seklet tillkom det ett grammatiskt system som det sedan kunde utvecklas ett skriftspråk ur. Många av de äldre samerna kan varken läsa eller skriva, men de talar ändå en perfekt samiska. Av dessa anledningar förstår man att det aldrig har skrivits ner någonting om samernas renskötseltraditioner eller historia av samerna själva. Tilläggas ska också att det urgamla sättet med att sköta renarna i ett slags rotationssystem är baserat på att kontinuerligt förflytta renhjordarna genom stora ytor. Att samerna arbetat på detta sätt är odiskutabelt både ur arkeologisk synpunkt samt den samisk muntligt berättande historien. Ändå begär man de ska kunna bevisa att, de under 90 år inom varje enskilt markområde, kan visa på hur deras liv lämnat spår på varje del av de omstridda områdena. [Fotnot: Kravet på 90-års bevis ska räknas från 1972 och bakåt och dokumentera samernas bruk av marken från 1882 och

framåt.] År 1972 kommer av att vissa lagändringar kom till stånd. Detta ligger utanför denna rapports möjlighet att utforska.] Detta krav är i själva verket samma sak som att avkräva en människa som påstår sig bott i en stad någonstans att styrka detta genom bevis över att denne korsat varje gata regelbundet under en period av 90 år!

OOO

Majoriteten av Sveriges mindre markägare inom renbetesland ställer inte upp i motståndet mot samerna och de har heller inga besvär av renarnas vinterbete på dess marker. Olyckligtvis kan dessa inte höras offentligt utöver de som bland tusentalet markägare som stämt samerna. Av alla dessa räcker det med ett fåtal för att hela rennäringen ska hotas fullständigt. Emellertid tycks markägarna visa en benägenhet att arbeta i grupp. I t.ex. den första rättegången (Härjedalen), stämde 700 markägare samerna på ca 500 enskilda skogsskiften. Skadeståndet till markägarna för uppskattade skador samt rättegångskostnaderna för båda parter, kan komma avkrävas av samerna. Dessa kostnader är mycket höga, de beräknades år 2000 uppgå till 15 miljoner SEK, (ca \$1,7 milj).

De samiska rättigheterna blir ständigt mindre, samtidigt som – behovet av dess livsstil och handel – också minskat. Det samiska sättet att leva på står under ständigt hot genom aktioner som skogsbruk, gruvor, vägbyggen, dammbyggnationer, surt nedfall, Tjernobyli, osv. Även om alla dessa hot sakta men säkert undergrävt möjligheterna för samerna att bedriva renskötsel och upprätthålla sin kultur, var det inte förrän vid rättegångarna under senaste decenniet som man verkligen började ana ett bittert slut. Som en följd av detta har man nyligen påbörjat stora ansträngningar för att höja medvetenheten på det internationella planet över samernas situation.

Andra försök till lösningar har framkommit men inget som resulterat i några framgångar ännu. En del samebyar har föreslagit ett system där den Svenska staten ska kompensera markägarna individuellt för de skador som förorsakas av renarna. Denna "renskadefond" skulle då upprättas och finansieras av staten och ge ersättning till markägarna. En del markägare kan tänka sig tillåta renbete på sina marker om de skulle få

rätt till sådana ersättningar men den Svenska staten har hela tiden undantagslöst ignorerat eller förkastat förslaget. Samerna har också vägrats ekonomisk hjälp vid rättegångarna, så att de åtminstone skulle kunna bli riktigt representerade. Till dags dato har det bara varit vid ett tillfälle som denna hjälp krävts men flera samebyar måste nu själva fortsätta driva sina mål utan riktiga jurister i kommande rättegångar p.g.a. bristen på pengar.

Det finns två omedelbara möjligheter till kortsiktiga lösningar. Det första är ett marknadsanpassat närmande. Forest Stewardship Council (FSC) är en internationell, icke vinstdrivande organisation som ska uppmuntra till miljöanpassat, samhällsnyttigt och ekonomiskt livskraftigt bruk av världens skogar genom ett skogscertifieringsprogram. FSC respekterar ursprungsbefolkningarnas rättigheter, och den svenska FSC-standarden tar speciellt hänsyn till samernas betesrätt på all skogsmark. Genom att uppmuntra de som köper skog av markägarna som stämt samerna, att bara acceptera FSC-certifierad skog, skulle detta förhoppningsvis kunna leda till att markägarna förmås att antingen dra tillbaka stämningarna eller att FSC-certifiera sina skogar. FSC kommer bara att certifiera skogarna hos de markägare som drar tillbaka sina krav mot samerna och respekterar deras traditionella rättigheter. En annan lösning till markkonflikterna är genom politisk väg. Sverige har varit med om att upprätta "the International Labour Organisation's Convention No 169" (ILO 169), för ursprungsfolkens rättigheter, men har själva ännu inte undertecknat den. Länder som godkänt konventionen samtycker till att skydda vissa rättigheter inom olika områden såsom ursprungsfolks rättigheter. Det uppenbara hyckleriet Sverige visade under den internationella marknadsföringen av konventionen genom att samtidigt helt ignorera kraven från det egna ursprungsfolket, börjar nu bli känt utanför det egna landets gränser. Samerna kräver att Sverige ratificerar konventionen i respekt för sitt eget ursprungsfolk; Samerna.

OOO

Samerna har dragit slutsatsen att deras chans att vinna i rätten är minimal eftersom de inte kan prestera de skriftliga bevismaterialen,

som rätten kräver, över sin rätt att av hävd bruka marken. Det är inte troligt att regering träder in och löser konflikten – åtminstone inte tillräckligt fort. Därför ansåg man att det fanns behov av att upprätta en kris-baserad internationell informations kampanj, (the Initiative). I december år 1998, startades projektet av Tossåsens sameby med hjälp av flera andra samebyar och det pågick till juni år 2000. Den här rapporten markerar avslut av the Initiative. Ett intensivt och brett nätverk med nationella och internationella organisationer inblandade i att sprida information till alla potentiella allierade likväl som till motparter. Bland dessa räknas allt från vanliga medborgare, media, politiska organisationer, trävarumarknader, investerare, (dvs. skogsindustrier, deras uppköpare och konsumenter), huvudsakliga förbrukare i länder som handlar med Svenska trä och pappersprodukter.

Målet var att hitta en lösning genom att belysa samernas fall internationellt. Internationell uppmärksamhet var och är en nödvändighet för att finna grunder till dialog i Sverige. Samtidigt fortsätter samerna arbetet med att finna lokala eller nationella lösningar till processerna i Sverige. Den ökade internationella uppmärksamheten och nyfikenheten över konflikten har givit "the Initiative" mycket energi på vägen i att sprida information.

Det viktigaste budskapet var:

- 1 Respektera samiska rättigheter.
- 1 Tillåt flera nyttjare i de Svenska skogarna.
- 1 Verka för ansvarsfullt skogsbruk i Sverige.
- 1 Bevara värdefulla skog såsom (gammelskog eller skog med biologisk mångfald), och
- 1 Verka för FSC, och dess stävan att efterleva nämnda punkter ovan, och belysa särskilt att FSC respekterar ursprungsfolks rättigheter.

Mer konkret är de politiska målen att:

Kortsiktigt:

1. Förmå de mindre markägarna att tillfälligt dra tillbaka stämningarna mot samebyarnas rätt till renbetesmark och vänta med sina anspråk under det att man söker en politisk lösning på problemen. (anstånd i 5 år).
2. Tillsätta en internationell kommission för att

utreda var de traditionella vinterbetesområdena är gällande.

3. Upprätta en renskadefond, finansierad av staten, för att ersätta markägarna för eventuella skador i skogen som orsakats av renar.

Långsiktigt:

4. En vidareutveckling av punkt (1). Förmå de mindre markägarna att dra tillbaka stämningarna mot samebyarnas rätt till renbetesmark och med löfte att inte starta nya processer; och
5. Förmå markägarna som stämt samebyarna att FSC-certifiera sina skogar, alternativt samma målsättning men via FSC.

Det resulterade i effektiv information och lobbyverksamhet, med målsättning att förena olika grupper och sektorer med intressen i välskötta skogar, både ur samhällets och omgivningarnas perspektiv. FSC utgör en fullkomlig möjlighet till att skapa sammanslutningar av olika intressegrupper inom skogsnäring (ekonomiska, ekologiska, sociala) för att verka för sociala och närstående värden. Föreningar skapades mellan närstående grupper, ursprungsfolks stödgrupper, politiker, skogsrelaterad industri, skogsuppköpare och konsumenter.

Uppmärksamhet, intresse och sympati för samernas sak har ökat väsentligt och gjort fallet känt nationellt och internationellt, både bland befolkningen generellt och den skogsrelaterade marknaden. Även om "the Initiative" verkade i bara ett och ett halvt år av ekonomiska skäl, tog flera NGO (Non Governmental Organisations) upp samernas problem på sin dagordning och fortsatte arbeta aktivt med det. Således kommer inte kampen att sluta trots att det sammanordnande Initiativet har upphört.

Konflikten i samerättsfrågorna är ett utmärkt exempel på hur minoriteter och ursprungsfolk världen runt tvingas in i det omgivande samhället och ge upp sin traditionella

kultur och livsstil. Ursprungsfolk världen runt upplever liknande konflikter och söker desperat finna bevis för sina hävdvunna rättigheter till land och kultur. Men de har samma minimala chans att lyckas som samerna därför att de, liksom samerna, ofta saknar nedtecknade dokument som skulle kunna styrka dess rättigheter.

AVSLUTNINGSVIS

De flesta lokala konflikter, speciellt de som handlar om inblandade markrättigheter och bruk av mark, är erkänt komplicerade frågor. Dessa frågor återspeglar sig ytterst förvirrande för betraktare som inte är förtrogna med de lokala politiska synsätten och andra yttre påtryckningar. Vid djupare efterforskningar kan det komma verka, att desto mer man sätter sig in i problematiken, dess mer komplicerat blir saken, och desto mindre tycker man sig förstå. Målsättningen med denna publikation var inte att åskådliggöra hela den samiska konflikten in i minsta detalj. En konflikt som utan vidare kan härröras som ett mycket komplicerat fall. Emellertid är det några känslor och uttryck som kvarstår och som fastnat djupt i ryggmärgen...

Till samerna land är livet: "Land is life" Rätten till vinterbetesland är en fråga om överlevnad för den samiska befolkningen och dess kultur. Deras kultur har åsidosatts och tvingats undan genom Sveriges och den svenska kulturens kolonisering. Deras rättigheter och språk har systematiskt tagits ifrån dem, allt sedan de förlorade sin religion när missionärerna införde kristendomen bland samerna. Deras land har exploaterats, samtidigt som de förlorat sin hävd rätt att bruka den som de gjort sedan urminnes tider. Liksom de flesta ursprungsfolk världen runt, har samerna upplevt hårdare umbäranden än vad människor bör utsättas för och detta pågår ännu, in i det tjugoförsta århundradet. Vi står inför en grundläggande fråga: Vill vi lägga till Samerna på listan över försvunna kulturer? De står redan på röda listan över hotade kulturer.

Zusammenfassung

Die Sámi sind die Urbevölkerung Nordskandinaviens, der Gegend, die auch als Lappland bekannt ist. Dieses Land, das die Sámi Sápmi nennen, erstreckt sich über den Norden Schwedens, Norwegens, Finnlands und der russischen Kolahalbinsel. Die Sámi bevölkerten das Gebiet lange bevor die heutigen skandinavischen Staaten entstanden. Der schwedische Teil Sápmis umfasst den größten Teil Nordschwedens. Die Kerngebiete liegen entlang der Gebirgskette, die die Grenze zu Norwegen bildet. Mit etwa 70.000 Menschen sind die Sámi ein zahlenmäßig kleines Volk. In Schweden gibt es ungefähr 17.000 Sámi, etwa 3.000 von ihnen leben noch heute von der Rentierhaltung.

Ihre traditionelle Lebensweise ist geprägt durch starke Naturverbundenheit – sie folgen den Rentieren auf ihrem Weg von den Sommerweidegebieten in den Bergen zu den Winterweiden in den Wäldern. Historische Dokumente von 800 n.Chr. beschreiben bereits ein etabliertes System der samischen Rentierhaltung, das auf einer jahreszeitlich angepassten Nutzung der Landflächen basierte. Die Sámi sind kein Nomadenvolk mehr. Sie sind sesshaft geworden und haben sich mehr und mehr dem schwedischen Lebensstil angepasst. Und dennoch: Rentierhaltung ist mehr als ein Beruf, es ist ein Lebensstil und wichtiger Teil der sámischen Identität.

Noch immer folgen die rentierhaltenden Sámi den Rentieren, wenn diese von den Sommer- zu den Winterweidegebieten ziehen. Allerdings folgen sie ihnen nicht mehr auf Skiern oder zu Fuß, denn die Rentierzüchtung ist modernisiert und folglich motorisiert worden. Trotzdem ist die Rentierhaltung noch immer das Herzstück der sámischen Kultur und die Grundlage für die Existenz der rentierhaltenden Sámige-meinden.

Absicht dieser Publikation ist es, dem Leser von der Notlage der sámischen Rentierhalter in Schweden zu berichten – denn sie befinden sich in einer aussichtslosen Lage, die ihre Lebensgrundlage -und damit Kultur -ernstlich gefährdet. Es wird ebenso angesprochen, was die Sámi zur Verteidigung ihrer traditionellen „Hirtenkultur“

und der damit verbundenen Lebensweise unter-nommen haben. Keines der Probleme, mit denen die Sámi derzeit konfrontiert sind, ist bisher gelöst. Die Zeit drängt, es wird wahrscheinlich nicht mehr lange dauern bevor die schwedischen Gerichte der letzten Urbevölkerung Westeuropas die Lebensgrundlage entziehen.

OOO

Im Sommer weiden die Rentiere auf Bergweiden und ernähren sich hauptsächlich von Gras, Blättern, Kräutern und Pilzen. Im Winter ziehen sie in die tiefer gelegenen, bewaldeten Gebiete wo sie Schutz und Nahrung während des langen arktischen Winters suchen. Die lockere Schneedecke im Schutz der Wälder ermöglicht es den Rentieren, auch bei dickeren Schneeschichten die Bodenflechten frei zu graben, die sie als Grundnahrung im Winter brauchen. An Bäumen hängende Flechten, die nur in alten Wäldern vorkommen, sind ebenfalls sehr wichtiges Futter, vor allem wenn Bodenflechten aufgrund von Eis und verharschter Schneedecke nicht zugänglich sind. Im Gegensatz zu anderen Hirscharten verbeißen Rentiere keine Bäume, sie fressen nur die Flechten.

Für die Rentierherden der Sámi sind die folgenden drei Punkte von zentraler Bedeutung:

1. Die Rentierherden müssen Zugang zu Waldgebieten haben, unabhängig von Eigentumsverhältnissen, um den Tieren das freie Weiden zu gewähren.
2. Diese Wälder müssen einen guten Bestand an Bodenflechten vorweisen.
3. Ein Teil dieser Wälder muss einen guten Vorrat an Hängflechten bieten.

In den meisten Wäldern sind diese Voraussetzungen nicht mehr erfüllt. Seit den 60er Jahren ist die Forstwirtschaft in Schweden durch Kahlschläge, Bodenbearbeitung, Monokulturpflanzungen und durch andere Methoden geprägt. Bodenbearbeitungsmethoden, die für Pflanzungen üblich sind, zerstören die Bodenflechten. Moderne Forstwirtschaftsmethoden haben die Rentierweide zunehmend erschwert

und zur Abnahme der biologischen Vielfalt in den Wäldern beigetragen, große Winterweidegebiete wurden zerstört. Trotzdem streben die Sámi nicht an, die forstliche Waldnutzung zu einem Ende zu bringen. Sie fordern einfach nur die Wahrung ihres traditionellen Winterweiderechtes in den Wäldern.

Laut schwedischem Rentierhaltungsgesetz haben die Sámi das Gewohnheitsrecht, Rentiere in Privatwald weiden zu lassen. Dieses Gesetz legt allerdings nicht genau fest, wo diese Rechte gültig sind. Dadurch ist es möglich, dass derzeit ca. 1000 Privatwaldbesitzer dieses Schlupfloch nutzen, um sámische Rentierweiderechte in ihren Wäldern gänzlich zu unterbinden.

OOO

Die Privatwaldbesitzer behaupten, dass die Rentiere ihre Pflanzungen schädigen, indem sie ihre Geweihe an Jungbäumen fegen. In der Tat entsteht Schaden solcher Art, jedoch nur an einzelnen Jungbäumen und in wesentlich geringerem Ausmaß als von den Waldbesitzern behauptet. Die Einbußen für die Waldbesitzer sind sehr gering, wenn man sie z.B. mit Elchschäden vergleicht.

Waldbesitzer leben vom Nutzholz aus ihren Wäldern. Das Holz wird an Sägewerke verkauft und zu Holz-, Papp- und Papierprodukten verarbeitet. Etwa 70 Prozent des in Schweden hergestellten Schnittholzes und ca. 80 Prozent der dort hergestellten Papierprodukte werden nach Westeuropa exportiert, v. a. nach England, Deutschland, Holland und Frankreich. Die Privatwaldbesitzer besitzen ca. 50% der schwedischen Wälder und stellen heutzutage eine starke politische Kraft in Schweden dar.

In den letzten Jahren sind in Schweden mehrere Sámingemeinden von Privatwaldbesitzern verklagt worden, die den Sámi die Gewohnheitsrechte zur Rentierbeweidung in ihren Wäldern verweigern wollen. Da den Sámi die schriftlichen Dokumente fehlen, die von den Gerichten zur Belegung der geschichtlichen Landnutzung verlangt werden, haben die Sámi in diesen Gerichtsverfahren kaum Chancen, ihre traditionellen Winterweiderechte zu verteidigen. Verlieren sie diese Gewohnheitsrechte auf

Winterweidenutzung, werden sie dadurch gezwungen, ihre traditionelle Rentierhaltung im Privatwald aufzugeben.

In Waldgebieten dagegen, die dem Staat oder großen Forstunternehmen gehören, werden die Rechte der Sámi respektiert. Da diese Waldgebiete jedoch lückenlos in Privatwälder übergehen, ist es nicht möglich, die Rentiere von Privatwäldern fernzuhalten. Der schwedische Staat und alle großen Forstunternehmen erlauben Beweidung in ihren Wäldern und schaffen keinerlei Probleme für die Sámi, da Rentierhaltung die Wälder nicht schädigt, und wenn, dann in so geringem Ausmaß, dass ohne weiteres darüber hinweggesehen werden kann.

Die Sámi fordern die Privatwaldbesitzer lediglich auf, den Weg der anderen bedeutenden landbesitzenden Parteien einzuschlagen, d.h. sie fordern die Privatwaldbesitzer auf, traditionelle sámische Gewohnheitsrechte zu respektieren. Die Haltung der Sámi ist keinesfalls ein Versuch, ihre eigene wirtschaftliche Lage für die Rentierhaltung zu verbessern, sondern ein bescheidenes Ansuchen, ihre traditionellen Gewohnheitsrechte zu respektieren und zu erhalten.

Die Methoden in der Rentierhaltung haben sich im Vergleich zu früher weder vom Verfahren noch von der Größe des Weidegebietes maßgeblich verändert. Die Anzahl der Tiere ist heute bedeutend geringer als die gesetzlich erlaubte Höchstzahl. Verändert haben sich die Haltung und Position der Privatwaldbesitzer, was zu aggressiven rechtlichen Schritten gegen die Sámi geführt hat. Die Privatwaldbesitzer behaupten, dass ein gesundes Nebeneinander von Rentierhaltung und Forstwirtschaft nicht möglich ist. Obwohl die Einschlagmethoden der Privatwaldbesitzer für Rentierhaltung nachteilig sind, haben die Sámi nie versucht dieselben zu stoppen. Stattdessen fordern sie nur, dass sowohl Rentierhaltung als auch Forstwirtschaft in schwedischen Wäldern erlaubt werden. Eine solche vielfache Waldnutzung würde es keiner Partei erlauben, den Wald für die eigene Nutzung zu monopolisieren.

Die Sami stellen das demokratische Recht der Privatwaldbesitzer, ihre Belange vor Gericht prüfen zu lassen, nicht in Frage. Sie interessieren

sich gar nicht für Landbesitzquerelen. Und es sei nochmals gesagt: Die Sámi sagen nicht „Nein“ zur forstlichen Walnutzung. Es sind die Privatwaldbesitzer, die Rentierweide verweigern und daher die Wälder für ihre Holzproduktionsinteressen monopolisieren wollen. Weder die Forstwirtschaft noch die Rentierhaltung können alleinige Nutzungsrechte auf die Wälder Nordschwedens fordern. Daher sind Regeln erforderlich, die die Koexistenz beider Landnutzungsformen ermöglichen, was sowohl für die Forstwirtschaft als auch für die Rentierweide zu Einbußen führen kann. Notwendig sind gegenseitiger Respekt und Einverständnis. Sámisches Rentierweiderecht muss endgültig durch ein lückenloses, vollständiges Gesetz garantiert werden.

OOO

Die Rentierweide auf die Berggebiete zu begrenzen, ist nicht möglich, da nur die im Wald vorkommenden Flechten das Überleben der Rentiere in den sechs Wintermonaten garantieren. Die Größe des verfügbaren Winterweidelandes bestimmt die Herdengröße. Ohne das Weiderecht in Privatwäldern werden die Sámi Probleme haben, genügend Nahrung für ihre Rentierherden mit der heutigen Herdengröße zu finden. Daher brauchen die Sámi sowohl Sommer- (Berg-) als auch Winter- (Wald-) weideland, um Rentierhaltung nach altem Brauch weiterzuführen. Die Waldgebiete der Privatwaldbesitzer, die die Sámi verklagt haben, enthalten wichtiges Weideland. Wenn die Gerichtsprozesse weiterlaufen, werden die Sámi doppelte Verlierer sein. Erstens werden die Sámi ihr Winterweiderecht verlieren (was alleine schon ausreichen würde, um Rentierhaltung zu einem Ende zu bringen), und zweitens werden die Sámingemeinden finanziell durch die Gerichtskosten ruiniert sein, ohne Rentierhaltung noch als wirtschaftliche Rückenstütze zu haben.

Die Prozesse – zur Zeit sieben an der Zahl – stellen eine existentielle Bedrohung für die von der Rentierhaltung lebenden Sámi dar. Der vielleicht schwierigste Aspekt dieser Prozesse ist, dass sie auf einer nicht zu erfüllenden Forderung

basieren: Von den Sámi wird gefordert, durch schriftliche Dokumente zu beweisen, dass sie Lappland seit jeher bewohnt und genutzt haben und wie sie Rentierhaltung betrieben haben. Nur dann können sie ihre Rentierweiderechte in den umstrittenen Privatwaldgebieten bewahren. Die Sámi haben in den umstrittenen Gebieten seit undenklichen Zeiten gelebt. Sie besitzen kein Land, denn Landbesitz ist ein Begriff, den es nicht gab bis die Kolonialisierung Sápmis in ihre traditionelle Lebensweise und Rechte eindrang.

Die sámische Sprache hat keine Verbindungen zur germanischen Sprachfamilie, zu dem das Schwedische gehört. Die sámische Sprache basiert auf mündlicher Tradition und Überlieferung (Geschichtenerzählen). Erst im letzten Jahrhundert erhielt das Sámische ein grammatisches System und entwickelte sich zu einer geschriebenen Sprache. Viele ältere Sámi können weder schreiben noch lesen, obwohl sie das Sámische völlig fehlerlos sprechen. Damals führten die Sámi natürlich nicht Buch darüber wie sie seit jeher traditionell lebten und das Land nutzten. Ihr uraltes rotierendes Weidesystem beruht auf der immerwährenden Bewegung der Herden in einem großen, ausgedehnten Gebiet. Es ist eindeutig durch archäologische Aufzeichnungen und durch sámische mündliche Überlieferung belegt, dass Rentierweide schon seit Urzeiten auf diese Weise praktiziert wurde. Und dennoch müssen die Sámi schriftlich beweisen, dass ihre Herden auf jedem Stück Land in den umstrittenen Gebieten über 90 Jahre hinweg regelmäßig geweidet haben.[†] Dies wäre vergleichbar mit folgender Forderung: Einem wäre das Wohnrecht in einer bestimmten Stadt nur dann gewährt, wenn man schriftliche Beweise erbringen könnte, dass man selbst (oder frühere Familienmitglieder) jede Straße in dieser Stadt regelmäßig (jährlich) über 90 Jahre hinweg durchschritten habe!

Die Ironie der Sache liegt darin begründet, dass das Gewohnheitsrecht der Sámi auf Winterweide in allen Waldgebieten, unabhängig vom Besitzstand, im schwedischen Gesetz verankert ist. Der Haken daran ist, dass eine genaue

[†] Die Verordnung fordert ausdrücklich, dass derartige Beweise für die Landnutzung im Jahr 1972 beginnen müssen und über einen Zeitraum von 90 Jahren -bis zurück ins Jahr 1882 – belegt werden müssen. 1972 wurden bedeutende Gesetzesänderungen vorgenommen, auf die in diesem Bericht nicht weiter eingegangen werden kann.

geographische Grenze, bis zu der Winterweiderechte gültig sind, im Gesetz fehlt. Im Konfliktfall verlangt die Gesetzgebung allerdings von den Sámi, ihre Rechte vor Gericht schriftlich zu belegen. Eine schriftliche Anerkennung ihrer Rechte haben die Sámi vom schwedischen Staat jedoch nie erhalten. Genau diese sollen sie aber heute zum Beweis ihres Gewohnheitsrechts vorlegen. Schon seit im Jahr 1886 das erste Gesetz zur Rentierhaltung verabschiedet wurde, gab es Twiste um sámische Gewohnheitsrechte auf Rentierwinterweide auf Privatland -und bis heute hat der schwedische Staat noch immer keine Verantwortung übernommen, um den Konflikt aus der Welt zu schaffen.

OOO

Die Mehrheit der schwedischen Privatwaldbesitzer hat sich den Prozessen gegen die Sámi nicht angeschlossen und sieht keinerlei Probleme durch winterliche Rentierweide in ihren Wäldern. Leider werden deren Stimmen durch ca. 1000 Privatwaldbesitzer, die die Sámi verklagen, laut übertönt. Und aus dieser Gruppe genügen nur ein paar wenige aggressive einzelne Privatwaldbesitzer, um der Rentierhaltung als Ganzes den Garaus zu machen. Dennoch haben die Privatwaldbesitzer dazu tendiert, in „Herden“ zu agieren: Im ersten Prozess (dem Härjedalenprozess) verklagte eine Gruppe von ca. 700 Privatwaldbesitzern die Sámi auf ca. 500 verschiedenen Waldflächen!

Sowohl Ausgleichszahlungen für die Privatwaldbesitzer für alle mutmaßlichen Schäden als auch die gesamten Gerichtskosten für beide Parteien müssen möglicherweise von den Sámi getragen werden. Die Kosten sind hoch. Sie betragen im Jahr 2000 bereits 15 Millionen SEK (ca. 1,7 Mio US-\$).

Die Rechte der Sámi nehmen stetig ab. Ebenso schrumpft der Lebensraum für Mensch und Tier, der eine Grundvoraussetzung für ihre Lebensweise und ihr Gewerbe ist, immer weiter. Die sámische Lebensweise ist beständig bedroht durch Methoden der Landnutzung und deren Folgen wie z.B. Forstwirtschaft, Staudambau, Bergbau, Straßenbau, saurer Regen, Tschernobyl.... All diese Faktoren haben langsam aber sicher die Möglichkeiten der Sámi ausgehöhlt,

von der Rentierhaltung zu leben und den traditionellen Lebensstil zu bewahren. Dennoch ist das Ende der Rentierhaltung erst in Sichtweite gerückt, seit die Gerichtsprozesse in den letzten Jahren anliefen. Als Reaktion darauf wurden in letzter Zeit Anstrengungen unternommen, um auf internationaler Ebene auf die Situation der Sámi aufmerksam zu machen.

Es gibt noch mehrere andere Lösungsansätze, allerdings hat bisher noch keiner davon Früchte getragen. Einige Sámi haben daher vorgeschlagen, einen staatlich finanzierten Fond einzurichten, der private Waldbesitzer im Schadensfall entschädigen soll. Dieser „Rentierschadensfond“ sollte vom Staat eingerichtet und finanziert werden und Ausgleichszahlungen an die Privatwaldbesitzer ermöglichen. Einige der Privatwaldbesitzer in den Prozessen sind gewillt, Rentierweide auf ihrem Land zu akzeptieren, wenn sie dafür Ausgleichszahlungen erhalten. Dennoch hat der schwedische Staat diesen Ansatz immer wieder ignoriert oder abgelehnt. Der Staat hat ebenso die Gesuche der Sámi abgelehnt, die Gerichtskosten der Sámi zu tragen, so dass sie vor Gericht zumindest durch gute Anwälte vertreten sind und sich angemessen verteidigen können. Bis heute gab es nur in einem Fall staatliche Unterstützung, und in mehreren Gerichtsprozessen müssen sich nun die Sámi ohne Anwalt selbst verteidigen, da ihnen die Mittel fehlen, einen Anwalt zu bezahlen.

Es gibt zwei weitere unmittelbare Anliegen, die in kurzer Zeit zu Lösungen führen könnten. Der erste ist ein marktbezogener Ansatz: Es geht um die vermehrte Einführung des Weltforstrates (Forest Stewardship Council oder auch FSC). Der FSC ist eine unabhängige Organisation, die weltweit durch Waldzertifizierungsprogramme ökologisch, sozial und wirtschaftlich verträgliche und verantwortliche Waldwirtschaft fördert. FSC erkennt die Rechte indigener Völker an und der schwedische FSC Standard garantiert im Besonderen sámische Winterweiderechte für Rentiere auf traditionellem Waldweideland. Unternehmen (Firmen), die Holz von Privatwaldbesitzern kaufen, die die Sámi verklagen, sollen ermutigt werden, nur FSC zertifiziertes Holz zu kaufen. Dies wird hoffentlich zu erhöhtem Druck auf die Privatwaldbesitzer führen, damit diese entweder die Prozesse beenden oder ihre Wälder gemäß

FSC zertifizieren lassen. Der FSC würde diese Wälder nur dann zertifizieren, wenn die Privatwaldbesitzer die Prozesse stoppen und sámische Rechte respektieren würden.

Ein weiterer Ansatz, den Landrechtskonflikt zu lösen, ist politischer Natur. Schweden war beteiligt an der Schaffung der ILO Konvention 169, einer Konvention zur Wahrung der Rechte von Ur- und Stammesvölkern. Dennoch hat Schweden diese Konvention bis heute nicht selbst ratifiziert. Länder, die diese Konvention annehmen, verpflichten sich, bestimmte Rechte - wie zum Beispiel Landnutzungsrechte - zu gewähren.

Die Regierung Schwedens agiert äußerst widersprüchlich: Auf der einen Seite hat sie die Verabschiedung dieser Konvention international vorangetrieben. Auf der anderen Seite werden die Belange der Urbevölkerung im eigenen Land mit Füßen getreten. Diese Unseriosität schwedischen Handelns beginnt seit einiger Zeit mehr bekannt zu werden und ruft international erhebliches Erstaunen hervor. Die Sámi fordern, dass Schweden diese Konvention ratifiziert und damit die eigene Urbevölkerung -die Sámi -respektiert.

OOO

Die Sámi sind zu dem Schluss gekommen, dass sie kaum Chancen haben, die Prozesse zu gewinnen, da ihnen das erforderliche schriftliche Beweismaterial für ihre traditionelle Landnutzung fehlt. Auch ist es höchst unwahrscheinlich, dass die Regierung den Konflikt lösen wird -jedenfalls nicht in absehbarer Zeit. In Anbetracht dieser Krise wurde daher eine Informationskampagne ("die Initiative") ins Leben gerufen. Im Dezember 1998 startete die Sámi-Gemeinde Tåssåsen zusammen mit mehreren anderen Sami-Gemeinden ein Projekt, das bis Juni 2000 lief. Dieser Bericht markiert den Abschluss der Initiative. Die Initiative arbeitete intensiv zusammen mit einem breitgefächerten Netzwerk, bestehend aus nationalen und internationalen Organisationen. Informationen wurden sowohl an alle potentiellen „Verbündeten“ als auch an die Gegenseite verteilt. Dazu zählten u.a. die Öffentlichkeit, Medien, Nichtregierungsorganisationen, Politiker und Vertreter des Holzhandels, d.h. schwedische Forstfirmen und deren Abnehmer sowie die Endverbraucher in den

Hauptverbraucherländern schwedischer Holz- und Papierprodukte.

Ziel war es, durch die internationale Bekanntmachung des Konfliktes, die Lösung desselben voranzutreiben. Internationale Aufmerksamkeit war und ist nötig, um in Schweden ein Forum für einen Dialog zu schaffen. Gleichzeitig sind die Sámi weiterhin aktiv, um eine konstruktive lokale und/oder nationale Konfliktlösung voranzutreiben. Ein wesentlicher Ansporn für die Initiative kam von den zunehmenden Nachfragen aus der internationalen Öffentlichkeit, von Medien und internationalen Organisationen, die über den Konflikt informiert werden wollten.

Die Hauptbotschaften der Sámi (der Initiative) waren:

1. Respektierung traditioneller sámischer Rechte
1. Erlaubnis vielfacher Waldnutzung in Schweden
1. Förderung verantwortlicher Forstwirtschaft in Schweden
1. Schutz von Wäldern mit hohem ökologischem Wert (Urwald oder Altwald mit hoher Artenvielfalt) und
1. Förderung von FSC mit schwerpunktmäßiger Respektierung von Rechten indigener Völker, was Punkt 1 bis 4 auf einen Nenner bringt.

Konkret waren die politischen Ziele folgende:

Kurzfristig:

1. Die Privatwaldbesitzer, die die Sámi verklagen, stimmen zu, die Prozesse „ruhen“ zu lassen, während eine politische Lösung gesucht wird (5 Jahre Moratorium)
2. Einsetzen einer unabhängigen, internationalen Kommission, die feststellt, wo die traditionellen Winterweiderechte gültig sind.
3. Einrichtung eines staatlich finanzierten Schadensfonds, aus dem Privatwaldbesitzer Ausgleichszahlungen für durch Rentiere verursachte Schäden auf ihrem Land erhalten.

Langfristig:

4. als Erweiterung von 1: Die Privatwaldbesitzer, die die Sámi verklagen, ziehen ihre Klagen gegen die Sámi zurück und vereinbaren, keine neuen anzustrengen.
5. Die Privatwaldbesitzer (die die Sámi verklagen) lassen ihre Wälder zertifizieren gemäß Standards, die mindestens denen von FSC entsprechen und die traditionellen Rechte der Sámi respektieren (oder entscheiden sich für Zertifizierung gemäß FSC).

Erfolgreiche Informations- und Lobbyarbeit wurde durchgeführt. Ziel war es, verschiedene Gruppen oder Sektoren mit dem gemeinsamen Interesse „sozial und ökologisch verantwortliche Forstwirtschaft“ miteinander zu verbinden. FSC bietet die ideale Gelegenheit für die Bildung von Koalitionen aus verschiedenen Waldinteressensgruppen -sozial, ökologisch und ökonomisch – zum Schutz sozialer und ökologischer Werte. Gleichgesinnte wurden unter Umweltgruppen, Gruppen, die sich für indigene Völker einsetzen, Politikern, Holzindustrie, Holzhandel und Endverbrauchern gefunden. Aufmerksamkeit, Interesse und Sympathie für die Sámi sind bedeutend gestiegen und rückten den Landnutzungskonflikt deutlich ins öffentliche Interesse -sowohl national als auch international. Obwohl die Initiative aus finanziellen Gründen nur anderthalb Jahre existierte, haben mehrere Nichtregierungsorganisationen sich zum Anwalt der Sámi gemacht und arbeiten im Sinne der Sámi weiter, nachdem die Koordination der Initiative bereits abgeschlossen ist.

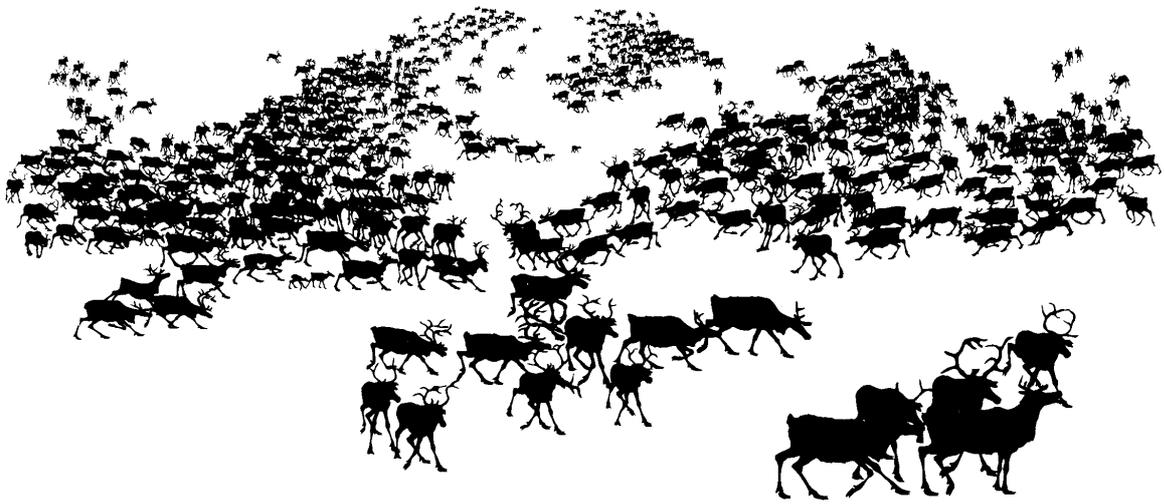
Der Landrechtskonflikt der Sámi in Schweden ist ein hervorragendes Beispiel dafür, wie Minoritäten in der ganzen Welt zur Anpassung und damit zur Aufgabe ihrer traditionellen Kultur und Lebensweise gezwungen werden. Weltweit sehen sich viele Urbevölkerungen ähnlichen Konfliktsituationen gegenüber, in denen sie verzweifelt versuchen, ihre Landrechte zu verteidigen -meist mit nur minimalen Erfolgchancen, da ihnen die schriftlichen Dokumente fehlen, die üblicherweise von der Gesetzgebung verlangt werden.

Mehrere Urbevölkerungsgruppen haben Interesse an der Initiative gezeigt. Durch die Veröffentlichung dieses Berichts möchten die Sámi ihre Erfahrungen mit anderen indigenen oder lokalen Gruppen teilen und hoffentlich andere dazu ermutigen, selbst aktiv zu werden, um ihre Rechte zu verteidigen.

SCHLUSSFOLGERUNG

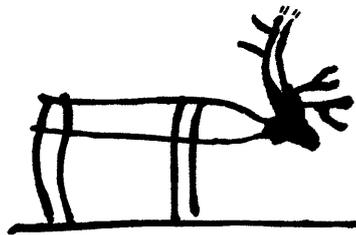
Bei den meisten lokalen Konflikten, insbesondere solchen, in denen es um Landrechte und Landnutzungsmethoden geht, handelt es sich um wahrlich komplizierte Angelegenheiten. Sie bleiben besonders im Dunkeln für den Außenbeobachter oder zufälligen Leser, der weder mit der lokalen internen Politik noch mit äußeren Druckfaktoren vertraut ist. Beim näheren Hinsehen wird schnell deutlich, dass jeder Fall komplexer wird, je mehr man über ihn weiß. Im Rahmen dieses Berichts ist es nicht möglich, jede Einzelheit des schwedischen Landrechtskonflikts anzusprechen, denn die Zusammenhänge sind ausgesprochen komplex. Dennoch kann man die Problematik im Kern, wie folgt, auf den Punkt bringen:

Für die Sámi bedeutet Land Leben. Das Recht auf Zugang zu Rentierwinterweidegebieten ist eine Frage des Überlebens für die sámische Tradition und Kultur. Ihre Kultur ist überrannt und beiseite gedrängt worden von der Kultur der schwedischen Kolonialmacht. Während die Sámi systematisch ihrer Rechte und Sprache beraubt wurden, verloren sie ihre traditionelle Religion an die Missionare. Vergleichbar mit den meisten indigenen Völkern weltweit haben die Sámi Leid erfahren müssen, das kein Volk erleiden sollte und dies setzt sich noch heute fort, im 21. Jahrhundert. Eine grundsätzliche Frage stellt sich uns: Sind wir gewillt, die Sámi der wachsenden Liste der verschwundenen Kulturen hinzuzufügen? Sie stehen bereits auf der roten Liste der vom Aussterben bedrohten Kulturen.



Part 1

Background to the Initiative



1.1 The Northern Swedish Ecosystem

CLIMATE AND GEOGRAPHY

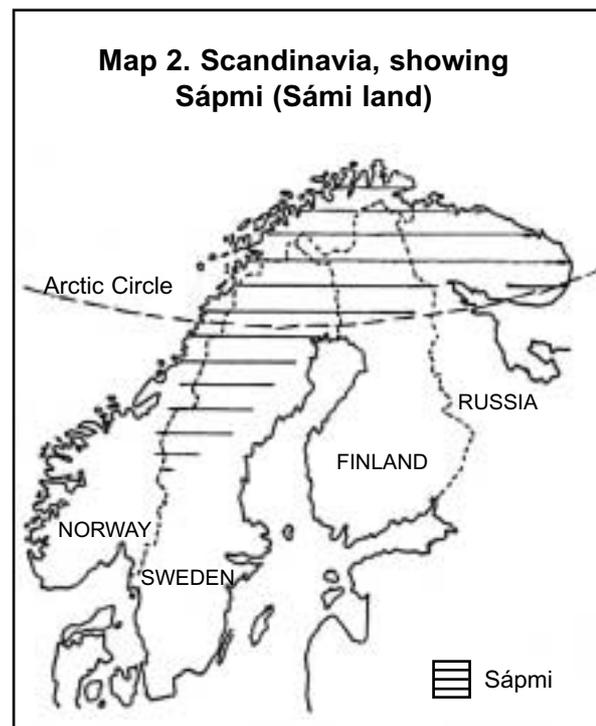
Sweden extends from the southern Baltic Sea to north of the Arctic Circle. The country covers an area of 450,000 km² (174,000 square miles) and is 1,600 km (1,000 miles) long – a distance equal to the southern tip of Sweden to southern Italy. The Gulf Stream gives Scandinavia a warmer climate than areas of similar latitude in Siberia and Canada. Nevertheless, the winter is harsh and long. Other regions in the world so far north are not inhabited. People, animals and vegetation have had a long relationship based on adjustment to the cold and the snow. Most of Sweden has a relatively level topography and is less than 300 m above sea level. However, in the north-west the Scandinavian mountain range reaches heights of 1,000-2,000 m above sea level.

THE ECOSYSTEM

The majority of the Swedish forest landscape is part of the *taiga* – a wide-ranging circumpolar belt of coniferous forests in the northern hemisphere, stretching from Russia across Scandinavia, Canada, and Alaska (and previously covering the Scottish Highlands). Also known as the *boreal* forest region, the taiga is the forest-type existing north of the temperate forests, the latter of which are known for their mixture of deciduous and coniferous trees. The taiga covers an area of 1,300–1,500 million hectares, one-third of the world's total forest area. The climate is cold with much snow, long winters and cold summers. In Scandinavia, the coniferous forests are dominated by two species: pine and spruce. In other parts of the coniferous belt there is a larger diversity of tree species, but the number of species in boreal forests is very poor when compared to tropical forests. Large portions of the mountainous areas lack trees. The tree line varies from 700 m above sea level in the southern portion of the range to 400 m in its northern reaches. At low altitudes pine and spruce forests grow, while at higher altitudes birch forests are found. The mountain area has abundant lakes, rivers and marshes.

SÁPMI AND THE SÁMI – THE LAND AND ITS PEOPLE

The Sámi– formerly called the Lapps – are the indigenous people of northern Scandinavia. They populated the area long before the present Scandinavian States emerged. They are a people who have been divided between four nations. The land many call *Lapland*, which the Sámi call *Sápmi*, consists of the northern parts of Sweden, Norway, Finland and the Kola peninsula of Russia. They regard it as their land even though this is not recognised by these four nation-States. Genetically speaking, the Sámi are unique and show no relationship with any other people. Their mother tongue is Sámi, a Finno-Ugric language bearing no relation to Swedish or other Scandinavian languages. The Sámi number about 70,000 people. Norway has the largest Sámi population with 35,000; Finland has 5,000 and Russia 2,000. In Sweden there are about 17,000 Sámi. Of the Swedish Sámi, about 3,000 still rely on reindeer herding for their living. The Swedish part of Sápmi includes most of northern Sweden, with core areas along the mountain range, which runs from north to south, forming the geographic border (in the west) with Norway. The Sámi have always been an integral part of the northern Scandinavian ecosystem, merging their lifestyles with those of the flora, fauna and landscape.



1.2 The Sámi: Past to Present

The legal crisis the Sámi face today is based on the lack of a specific form of **written** proof that they have inhabited and herded reindeer for ages through specific areas of what is now called Lapland. Their way of living leaves only few tracks in nature. However, the land has taken note.

THE FIRST SÁMI

When inland ice receded from Jämtland (a county of southern Lapland) 9,000 years ago, people and animals began to populate the area. Rock carvings indicate that stone-age hunters caught and tamed reindeer to use as decoy animals as early as 6,000 years ago, write Nickolaus Tyler and Knut Röed in “Ottar”, a description of reindeer immigration to Lapland. Old trapping hollows – systems for catching reindeer used before the semi-domestication of reindeer began – and their associated meat-storage places have been found amidst current Sámi villages. There is a “ski finding” of Lövberga in Alanäs dated between 1000 BC and 1000 AD, demonstrating that the Sámi were the earliest users of skis.

The archaeological authority for the area concerned in the land rights conflict facing the Sámi, Inger Zachrisson, confirms the Sámi’s historical past as reindeer herders, which includes specific patterns of land use. Documents describe that as early as 800 AD there existed an established reindeer-herding system, managed by the Sámi and based on a systematic use of the land. Prominent Swedish researchers such as Åke Hyenstrand, Björn Ambrosiani and Gert Magnusson have begun to interpret southern archaeological sites in Värmland, Dalarna, Gästrikland, and Härjedalen (counties in the middle of Sweden) as relics from a hunting population existing in the area for thousands of years, showing a continuity leading to today’s Sámi culture. Zakrisson has edited a book, *Möten i gränsland* (Meetings in the Borderland), published in 1997, in which such older archaeological findings are reported, to which numerous other experts have contributed similar perspectives (see bibliography).

Box 1. Biased Historicism¹

Regarding proof of longstanding Sámi inhabitancy of Sápmi, a “biased historicism” can be found. Inger Zakrisson, senior lecturer in archaeology at Historiska Museet, with a long experience of Swedish research culture, delivers hard criticism. In her 1997 book *Möten i gränsland* (Meetings in the Borderland) about Sámi and Germanics in middle Scandinavia, she writes: “There are attitudes within archaeology in Sweden that can be characterised as ethnocentric, nationalistic and chauvinistic... the ethnic diversity existing in Sweden is put aside in favour of an almost one-sided highlighting of ‘Swedish’ pre-history.” Zakrisson lists a number of examples from historical works with a bias towards Swedish identity. This goes for not only older historical works but also for contemporary works which offend Sámi culture by hardly touching on it. The northern parts of Sweden are, as a rule, considered less interesting or of lesser value than the southern parts.

¹ Taken from Labba, 1999b.

Linguists, historians, genetic researchers and archaeologists have begun to put the pieces of an interesting puzzle together. The archaeological sites are there, right in the middle of the areas that small private landowners (termed SPLOs), lawyers and experts claim to be genuinely Swedish (non-Sámi). For example:

- 1 Rock paintings at Flatruet, more than 6,000 years old, point to an early hunting culture;
- 1 Early settlements and hunting pits, connected to hunting culture, found as far south as southern Värmland and Dalarna;
- 1 Cemeteries found by lakes in Dalarna, Gästrikland and Härjedalen, from the Iron Age;
- 1 An Iron Age cemetery ‘Krankmårtenhögar’ by the Storsjön, aged between 200 BC to 200 AD, interpreted as being Sámi by the authority Björn Ambrosiani; and
- 1 Settlement and graves at Vivallen, five kilometres north-west of Funäsdalen, dating from the around 1000 AD.



Olof T. Johansson

Reindeer herd in winter forest.

Sámi settlements were strategically situated in areas where reindeer move in different seasons. One cannot find traces of winter dwellings, as they were only temporary and built on frozen land. However, for summer, fall and spring dwelling sites much hard evidence can still be found that shows a long continuity of Sámi presence in the area they call Sápmi. Less visible, but even more important, is the traditional oral knowledge found amongst reindeer herders, which is not documented in the language foreign to them, Swedish.

That the Sámi have a several-thousand-year-old relationship with both the land and reindeer is an obvious and undisputed fact for the Sámi. They have not had a tradition of proving, through written documents, their traditional lifestyle. The Sámi language (and thus the record of their past) has been solely an oral tradition, which only recently received its first system of spelling. Due to Swedish politics of assimilation, Sámi children were prohibited from using their mother tongue in school from the end of the 19th century until the 1950s. As a result, today many Sámi, especially in the southern part of Sápmi, no longer speak Sámi as their first language, but Swedish. Further north, the prevalence of Sámi as the first tongue is greater. Elder Sámi speak fluently but often can neither read nor write their own language. These elders, and to a large extent today's youth, retain a deep knowledge about reindeer behaviour, movement, grazing and migration patterns, reindeer food, the weather patterns common to Sápmi, and the intricacies of

the Sápmi landscape. They have hundreds of words in Sámi for reindeer, for snow consistency and for the grazing land. The Sámi demonstrate and prove, in their daily actions, a deep knowledge of nature that is not found in literature or classrooms. For the Sámi, no scientific explanation is needed.

“A clear and sharp accounting of the Sámi/reindeer presence since times immemorial, in the areas in question, is indisputable when considering together the oral tradition, the ice retreat, the reindeer dispersal, the ski findings, the trapping hollow system (including old tent sites), and genetic studies,” notes Olof T. Johansson, Chairman of the Tåssåssen Sámi community.

A book by Johan Turi, dated 1910, notes:

*“One hasn't heard that the Laplanders [Sámi] have come here from somewhere else. The Laplander has always been here in Lapland, and formerly at that time when the Laplander lived here along the coast, not a single other inhabitant lived along the coast. That time was a good time for the Laplanders. Additionally, in former times the Laplanders lived everywhere on the Swedish side [of Lapland]. At that time there were no farmers anywhere; the Laplanders didn't know that other people existed other than themselves”.*²

² Johansson, “Lawsuit No T71/98”.

TRADITIONAL SÁMI LIFE

The Sámi originally hunted wild reindeer, which later developed into organised herding of semi-wild reindeer. Traditional subsistence was based on such herding, hunting of other game and fishing. The Sámi reindeer herder's way of life has always been based on following the path of the reindeer, whether wild or semi-wild (domesticated). Prior to the 16th century, hunting wild reindeer was an important source of food and furs. Common prehistoric findings are pits used for catching animals. The oldest of these date from over 6,000 ago – hard proof of a long Sámi inhabitancy of Sápmi and of their relationship with reindeer. Wild reindeer were caught in these pitfalls, which were often dug in rows directly crossing the animals' natural wandering paths. Tame reindeer were used as draft animals for transportation of food, tools, tents etc., either by pulling the burden packed on sledges or by carrying it on their backs. Tame female reindeer were also used as lures for hunting of wild reindeer. The reindeer produced both meat and milk. Skin, fur, sinews, and every possible bit of the reindeer were processed into food, clothes and tools/utensils. In the 16th century, the Sámi reindeer herding system developed towards domestication of reindeer, which became the base of Sámi livelihood. The reindeer were tended to on a daily basis and the Sámi moved with the herds throughout the year. The summer was spent up in the mountains, and the winter in the coniferous forests.³

MODERN SÁMI LIVELIHOOD AND REINDEER HERDING

During the 20th century, reindeer herding began to move more and more towards meat production. In early times a herder's work was done by foot or on skis. During the 1960s, modern techniques for herding became an increasingly common part of daily work. Snowmobiles, helicopters and all-terrain motorcycles are used in collecting (and, when necessary, trucks are used for transporting) the reindeer, and have made much of the heavy work easier. Their use of

machinery is still very limited and small compared to a typical farmer's needs for farm machinery and equipment. The use of modern equipment is only one reason why the living costs of reindeer herders have increased. For a family to live solely on reindeer herding, they must own at least 400 reindeer. Since most herders do not have that many, they are often dependent upon a combination of occupations, such as hunting, fishing and handicrafts. However, these traditional occupations do not provide sufficient financial income and Sámi therefore take side-jobs such as nursing. Reindeer herding is done in cooperatives, and all expensive equipment, such as trucks or helicopters, is bought or hired by groups of about 50 people. Much of the equipment is still quite simple: the corrals are basically handmade and most of the reindeer herders use lassos for catching the animals in the corrals. The Sámi always prefer to let the reindeer wander on their own, though at times the animals are moved by truck. This community decision depends on weather, ice, snow and grazing conditions. Also, it is common that neighbouring communities naturally end up with one another's reindeer at gathering time, and these few animals are separated and driven to the appropriate community area.

Unlike the nomadic, early Sámi herders, modern herders are settled (herders only live away from their homes during intensive herding periods) and have assimilated into the Swedish lifestyle. Herding is a family-based trade, including both the old and the young. Unlike many indigenous communities, there is little desire on the part of the Sámi youth to leave the villages in pursuit of urban life. On the contrary, herding is seen as a very attractive occupation. However, with the future of reindeer herding being so uncertain as a result of the current court cases against the Sámi, parents are hesitant to encourage the youth to continue to pursue this trade. Reindeer herding is not a "job", but a way of life central to the foundation of the Sámi identity, characterised by following the reindeer like brother and sister.

³ The Sámi following a less nomadic version of this pattern today are the so-called "mountain-Sámi"; there is another group of Sámi, the "forest-Sámi", who migrate in a more limited area within the forest lands, not travelling to the mountains.

SÁMI SOCIETY AND REINDEER HERDING COMMUNITIES

Up to the 16th century, Sámi society was organised in a locally based social system, the *sijdda*, composed of a number of Sámi families. Land and water-use (hunting grounds and fishing waters) were divided amongst the families via the *sijddas* system of organization. Seasonal migrations were undertaken in a determined pattern, to allow best utilisation of the different (re)sources of livelihood. In the 17th century, new administrative and social cooperation amongst the reindeer herders was established, and reindeer herding became a principal source of income. This is the origin of today's Sámi reindeer herding communities.

Presently a "Sámi reindeer herding community" (hereafter referred to as a "herding community") is an economic and administrative cooperation performing and overseeing reindeer herding in a certain geographic area. The name of a herding community also refers to the geographical area where reindeer husbandry is carried out by that community. The boundaries of the geographic areas of herding communities depend on the migration paths of the reindeer herds. In Sweden these areas are shaped as long, narrow strips following river valleys in their eastward paths, extending from the mountain chain in the north-west (the border of Norway) down to the forested lowlands and coast in the south-east (Map 3).

A herding community uses the grazing land collectively and is collectively responsible for the tending of reindeer. There are 51 herding communities in Sweden. Within a herding community there are several reindeer husbandry enterprises, each consisting of one or more reindeer owners. In total there are approximately 3,000 reindeer owners forming 1,000 reindeer husbandry enterprises. Each reindeer owner has an independent right to make decisions about his or her reindeer (Map 4).

1.3 Reindeer and Herding

REINDEER

Reindeer live in herds in the northernmost parts of Europe and Asia. They belong to the same family as the caribou of North America. The reindeer is a ruminant, and both the males and females carry antlers. It does not tolerate heat well and thus seeks cold areas during hot summer days. In summer the reindeer graze in mountain areas, feeding on grass, leaves, herbs and fungi, from which the reindeer build fat to survive the poor grazing time of the winter. In winter the reindeer move to lower-elevation, forested grazing areas, where they feed largely on lichens, continuously using the fat saved up during summer. Reindeer do not feed on pine, spruce or any other coniferous trees.

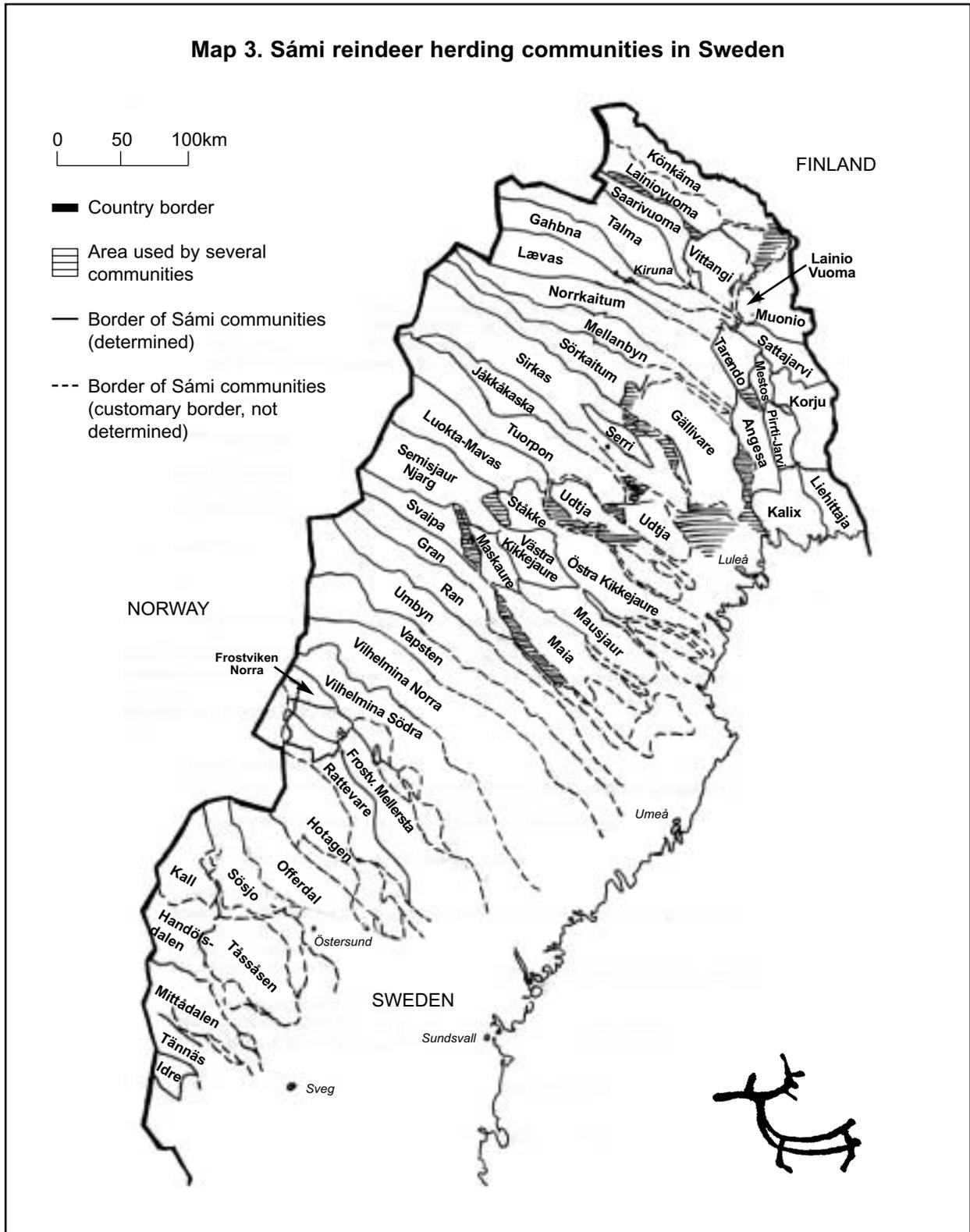
The reindeer is well adapted to the cold and



Kate Kärrberg

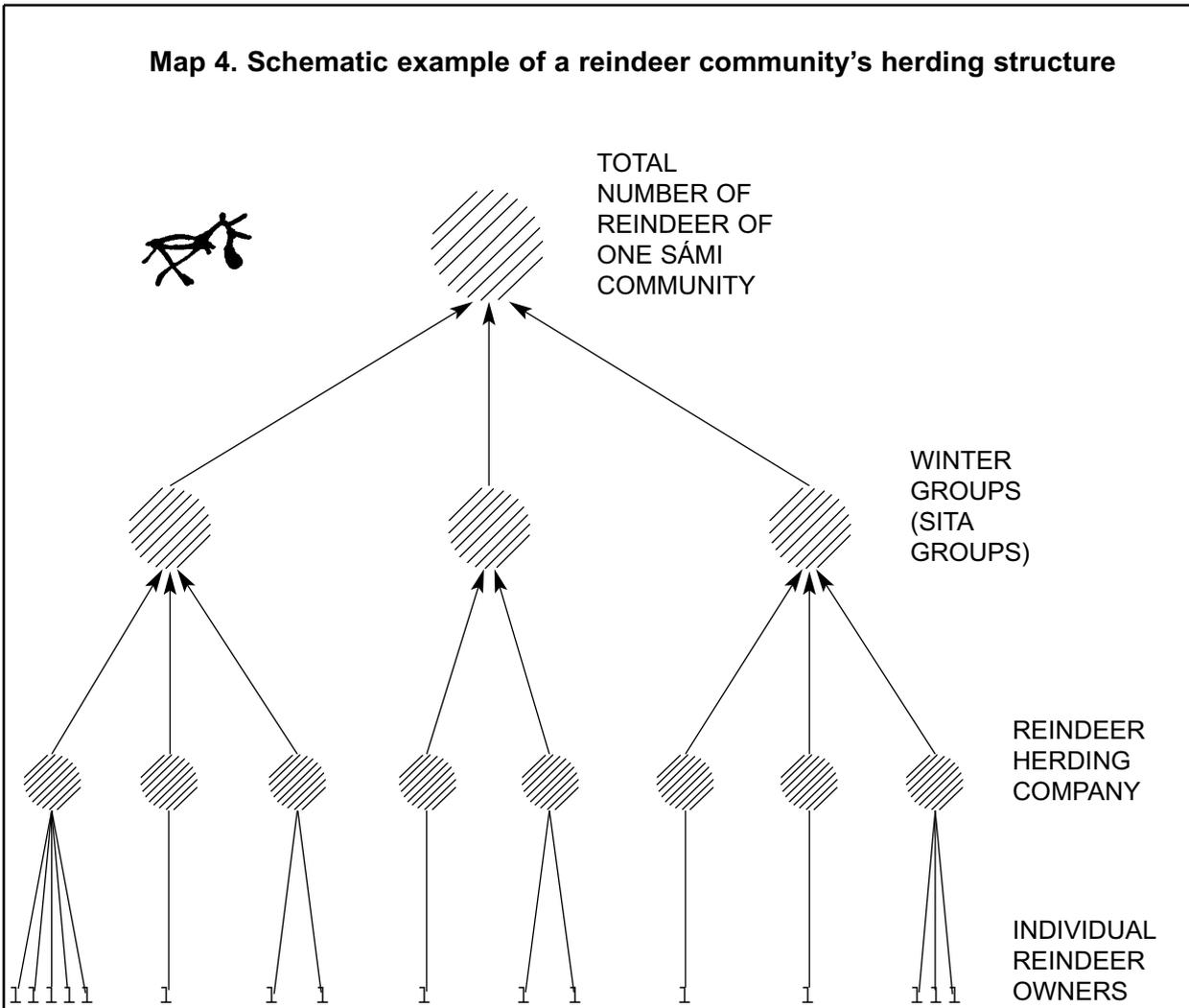
Reindeer herd winter grazing – digging for ground lichens.

Map 3. Sámi reindeer herding communities in Sweden



deep snow. Its winter fur is compact, and the hairs are curly and filled with air which acts as insulation. Their wide hooves keep them from sinking too deeply into the snow and enable them to dig down to their winter food, lichens. Reindeer can smell the lichens through a thick layer of snow. The

supply of winter food depends not only on the size of the grazing land and abundance of lichens, but also on its availability. Ice crusts on the ground or hard ice surfaces on the snow covering the lichens are among the greatest problems for reindeer herding. Grazing lands that are forested are neces-



sary for reindeer to survive in the winter (see subsection on Winter Forest, below). The strong winds of the open high grounds of the mountain area are broken up in the forest and the tree branches keep much of the snow from reaching the ground. Thus, the softer and shallower snow in the forest allows the reindeer to dig and find the ground lichens needed as basic food during winter. Also, lichens that grow on trees and are found only in old forests are important as fodder; this is especially true when lichens on the ground cannot be reached due to ice crusts. However, the kind of forest is key. The grazing conditions in heavily logged forests are very poor; such forests provide no shelter and the snow pack is heavy and hard, making it difficult or impossible for reindeer to get to the ground lichens.

THE HERDER'S YEAR

Although herding has become modernised and motorised, and the Sámi lifestyle has become assimilated into the Swedish lifestyle, reindeer herding is still very closely linked to nature. Herding considers every aspect of the animal, the weather and the land. Whereas in most modern cattle, pig or chicken farming the natural cycles of the animals and their habitat have been manipulated and highly altered, in reindeer herding the utmost care is taken to ensure that the land and its animal denizens remain healthy and natural. Thus the herder has adapted to the reindeer's yearly cycle.

In May the calves are born in the mountain area. After calving there is a period of calm, in which the herder can tend to his home and the

corrals. At the end of June the herder begins to gather the reindeer to mark the calves. The calf is caught with a lasso and marked with a combination of notches on the ear, each unique pattern denoting ownership by a particular herder. In September, before the rut, the males, well fed from the summer grazing, are gathered for slaughter. In November snow has usually fallen and the reindeer have begun to eat lichens. In the mountain area, all the reindeer of a community graze together and are cared for jointly, while in the winter areas they are divided up into smaller groups. By the autumn it is time to separate the reindeer into the various winter grazing groups, or *sijddas*. The community reindeer are gathered in a separating corral. Each *sijdda* gathers its reindeer and takes them to their respective corrals. Then each *sijdda* migrates along with its reindeer to their winter grazing land down in the forests. In April it is time to move with the reindeer once again back up to the mountains (Map 5).

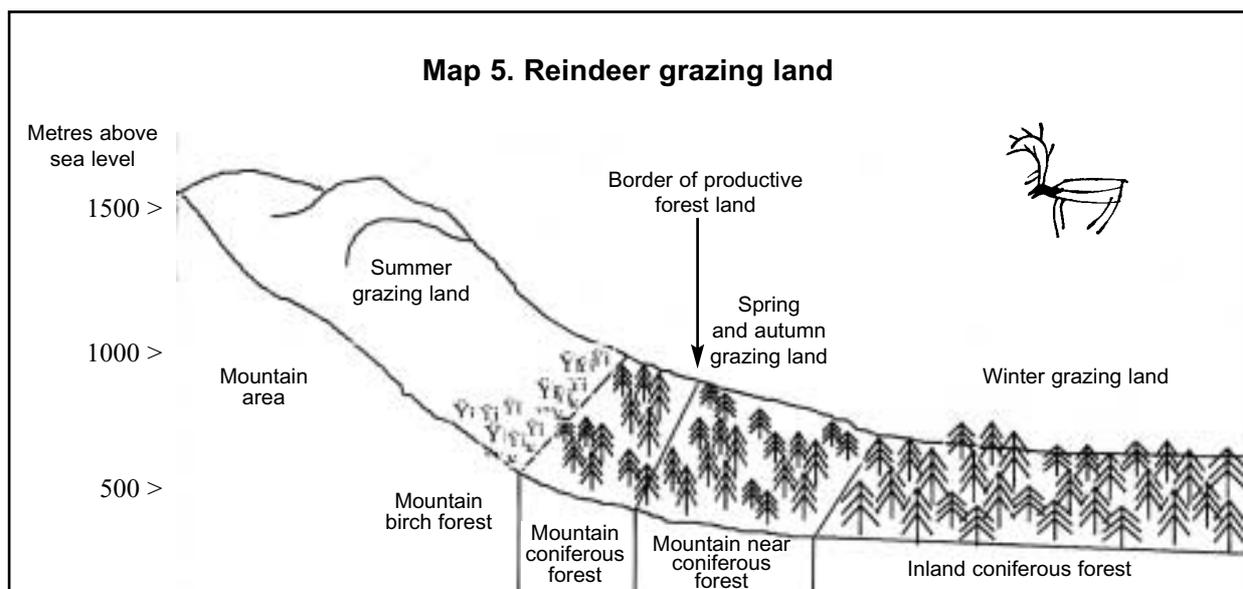
REINDEER POPULATIONS

In Sweden all reindeer – the population of which numbered 220,000 in 2000 – are herded by Sámi and are semi-domesticated. There are no wild reindeer remaining. In law, a total number of 276,000 reindeer is permitted. The number of reindeer varies by year according to the grazing

conditions, and the degree of loss due to predators or road traffic accidents. It is estimated that 20,000–30,000 reindeer were killed by carnivores (mostly lynx and wolverine) in 1998, while 2,000–3,000 are killed by train or road traffic annually.⁴ During the last decade the number of reindeer has steadily decreased. The regional authorities in each county decide on the number of reindeer allowed in each Sámi reindeer herding community. This limit is conditioned by the viability of the reindeer grazing land of each herding community.

According to the “Reindeer Husbandry Act” the reindeer in each herding community must be counted annually, and the regional authorities have the right to oversee the counting. It is thus important that each herding community knows the number of reindeer held by each reindeer husbandry enterprise, since the costs of each herding community are shared according to the number of reindeer owned. These costs entail funds needed for building corrals, constructing and repairing fences, renting a helicopter inclusive of a pilot, paying the community accountant, etc. The infrastructures created by a herding community are jointly owned and maintained by the entire community.

WINTER FOREST



⁴ There is financial compensation for a certain extent of depredations and accidental kills allotted by the Swedish government (Hahn 2000, p.108).

As mentioned earlier, the forests provide food and shelter which cannot be found elsewhere in this harsh climate during wintertime. Forests must have some crucial qualities to guarantee that reindeer can survive through the winter. Lichens have a slow annual growth rate of only 10% per year. Tree-hanging lichens provide high-quality fodder which is of particular importance (in addition to the ground lichens) to the reindeer. The tree-hanging lichens require old and undisturbed forest types, occurring mostly in spruce forests, although pine and birch are also important. The best tree-hanging lichens occur in 120–210 year-old spruce forests. In Sweden there are very few of these old-growth forests left. Until recent successes by environmental groups, old-growth forests had been logged at an alarming rate in Sweden. Today, about half of the remaining (productive) old-growth forest is protected. In addition, the implementation of Forest Stewardship Council (FSC) certification (see section 2.2) has improved the forestry practices of all certified Swedish companies, such that all large forestry companies, as well as the State, have certified their land according to this increasingly recognised international standard. However, for the sake of biodiversity and healthy conditions for reindeer herding, more land needs to be certified according to the FSC. For the moment, however, most small private landowners (who own 50% of the forest land in Sweden) are rejecting FSC certification. This is a major issue explored later in the report.

For the Sámi and their reindeer there are, generally speaking, three conditions that must be met concerning the forests in which they graze reindeer:

1. Access to forest land; i.e. permission to remain and maintain reindeer herding on private forested land;
2. Forests with a good supply of ground-growing lichens; and
3. Old forests with a good supply of tree-hanging lichens.

In most forests these conditions are not met. A lack of significant amounts of remaining old-growth forest, in combination with plantation forestry and clear-cutting, has resulted in a reduction of prime reindeer grazing lands in northern

Sweden (see section 1.4 Forest Exploitation).

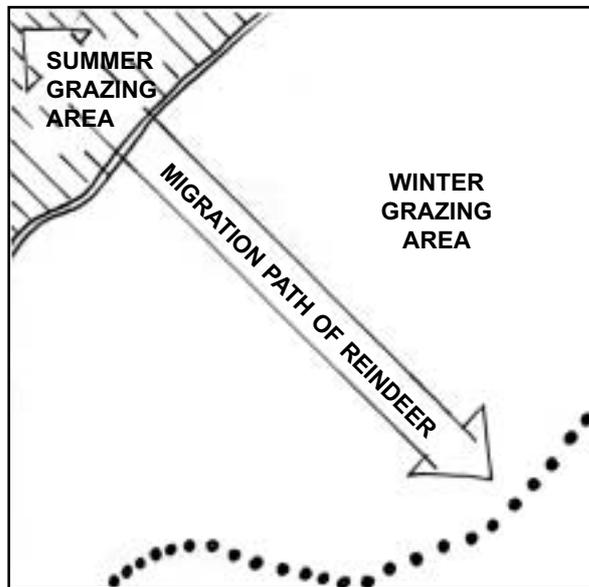
MULTIPLE FOREST-USE

The winter season in which reindeer stay in the forests is generally between the beginning of October and the end of April. During this time the ground is usually covered with a thick layer of snow, and therefore there is little, if any, damage done to young trees resulting from the trampling of reindeer. Moreover, reindeer do not feed on trees or saplings – only on the lichens that hang on trees or grow on the forest floor. However, their natural tendency to rub their antlers against young trees does cause damage, and this is the main reason that private landowners cite for their legal actions against the Sámi.

Co-existence of both trades – forestry and reindeer husbandry – is possible, both from ecological and economic points of view. This was an unquestioned perspective in the early years of Swedish colonial contact with the Sámi. The Crown had wanted to promote agricultural colonisation of Lapland and to expand the mining industry. Thus the first Lapland bill in 1673 gave tax exemption for 15 years to the colonisers of the land inhabited by the Sámi. In efforts to advocate co-existence of all colonial trades with those of the Sámi, the State presented a “parallel theory”. This theory claimed that the Sámi and the colonisers utilised the land differently, and therefore they were not competitors over land. Forestry, farming and reindeer herding were considered to co-exist in a manner allowing mutual respect without harming each other. At the time forestry practices were unlike those of the 20th century, and thus did not clash with reindeer grazing. However, there have always been problems between reindeer herders and small private landowners, although never in such an aggressive and existentially threatening way as today. **The practice of reindeer herding has not changed significantly in terms of extent or size of its range since those early times, and the number of animals currently held is lower than the permitted limit. It is the attitude and position of the SPLOs that has changed and led to aggressive legal action against the Sámi, claiming that healthy co-existence of herders and forestry is not possible.**

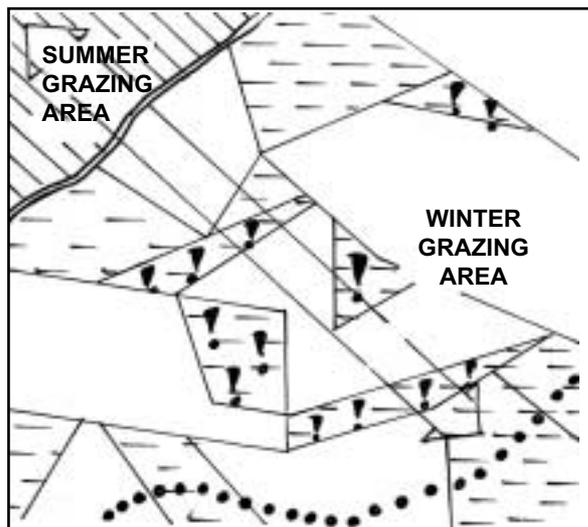
The question of whether multiple use of the Swedish northern forests is sustainably possible

Map 6. Schematic presentation of land ownership patterns, displaying areas of conflict

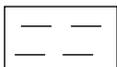
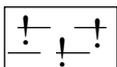


The land according to reindeer herding

-  Border of summer grazing area
-  Missing border of winter grazing area (needs to be defined by law)
-  Summer grazing area (= mountains)



The land according to land ownership

-  Land owned by large forest companies or the State (= grazing permitted)
-  Land owned by private landowners (= no conflict)
-  Land owned by small private landowners who are suing the Sámi (= area of conflict, no winter grazing permitted)

remains less urgent than the question of whether it will even be allowed. History shows clearly that the Sámi are capable of effective and ecologically responsible stewardship of Lapland. The key question is whether the forest will be used for multiple trades or if any one trade (namely forestry) will be allowed to monopolise the forest. The Sámi have not tried to stop the SPLOs from logging, even though the practice is harmful to reindeer herding. They simply ask to be able to use the forest in addition to the forestry industry. Arrangements have been made such that on State

land and in forests owned by large forestry companies, the rights of the Sámi to graze reindeer in their traditional manner are fully respected. But due to the complicated matrix of ownership patterns, it is impossible to keep the reindeer away from private land (see Map 6 showing ownership patterns).

Neither forestry nor reindeer herding can claim superior rights to the forests of northern Sweden. This calls for rules governing the co-existence of these two land-use practices within

the same area. Mutual respect is needed for the other's trade and compliance with the fact that both parties can experience damage to their interests. Since reindeer herders accept the use of forests for timber extraction, so the private forest owners should accept reindeer grazing. Dialogue is essential for the future use of the forests by both parties.

1.4 Sweden and the Sámi: Co-evolution, or Parasitism?

DIFFERENT CULTURES, SAME YARDSTICKS

Like most indigenous cultures, the Sámi are victims of progress. The patterns of Swedish action, inclusive of colonisation, exploitation and industrialisation in Sápmi, combined with the required Sámi reactions of assimilation and modernisation, have spawned an unequal relationship between the Sámi and Sweden. The Swedish Crown and culture have imposed upon the Sámi a set of standards and laws to which the Sámi must measure up.

Some examples:

1. The Swedish State today considers that the Sámi have never owned land. To this day the Sámi as a people have not even requested that the Swedish government turn over land to them. Their traditional system of land use ensured the survival of the natural environment and thus the survival of reindeer and Sámi. The Sámi have been *stewards* of the land, overseeing it without claims of ownership. If the number of family members increased or decreased, the size of the land they looked after was broadened or reduced. They typically passed land stewardship practice on to their children. Depending on the needs of the time, fishing waters were redistributed, such that if one family did not fully need a particular lake they left it to another, larger family. The Sámi did not think in terms of square metres, but rather in terms of fishing waters, hunting forests and

reindeer grazing grounds. When Sweden began its colonisation efforts, this traditional system was altered until it disappeared altogether. The flexibility of borders according to the needs of communities, as was common under the traditional Sámi system, was eradicated by colonisation. The Swedes' introduction of land ownership and private distribution was a concept entirely foreign to Sámi culture. The Sámi were left only with usufructuary⁵ or customary usage rights, which were (and remain) of lesser significance than ownership rights. It is only a matter of time until all of their ancient, traditional land-use rights are abolished, one by one.

2. In addition to forest grazing grounds in the winter, reindeer are dependent on open migration paths. In Sámi tradition, reindeer migration paths run along rivers whose frozen surface has to be crossed regularly in winter. Swedish exploitation of Sápmi brought the damming of rivers for hydropower production, resulting in a reduction of the thickness of ice on the rivers. This forced the Sámi to start transporting their reindeer in trucks, when necessary, to enable them to continue along their migration paths. A similar adjustment has been required of the Sámi with regard to modern forest harvesting practices, which ultimately destroy the land on which the reindeer subsist. The changes imposed on the forest often require the Sámi to drive their reindeer long distances between intact, good grazing grounds. Transporting reindeer has advantages as well as disadvantages. When transported in trucks, instead of wandering on their own, the reindeer obviously save energy. It is less time demanding for the reindeer herders to use trucks; instead of moving along with the walking reindeer herds for many days, they can move them the same distance in trucks within a few hours. However, it is preferable that the reindeer wander themselves, as they will then have the sense of orientation necessary for semi-wild animals. When the reindeer are transported by road all the way down to their forested winter grazing land in autumn, it is more difficult for them to find the way back to the summer grazing land on their own in spring. There is also the question of money, as it is expensive for the Sámi to use trucks.

⁵ The right to enjoy the profits of another person's property without diminishing, impairing or wasting the substances of it.



Olof T. Johansson

Reindeer feeding on hanging lichens.

3. Neither the Swedish legal system, nor a large part of Swedish society recognise and support the needs of the Sámi. The Sámi stand little chance of gaining sympathy for their demands, and they cannot defend themselves as their values are hardly known and thus not respected in Swedish society at large, or by law. Their old ways of land stewardship are contradicted by modern systems of private ownership; their oral tradition is neglected in favour of written historical documents; and their semi-nomadic way of life, using several regular but temporary dwelling sites (transhumance pastoralism), are almost diametrically opposite to the ways of modern Swedish society. Not only are the Sámi forced to assimilate into Swedish culture, but they risk losing for ever their rights to traditional means of living.

These are but three examples of a society imposing its standards upon another. In the end, as the underdogs, the Sámi will inevitably lose out. This will continue as long as the Sámi perspectives and systems of values and traditions are ignored and considered as irrelevant by the State; as long as the Swedish (legal) system defines by which yardsticks the Sámi culture will be measured.

OF SWEDEN AND SÁMI: A HISTORICAL REVIEW OF COLONISATION, PRIVATISATION

AND LAND OWNERSHIP

Depending on who one asks, history has an uncanny ability to tell many versions of the same tale. What follows, although old news, is important for understanding the development of the land rights conflict, and should represent a fair summary of a complicated past. In light of the colonisation of Swedish Sápmi, questions concerning ownership relations have to take into consideration how land administration and land distribution (privatisation) took place in Sweden.

The “first contact” with the Sámi by Swedes was through tax collectors (*Birkarlar*) who collected furs and other goods as tax to give to the Crown. Some Sámi were required to pay taxes to three countries – Sweden, Russia and Denmark – as there were no borders at that time in the North, or what is now collectively referred to as Lapland. The present Scandinavian States of Sweden, Norway, Finland and Russia emerged through a gradual colonisation process over the latter half of the last millennium. The colonisation of Sápmi by these States followed the same pattern as in the rest of the world, initially as a result of private interests. Once riches were discovered, so the process of extracting them began. From the 14th century onwards, the State encouraged people to move north and settle in

Lapland. In the Forest Ordinance of 1683, the Crown claimed ownership over all woodlands that were not used by anyone and did not belong to any farm, village or parish. This was and is still used by the Crown and the authorities to justify subsequent land claims. **Again, the Swedish State has never acknowledged that the Sámi own land. The Sámi have only, at best, general customary rights to traditionally use some areas of land (all of the mountain area and some of the winter grazing areas).** During the 17th century the State became more and more concerned with agricultural colonisation. The colonisation by farmers was strongly encouraged since a permanent population increased the nation's claim to the territory. The Swedish State did not see colonisation as a threat to the Sámi. The settlers were to live from farming, while the Sámi lived from reindeer herding, hunting and fishing. Each settler's house received a large parcel of forest land around it – a move intended to strengthen them economically. However, at that time forests were of no economic value and settlers were encouraged to cultivate the land. In reality, though, the climate was not well adapted to farming and the settlers were forced to hunt and fish to survive. Often the Sámi could be driven from their fishing waters, where they had been since time immemorial.

From the 14th century up until the mid-18th century, the Sámi inherited land on a private basis with a similar legal status to that of the taxed farmer. Each Sámi family paid taxes for the land they used, and it was seen as their property *by custom*. They were called “tax Lapps”, and the land was called *Lapskatteland* (Lapp tax land). It could be bought and sold, and they had the right to pass on this tax land. They were in a similar situation to the farmers, who had settled on Crown land and were allowed to use it for farming and to pass it on. The Sámi also had the right to decide over redistribution of tax land within herding communities, according to family needs. Sámi lay assessors had an important voice in court on issues regarding “tax land”; hence, at that time Sámi were not without rights in court. Customary rights were important at the time and were respected by the district courts, which dealt with all matters concerning Lapp tax land.

However, during the 19th century privatisation began to infringe upon the Sámi and was

clearly in favour of the settlers/farmers. The Crown allowed farmers to buy the land they had cultivated for very cheap prices, whereas the Sámi were not even considered in this process. The emergence of the Western institution of private property rights in Sweden left the Sámi entirely behind, and Sámi land rights decreased steadily from then on. The Sámi – who until then had the right to pass tax-land to their family members – were now deprived of this right. There was no official national policy on these matters and thus it is difficult to follow this development. In spite of the institutional arrangements that were relatively favourable towards the Sámi around 1750, the Crown began to question whether “nomads” could have any strong property rights to land at all. Provincial governments were now tending towards systematically disadvantaging the Sámi, deciding in favour of the farmers and thus relieving the Sámi of rights over their tax land step by step. Until the mid-18th century, the Sámi still formed the majority in the local courts of Lapland, but with continued colonisation the settlers gradually outnumbered the Sámi in terms of population and, thus, power.

In 1867 the “cultivation line” was established. “The purpose of the cultivation line was that the land north and west of it would constitute an area reserved for the Sámi” (Hahn 2000). It may seem contradictory that the State wanted both to reserve large areas for the Sámi and at the same time promote agricultural colonisation in the same areas. The intellectual justification was the “parallel theory” (see section 1.3 Multiple Use), which stated that farmers' land use would not intrude upon Sámi land use. Thus the cultivation line was not “enforced” and did not stop colonisation and claims for private ownership to land.

Another means that nation-States employed to claim sovereignty over Sámi territory was to convert the population to Christianity. While witchcraft trials were being held elsewhere in Europe, the Christianisation of the Sámi was underway. The spiritual leaders (*noaidi*) of the Sámi – the force that held together their communities – were persecuted. They were compelled to renounce their old religion and surrender their sacred drums to the missionaries. While this missionary work was underway (beginning in the 16th century), areas of Sámi settlement were

being colonized. Even so, the missionaries and the relatively modest colonisation at this time did not change the lives of the Sámi to the same degree as later changes. The big changes came in the late 19th and early 20th century, when industrialisation took off in Sweden and the country needed Sápmi's natural resources – metal ores, hydroelectric power and timber (Hahn 2000; Kuoljok et al. 1993; Lundmark 1998, 2000).

PRECURSORS TO THE LAND CLAIMS PROBLEM

The problem concerning the development of Sámi rights after 1750 was that two different legal systems overlapped – those of traditional Sámi custom and those of the State – leading to controversy surrounding Sámi rights. One main reason for this development was that the provincial authorities (as arms of the State) gradually removed from the district courts issues that dealt with Lapp tax land. This happened without any legal anchorage, through federal muscle over local law. Sámi methods of land distribution faded in effect and lost respect as the State gradually took over. The district courts, while administering the Sámi lands, had treated the Sámi fairly. The provincial governments however, wanting to bring settlers, needed to suppress the Sámi, which

required imposing their will over the district courts. As the provincial governments wrested control of all Lapp tax land from the district courts, their efforts to privatise land were at odds with the Sámi, who paid tax to use land without owning it. In the land distribution and privatisation period (1789 to 1810) farmers were given rights and titles from the Crown to land they cultivated, while the Sámi were ignored completely.

In summary, customary rights and land control through internal Sámi administration via the district courts became history. This system's replacement with administration by provincial governments made a powerful statement that Sámi land was now State land. The Sámi were left paying "rent" or taxes on State land that was simultaneously being given away to private non-Sámi colonisers as if the Sámi had never used it. Thus the Sámi were not directly abused by the State, but as the new colonisers made more direct claims over land, competition with the Sámi began. Land they had traditionally used became private property and the long uphill efforts to (re)secure their grazing rights began, continuing to date (Hahn 2000; Lundmark 1998, 2000).



Olof T. Johansson

A modern Sámi house in a mountain area.

Box 2. Allemansrätten

Swedes are fortunate to have a law promoting and assuring free access to the countryside for all. This is called *Allemansrätten*, or the right of common access. This is an important tradition and a privilege that is rarely abused. It entitles anyone to hike in forests and fields, to pick mushrooms and berries, to swim and boat, etc., not only on public but also on *private land*. Most citizens of Western nations are used to encountering myriad “no trespassing” signs whenever they near private lands, and the ability to freely wander through private yards seems a highly foreign concept. However, Swedes place great value on such freedom and take much advantage of this old tradition. The condition this tradition rests upon is that a wanderer must not intrude unduly on the privacy of the landowner, and must generally take respectful care of the land. According to Thomas Hahn [Hahn 2000, p. 189], a scholar of property rights in Sweden, it cannot be said that the traditional Sámi methods of herding, involving free wandering across land ownership boundaries while following the reindeer migrations, is technically a utilisation of *Allemansrätten* liberties. However, it remains ironic that such a land rights conflict is occurring within a nation that supports such a common right as *Allemansrätten*.

DEVELOPMENT OF FOREST OWNERSHIP

In the 19th century, small sawmills, iron manufacturing plants and other trades emerged along the coast. These small factories and mills started buying forest land, mainly from farmers, as soon as they discovered the economic value of forests (timber) for their interests. With time this developed into the forest industry of today, such that the industry currently owns some 40% of Sweden’s forested land.

The rest of Sweden’s forest lands are owned primarily by small private land owners (50%). Privatisation split the land into many segments with different owners. This trend has increased as land is passed down to family members, not in entirety, but in blocks according to the number of children in each family. Thus more and more SPLOs own smaller and smaller land parcels. In many colonised countries of the world most of the land is still State-owned and managed by companies which lease it from the State. In Sweden this is no longer the case; most of the land has been privatised, with a large portion as small private land holdings.

STRUCTURE OF OWNERSHIP

Sweden has approximately 9.2 million ha of

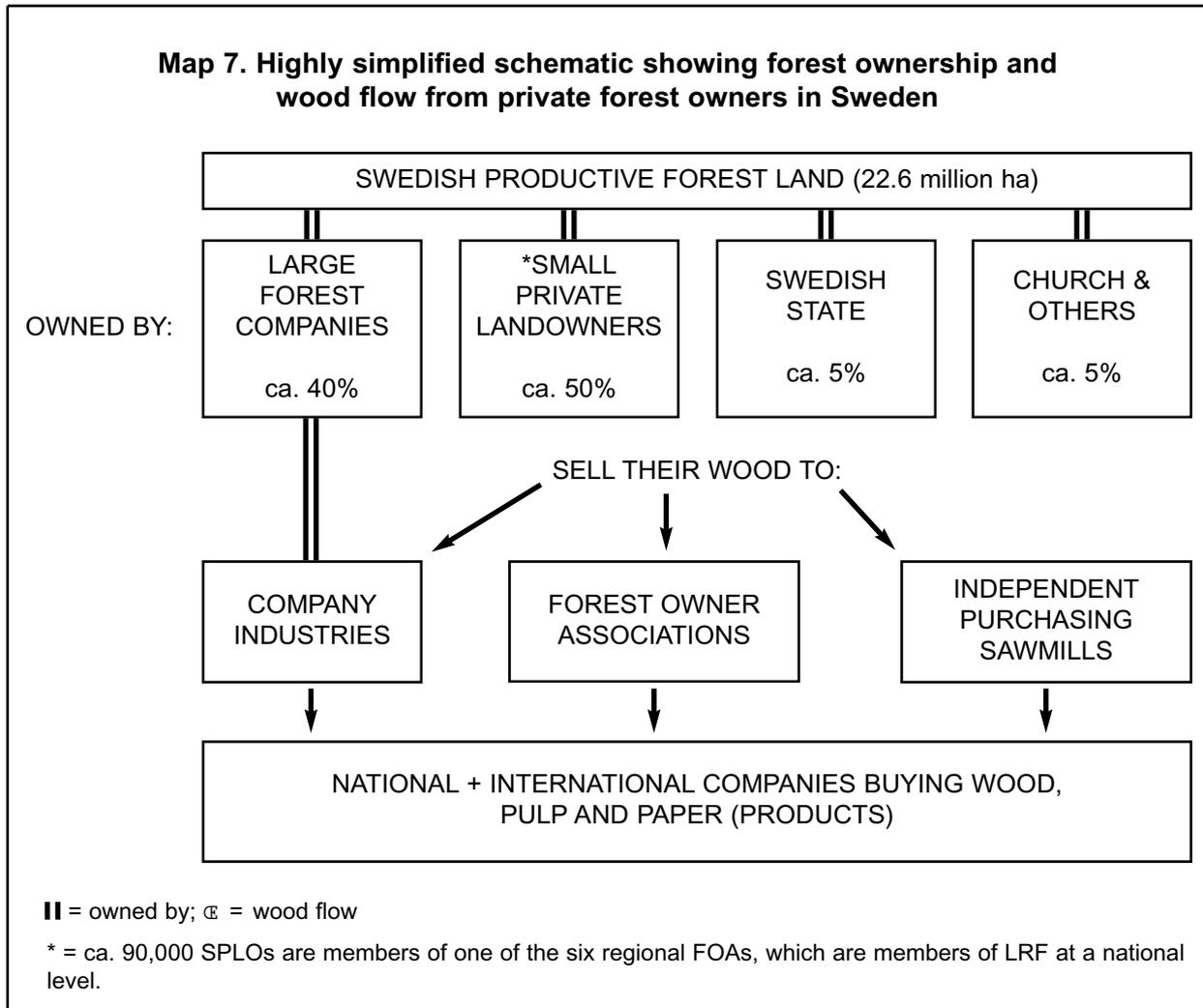
productive forest land. The structure of ownership is as follows:

- 1 Roughly 40% of the productive forest land is owned by **large forest companies** (the “industry”) most of which have their own pulp and saw mills. In Sweden there are seven such companies;
- 1 50% of the forest land is owned by **small private land/forest owners (SPLOs)**;⁶
- 1 The State owns about 5% of the productive forest lands;
- 1 The remaining 5% of forest land is owned by other public owners such as the Swedish Church, local municipalities and forest commons. (See Map 7).

To understand the Sámi land rights conflict it is important to note the difference between the forest companies and the small (family) private land (forest) owners. These two categories of landowner have very different relationships with the Sámi, as will be seen.

Large forest companies are the second-largest category of forest owners in Sweden. Their holdings are concentrated in central Sweden and some portions of Norrland (in the north), where they also operate many large, modern production

⁶ SPLOs own small parcels of forest on their lands, which the Sámi want to continue using as part of their traditional winter grazing land.



facilities. Swedish forest companies, including such names as SCA, Stora (currently StoraEnso), MoDo (currently Holmen) and Korsnäs, are among the global leaders in their fields. Over the past 20 years they have globalised their operations and established themselves firmly in European countries and on other continents.

Private individuals (families) – the SPLOs – are the largest single category of forest owner in Sweden. There are as many as 340,000 individual forest owners and 245,000 privately owned forest holdings in Sweden. An average forest holding has only 50 ha of productive forest land. Many of these forest holdings have a history of multiple use, whereby the lands combine farming with small-scale forestry. Forestry today is a practice that occurs on only a minor part of the private land holdings owned by active farmers. The area of land on which the former method of combined agriculture and forestry enterprise has dropped from more

than 9 million ha to less than 4 million ha. For most SPLOs today, their income from forestry amounts to only a part of their total income. Many of these long-distance owners live as far from their holdings as the big southern cities of Sweden. The mechanisation of modern forestry has drastically changed forestry, even in the relatively small privately owned forests. Few of the logging operations today are carried out by the landowners themselves, the majority done by harvesters owned by contractors from wood-buying companies. Silviculture (forestry practice) activities, such as planting and pre-commercial thinning, are still often carried out by the forest owner or a member of his family. Despite this, forestry and the forest industry remains an important factor in the local economies of many rural areas. Private forest owners generally own forests with a higher productivity rate than industry forests, resulting in the fact that 60% of the logged volume in Sweden comes from privately owned forests.

The single, most difficult factor pressuring SPLOs is economic development, not reindeer herding. When settlers first came to northern Sweden they lived as self-sufficient small farmers, and although the forest was of no economic value, it supported their livelihoods in terms of wood for houses, heating, etc. With industrialisation came exploitation of forests on a large scale, rendering the forests valuable for commercial purposes. Today, in a vast, remote area like northern Sweden, the profitability of forestry has decreased significantly. One main reason is the cost of transportation: all timber logged in northern Sweden (mostly in the inland forests) has to be transported over long distances towards the coast in the south-east where the big sawmills are located. In addition, the SPLOs are affected by globalisation more than ever before. Imports of cheap timber from, for example, the Baltic States have become more and more popular and thus threaten the income of Swedish SPLOs. Another factor that has made it more difficult for SPLOs to live off income from their forests is that the State ceased to pay forestry subsidies. As a consequence, many SPLOs moved away from the countryside towards urban life and no longer retain deep links to their land.

FOREST OWNERS' ASSOCIATIONS AND THE FEDERATION OF SWEDISH FARMERS

Many of the small private landowners are members of one of the six regional Forest Owners' Associations (FOAs) in Sweden. These approximately 89,000 individuals own 5.8 million ha of forest land, which is about 50% of all private forest land. A "Forest Owners' Association" is a cooperative of private landowners helping their members by coordinating the timber trade, assisting with logging, wood sales, training and other forest related practices and services. All FOAs are also owners of wood-processing plants, mainly sawmills. The associations were formed to improve the financial yield of forestry operations amongst their members. In order to ensure a steady market for timber and to control pricing, the associations have built up their own forest companies. SÖDRA – the biggest association in Sweden – is one of the world's leading producers of pulp. Approximately 40% of the wood flowing from privately owned forestry is handled by FOAs. Other important buyers of wood from

privately owned forest land are independent sawmills and large forest companies which have pulp plants, but few forest resources of their own. In 1999 the FOAs produced 2.25 million m³ of timber products in their 19 sawmills.

The associations, which are owned and steered by their members, cooperate in a national umbrella organisation, the Federation of Swedish Farmers (LRF). The LRF looks after the interests of Swedish farmers, land (forest) owners and the agricultural cooperative movement. It is an important player and has a large political influence on national forest policy and its implementation.

ECONOMY AND EMPLOYMENT

The forest sector accounts for 15% of Sweden's total product exports and is the largest net exporter, with exports valued at almost SEK 72 billion (about US\$7.5 billion, or 8,4 billion Euro). Roughly 70% of the sawn products produced and about 80% of the paper produced in Sweden is exported to Western Europe, mostly to the UK, Germany, the Netherlands and France. Forestry is an export-oriented industry servicing a substantial share of the global market in furniture, milled timber, pulp and paper products, but one in which processing capacity far exceeds national production levels. Sweden is a net importer of timber. The country thus depends both on secure access to unprocessed timber from abroad and on an intensive use of national forest lands. Although forestry has a high importance economically in the north, it has much less importance in terms of employment, as largely mechanized forestry does not employ many forest workers.

LAND EXPLOITATION

During the 20th century, the pace of industrial exploitation of natural resources in Sápmi accelerated tremendously. The Scandinavian nation-states have largely based their prosperity on timber, ore, hydroelectric power and the marine fishing industry. This exploitation has taken place without the consensus of the Sámi. The Sámi do not have the right of vetoing industrial projects, despite the fact that their original sources of livelihood, such as reindeer herding, fishing and hunting, are constantly affected by

these encroachments. Mining, forestry and hydroelectric power plants, with their accompanying towns, have taken enormous areas away from reindeer herding. Grazing lands, migration routes, calving locations and Sámi settlement areas have been destroyed on a large scale. Large areas of coniferous forests – the important winter grazing areas for the Sámi – have been subjected to the ravages of modern forestry. Most large rivers are totally exploited with hydroelectric power plants. Complete valleys are dammed and covered with water, while rapids have dried up. Spawning routes of salmon are cut off, and the rich waterways of older days are gone. Large areas of the Atlantic Ocean and the Barents Sea have been affected by industrial plundering. The small-scale coastal fishing with which the sea-based Sámi have traditionally been occupied has suffered greatly. On top of this is enormous pollution that, particularly on the Kola Peninsula in Russia, has led to a terrestrial and marine ecological collapse.

This type of situation is a well-known reality facing indigenous peoples all over the world. The riches of the State are to be maximally exploited for economic reasons. However, it is surprisingly little known or acknowledged that the exact same pattern is now happening to the Sámi in northern Europe (Kuoljok 1993).

FOREST EXPLOITATION

“Sweden is a country full of trees but with very few forests” (Lindahl 1998).

Since the 16th century, Swedish national policies regarding forest lands have alternated between those promoting forest clearance and frontier settlement, and those prioritising timber production and the maintenance of tree cover. At the end of the 18th century, the northern parts of Scandinavia were still covered with virgin forests that were used mostly on a local scale. In the early 19th century, the Swedish government promoted vigorous agrarian development that later lost priority to industrial forestry practice. The industrial model of development, which encourages large efficient industries, has stimulated migration to urban centres and helped concentrate forest industries in the hands of fewer and fewer large companies. The early phase of local use lost out to the second phase of “timber mining” by industrial exploitation. This practice of logging until the resource is depleted, then moving to another unexploited site, is the practice of logging today in parts of Canada, the United States and Russia. Several waves of such timber exploitation swept through Scandinavia from south to north, leaving all but the most inaccessible areas of Finland and Sweden affected by the beginning of the 20th century.



Kristina Norderupp

Sámi boy learning to herd reindeer.

Resultant shortages of timber led to massive governmental campaigns, bringing Scandinavia into a third phase of forest exploitation. In order to supply Sweden's growing forest industry with an increased and sustained volume production of wood, the "tree plantation" phase developed. Tree seedlings were placed in clear-cuts to secure the future supply of wood. The re-growth could not compete with the growth of the pulp industry in the 1950s, and another wave of forest exploitation began which entailed clear-cutting any forests that remained after earlier selective logging. Clear-cuts are areas of forest completely felled, often without replanting and with short-term profits in mind. In clear-cuts the snow is compacted and thus the availability of ground lichens to reindeer is hindered. The associated road building deteriorates and fragments vast parts of reindeer winter grazing land. Clear-cutting was combined with "plantation forestry", the next phase to be developed. Plantation forestry involves a form of silviculture whereby land is used as permanent or long-term tree plantations of monoculture (single-species) coniferous stands. In plantations, areas are continuously cut and replanted, often with several stages of thinning. Plantation forestry is ultimately the practice of managing forests for the highest possible yield, like a crop. This is the so-called "Scandinavian Model".

The intensive thinning and clear-cutting of the Scandinavian Model, which until recently totally dominated forestry practice in Sweden, have dramatically altered the natural forest structure. Old trees, dead wood, deciduous trees, wet forests and burned areas are important elements of healthy forests greatly missing in the managed Scandinavian forests. Instead, the forests are composed of even-age, single-species stands which generally are harvested on short cutting rotations that do not allow trees to grow old enough for hanging lichens to develop. Ground lichens have also suffered greatly from ditching, soil scarification and other practices common in this method of forestry. Responsibly managed forests with selective logging, using a cutting rotation of at least 120 years, no clear-cutting and no soil ploughing are necessary complements to healthy reindeer herding, which are not found in common forest management practices as used during the last 40 years in Sweden.

If the forest is seen only as a timber resource, Swedish forestry has been a good example of the means by which a high production of timber is achieved through intensive management of the forest. However, if one considers forest biodiversity, Sweden does not exhibit a model worth following. One result of the drastic change of the forest landscape by Swedish forestry practice is a biodiversity crisis illustrated by the fact that more than 2,000 forest-dwelling animal and plant species are found on the official Swedish Red Data lists.

The drastic and fundamental changes the forests of Sweden and other Scandinavian countries have gone through have occurred particularly during the last 150 years. Apart from Scandinavian countries, few if any have an almost 100% claim on their coniferous forests; that is, estimates suggest that around 5% or less of the original forests remain in Sweden. According to forest legislation prior to 1994 in Sweden, and 1997 in Finland, it was against the law *not* to harvest mature (old) stands. The result of this is that many important features, structures and elements of the natural boreal forest ecosystems have decreased drastically. The original plant and wildlife of the taiga faces a larger threat in Scandinavian countries than it does in other parts of the taiga belt.

Recently some improvements have been witnessed. As a result of national campaigns by environmentalists, the main timber companies have reduced their more damaging activities such as old-growth logging, herbicide spraying, deep ploughing and wetland ditching. Clear changes in the direction of a much stronger focus on nature conservation and new concepts of integration of forest management have developed during the 1990s, and the process is still going on. One clear indication of this change is the fact that Sweden was the first country in the world to develop a national Forest Stewardship Council (see section 2.2) standard in cooperation with the forest sector, environmental organisations, and social stakeholders like the Sámi people. Today, nearly 45% of the forest land in Sweden is managed according to this standard. Sámi rights of forest access have been promoted as a consequence. However, much remains to be done and it remains uncertain if such indications of progress are

enough to guarantee the survival of all threatened species. The long history of forest use makes the task even more complicated, as it will take a long time to restore many of the important aspects of Sweden's forests that have been lost or drastically decreased over time.

SWEDISH NATIONAL FOREST POLICY

The Swedish National forest policy currently in force was enacted by Parliament in 1993. It incorporates the commitments made by Sweden in the United Nations Conference on Environment and Development (UNCED) in 1992. The Swedish forest policy is guided by two general goals of equal weight: production and environmental conservation. The production goal states that Swedish forests should, on a sustainable basis, produce a high and valuable yield of timber, while taking due consideration to other valuable products from the forests. The environmental goal focuses on the conservation of all forest-dwelling species in viable and healthy populations. **Social values of the forests should also be protected. A**

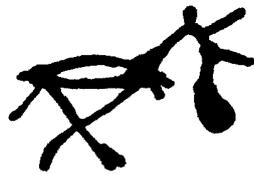
general principle in the national forest policy is that forest management should be characterised by multiple use.

The Swedish forest policy is mainly implemented by "soft means" such as extensive services, training and communication from the State, mainly towards small private land owners. The Forest Act has basic binding rules for all forest owners, but these are mainly considered as minimum rules. The primary tool of Swedish forest policy is motivating the forest sector and single forest owners to exceed these rules both for production and environmental aspects. This can be considered as the Forest Act's main weakness, and has often been criticised by environmental organisations. The Act contains regulations for the consideration and consultation of Sámi reindeer herders within the reindeer herding area. However, these regulations are weakened by the fact that there is no legally defined border for the winter grazing area. **Reindeer are allowed to graze on State land;** however, the private sector is not upholding this same standard.⁷

⁷ Contributions to this section were made by Per Larsson.

Part 2

The Situation Today



2.1 The Land Rights Conflict

INTRODUCTION TO THE CONFLICT

The majority of Swedish small private landowners allow reindeer in their forests. However, since 1990 roughly one thousand owners of these land holdings have been taking the Sámi to court in an effort to keep them from grazing reindeer in private forest lands, thereby challenging the Sámi traditional, customary right to winter grazing. Backed by the Forest Owners' Associations and the Federation of Swedish Farmers, the private landowners base their suits on claims that reindeer rub their antlers on young trees, damaging the private pine plantations in the process. The conflict has escalated, particularly in the last three years, and led to a total of seven court cases. It has become a question of survival for the reindeer herding communities. In the absence of specific forms of written documentation demanded by the courts, which would prove longstanding use of the land, the Sámi are very likely to lose the court cases and subsequently lose their grazing rights, as well as large sums of money in legal costs. Compensation to the landowners and all costs of the legal processes may have to be paid by the Sámi. Today these amount to ca. SEK15 million (about US\$1.5 million, or 1,75 million Euro). Two herding communities have already stopped their active judicial defence due to a lack of financial resources. Without the right to graze on private lands, the herding communities will face severe problems feeding their reindeer herds at the present number of animals.

The main problem for the Sámi today is the definition of “proof” of longstanding Sámi inhabitancy and herding in Sápmi.

The courts trying the numerous cases require proof that using these lands is an ancient Sámi tradition for which they have rights. They require a different type of proof of such land use than that which the Sámi have provided. The “proof” required – written documents demonstrating 90-year continuous grazing-use for essentially each spot of land on which Sámi rights are questioned by SPLOs – simply does not exist. Sámi history and records of traditions are *oral*, yet the courts are interpreting the law on a strictly

technical basis, thus requiring *written* proof of their traditional grazing practice. The Sámi have provided numerous forms of proof of their use of the lands in question, from respected scientists, historians and archaeologists (see Appendix 1). Unless the courts accept such forms of proof, the Sámi will lose an entire cultural heritage and will face financial ruin.

The Sámi find themselves in a ridiculous, difficult position. Their ancient herding system is based on the continual *movement* of their herds throughout a large area, inclusive of the forested areas now owned by the SPLOs suing the Sámi. That they have done this for ages is indisputable, and, in addition to the unaccepted documents the Sámi have provided, there is considerable “natural evidence” backing them up (as described in section 1.1 The First Sámi). **A crucial point to be made with concern for natural evidence is that reindeer have always needed food in winter to survive and, wild or semi-domesticated, they are not able to survive winter solely in the mountain area. Hence, it stands as self-evident that if there are reindeer today, they must have always migrated to and remained in the forests in wintertime.** Yet the Sámi are being required to prove that their movements have involved *every specific piece of disputed land*, and for 90 years in each of these parcels. The number of forest areas in question in the main court case, Härjedalen, is approximately 500.

The damage to tree plantations claimed by SPLOs does occasionally occur; however, this is marginal and in only two instances is this demonstrable:

1. A reindeer will occasionally rid itself of an itch by scratching its antlers on young trees, resulting in damage to them. However, this never occurs at a level sufficient to damage entire plantations. Even if a herd remained for some time in a forest, few trees are damaged. Moreover, such damage is not necessarily terminal to the tree.
2. A second type of damage can occur within a plantation when two conditions – specific weather and reindeer herd migration – come together in an unfortunate way. First of all, there must be very little or no snow and a hard frost

such that, early in the day, young trees on a plantation are frozen and easily breakable. On such occasions, entire reindeer herds passing through the plantation on their wanderings may cause damage to the frozen trees. However, such a combination of conditions is not common, as winters usually provide sufficient snow cover.

Such damage by reindeer is small in comparison with the damage caused by wild moose. Some herding communities have suggested that the problem could be solved by a system in which the State compensates individual landowners for their losses. No such system is in place at the moment. The land rights problem currently exists only on land owned by private individuals since **the grazing rights of the Sámi are fully respected on State land and in forests owned by large forestry companies**. Physical boundaries to delineate these lands, such as fences to keep reindeer off private land, are completely impractical and are not desired by any of the parties involved in the land rights conflict (see Map 6 on Patterns of Ownership). The State and industry lands are certified according to Forest Stewardship Council (FSC) standards. The FSC recognises indigenous peoples' rights, and the Swedish FSC standard particularly stresses Sámi grazing rights on any forested land.

No explicit land claims *of ownership* have been made by the Swedish Sámi, and no such rights are recognised by the Swedish State. Their customary right to graze their reindeer, on private as well as State land, is confirmed, however, in Swedish legislation. The catch is that, in case of conflict, the legislation leaves it to the Sámi to prove their customary use of the right in the courts.

Paragraph 3 of the **Swedish Reindeer Husbandry Act** of 1971 describes that reindeer herding may be carried out year-round on the "year-round herding areas" (the mountain area), and during the winter months from October 1st to April 30th on the "winter grazing land". For the mountain area there is a clear boundary drawn. However, regarding winter grazing lands, the law only states that reindeer herding may be carried out during the winter months, without specifying where; no specific borders are mentioned. It states that the Sámi have the right to winter grazing in

the areas "below" the mountain area; that is, in the forest lands "in which reindeer husbandry has been traditionally carried out at certain times of the year." (See Maps 5 and 6.)

The preparatory documents for the Reindeer Husbandry Act (Prop. 1971:51 s. 158) state that: "A lower border for the areas in which reindeer customary rights occur cannot be defined". By "lower border" it is meant a boundary that marks the coastal (eastern) side of the forest lands. It has to be defined because it does not exist. The Reindeer Husbandry Act is therefore an incomplete law. It goes on to say that anybody who questions these rights should seek a hearing on the matter in court. Thus, the presumption is that the right to herd reindeer (the right to winter grazing) applies in all cases where no legally effective court decision denies such rights.

The land right conflict has three main possible outcomes:

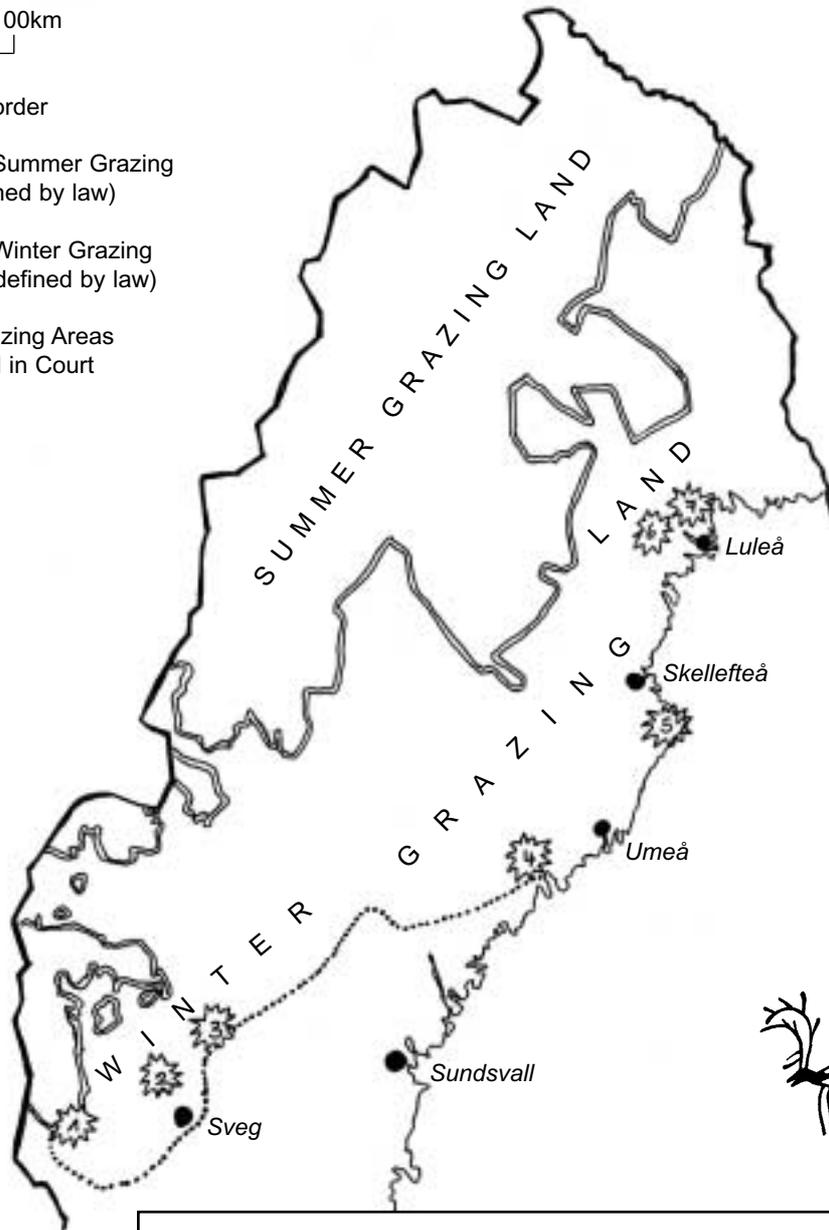
1. The Sámi win outright in court and are granted the right to continue winter grazing on any traditional lands, regardless of ownership of these lands. (This is highly unlikely.);
2. The Sámi lose outright in court and are thereby not allowed winter grazing on the lands of the suing SPLOs. Considering that these contended lands amount to the majority of important fertile grazing land, and that they also act as important corridors for travel to non-contended grazing lands, losing the ability to use these lands of the suing SPLOs (and the economic disaster that would follow from court debts) amounts to a death sentence for reindeer herding for the communities in court. (This is the most likely scenario.);
3. As a combination of the above two, the third possible outcome is that the Sámi are allowed to use some of the contended SPLO winter grazing lands. For this outcome to be realised, a specific border to the permitted lands would need to be defined. This border would need to have certain characteristics (see Box 4 on a Border Commission).

STAKEHOLDER POSITIONS IN THE LAND RIGHTS CONFLICT

Map 8. Court cases over winter grazing area and List of cases

0 100km

- Country Border
- == Border of Summer Grazing Land (defined by law)
- Border of Winter Grazing Land (not defined by law)
- 🦌 Winter Grazing Areas questioned in Court



Court case	Sámi community	Court	Starting Date
No. 1	Idre Tännäs Mittådalen Handölsdalen Tåssåsen	<u>Härjedalen Court case</u> Sundsvall Court of Appeals	1990
No. 2	Idre	Mora District Court	1996
No. 3	Tåssåsen	Sveg District court	1998
No. 4	Vapsten Ran Ubmeje	Umeå District court	1998
No. 5	Svaipa	Skellefteå District court	1998
No. 6	Udtja	Luleå District court	1998
No. 7	Gällivare	Luleå District court	1998

Below, the various stakeholder positions are listed, with commentary in italics from the Sámi perspective in response to these positions. The details involved, and the respective disputes surrounding them, form an integral part of the land rights conflict and are thus worth attention.

Position of the Courts

Six courts are trying seven cases (see Map 8). The courts interpret the law in strictly technical manner; i.e. they only accept written documents that prove 90-year continuous use of each single forest area. No other proof is acknowledged, such as traditional oral knowledge, or scientific data (biological, archaeological, etc).

Comment from the Sámi perspective:

*No such documents as required by the courts exist, and therefore the Sámi, as a culture with oral tradition, should be allowed to use other evidence in the courts. Early documents were written for the colonisers who were beginning to own land traditionally used by the Sámi, while the Sámi received no paperwork, documenting their customary use, in these matters. Additionally, as neither the Sámi nor reindeer have left clear tracks in nature, it is difficult, even impossible, to prove their **specific** use of the land in the past. This is especially the case since they have to prove winter use of land. Frozen ground covered with a thick layer of snow makes it such that no permanent tracks are left from temporary dwelling sites, and their existence can only be proven generally in the area. In other words, it is easy to tell that the Sámi have been in Lapland with reindeer for ages, but very difficult to find proof, in the land, of Sámi presence in exact, particular areas within the winter grazing areas in question.*

Position of Small Private Landowners⁸

With respect to the Härjedalen court case, the small private landowners claim that it is the Sámi who want the court case to run, as the Sámi were the party who appealed to a higher court. Thus, they say, it is the Sámi who want the courts to

decide over the conflict.

Again, the Sámi have clearly expressed that they want the court cases to stop immediately, and never took any action to initiate any of them. From the outset they have continually sought out-of-court settlements. They appealed the Härjedalen case in the hope of a more favourable decision, since the first decision was disastrous and would have meant the end of reindeer herding for the communities involved.

The SPLOs insist that the courts decide over this conflict. To date, they do not want any out-of-court settlements, claiming that since the negotiations prior to 1990 were without success, the Sámi cannot expect success now.

It can be said that they are making this demand based on their confidence that they will win the day because the law is being interpreted in a strictly technical way, requiring written documentation (of land use) from the Sámi – proof that simply does not exist.

The SPLOs want the government to pay all court costs for both parties.

This is in compliance with the Sámi demands.

In their latest policy, the SPLOs agreed to accept a compensation fund whereby they would receive benefits for damages caused by reindeer.

This is in compliance with Sámi demands. However, the government has done nothing so far to realise this fund. And it is safe to say that, were the government to agree to the proposal of compensation, the SPLOs would still not let their cases rest, or see it as a solution to the conflict.

The SPLOs say that the reason the court cases have increased in number recently is because of greater numbers of reindeer since 1986.

*In fact, during the last ten years the number of reindeer **has decreased**. In addition, it should be noted that most of the court cases were initiated only recently (in 1997 and 1998), at a time when the number of reindeer had decreased significantly. (See also Box 3 on Chernobyl).*

⁸ The positions of the private landowners and, in the next sub-section, the Federation of Swedish Farmers and Forest Owners' Associations, are partly sourced from Trapp 1999 and Pan European Forest Certification Scheme (2000).

Box 3. Chernobyl

In 1986, a major accident occurred in the nuclear power plant at Chernobyl, Ukraine. Radioactive fallout over Sápmi, the land of the Sámi, resulted in the necessary slaughter of 73,000 reindeer (about a third of the total amount of reindeer in Sweden) in the year after the accident because of high levels of toxic caesium in the reindeer. Fish, game, berries, fungi and waters were contaminated. The main part of the meat production from the reindeer trade was removed from distribution. The following year, the Swedish Food Administration removed a large problem simply by raising the caesium limit for reindeer meat and game to 1,500 Bq/kg, while the limit for other foods remained the same. This allowed the State to reduce the already little amount of financial reimbursement given to the Sámi, but did not result in an increase in purchase of reindeer meat by the public, due to ongoing fears about contamination. After the initial cull of thousands of reindeer, there followed a significant increase in reindeer herds. This was due several factors. To begin with, there was no reason to slaughter the animals for meat sales. The Sámi could not kill all of their animals – they are simply too closely tied to their animals to bury them in mass graves – such that fewer animals were slaughtered per year. In addition there were few if any predators at this time, and combined with extremely favourable weather conditions for herding (leading to ideal feeding conditions, strong calves and good breeding conditions) an unintentional population increase occurred. This understandably worried the private landowners and led, amongst other things, to the first court case in 1990 in Härjedalen.

The SPLOs want the government to set up a border-drawing commission to decide over the geographical area in which customary winter grazing rights of the Sámi are valid (see Box 4 on Border Commission).

This is in compliance with Sámi demands. However, such a commission will require a lot of time to develop a proposal interpreting the Reindeer Husbandry Act. This law says that winter grazing is allowed in the lands of traditional Sámi usage, but does not identify these specific lands. The Sámi agree that a commission should therefore come up with a specific border within which winter grazing is allowed. A decision as such from a commission is senseless however, unless the law is changed to incorporate the results of such a decision. Additionally, changes to this law could easily take another ten years. Any court decisions made before the changes to this law take effect will be valid (and surely will be against the Sámi) regardless of any defined border. In summary, the Sámi and SPLOs both want a border drawn, although the Sámi want a moratorium on the legal cases until this border has been set.

The SPLOs don't want the court cases to rest (via a moratorium) while a solution is sought by such a commission (which would include time for implementation of the necessary legal changes).

The cases obviously have to rest until a border is drawn, otherwise it is useless to initiate

this procedure. In other words, if the court processes are allowed to proceed as they are now, Sámi reindeer herding in the winter areas will essentially be abolished before a commission comes up with a ruling, and thus Swedish reindeer herding will vanish.

The SPLOs say that the reason they are suing the Sámi is to define the borders of the winter grazing area.

Again, the Sámi agree on the need for a border. But, in addition to the complications listed above, the courts are not the appropriate institution to decide in this matter. The courts can only work according to the Reindeer Husbandry Act, and this law is incomplete. It does not specify the exact areas in which winter grazing is allowed; hence the need for an independent commission to determine the border.

Despite this, the SPLOs are sticking to the existing law, saying it is the fair way to determine the issue. The court in Härjedalen decided, without any reference to a specific borderline, that on each parcel of the lands in question, the Sámi have no right to winter grazing.

Thus, in all practicality, it is no longer possible to graze in winter lands at all in this area because the Sámi and their herds cannot move from one place to another in the usual migratory wandering manner. The result of the multiple

Box 4. Border Commission

The land rights conflict concerns a mosaic of lands, with several layers of administrative control of land use on multiple sections of land. The court cases are basically about whether the Sámi are allowed the winter grazing right in certain of the small private landowners' forests (i.e. those landowners who are suing the Sámi). If they *are*, the question becomes *where*? It should be noted that the court cases are not about a borderline *per se*, yet the borderline question is what the situation has boiled down to. The mountain (summer) grazing area has a distinct borderline, which is not argued over in this conflict. This summer grazing area is defined in law and thus cannot be disputed, unlike the winter grazing land. What all parties want (in the event that outcomes 1 or 3, listed above, happen) is a distinct border, as with the summer lands, which establishes in law *exactly* where the Sámi have these rights.

In the general area referred to as "winter grazing area", about 50% of the land is owned by SPLOs. Lands on which Sámi are sued are herein referred to as the "contended lands". However, the majority of SPLOs *are not suing the Sámi and do allow them to graze on their portions of land*. The rest of the land in the general winter grazing area is owned either by industry, the State, or other parties *who are not suing the Sámi and who allow winter grazing*. The catch is that the contended SPLO lands happen to be scattered in the important grazing areas that the Sámi need outside the mountain area (see Maps 1 and 6).

The Sámi need the high-quality grazing lands currently contended, and they need contiguous (unbroken) lands, regardless of ownership, to serve as legally secured winter grazing lands. Such contiguous land would allow them to travel with the migrating herds down from the (non-contended) summer mountain area into the forests for winter, without bumping into pieces of land that are closed to reindeer grazing. Also important is that, in the event that borders are drawn, a *single* border must be made which distinguishes the south-eastern border of the allowed winter grazing area. By making one single borderline (as opposed to delineating numerous non-contiguous areas as permitted grazing lands) a simplicity will be generated similar in nature to the single border which currently identifies the eastern extent of the summer grazing (mountain) area where it merges with the forest areas now contended.

Thus, the entire issue essentially comes down to: (1) the courts deciding whether to allow *any* grazing at all in the winter forest areas; and (2) if so, what is a *general*, single boundary line that demarcates a single large winter grazing area.

In 1996, a very unexpected and tragic event happened for the Sámi, which made them realise that the Reindeer Husbandry Act was an incomplete law. Prior to the first court decision in 1996, (*Härjedalen*), both parties (Sámi and SPLOs) hoped that the court would make a general decision about where the borderline for winter grazing should be drawn, rather than deciding for each contended spot whether grazing was allowed or not. They hoped for the least complicated of solutions by the courts, which could have allowed further disputes to be avoided. The astonishment for both parties was huge when the court announced that "no winter grazing right exists on any questioned land spot outside the mountain area..." basically meaning that the borderline for winter grazing land is identical with the borderline which defines the mountain (summer grazing) area. In short, this means no winter grazing is allowed outside the mountain area. Considering that it is not possible to tend and feed reindeer in the mountain area year-round, this decision in all practicality meant reindeer herding is not accepted, period. The result of this affair is that the Sámi are calling for a border commission be created to establish a border *independently* from the Reindeer Husbandry Act, but to then be incorporated into the Act.

The Sámi, therefore, have appealed the 1996 Härjedalen case. After this, the other cases arose. No case has yet come to a final decision affecting the Sámi.

layers of ownership of these lands has led the court to determine a ruling which, in no uncertain terms, implies an unspoken borderline existing at the eastern transition zone from the mountain area to forests, thus basically abolishing winter grazing in the forests.

Position of the Federation of Swedish Farmers and the Forest Owners' Associations

The Federation of Swedish Farmers (LRF), as well as the different regional Forest Owners' Associations (FOAs) which are members of LRF at national level, do not wish to drop the court cases, as a legal decision about a borderline of legal grazing grounds is needed. They say that the reason they have not attempted to get their members to stop the court cases is that they cannot make decisions for their members – the individual SPLOs who are suing the herding communities. They do state that obviously their members have the right to examine their cause in court (and do not forbid this).

This is a very contentious statement and is not consistent with the actions of at least one FOA (Mellanskog), which is actively suing the Sámi in the Härjedalen court case. The LRF and FOAs have close relations with the SPLOs and strongly back them.

LRF is concerned that the Swedish government will sign ILO Convention 169 (see section 2:2 for

an expanded definition of the ILO), thereby aiming to change the law in a manner favouring the Sámi. LRF threatens the government by saying that were this to take place, even more court cases will be initiated by their members – the SPLOs – all over Sápmi. They state that ILO Convention 169 irritates them greatly and slows down their negotiations for a compromise with the Sámi.

LRF fears Convention 169, but it is not meant to disadvantage any faction. LRF acts as if the ILO 169 is solely a land-rights convention, while in fact it is mostly about numerous other issues. Indeed, the most controversial issue is that of land rights, and Sweden does not live up to the standards of the Convention in this respect. The Convention is intended to secure the basic rights of indigenous and tribal peoples (ITPs). It states:

“In addition to taking measures to counteract discrimination, the States that accede to the Convention must also author special measures which promote the social and economic rights of the people concerned and protect their spiritual and cultural values...This includes that steps must be taken to protect their land, culture, and environment. The Convention places special emphasis on the importance of land for ITPs. Therefore, the Convention contains provisions intended to safeguard their right to land which...they have used for a long time.”



Kate Kärrberg

Reindeer herders and their herd migrating up to the mountain area in April.

*The LRF and FOAs would be prevented from monopolising the forests for timber extraction were Sweden to sign ILO Convention 169, and the Sámi would have protection for land-use rights. The Sámi stand disadvantaged and directly harmed by Sweden's lack of action towards ratifying 169, but the LRF and FOAs would not be directly harmed by such ratification. That is, the existence of the Sámi people is threatened in a way that the existence of the other factions is **not**.*

Position of the Forest Companies

Reviewing briefly, the forest industry in Sweden consists of seven major forest companies and their timber processing facilities. Together they own 40% of productive forested land in Sweden. The industry's link to the private forest owners and their unifying forest owners' associations, is through the purchasing of their timber. The industry cannot provide sufficient levels of timber to satisfy their own processing needs. Since 1998, all major forest companies and their lands in Sweden are certified according to FSC criteria and standards; that is, reindeer herding and indigenous peoples' rights are respected on industry land. This was a great step forward and much appreciated by the Sámi. It has also considerably improved the relationship between Sámi and forest industry representatives. However, the forest companies are striving to be neutral and indifferent to the conflict. Although they advertise their FSC commitment with the fact that they respect indigenous peoples' rights, they do not actively (publicly) support the Sámi people in their land rights conflict.

The forest industry should take a stance for the Sámi – staying neutral in this conflict is not possible for companies who on the one hand actively promote FSC standards and principles (and thus respect for indigenous peoples rights) and on the other hand purchase timber from controversial sources, i.e. from privately owned land on which Sámi reindeer herders are being sued for letting their reindeer graze. Being indifferent in this conflict and not using their potential to mediate between Sámi and small private landowners equates to acting in favour of the SPLOs and against the Sámi. Prior to certifying their land through FSC, and thus formally allowing Sámi to graze on it, three large companies initiated the first court case in Härjedalen in

1990. Thus, the Sámi feel they do have a responsibility in this conflict. At that time, the three companies (Stora, SCA and Korsnäs) went to court together with about 700 SPLOs and the forest owners association Mellanskog. However, in 1992 these three companies withdrew from the case and found an out-of-court agreement with the Sámi. This has since worked very well and their contact has improved greatly.

It is written in the agreement with the forest companies that the companies and the Sámi should strive to prompt the other participants (the SPLOs) to step out of the case. While of course the Sámi continue doing so to this day, the forest companies have made few or no actions or initiatives whatsoever to convince the SPLOs to withdraw.

The companies were hoping that the small private landowners would join them in stepping out of the conflict at some point and also settle out of court with the Sámi. As mentioned above, the opposite has occurred – other SPLOs were encouraged to start proceedings against the Sámi and thus six new court cases were initiated in 1997 and 1998. Forest companies are not happy with this development but have not actively helped to resolve the conflict.

In principle the forest industry is supportive of the idea of a compensation fund for SPLOs. There has been no response from the government.

Position of the Sámi

The Sámi want an out-of-court solution and need the court cases to be dropped. As stated, the Sámi ask not for ownership of grazing lands, but simply a formal, legally assured right to continue reindeer grazing in areas they always have by long-standing tradition. They want the government to take an active role in the crisis through such measures as:

1. paying the court costs for both parties;
2. setting in place a compensation fund for SPLOs, for damage caused by reindeer; and
3. setting up an independent expert border-drawing commission (it is thought that such a process would take about five years before a proposal to the government can be made as to how to amend the Reindeer Husbandry Act of 1971). (See Box 4 on a Border Commission).



The Sámi want the courts to:

1. recognise that a moratorium must be placed on the court cases until the law (Reindeer Husbandry Act) can be enacted; otherwise a border drawing commission is meaningless;
2. place a moratorium on the cases until an out-of-court settlement can be made, in the event that a border-drawing commission is not pursued.

The best (realistic) option is for the cases to be dropped in favour of an out-of-court settlement, which would entail that each private landowner negotiate their claim with the Sámi individually, rather than the SPLOs collectively addressing the Sámi, as is happening in the current court cases. A moratorium in either case is the least that could happen to benefit the Sámi.

The Sámi are aware that they cannot count on the State, and need to find support elsewhere. They ask that the courts accept their submission of facts, such as traditional knowledge, as admissible proof, as the Convention on Biological Diversity (CBD, signed by Sweden) requires. They support and promote FSC certification, as it guarantees their winter grazing rights and gives them a voice equal to the forest industry and ecologists. Any certification system that reaches FSC standards and processes, and thus respects indigenous peoples' rights, will be accepted. However, all other certification systems in place today are far from reaching these demands and do not respect indigenous rights, and are therefore not supported by the Sámi. The Sámi have always clearly expressed that they want the court cases to stop immediately. They have been "pulled" into them and never wanted them to start in the first place. The Sámi keep asking and working for an out-of-court agreement with the SPLOs, such as that made with the forest companies in 1992.

The Sámi do not regard the court cases as a fair means for sorting out the conflict, as they will lose basically "twice": first they will ultimately lose all grazing land for lack of written evidence as required by the courts' legal demands; and secondly, they will lose great sums of money, ruining most of the communities indefinitely, above and beyond the fact that reindeer herding will cease to be a practice in Sweden upon which

they may depend. Hence, the reason they appealed the Härjedalen case to the Sundsvall Court of Appeals was because the court decision was crushing and their last chance of getting anywhere was to hope for another court to look at the conflict in a more thorough manner. The SPLOs have been well aware that this is a desperate attempt by the Sámi, who are thoroughly hemmed-in at this point. Additionally, the herding communities have no insurance to help pay the costs for such court cases. They have had no chance to benefit from insurance previously, and now, after extensive international search, they eventually found one company (Lloyds) willing to give them insurance. However, this will only pay for any additional, new court cases, and not for those ruling already.

The right of the SPLOs to have their cause heard by a legal body should of course be respected. However, different aspects of this particular land rights conflict make examination by a court an unequal and unfair procedure. In the absence of State aid for their legal costs, the Sámi are unable to afford full legal representation in court. In four of the cases they have lawyers, while in the others the Sámi must represent themselves. As a result, the stakes in this context are very different, and the use of legal suits by SPLOs can be regarded as provocative, contributing to increasing polarisation between different sectors of Swedish society.

Position of the Swedish Government

On State forest land, reindeer winter grazing is fully accepted. In addition, most of State land is already FSC certified.

*However, it is well known by the State that the fundamental land rights of the Sámi are being questioned by SPLOs, and consequently reindeer husbandry as a trade is existentially threatened. Ever since the first Reindeer Husbandry Act was established in 1886 there have been disputes about Sámi customary rights to winter grazing of their reindeer on private land. It is about time that the Swedish State takes its responsibility for the Sámi, particularly regarding their legal rights. The State seems to suffer from paralysis and remains inactive. "To refuse political stands is in itself a political stand serving the interests of the major forces."*⁹

The Swedish government does not take any concrete steps in order to guarantee traditional winter grazing rights for Sámi reindeer on private land.

The entire 20th century was characterised by constant investigations about the Sámi people and their rights. None of the Swedish administrations have come up with a decision regarding basic questions about the legal position of the Sámi, even though several of the investigations came up with strong recommendations on how Sámi rights need to be strengthened. The State is not even willing to financially ensure that the Sámi can defend their traditional rights in court. There is current talk in the government about developing a border drawing commission that has the task to determine a border for the reindeer winter grazing land; however, in light of the State's history of action, there is little reason to believe this talk will be realised concretely anytime soon.

The Swedish State has a responsibility in this conflict: on the one hand it keeps passing new decrees that heavily affect the Sámi, weakening their legal position (in relation to small private landowners). In recent decades a constant decrease in traditional use and management rights of the Sámi has been observed, while private land ownership rights have been strengthened at the same time. (For an example, see the 1992 decision of the State to take control of small game hunting away from the Sámi mentioned on page 55.) On the other hand, the government remains inactive (claiming to be neutral) and tries to avoid involvement in the land rights conflict, which has arisen as a consequence of State legislation and decrees.

Both the Sámi and SPLOs have asked the State to create a compensation fund. The State has been asked to establish this fund several times, and even though no large sums of money would be needed to create the fund, the government takes no concrete steps. It would be an important first step towards reconciliation between Sámi and SPLOs and might open up new possibilities for

compromises. The State appears disinterested, and has therefore, by default, let the situation be resolved by the courts.

The Sámi are a minority, and as such do not have a powerful lobby. As Ghandi said, a democracy is only as good as it treats its minorities. It is important that the Swedish State takes responsibility, as it is a political conflict and about indigenous/minority peoples' rights.

The State continues to deny any financial support to help either party with the legal processes.

The State was asked by both parties for financial support to pay the court costs, thereby ensuring that the process could take place on an equal footing.

Longstanding disrespect of Sámi rights by the Swedish State was acknowledged through an official apology of the government, expressed by then Minister of Agriculture, Annika Åhnberg, in August 1998. She said: "The Swedish colonisation of the northern parts of our country gave us access to natural resources, but at the price of forcing the Sámi from their region."

Sámi activists say the apology, although welcome, is not enough and have called on the government to give them autonomy with local government and their own county council. "It is positive that Åhnberg and the government have apologised – that, at least, is an opening. But the government must go further and admit that the reindeer pastures are Sámi in the full legal sense," said Tomas Cramer, a Sami spokesman. However, the State has still only taken one step (a single financial donation) towards resolving the conflict or supporting the Sámi. It is worth noting, however, that this donation concerned funds that were already designated for the reindeer herding business for stabilising prices, which were then simply redistributed towards resolution of the court cases. Therefore, no "new" funds were provided by the Swedish State towards the conflict.

⁹ Labba (1999b), "We Have 'Always' Been Here".

Condensed History of the Court Cases

(See also Map 8)

1990:

The first **customary land rights court case starts in Härjedalen**. It is initiated by the Swedish forest companies Stora (now StoraEnso), MoDo (now Holmen) and Korsnäs, together with a group of small private landowners and the Forest Owner's Association Mellanskog. They submit an application for summoning five herding communities to the district court in Sveg. At this point the forest companies claim that the herding communities have no customary right to reindeer grazing on the main part of the land below the reindeer grazing mountains.

From 1990:

Numerous **letters and appeals are written by the Sámi to the government** explaining their hopeless situation and asking for support. In these letters they make constructive suggestions for finding solutions; e.g. a compensation fund, a working group for an out-of-court agreement, etc. Prior to 1996, the **county board as well as the Swedish government repeatedly deny to fund the process for an out-of-court agreement** between the Sámi and the SPLOs. This is even valid for a joint letter by the Sámi and SPLOs to the government, requesting financial aid for finding a settlement via a working group. **The government also refuses to establish a compensation fund.**

1992:

The forest companies MoDo, Stora and Korsnäs participate in the Härjedalen trial until 1992, when they **withdraw and effect reconciliation with the herding communities**. According to this settlement, the use of company land for reindeer grazing is guaranteed and the case between the companies and Sámi is ceased. The hope that the SPLOs involved in the court case will join the forest companies and withdraw, seeking an out-of-court agreement with the Sámi, is disappointed. Some 700 SPLOs continue the lawsuit on their own with the original demand as their major claim.

February 1996:

The **herding communities lose the customary rights court case in Härjedalen** county in the Sveg court. In its judgement of 21 February the district court states that there is "no right to graze reindeer on the properties concerned by the case". This means the Sámi lose their customary right to winter grazing on all land that has been questioned by SPLOs (which is the main part of the herding communities' traditional winter grazing land). They no longer have the right to winter grazing on any of the questioned areas outside the mountain (summer) grazing area – the so-called "tax mountains". According to the court, evidence is missing for the herding communities' plea of customary rights east of (below) the mountains (in the forests).

The judgement is a major setback for reindeer herding in Härjedalen. The herding communities have to pay more than SEK4 million for the process, and must pay close to SEK3 million for the costs of the opposing party. The Chairperson of the Board of the Sámi Parliament sharply criticises the judgement: "The court in Sveg has passed their judgement based on a narrow-minded perspective. It looks more like ill judgement. It shows that we from a Sámi perspective must focus harder on the people's rights. If we can't secure the basis of reindeer herding it means a threat to the Sámi culture as a whole and the Sámi people." Nobody (even the public) ever expected that the case could have such a disastrous outcome for the Sámi. The Sámi realise that they cannot trust the law. The five herding communities appeal the judgement to the Court of Appeals in Sundsvall.

March 1996:

A request to the government is again made by the herding communities involved in the Härjedalen court case, asking the government to help find a solution to this conflict. **The answer by the State is: "Sorry, we do not know what to do in order to find a solution"**. However, the government gives an order to the Provincial Government to carry out an investigation about the importance of winter grazing land for the herding communities involved in the Härjedalen case. The government further asks the Provincial Government to come up with a solution. The answer of the Provincial Government is: "We cannot find a solution."

September 1997:

The five herding communities being sued in the Härjedalen case demand that the Court of Appeals try the question of these herding communities. They plead that the Court of Appeals invalidate the district court's judgement and dismiss the plea of the landowners. **The Sámi also claim that the Swedish State should defend them in the challenging of their collective right to reindeer herding, in view of the fact that the practice of herding is claimed by the State to be a national trade of worthy importance. The Sámi base this claim also on the fact that they neither own nor dispose over the land at issue. If the landowners want to go further they must sue the State, being the juristic body ruling over the so-called "collective right to reindeer herding"**. The Court of Appeals in Sundsvall rejects the claim, saying that there is no hindrance for the legal process. For the Sámi communities in Härjedalen and Idre time is running out. They have no money of their own, and already owe some SEK10 million. A lawsuit in the Court of Appeals costs almost as much, and risks the entire economy of the Sámi communities as well as their social structure. They appeal to the Supreme Court about the judgement of the Court of Appeals.

May 1998:

A group of small private landowners in Jämtland declares another upcoming court case against Tåssåsen herding community.

Summer 1998:

Tåssåsen Sámi community asks the government to create a fund to financially compensate SPLOs for damage caused by reindeer. **A long list of signatures of local people in the area of conflict who support the initiative is given to M. Winberg, Minister of Agriculture and Reindeer Herding.** The same appeal is sent to the government by the county administrative board, as well as by the Berg municipality in which the conflict is very heated. There is no concrete response from government still today. The government starts an investigation on this matter. The outcome of the investigation cannot be expected before early 2002. More new attempts are made by the Sámi to compromise with SPLOs to find an out-of-court agreement and to stop the court cases. The process of finding consensus is very difficult as there are about 700 individual SPLOs in the Härjedalen court case involved. All attempts for a compromise fail and have no chance of success. There is no positive attitude from SPLOs – they insist on nothing less than a court decision. New requests to the government are made to pay at least the court costs (of both sides) so as to ensure that all parties involved are financially able to defend themselves in court. Costs as of 1998 have already increased to SEK11 million. The response from the government finally comes in the Spring of 1999 and is *negative*.

July 1998:

Some **40 landowners in the vicinity of Åsarna, Rätan and Nederhögen file for a new lawsuit in the district court of Östersund.** The landowners claim that Tåssåsen community, in south-west Jämtland, has no right to winter grazing land on their estate. Later, in a letter to the government, Tåssåsen declares that without access to winter grazing land in this area, and with the present lawsuit in Härjedalen, where they lost in the district court the right to winter grazing, the very existence of reindeer herding by the Sámi communities is threatened. The members of the herding community demand an answer as to whether or not it is the intention of the government to keep reindeer herding as a trade in Jämtland, Härjedalen and Dalarna, or if it is to be discharged. "If it is to exist we would like to know in what way the government plans to take actions to secure the opportunity for winter grazing. We want to discuss the possibilities to create a Reindeer Damages Fund, which could compensate small private landowners for unacceptable damage to their forests incurred from reindeer herding. We also want advice from the Minister of Agriculture on how we are going to be able to raise the financial means to defend ourselves in a forth-coming lawsuit – the result of an incomplete legislation which grants us the right to winter grazing outside the year-round land, but does not say where."

The members of Tåssåsen Sámi community think that the government has a responsibility towards the Sámi as an indigenous people, and that it is the government's responsibility to ensure the opportunity of maintaining the Sámi traditional trade on the land required by the needs of the reindeer. **The methods of the landowners spread.** The lawsuits against the reindeer owners are carried on, after **one additional suit has been filed by 89 landowners in Nordmaling.** This time three herding communities in Västerbotten are involved, served by the Umeå district-court. The SPLOs claim that the herding communities do not have any rein-

deer grazing rights on their properties, and the Sámi claim customary rights. In this suit the **landowners say that reindeer herding should have been maintained in the area for at least 90 years before the Code of Land Laws of 1972.** A regular assessment of the reindeer herding is also required to validate customary rights.

August 1998:

A new application for a summons against Tåssåsen Sámi community is brought to court; this is the **second case Tåssåsen Sámi community is involved in.** Now all the best winter grazing land (which is absolutely necessary for reindeer husbandry) of Tåssåsen is questioned.

1996-1998:

As a consequence of the court decision in 1996, six new court cases of similar nature have arisen. This means there are a total of seven ongoing court cases about traditional Sámi rights to winter grazing. They are spread all over northern Sweden. In total, 12 herding communities are sued in these seven court cases by about 1,000 small private landowners who question the ancient Sámi customary right to winter grazing. The series of court cases started in the most southern part of Lapland in 1990 (Härjedalen case), then spread all over Lapland, the furthest south being Idre, and the furthest north Gällivare and Udtja. Thus pressure – both psychological as well as financial – on Sámi reindeer herders has increased tremendously. Financial means to defend themselves in court are getting scarce. Legal defence is becoming impossible. (See also Map 8).

March 1999:

Another joint letter by the 12 herding communities in court is written to the Minister of Agriculture, Margareta Winberg, stating that “It can not be an appropriate consideration by the government that the Sámi and the small private landowners have to clarify legal facts (and their consequences for their livelihood) when the problem is founded in an unclear and incomplete legislation”. A unanimous and clearly defined legislation is the responsibility of the State. Then, resulting from an initiative of a private Swedish individual, and after dialogue with a reindeer herder who belongs to one of the sued herding communities, the **chairman of the LRF is contacted and invites both parties to a joint meeting. This meeting results in contact with the government, which then consents to give SEK3 million for such negotiation.** Furthermore, the Sámi ask the government again to pay at least the court costs to ensure that the Sámi can legally defend their rights. This is of particular importance as the Sámi have no insurance which pays the court costs, whereas the private forest owners have insurance to cover their costs. This means unequal preconditions in the ruling court cases.

1999:

The Sámi become even more active and seek new ways to raise support. A campaign to collect money from the national and international public to help finance the court costs starts. They begin the “Adopt a Reindeer” campaign.

March 2000:

Idre Sámi community announces that they have to stop their legal defence in court due to a lack of funds. The two most northerly communities being sued (Gällivare and Udtja Sámi) make the same announcement soon after.

Autumn 2000:

The government hands the request of compensation for legal costs over to the so-called “Reindeer Husbandry Committee”, asking them to propose a solution to this conflict. Still today, the committee has not come up with a proposal. The date for their answer is postponed again and again, and a response cannot be expected before 2002.



2.2 Ways Forward: ILO Convention 169 and the FSC

In this section Sweden's national and international policies regarding indigenous peoples are discussed. We then look at the two main ways of moving forward towards a resolution of the land rights conflict. The first of these is a *political* approach, which entails pressuring the Swedish government to ratify Convention No. 169 of the International Labour Organization (ILO). The second approach is *market-based* and involves encouraging the small private landowners to have their forests certified by the Forest Stewardship Council (FSC), while getting the timber-purchasing markets to demand only FSC-certified timber.

SÁMI STATUS IN SWEDEN

The Swedish Sámi were not granted definite human rights until 1948, through the United Nations Declaration on Human Rights. From then on they were allowed to live in houses, and about ten years later the ban on their language was lifted and it was allowed to be taught and spoken in schools. The legal status of the Sámi is that of an ethnic minority, akin to the Finnish minority in north-eastern Sweden. A Sámi is a Swede and allowed the same rights as any other Swede. They have recognised civil rights, but no sufficient land rights. They have few collective rights that recognise them as a unique people, and most of these are weak. Thus they are treated as any other minority population in Sweden, and **they are not recognised by law as the indigenous peoples of Sweden**. In the Swedish constitution they are solely mentioned as an ethnic minority. Sámi rights **as a people** are not sufficiently secured by law. For example, one collective right that they are granted is the exclusive right to reindeer husbandry. Along with this is the right to winter grazing (i.e. outside the mountain area, in the forests). This is ensured *in principle*, but there is no boundary that defines where it is legal. In all practical terms, then, the winter grazing right is far too weak and does not protect them sufficiently in practice. It is rendered useless and can be challenged, as it is now in the many court cases held against the Sámi. In summary, it can be said

that the Sámi *as a people* are not legally recognised, while as individual Swedish citizens they are recognised and afforded equal rights.

Throughout the 20th century, investigations into the Sámi people and their rights trailed on endlessly, with no decisions being made about the basics of their legal position. This lack of a determined position has allowed for numerous disputes, of which the land rights conflict is an example, and small game hunting another. In 1992, the Swedish Parliament decided to establish a Sámi Parliament, and *simultaneously* the Swedish Parliament passed a bill which rescinded the Sámi right to administer small game hunting in the Sámi summer grazing grounds. Besides being blatantly disrespectful in terms of the timing of the establishment of the Sámi Parliament, this act also contradicts the Convention on Biological Diversity, which Sweden adopted in the same year. It is long overdue for the Swedish government and parliament to take their national and international responsibility for their indigenous peoples, the Sámi, particularly regarding the legal rights of the Sámi and fulfilment of their duties according to international conventions.

THE CONVENTION ON BIOLOGICAL DIVERSITY

Development of industrial societies (inclusive of economic growth and its associated exploitation of nature, etc.) does not only destroy the environment, but also the peoples and cultures dependent on it. Thus, the sustainability (responsible resource-use) debate was born when nature destruction became obvious. In the early years of this debate (1970-1980), environmental and natural protection was discussed separately from issues of social and cultural values. The questions at hand were simply matters of improving anti-pollution techniques, and of focusing on the protection of threatened species. Today, included into the sustainability debate are not only ecological, but also economical and social/cultural values. This shift can be summarised by noting that certain cultures are now being recognised as under threat as well.

This shift led to the appearance of indigenous peoples' issues in the Convention on Biological Diversity (CBD). The three objectives of this

Convention are: (1) conservation of biological diversity; (2) the sustainable use of its components; and (3) the fair and equitable sharing of its benefits. The text of the Convention was adopted in Nairobi in 1992, and opened for signature at UNCED in Rio the same year. To date it has been ratified by 179 UN Member States, and it entered into force in 1993.¹⁰

In debates raised at the CBD, indigenous peoples' ways of living and managing natural resources were considered and deemed to be attractive alternatives to large-scale exploitation. The CBD is the most comprehensive and ambitious programme ever adopted internationally on the protection and maintenance of traditional ecological knowledge, innovations and practices of indigenous and local communities.¹¹ Despite the remarkable progress made within the CBD, implementation of its Programme of Work is still in its infancy. Thus, providing guidance and technical support for implementation of its programmes remains a high priority from both the biodiversity conservation and the indigenous rights interests, and is an appropriate area of action for environmental organizations that have expressed interest in incorporating indigenous and local communities' issues in their own programmes. The CBD provides perhaps the most important provision for the recognition of the role of indigenous peoples' knowledge for conservation in its Article 8(j) which states that:

“Each Contracting Party shall, as far as possible and as appropriate: “Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the

holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices”.

While many of the articles in the CBD address concerns pertaining to indigenous communities apart from Article 8(j), some articles have been identified by indigenous representatives as being particularly significant, including: Article 10(c), wherein Contracting Parties are asked to protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use; and Article 17(2), stating that Contracting Parties shall facilitate the exchange of information relevant to the conservation and sustainable use of biological diversity, including information on specialized knowledge, indigenous and traditional knowledge as such.¹⁰

In the CBD Programme of Work on Article 8(j) and Related Provisions,¹² the following two Tasks (with direct relevance to the Sámi) are listed:

Task 1. Parties [are] to take measures to enhance and strengthen the capacity of indigenous and local communities to be effectively involved in decision-making related to the use of their traditional knowledge, innovations and practices relevant to the conservation and sustainable use of biological diversity subject to their prior informed approval and effective involvement.

Task 12. The Working Group [is] to develop guidelines that will assist Parties and Governments in the development of legislation or other mechanisms... at international, regional and

¹⁰ Source for the boldface: “Information on United Nations Conferences, Bodies, and Instruments relating to Environmental Issues and Indigenous Peoples”, section IV. Major Conventions related to the Environment, their Conferences of the Parties and Subsidiary Bodies. Prepared by Mónica Castelo at the request of World Wide Fund For Nature (WWF) International for the 15th Session of the United Nations Working Group on Indigenous Populations and updated by Sabine Schielmann in 2001.

¹¹ Source: The UNCCD Secretariat Report on Traditional Knowledge contained in document ICCD/COP(3)/CST/3/Add.1, of 22 September 1999, (para. 29).

¹² Element 1:2 Participatory mechanisms for indigenous and local communities; tasks of the first phase of the programme of work, and Element 7:2 Legal elements.

national levels, that recognize, safeguard and fully guarantee the rights of indigenous and local communities over their traditional knowledge, innovations and practices, within the context of the Convention.

It can clearly be seen that the Convention requires Contracting Parties (such as the Swedish State) to address concerns of direct relevance to the Sámi. **Sweden is very active internationally in protecting human rights, and ratified the Convention on Biological Diversity. This convention is binding and obliges adopting States to implement the CBD's requirements into national law. The CBD states that "Traditional knowledge should be valued, given the same respect and considered as useful and necessary as other forms of knowledge," and yet to date Sweden has ignored this in the Sámi situation.** Sweden's commitment to indigenous issues is clear and it is astonishing to see that the government does not have the same standards for its own indigenous peoples. It is therefore critical that the government is pressured into acting in accordance with its international reputation and to act on its CBD commitments by intervening in the land rights conflict in defence of the Sámi.¹³

Approach One

As a political effort to secure Sámi rights, the Swedish National Sámi Association calls for the Swedish ratification of the International Labour Organization's Convention No. 169, following the examples of neighbour countries Norway and Denmark. By ratifying this convention, Sweden would take a progressive political stance with regard to the rights and status of indigenous peoples not only in Sweden, but worldwide.

The debate over human rights brings Sweden's double standards into focus: internationally, Sweden is active in promoting indigenous peoples' rights. However, at home their own indigenous peoples are ignored. Many nations, such as Canada, Australia and New Zealand, have shown that it is possible to recognise the social rights of indigenous peoples. Some countries

have also acknowledged the rights of indigenous communities to their traditional lands and have taken steps to return them (see section 2.3). *It is crucial to note here that the Sámi are not demanding ownership of the contested private forest lands – which were historically theirs – but simply the right to use these lands in their traditional fashion.*

THE INTERNATIONAL LABOUR ORGANISATION

The International Labour Organization (ILO) was founded in 1919 and became the first specialized agency of the United Nations system in 1949. As the first international agency to deal with indigenous issues, it serves to promote social justice and peace by issuing codes of international labour Conventions and Recommendations pertaining to varied human rights, particularly in employment, and other social justice issues such as land rights. These Conventions and Recommendations are open to adoption by ILO member States, and more than 360 have been adopted as of 1998. The ILO's tripartite structure gives equal voice to member States' governments and employers' and workers' organisations.

ILO CONVENTION 169

Of main concern to this report is the ILO's Convention No.169, adopted in 1989, titled "The Indigenous and Tribal Peoples Convention". This international legal instrument establishes minimum standards for indigenous and tribal peoples' rights, advocating and acknowledging their freedom to develop in accordance with their tradition and culture. It additionally recognises the collective rights of native peoples as complementing the existing individual human rights. Although indigenous groups tend to find the language weak, the Convention does set minimum standards for rights. It has been ratified to date by 14 countries, mostly in South America, but also including two of Sweden's immediate neighbours, Norway and Denmark.

Convention No. 169 is an amended version of the previous Convention No. 107, and the

¹³ Partly sourced from Svanberg 2000.

changes represented in No. 169 point to significant developments in the international respect given to indigenous peoples. For example, No. 107 was essentially based on the assumption that indigenous and tribal peoples (ITPs) are temporary populations en route to full assimilation into modern, “dominant” societies, and was meant to provide protection during their inevitable transition to modernization. Convention No. 169, on the other hand, replaces such “integrationist” language. It assumes ITPs are peoples of permanent societies and encourages new relationships amongst ITPs and their governing States based on “the recognition and respect of cultural and ethnic diversity”. It therefore encourages ITPs to retain their unique cultures and status, and to set their own development priorities according to their needs and desires.

Such new terms of relationship act to strengthen international protection of traditional values, institutions and customary laws. Ancestral lands and resource uses are given new weight, while the rights to self-definition are strengthened. In short, ITPs are encouraged and supported in their efforts to maintain a distinct existence that remains compatible with the larger States of which they are a part.

SWEDEN AND CONVENTION 169

Sweden to date has not adopted ILO Convention 169. According to the ILO, Sweden took an active role in the adoption process of the Convention: they submitted answers to the questionnaires sent out, consulted Sámi organisations in preparing their replies, and took part in the Conference discussions in 1988 and 1989. However, it is now 2001 and the ILO is still awaiting more precise information concerning ratification.

Ironically, Sweden also made some of the initial efforts to create the Convention and get other nations to adopt it. It would only be possible for Sweden to adopt the Convention if the majority of the Sámi concerns are addressed. Of these, the issue of greatest importance remains that the Sámi be granted full legal recognition of their traditional land-use patterns, in such a manner that would nullify the basis of the small private landowners’ lawsuits against the Sámi.

Below is a list of measures that the Swedish State currently does not assure their indigenous people, the Sámi, thus making ratification of the Convention impossible until State policy commits to certain further changes.

In adopting ILO Convention No. 169, governments are to abide by a policy of which the following quotes are highlights:

“Governments shall...

- 1 ensure that indigenous and tribal peoples enjoy the same rights and opportunities as those granted to other members of the national society;
- 1 assist ITPs in eliminating socio-economic gaps between them and other social groups;
- 1 have due regard to ITPs’ customs or customary laws in applying national laws and regulations to them;
- 1 ensure that, whenever appropriate, studies are carried out in cooperation with the ITPs, to assess the social, spiritual, cultural, and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities;
- 1 recognize the special relationship of ITPs with their lands (land for many ITPs is not just a commodity, but is also a major source of their identity as distinct peoples), including the collective aspects of this relationship, when appropriate;
- 1 recognize ITPs’ rights of ownership and possession over the lands traditionally occupied, and of usufruct of the lands to which they have traditionally had access for subsistence and traditional activities (nomadic peoples and shifting cultivators);
- 1 identify ITPs’ lands and protect their ownership and possession rights, through the establishment, by law...of procedures to resolve land claims.”

It is clear beyond doubt, based on the ILO’s definition of “indigenous peoples”, that the Sámi are the indigenous peoples of Sweden. Therefore the above points, although only a sample of the provisions entailed in Convention No.169, have

an obvious and important relation to the Sámi land rights issue. It is clear that the Convention's provisions cover the Sámi situation in Sweden and denote specific rules of relationship for which the Swedish State should be held accountable in regard to the Sámi's semi-nomadic reindeer herding tradition. However, it also remains clear that until Sweden ratifies the Convention, the State may continue to vicariously set the rules, via a lack of intervention in the judicial processes now ongoing, for future Sámi herding and land use. Should the State remain disengaged in the Sámi plight, allowing the judicial system to run its course, the ultimate result will clearly be abolition of the Swedish Sámi reindeer herding practice at large.

The fact that Sweden would need to acknowledge the Sámi as its indigenous peoples and thus give them land rights is a primary reason why ratification of the Convention remains such a difficult issue for the Swedish government.

In 1997, the Swedish government commissioned Sven Heugren, a former county governor, to investigate whether Sweden should ratify this Convention, and the proper way to do so in the event it should proceed. Heugren's report was presented 18 months later in March 1999 and gained substantial attention in Sweden. The report recommended ratification of the Convention and showed that until the State strengthens the rights of the Sámi, Sweden could not fulfil all the criteria necessary to allow ratification. As an aside, Sven Heugren considers the issue of Sámi rights to be so fundamental that he recommended that the Swedish government carry out measures to ensure them, regardless of ratification of the Convention. The report was kept open for six months for comments and every institution, interest group, political party and organisation in Sweden was asked to respond to it by 1 October 1999. Many of the responses have been negative: the LRF (representing the regional FOAs), the National Hunters' Association, as well as the National Association of Communes have opposed ratification of ILO 169. They contend that non-Sámi populations would be disadvantaged as a result. The public response to the report illumi-

nated the controversies involved in the issue of land rights. Nothing concrete has happened and the government is still considering the options.

Although it is surely fair, in the context of a democratic society, that a judicial process handle the land claim dispute, there are several ways in which the Swedish government could intervene without infringing judicial authority – such as adopting ILO 169, creating a compensation fund, funding the court cases, or imposing a moratorium on the cases.

Ratification of the Convention, while surely a major step forward for the Sámi, would not guarantee that the Sámi's needs will adequately be met. This point brings to attention the situation of the Sámi in Norway. Norway was the first nation to adopt the Convention, and in doing so it was the Norwegian government's assessment that the Sámi usufruct right to land, at the time of ratification, satisfied the provisions of the Convention. However, a commission of inquiry appointed by the government has come to a different conclusion and the issue has not been resolved as of 1999. (See Section 2:3 for more information on Norway and the ILO Convention 169). Thus it is clear that Swedish ratification of the Convention could not be considered as the final measure necessary to ensure satisfactory respect of Sámi rights in Swedish Sapmi. Other steps must be taken to legally assure the Sámi rights.¹⁴

¹⁴ Heugren 1999, p. 29.

Approach Two

As a market-based solution to the land rights conflict, the Sámi promote acceptance of the Forest Stewardship Council's international forest certification process by small private landowners. Were the SPLO's to accept certification of their forests by this process, Sámi land-use rights would be secured. While understanding that the SPLOs will most likely not accept such a plan on their own accord, it is hoped that the international timber markets will begin to purchase more FSC-certified timber, thus encouraging and motivating the SPLOs to move towards FSC certification.

FOREST CERTIFICATION

Certification is a process by which an independent third party gives written assurance after inspection that a product, process or service conforms to specified requirements. Forest certification intends to provide an incentive for improved forest management through the promotion of sound management standards. Beyond recognizing specified management requirements, a forest certificate has to document the location of the forest from which the timber originates. This process provides consumers with reliable information about forest products and their sources, enabling consumers to identify (and hopefully choose) products that come from well managed, certified forests. It is thereby considered a "soft" economic instrument, acting to support forest management that is environmentally appropriate, socially beneficial, and economically viable. It is neither a panacea nor a replacement for regulations and legislation, but can complement these tools.

THE FOREST STEWARDSHIP COUNCIL

The Forest Stewardship Council (FSC) is an international non-profit, non-governmental organisation founded in 1993 by representatives from environmental institutions, the timber trade, the forestry profession, and indigenous peoples' organisations from 25 countries. The FSC encourages the development of sound national and regional forest management standards. These standards are realised by supporting a certification system that evaluates forest management initiatives and certifies goods that uphold the standards.

Social, ecological, and economical aspects have an equal importance in the FSC process; each aspect is represented by a separate chamber, with indigenous peoples issues falling within the social chamber of the organisation. Commitments voluntarily made, such as in the case of companies voluntarily seeking FSC certification, can be more efficient than legislative measures imposed on companies or other interests. In the Sámi situation, for example, legislative measures have only produced loose laws with incomplete rulings for the specifics of reindeer grazing allowances, while FSC certification according to the Swedish FSC standards entails tight specifications, such as maps of permitted grazing zones.

SOCIAL ASPECTS WITHIN THE FSC

With FSC certification, entirely new dimensions of forestry have emerged which have been taken seriously. For the first time, social aspects of forestry practice are considered to be part of the design of a viable forestry. Indigenous people are finally invited to the process of creating rules and standards for a viable use of the forests. And for the first time the voice of indigenous peoples equals the voice of forestry industry and organisations for nature protection. While not all indigenous peoples support the FSC or certification in general, it is recognised by the Sámi as a way forward. The Sámi are a strong example of a group which has received benefits from FSC certification but such benefits have not been limited to the Sámi (see sub-section on Importance of the FSC for the Sámi in Sweden).

NON-GOVERNMENTAL ORGANISATIONS AND THE FSC

The FSC is seen as the only certification system that takes into serious consideration social as well as environmental issues. Given that active environmental work and securing indigenous peoples' lives and livelihoods are inseparable, the social aspect is therefore taken seriously by environmental non-governmental organisations (NGOs). The FSC is supported and promoted by all major environmental NGOs such as Robin Wood, WWF, Greenpeace, Friends of the Earth and many others. They work towards encouraging consumption of only those wood products that are certified and environmentally and socially friendly. It is also

supported and promoted by a long list of social NGOs such as Foundation for People and Community Development, Inc. (Papua New Guinea), Just World Partners (UK) and Hoopa Valley Tribal Council (USA). (See Appendix 2 for FSC's list of members' website address.)

THE TIMBER INDUSTRY AND THE FSC

The international timber industry's acceptance of the Forest Stewardship Council's standards and of certified wood (in the milling and processing sector) has increased continuously since the FSC was set up in 1993. Forest products derived from FSC-certified forests are allowed to carry the FSC trademark. In addition to inspecting forest management, the FSC audits the chain-of-custody of the forest products from the forest to the saw or pulp mill and on through the manufacturing process. In this way, products bearing the FSC logo provide a credible guarantee that they are sourced from well-managed forests.

Initiated by WWF, Forest and Trade Networks (FTNs) are partnerships between environmental groups and industry whose members are committed to producing and purchasing forest products from well-managed forests and to supporting independent certification. FTN members range from small family-owned businesses to world leading companies, such as the home furnishing company IKEA and the North American home improvements chain Home Depot. IKEA, for example, has a long-term agreement with Greenpeace not to use timber from ancient forests, and to increase their amount of FSC-certified timber/products. Major foundations such as the Ford Foundation are FSC donors. The FSC can provide a tangible way for companies and foundations to demonstrate their corporate responsibility.

What is certain is that many companies speaking with a common voice deliver a powerful message to their suppliers. FTN member companies are beginning to effect changes in the international commodity market. Home Depot, with nearly 1,000 stores and selling 10% of the world's entire production of sawn-timber products, has committed in the long term to sell only third-party

certified forest products. Major forest companies such as AssiDomän, one of Europe's leading forest product companies and the largest private forest owner in Europe, are entering into partnerships to encourage environmentally responsible forestry, through among other things the promotion of FSC certification. Corporate action is clearly one of the driving forces behind the market shift towards certified wood and paper products.¹⁵

In June 2000, WWF organised a conference and trade fair in London – The “Millennium Forest for Life Conference”. It attracted 23 of the world's largest producers of wood-based products, including eight of the top ten. Together, these represent one-third of the world's total production of forest products. The trade fair showed that FSC products have had a breakthrough with producers and retailers of forest products. The Sámi were invited to the trade fair to present their plight and their beneficial link with FSC (see page 74 in Part 3).

As mentioned in section 1.4, (subsection: Forest Owners' Associations and the Federation of Swedish Farmers) large Swedish forest companies buy a percentage of the wood for their mills from controversial sources such as the small private landowners suing the Sámi. The reader may be wondering at this point why the Forest Stewardship Council agrees to certify forest company land, considering that they buy such controversial wood. The issue is complicated and beyond the scope of this report. In short, it is important that *products* carrying the FSC logo do not include wood from controversial sources, and the FSC is working on a policy that eliminates this type of problem for future certification efforts. However, it remains possible for a forest company to have their own lands FSC-certified while also buying wood from non-certified areas. The FSC defines controversial wood as being “wood that has been illegally harvested; wood from genetically modified trees; **wood from areas where there is a clear demonstration of violation of traditional customary or civil rights, or of serious extant disputes with indigenous peoples or other social stakeholders, involving confrontation or violence;**

¹⁵ Rainey 2000.

and wood from uncertified high conservation value forests”.¹⁶ What the FSC strives to guarantee for the future is that no wood from controversial sources will be included in FSC-certified products. However, mechanisms to ensure that wood is not from such controversial areas are very difficult to implement and require more time to fully do so. In the Sámi case, the issue remains a moral question for the forest companies: why they are willing to support the Sámi by allowing them to graze reindeer on company land while simultaneously buying wood from SPLOs who clearly violate traditional Sámi rights by forbidding reindeer on their land?

IMPORTANCE OF THE FSC FOR THE SÁMI IN SWEDEN

The social benefits of FSC-certification are not limited to developing countries. In Sweden, FSC certification has brought with it positive consequences for the Sámi. “The FSC provides one way for the Sámi people to continue their traditional way of life of reindeer herding,” says Olof T. Johansson, reindeer herder and member of the Swedish FSC Council. “My community [Tåssåssen] has been targeted in several ongoing court cases, all of them initiated by private, non-FSC certified forest owners. But we have no grazing rights disputes at all with FSC-certified forest owners. There are other advantages with FSC certification for reindeer. The Swedish FSC-standard stipulates that the local Sámi community should be consulted before a logging is planned and that a fair amount of trees are saved at the logging sites. This means more lichens for our reindeer to eat.”¹⁷

The FSC process, inclusive of Sámi participation, marks a positive way forward. Present Swedish legislation, as has been shown, does not guarantee access for the Sámi to their traditional winter grazing land. The methods of forestry from the 1960s to the present have been impoverishing

factors for both reindeer grazing and biological diversity. **However, certification according to the FSC is expected to ensure the availability of healthy grazing space, leading also to benefits the small private landowners will receive through being able to market their timber as FSC-certified.** In Sweden, the Sámi people have from the outset taken an active part in the FSC process of developing national criteria for sound forest management. Participation in this process gave the Sámi the opportunity to voice their needs and concerns about forest management.

From a positive point of view, the result of the national process leading to a Swedish FSC standard is very good in terms of reindeer husbandry. In a process where the goal is mutually beneficial solutions to a set of problems, a willingness to compromise should always be present. The Sámi are thus satisfied with the current FSC standards and, were the private forest owners to adopt FSC standards, the entire land rights conflict would take a major turn towards resolution. In FSC-certified forestry, reindeer grazing is allowed on Sámi traditional grounds, and a map showing the boundaries for winter grazing land is included in the Swedish FSC standard, so it is unquestionable where reindeer grazing is permissible.

As stated in section 1.4, the Reindeer Husbandry Act of 1971 included no comprehensive map covering all reindeer areas showing the most important winter grazing areas for herding. Therefore the Board of Agriculture and the Planning Commission, in consultation with affected Agricultural Councils, developed such a county map. Thereafter, supplements were made in addition to the county maps, which contained among other things information from the Planning Commission Inventory of Land Use for Reindeer Husbandry.¹⁸ This map, published by a government authority, is the one used by the FSC in their Swedish standards.¹⁹

¹⁶ See the FSC website, listed in Appendix 2, for the “FSC Policy on Percentage-Based Claims”, 15 May 2000.

¹⁷ Rainey 2000.

¹⁸ Swedish National Planning Commission Report 20, Part 3.

¹⁹ The map is entitled “Reindeer Herding Areas of Interest” and is an appendix to the Agricultural Board, report of the Swedish National Planning Commission 44:5, “Reindeer Husbandry in Municipal Planning”.

In the Swedish FSC standard, consultation between a forest owner and the relevant Sámi community is obligatory. The availability of older forests full of tree-hanging lichens is to be taken into consideration. These are requirements that are of direct importance to reindeer husbandry (see Box 5 on Swedish FSC standards).

If the FSC system proves to be an effective means of prompting the international timber-consumption markets and public towards supporting responsibly managed forestry practices, there will be pressure on the private Swedish land (forest) owners to participate in the FSC process or to secure similar standards. This

pressure will ideally encourage these private Swedish foresters to improve their certification system and/or to be more accepting of the Sámi, if not to accept FSC. The Sámi have lobbied positively for FSC but have not promoted a boycott of any other certification scheme (see Map 9).

SMALL PRIVATE LANDOWNERS AND THE FSC IN SWEDEN

After a failed attempt to reach consensus in April 1997, the representatives of the small private landowners voluntarily withdrew from the Swedish FSC working group. Since then the SPLOs have worked on developing their own

Box 5. The Swedish FSC standard

The FSC's Principles and Criteria contain forestry management guidelines that may be generally applied worldwide. The system of certification, however, is to be adapted to the local conditions that apply in different countries, and one of the FSC's most important tasks is therefore to support the work of developing national FSC standards. The Swedish FSC Working Group was formed in 1996 for the purpose of producing a proposal for the Swedish FSC Standard to be submitted to the FSC for approval. The Working Group consists of representatives of social, environmental and economic interests. Following is principle number three of the ten basic principles, which concerns indigenous peoples' rights. (More information about the FSC in Sweden can be found on the web at: <http://www.fsc-sweden.org>)

Excerpt on Indigenous People's Rights in the Swedish FSC Standard:

3.2.1 Areas of Reindeer Husbandry

The forest owner accepts and gives consideration to the Sámi people's reindeer husbandry carried on his land holdings if it is within the area that the County Agricultural Board, the National Board of Physical Planning and Building report no. 44, Section 5, 1978, has designated as a reindeer husbandry area (year-round and winter grazing land).

3.2.2 Consultation Procedure

If the land holdings are in the area Stated above, consideration shall be given to reindeer husbandry as set out in §31, the Forestry Act. The regulations and general guidelines on consultation embodied in §§20 and 31 shall apply, unless otherwise agreed, for land other than areas used year-round for reindeer husbandry.

3.2.3 Forests Bearing Arboreal Lichens

In reindeer husbandry areas each forest manager must consider in his planning access to older forests bearing arboreal (pendant) lichens, leaving edge zones bordering on bogs, streams and water courses and, when felling trees with arboreal lichens, save stands in the clear-felled area as areas from which lichens may disperse.

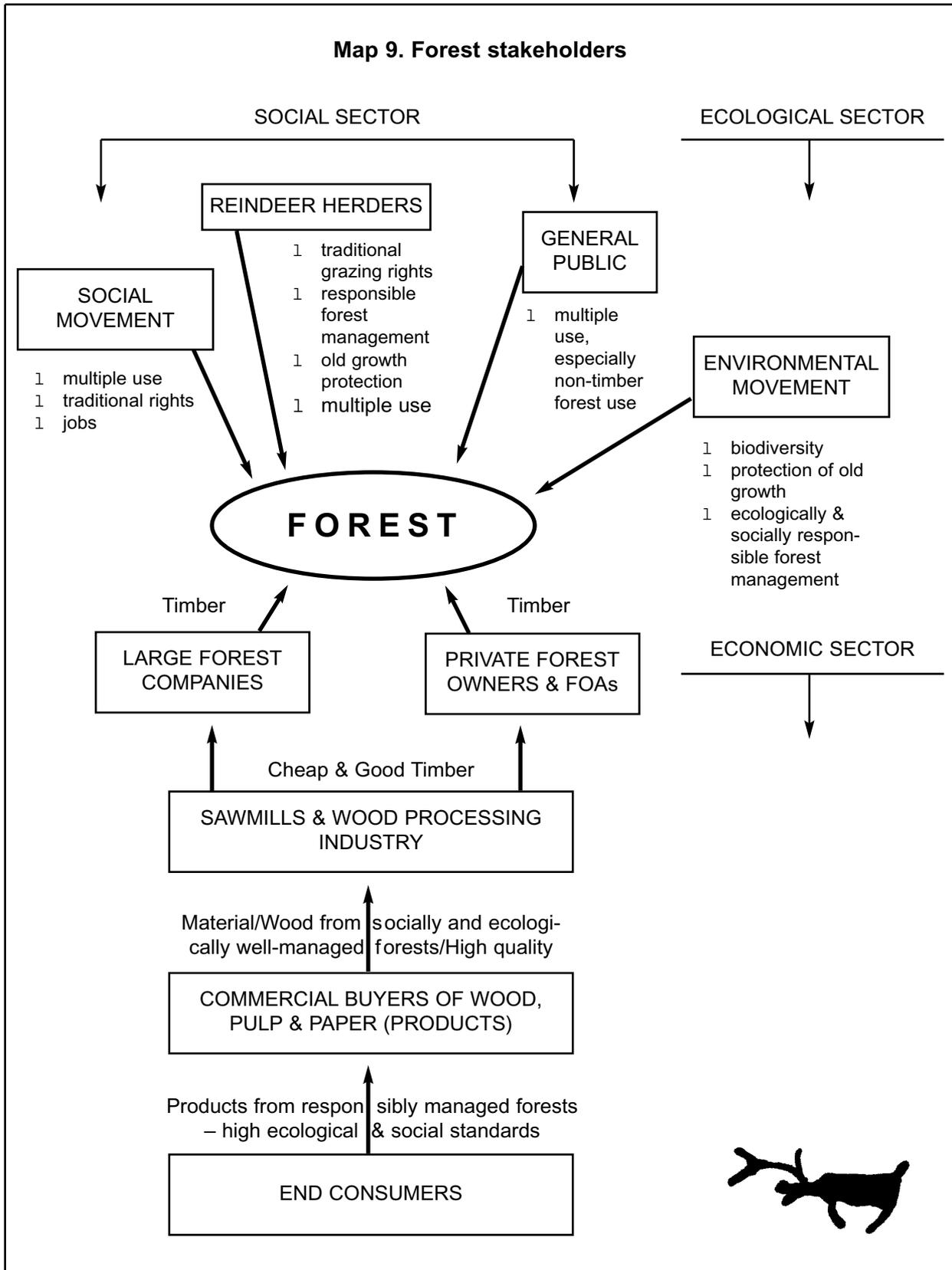
3.2.4 Places of Special Importance

In the reindeer husbandry area, the forest manager shall take into consideration and respect, in co-operation with the Laplanders [sic], places identified as being of special cultural, ecological, economic or religious importance to the Sámi people. These are old dwelling places and other Sámi cultural relics, migration paths, natural gathering places, overnight resting places (grazing), difficult passages, particularly important arboreal lichen areas, work paddocks and calving places.



certification system without the participation of NGOs or social stakeholders. This led to the Swedish Pan European Forest Certification Scheme (see section below). Even though the

SPLOs stated a range of reasons for leaving the FSC, it is clear that the heart of the matter is strong solidarity with the limited (but not insignificant) number of SPLOs from northern Sweden



who are engaged in lawsuits against Sámi reindeer herders. Counter to the arguments of some SPLOs, FSC works well for small landowners in general and is well adapted in other countries of the world, e.g. the USA. FSC has developed a concept of group certification specifically to make it practical and affordable for small forest owners to become certified.

THE PAN EUROPEAN FOREST CERTIFICATION SYSTEM

The Pan European Forest Certification (PEFC) system was developed by the forest sector in Europe as an umbrella system to endorse national certification initiatives in Europe. It is governed primarily by the European small private landowners (and forest industry). Under this scheme there is no balance between social, economical and ecological interest groups – one of the main strengths of the FSC. Small private landowners dominate within PEFC, and the scheme does not respect indigenous peoples rights or interests. Generally speaking, PEFC standards are lower than FSC standards.

THE SWEDISH PEFC AND THE SÁMI

The Swedish PEFC standard is basically a policy paper regarding reindeer herding, not a forestry standard. In February 1999, the Sámi approached the PEFC to ask them to consider the social aspects (people's rights) in their standard, and this has led to nothing concrete. The PEFC itself claims nationally and internationally that the Sámi issue (traditional grazing rights) is fully considered and clarified between the PEFC and the official body of the Sámi reindeer herders. This is unfortunately not the case. To date it remains clear that herding interests are not seriously considered in the PEFC standards.

Comparison: FSC versus PEFC

In Europe, forest certification is now universally accepted as an important tool for communication of management practices, and several different certification programmes other than the FSC have

been established. The role forest certification can play depends on the strength of the chosen certification system. Certification systems currently in operation are significantly different from each other in terms of procedural and performance requirements. The Forest Stewardship Council and the Pan European Forest Certification Scheme are two of the four largest.

So far, the only certification scheme that allows equal participation of all voices, and respects indigenous peoples' rights while guaranteeing sound ecological standards, is the FSC. This is greatly appreciated by the Sámi and the reason why the Sámi cooperate with and promote FSC. All other certification schemes are urged to join FSC in upholding each of these working principles. No certification scheme can suit perfectly the needs of all the various stakeholders, however the FSC represents the best compromise for the many interest groups.

In principle, the Sámi are open to any kind of certification as long as the scheme reaches at least the level of FSC principles and standards, especially where social principles are concerned, which would thereby acknowledge Sámi rights. In terms of basic, general principles, the Sámi and the international community of environmental NGOs expect any certification scheme to be:²⁰

- 1 fully transparent to the parties involved and the public, i.e. open to public comment;
- 1 based on objective, comprehensive, independent and measurable performance-based standards that are both environmental and social;
- 1 based on the equal and balanced participation of a broad range of stakeholders;
- 1 based on a labelling system that includes a credible chain-of-custody;
- 1 based on reliable and independent third-party assessments, including annual field audits;
- 1 based at the forest management unit level (and not at country or regional level);
- 1 cost effective and voluntary;

²⁰ Based on "Behind the Logo: An environmental and social assessment of forest certification schemes", report by Fern, May 2001 based on case studies by numerous environmental NGOs. See www.fern.org and www.cmnet.org.

- 1 applicable globally and to all sorts of tenure systems, avoiding discrimination.

In addition, forest owners/managers are expected to demonstrate positive commitment to improving forest management.

Specific to the Sámi in Sweden, a certification scheme must entail:

- 1 consultation of the Sámi by small private landowners according to principles of Swedish Forestry Act;
- 1 a securing of forests with hanging lichens;
- 1 respect for traditional rights;
- 1 equality for the Sámi voice; and
- 1 no wood taken from disputed areas (i.e. where Sámi grazing rights are questioned).

Analyses of the PEFC system by many environmental NGOs (including Greenpeace Nordic, The Nature League of Finland, WWF, Taiga Rescue Network, and Fern UK) show that it does not comply with these basic requirements for forest certification. PEFC cannot guarantee that timber products come from forest management free of environmental and social conflict. The PEFC system does not require the protection of high conservation value forest and **has no comprehensive mechanism to resolve social conflicts and recognise indigenous peoples' rights**. PEFC does not require verification of legal compliance of forest management certified under its national schemes. Thus, the PEFC label does not guarantee that the timber certified originates from legal forestry operations. Moreover, PEFC does not require the comprehensive implementation of international agreements and conventions such as the Convention on Biological Diversity.

WWF's position statement of March 2001 states: "Although individual national certification schemes under PEFC could potentially encourage improved forest management, the PEFC's requirements and procedures cannot guarantee credible verification of good forest management throughout the system. The PEFC is

thus not an appropriate system to improve forest management, encourage preservation of remaining biological diversity, solve social conflict, and provide a credible guarantee for good forest management to forest industries, timber processing companies, retailers, consumers, and other stakeholders". The analyses make clear that only FSC delivers on every important component of a credible forest management certification system.

2.3 International Comparison

The following are short examples of measures taken by governments to improve the land rights of their indigenous peoples. Norway, as the nation most prominently bordering the herding areas of the Swedish Sámi, is given particular attention. Appendix 3, "Swedish Sámi in a Trans-Nordic Perspective" provides views expressed by the United Nations and the international Sámi Council on the status of the Finnish, Russian, Norwegian and Swedish Sámi, allowing easy comparison.

One can observe efforts from some countries to make amends with the way the court system worked during their respective periods of colonisation:²¹

- 1 In 1996, the Australian Supreme Court returned native title to certain areas of Queensland to the Thayorre and Wik people. This is called the 'Wik-case' and constitutes a landmark in Australian history.
- 1 Nunavut in Canada may be the most dramatic example of this new approach in indigenous land rights issues. Nunavut, which means "our land" in Inuit language, is a new self-governed territory on the map of Canada, established on 1 April 1999. Nunavut, with its 27,000 inhabitants, most of them Inuit, has its own parliament, cabinet and premier.
- 1 Another well-known example is the "Delgamuukw Decision" of 1997 in British Columbia, Canada. This case was started on

²¹ Taken from Bohman 1999, with other information added from personal correspondence with Eivind Thorp.

behalf of 51 hereditary chiefs, representing most of the tribal rulers of the Gitksan and Wet'suwet'en peoples. The chiefs asked the court to rule that they had ownership and jurisdiction of an area of about 58,000 square kilometres in north-west British Columbia. **In Delgamuukw the Supreme Court of Canada recognized that the existing laws of evidence worked against indigenous peoples and consequently emphasised the validity of evidence in the form of oral histories.** The supreme court statement read as follows:

“Notwithstanding the challenges created by the use of oral histories as proof of historical facts, the laws of evidence must be adapted in order that this type of evidence can be accommodated with the types of evidence that courts are familiar with, which largely consists of documentary evidence (...).”

The Delgamuukw judgement contains elements that will influence cases of this kind for years to come. Perhaps most important is that oral histories and other non-documentary evidence to show past occupancy must now be placed on an equal footing with written evidence.

- 1 Norway also has a Sámi reindeer herding culture which faces a conflict similar to the Sámi in Sweden. However, Sámi rights are guaranteed in the Norwegian constitution, and the Norwegian political parties have Sámi representatives. Norway ratified ILO Convention 169 in 1990, and in 1995-96 the State decided to change the laws of evidence for old customary rights. In a conflict where there is uncertainty about immemorial possession, it is up to the landowner to prove that the Sámi do not have old customary rights in the area. **The burden of proof in this case is the opposite of that acknowledged in Sweden.** This decision was the result of an extremely close parliamentary vote in which a single vote turned the tide and left the burden of proof to the

private landowners. This decision was made in relation to Norway's ratification of ILO Convention 169.

NORWAY AND THE ILO CONVENTION 169²²

In 1987, the Norwegian Parliament helped establish a direct national representative Sámi body, the Sameting (Sámi Parliament). With regard to issues such as reindeer husbandry, fishing, and hunting, the Sameting has had consultative and administrative authority of the majority of measures and orders concerning the Sámi. The Sameting “is to oversee – politically and formally – that the administrative orders concerning the Sámi are complied with”.

The Norwegian government sent its latest report (1996) on its implementation of ILO 169 to the Sameting for comments, prior to submission to the ILO (the next report is due in 2003). The voice of the Sámi is thus established as a permanent part of the formal reporting procedure. This arrangement is not found in any other country that has ratified the Convention, and although it is recommended by the ILO that States include the voice of their indigenous peoples in their reports to the ILO, it is not a requirement.

According to the ILO's guide, the Norwegian Ministry of Culture “has instructed the regional board responsible for managing Crown land in Finnmark [Lapland] to ask the opinion of the Sámi Assembly before taking any decision concerning land-use projects. The reindeer herding districts are legally entitled to be consulted, have the right to be compensated, in the event of economic damage, and may bring lawsuits before the courts if they consider a project inadmissible”. The Ministry of Justice has established a “**free legal aid project**” covering four municipalities of Sámi populace, which provides financial assistance for legal advisory services and for civil proceedings. The guide continues to note that “**The courts are obliged to use Sámi [language] when taking evidence and in prosecution**”.

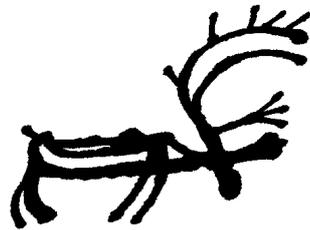
²² The following is based on or quoted from the International Labour Organisation's Guide to ILO Convention 169, as concerns Norway (pp. 6, 10, 18 and 25, emphasis added).

IN CONCLUSION

According to University of Östersund, Sweden researcher Eivind Thorp, Sweden is an international leader in terms of investigations into indigenous rights. However, the will to investigate can often stall actual political action and decisions. Others farther from home have taken

similar note of Sweden's actions. The following is an excerpt from a letter from the Pingo Forum in Tanzania to Sweden's Minister of Agriculture and Sámi Affairs, Margareta Winberg, dated July 1999: "The Swedish government's will to protect indigenous peoples around the world must begin in Sweden. The struggle for peace and justice always begins at home".

Part 3
**The Sámi “Reindeer Forest Rescue”
Initiative**



3.1 Initiative Beginnings

SUMMARY OF THE SÁMI REACTION TO THEIR SITUATION

Led by the Tåssåssen reindeer herding community, the Sámi communities have responded in a number of ways to the land rights conflict they face. Their interpretation of how the conflict has developed so far (described in Part Two) is that all attempts – local or national – to find a solution and/or to get support from the government have failed. The Sámi are running out of time and money. They have decided to seek alternative ways.

By the summer of 1998, all attempts to settle the conflict through an out-of-court agreement had failed and there was an air of shock at the annual meeting of Tåssåssen Sámi community, especially as a new court case was being initiated. Considering what had happened in the other land rights court cases during the previous eight years (since the first court case of Härjedalen started in 1990), the Tåssåssen Sámi community members realised that they could not lay their trust in the law, or in the State, in this matter. They decided to become active and seek alternative paths. The question was how, given their very limited resources.

A few options have presented themselves:

- 1 On one hand, giving up in court immediately would save high court costs. On the other, the Sámi would lose their winter grazing rights immediately, forcing them to give up reindeer herding forever.
- 1 Staying in court to defend customary rights would mean that the Sámi could let their reindeer graze on private land until the Supreme Court makes its final decision. Stalling a decision in this manner might result in a permitted continuation of reindeer herding for some ten years. If, during that period, all national legal possibilities are exhausted, there might be the possibility of raising the question in an international forum such as the UN Human Rights Commission in Geneva, or the European Court in Strasbourg. However, by the time the Supreme

Court makes its final decision, the Sámi will be completely bankrupt, and as it is expected that they have minimal chances of winning, they might ultimately be left with enormous debts in place of grazing rights.

Although the Sámi are not without supporters and sympathisers, they cannot expect to get much support nationally, as a large part of the general public in Sweden is either unaware of the Sámi ways and their situation, or are in competition with them over natural resources. There is no support from the government, which considers the Sámi as an ethnic minority. They are respected as individuals, as Swedish citizens, but not as a people with claims to land rights; the Sámi as a minority are not an interesting group in terms of votes. There is no will to compromise on the part of small private landowners, who are insisting on court rulings, confident of winning with the current legislation. There is only partial support from Swedish environmental NGOs, as a result of other controversial issues in which the Sámi are involved, such as questions related to carnivore control. The political processes are moving very slowly, but time for the Sámi is short. The court cases are a question of survival for the reindeer herders. They need to find allies who support them and are interested in cooperating with them.

3.2 Realisation of the Initiative

An Initiative to raise public awareness about the issues ran for 18 months. For the first time the Sámi hired outside help to work on national and international levels to strengthen their position and to find a solution to the conflict. Close cooperation with European environmental and social NGOs, international media, and international lobby work in the political arena started in early 1999. Several Sámi Associations and the various Sámi reindeer herding communities played different roles in the Initiative. The main funding came from internal Sámi funds, although these were sparse. Other funding came from NGOs and private donors.

STEPS

The first step was to complete a thorough analysis

of the current situation, identifying stakeholders, problems, the politics etc. This was carried out by a professional hired under temporary contract. The goals for the Initiative and a strategy for achieving them, inclusive of a detailed activity plan included the following:

The main Sámi demands are to:

- 1 respect Sámi traditional rights;
- 1 allow multiple use of forests in Sweden.

The main goals are to:

- 1 ensure Sámi winter grazing rights on private forest lands;
- 1 define the intermediate goals needed in order to ensure Sámi winter grazing rights.

The short-term goals are to:

- 1 get the private forest owners challenging the Sámi winter grazing rights to agree to let their court cases rest while a political solution is sought (a 5-year moratorium);
- 1 find a political solution through:
 - i) a government-financed compensation fund, to be created to compensate the SPLOs for damage to their forest by reindeer;
 - ii) the establishment of an independent border-drawing commission to investigate where the traditional winter grazing rights are valid, and following up by implementing the conclusion in law (only worthwhile if a moratorium on the court cases is in place);
 - iii) getting the Swedish State to ratify ILO Convention 169 before the court cases are decided.

The long-term goals are to:

- 1 get the SPLOs challenging the Sámi grazing rights to completely withdraw their court cases against the Sámi communities, and agree not to start new ones;
- 1 get the SPLOs challenging the Sámi grazing rights to certify their forest management according to the FSC, or another certification

system as good in all aspects (no such system exists at present).

The main stakeholders in the conflict are:

- 1 the Tåssåssen Sámi community and 11 other Sámi reindeer herding communities who are currently defending their traditional winter grazing rights in court;
- 1 about 1,000 small private landowners who are suing the 12 Sámi communities;
- 1 the Forest Owners' Associations – the unifying organisations behind the SPLOs;
- 1 the Federation of Swedish Farmers (Lantbrukarnas Riksförbund; LRF) – the national umbrella organisation for the Forest Owners' Associations, which have the same policy as the Forest Owner Associations. LRF's position regarding the land rights conflict is clear, in that the chair has expressed support for the legal processes, and the legal branch of LRF is assisting and representing the SPLOs in the processes;
- 1 the Swedish government and other governmental authorities dealing with Sámi issues in general and with reindeer herding in particular;
- 1 the seven Swedish forest companies;
- 1 the consumers of Swedish wood, pulp and paper products – both commercial (buyers of wood and paper products) and end consumers (the general public);
- 1 the active allies of the Sámi reindeer herding community of Tåssåssen, such as the National Association of the Swedish Sámi (Svenska Samernas Riksförbund; SSR), the Sámi Parliament and Sameätnam, as well as international Sámi organisations such as the Sámi Council;
- 1 the allies of the Sámi outside Sámi circles, e.g. some 40 European environmental and social NGOs;
- 1 international networking organisations, such as the Taiga Rescue Network, the World Rainforest Movement and the International Working Group on Indigenous Affairs (IWGIA);
- 1 Swedish and international high-profile individuals acting as patrons for the Sámi (e.g. Jan Guillou, Kerstin Ekman).

WHAT UNIFIES SUCH DIFFERENT GROUPS?

Indigenous peoples' issues are of high concern to the general public and politicians in Europe. In addition, responsible forest management and old-growth protection is also a high priority to many people and stakeholders. Thus, when telling the story of the Sámi – who need both environmentally friendly forestry and respect of their rights as indigenous peoples – sympathy is easily raised. This alone does not mean that a group or stakeholder would necessarily lend active support to the Sámi unless there is some concrete benefit to be derived.

How does one persuade such a diverse group of organisations and individuals to combine in a united show of strength for the Sámi people? The answer seems to be promotion of FSC forest certification. The unifying goal of all cooperating (allied) stakeholders is the FSC, as an abstract tool with very concrete “on the ground” effects. FSC is the perfect tool to combine social and ecological concerns, as it supports not only the Sámi needs and demands, but also the goals of other groups. For example, NGOs working to promote sound forestry standards can help not only their cause, but also that of the Sámi by supporting the FSC process. FSC certification is a market tool and steered by it, thereby making buyers and end consumers an interesting target group to inform.

For example, several Swedish forestry companies became FSC-certified from 1997 to 1999, and FSC has been high on their agenda since, largely in efforts to promote their image and brands. They can now use the Sámi as a public relations marketing tool by doing such things as including statements in their brochures about how they support and respect indigenous peoples groups, which in the end can only benefit the Sámi. The same is valid for the environmental NGOs in Europe who can show support for native peoples whilst further establishing the FSC standard. WWF, while advertising their engagement with FSC, regularly includes mention of the Sámi.

The Sámi have always lobbied pro FSC, not contra PEFC, with the intention of changing PEFC so that it becomes acceptable by incorporating indigenous peoples' rights into its standards.

Activities

During the 18 months (December 1998 to July 2000) of the Initiative, the following main activities occurred:

- 1 A **network** of about 40 supporting national and international NGOs in Europe was created;
- 1 An **information campaign** was initiated in response to requests for information on the conflict by concerned timber consumers, media, etc; and
- 1 Unique **coalitions were created** based on shared interests – promotion of FSC certification – amongst a variety of different parties.

The networking efforts merged with the information campaign, and the network established has provided crucial help in information dissemination through a wider web of channels. The network was created with the unifying goals of indigenous peoples' rights and responsible forest management according to FSC certification. The coalitions created made it possible to extend the reach of the information campaign.

THE INFORMATION CAMPAIGN

When the land rights conflict culminated in several court cases against the Sámi, the issue became increasingly better known nationally and internationally. With growing interest and increasing requests for information by international media, politicians and NGOs, the Sámi realised that it was crucial to raise awareness more professionally, and that it was possible to gain international support for their cause.

The first step after creating a basic action plan was to hire a full time information officer. The appointee coordinated and planned activities, acted as a translator and mediator, as liaison with allies, and communicated with the steering committee and expert group. Having a single person responsible for “holding the strings together” and making things happen was both efficient and important. All actions and information essentially ran through this one person so as to keep the project organised and planned from a core coordinating centre.

The information officer began by producing information for the press and general public, while coalitions with NGOs emerged. Over time, the information started reaching the European consumer countries, both end-consumers and commercial consumers of Swedish wood products. In particular, commercial buyers of Swedish wood products who were interested in FSC certification became aware of the Sámi case and wanted to know more about the conflict. They started contacting the Sámi for first-hand information. Consequently the awareness-raising and information-distribution efforts shifted gradually from the general public to a more specific audience: the European market of Swedish wood products. This audience seemed of high importance, considering it acts as a "multiplier", with influence on Swedish timber producers (the SPLOs), thereby raising a powerful voice for the Sámi cause.

The main target groups to be informed were the:

- 1 mass-media and specific forest/timber-related branch media;
- 1 general public;
- 1 allies (support groups);
- 1 politicians (national and throughout the European Union);

- 1 forest sector (timber producers and their commercial consumers (buyers) – national and international).

Multipliers spread information about the land right conflict; i.e. most of the above-mentioned groups were informed via allies and media, who in their turn received the requested information from the Sámi Initiative. This meant information needed to be directly produced only once and could then be multiplied by other stakeholders. As a result, distribution was very effective – it was less time consuming, less work intensive and less financially demanding than direct distribution. It also meant that information came via different channels, which increases credibility and interest.

The information material produced consisted of different information packages that were either used separately or as a set all together. They entailed:

- 1 a printed brochure (reproduced below) introducing the issue, with comprehensive information and pictures. It appeared in four different languages (Swedish, English, German and Spanish), containing background information and encouragement for people to get active. It was produced for a broad range of interest groups, ranging from the general public to allies to politicians;



"Forests for Everyone" brochure.



- 1 a set of about 12 brief information fact-sheets in Swedish and English on different aspects of the Sámi land rights conflict, such as Sámi culture and history, multiple forest use, Swedish forestry, reindeer herding, historical proofs, certification, indigenous peoples' rights internationally, Swedish history, etc.;
- 1 a press pack of in-depth material about different aspects of the land rights conflict, in English and Swedish;
- 1 a postcard (above) with striking photographs (reindeer, Sámi) on the front page, and concise facts about the land rights conflict on the reverse;
- 1 a set of photographs characteristic of Lapland and Sámi life, and slides with explanatory text;
- 1 a slide-show for presentations, including pictures of typical, significant aspects like reindeer in winter forest, reindeer herders, old-growth forest, etc.;
- 1 an "Adopt a Reindeer" campaign, where people pay a fee to symbolically "adopt a reindeer" and receive in return a set of pamphlets and a printed diploma of Sámi art, as a creative way of raising money for the court costs.

In addition, the following information was made available on the World Wide Web (see Appendix 2 for specific addresses):

- 1 A brochure (in four languages) with background information and photos about the

land rights conflict;

- 1 A case study about reindeer herding and forestry in northern Sweden (with maps);
- 1 A press folder with specific information about the Sámi of southern Lapland, information about FSC certification and its significance for the Sámi, and a historical calendar (info about Sámi history, Swedish legislation, court cases, history of the land, reindeer herding and Sámi communities in Sweden etc.);
- 1 The "Adopt a Reindeer!" Sámi campaign.

In response to the incoming requests especially from abroad, a large European media network was built up. Much background information was provided to the press, including through press conferences and articles, and several European TV teams and radio journalists came to northern Sweden to be guided around the area, talk with the Sámi, visit disputed areas, and to interview small private landowners involved in the court cases.

Regular invitations to international and national meetings related to forest certification and/or to indigenous forest peoples were accepted by the Sámi. At these meetings and conferences the Sámi gained attention by giving presentations about the land rights issue and the situation they face in Sweden. Direct contact with other meeting participants also raised awareness and created future coalitions. In the course of 18 months, a total of 21 invitations to meetings and confer-

ences were accepted; e.g. "Indigenous Workshop of the Underlying Causes of Deforestation and Forest Degradation", Ecuador, January 1999; "IUCN Conference on Forest Certification", The Netherlands, March 2000; "Forest Pact", Spain, March 2000; "International FSC Trade Fair", Germany, April 1999; "International FSC Trade Fair", UK, June 2000; Annual FSC Meeting, Mexico, November 2000.

Due to increased awareness, contacts with the Swedish forest industry and the European market were established and information was given to them about the nature of the land rights conflict and the significance of the social issues in forestry and forest certification.

Some specific activities were particularly outstanding and were highly successful. Summaries follow:

March 1999:

As a response to several invitations by NGOs and politicians, a small Sámi delegation undertook a **two-week lobby tour** to four different countries in Western Europe to meet potential partners, media, and representatives of relevant EU nations and introduce the issue. They attended about 35 meetings ranging from face-to-face sessions with

members of the European Parliament and governmental representatives, to meetings with representatives of NGOs, journalists and timber buyers, as well as giving presentations for the general public. Additionally, press conferences were held to draw attention to the plight of the Sámi people. Of high importance for the success of the well-planned tour was the availability of informational material, including a small brochure in the language of the country being visited. Multiple copies of significant photographs was a great means of getting the story into newspapers.

April 2000:

By the time the conflict became better known internationally, an increasing number of stakeholders requested first-hand information. Unable to guide all the interested stakeholders one by one, the Sámi offered a **guided tour in which a group of representatives of NGOs and buyers** could spend a few days with the reindeer herders in Sweden. Funded by a Dutch NGO, the Sámi were enabled to organise a tour in and around Jämtland, in northern Sweden. The twelve participants represented various social and environmental NGOs from several European countries, and of some of the major buyers of Swedish wood and paper products, such as

Nanna Borchert



*Sámi delegation in Europe:
Olof T. Johansson and Ingrid Rehnfeldt being
interviewed by a Dutch TV team, March 1999.*

IKEA and Tetrapak. They were given first-hand information about reindeer herding practices, and had a meeting and discussion with private forest owners and reindeer herders, thereby introducing them to those primarily affected by the issue. Participants were also able to see the disputed areas.

May 2000:

From 14–21 May, **an information and action week** was held in the heart of Stockholm, by the Swedish Parliament building and the Royal Castle. This site was “occupied” by a group of Sámi people, who camped in kátor, or traditional temporary tents. The “Stockholm Sámi settlement” was inhabited by people of all ages who displayed a number of traditional activities such as lasso-throwing, handicrafts and music, as well as fishing in nearby water. Simultaneously, about 20 NGOs organised complementary support actions in London, Amsterdam and Berlin. The purpose of the activities in Stockholm was to generate sympathetic media attention and to inform the public and media about the Sámi culture and the difficult political situation confronting the Sámi. The following political demands were addressed to the Swedish government: (1) ratify ILO convention 169; (2) ensure Sámi winter grazing rights by law; and (3) hand the management of small game hunting and fishing to the Sámi.

The occupation was characterised by joyful activities, sharing the beauty and fun of Sámi culture as well as addressing the hardships the Sámi face. The symbolic colonisation of Stockholm was done in a great spirit of good humour. One day was dedicated to a demon-

stration walk through the centre of Stockholm, drawing attention to the land rights conflict and expressing Sámi political demands. It ended with a meeting with the Minister of Agriculture, Margareta Winberg, and a public hearing at the Swedish Parliament. Minister Winberg and several members of Parliament later visited the occupation site, meeting the Sámi and gathering further information.

The event was reported well in the Swedish media and several international and national television channels used film clips for programmes on the Sámi situation.

April 1999 and June 2000:

The Sámi participated in **international FSC Trade Fairs** in Germany (April 1999) and in the UK (June 2000). The Sámi delegations participated by giving a speech at the conference and by presenting their cause in a stand at the Fair. These trade fairs offered the Sámi great opportunities for attention, while simultaneously benefiting the FSC, as they used the Sámi as an example of the way in which FSC certification includes the social issue in their agenda. The Sámi were invited to the annual meeting of the FSC in Oaxaca, where they gave panel speeches on behalf of their use of FSC in their situation.

April 2001:

Margareta Winberg, leading the international meeting of EU Ministers of Agriculture, visited the Tassasen Sámi community for an entire day. During the visit the Ministers received information and met several Sámi herders. This significant event highlighted the end of the Initiative.



Nanna Borchert

Sámi demonstration in central Stockholm, May 2000.



A Sámi appeal to Swedish government is handed over to Margareta Winberg, Swedish Minister of Agriculture, by Sámi leader Olof T. Johansson, Stockholm, May 2000.



Sámi representatives meet with Swedish politicians, including Margareta Winberg, Swedish Minister of Agriculture, at a Sámi camp during the "occupation" of Stockholm, May 2000.

South American indigenous people and Sámi at the FSC Trade Fair, London, June 2000.



3.3 Evaluation of the Initiative

The following section is based on opinions gathered from responses and suggestions made by supporters of the Initiative throughout its development. This includes internal Sámi comments, those gathered from NGOs, and those from numerous other sources.

ACHIEVEMENTS

Several aspects of the Initiative have led to successes, with optimistic overtones for the future. The main successes were information dispersal and coalition building, and promotion of FSC by highlighting the social importance of forest certification. The Initiative as a whole can be considered effective and successful even though the Sámi conflict has not been settled and may very well end in disaster. The Initiative ran longer than initially intended, and at the end it was clear the work should continue if additional finances can be found.

The Initiative was an example of successful “**self-mobilisation**” of an indigenous group, emphasising a bottom-up or grass roots approach. The Sámi shifted their stance **from reaction** – defending their rights in court, usually without success – **to action**, which focused on information dissemination, seeking practical solutions to their problems, media work and building a network of allies.

Finding common ground and identifying opportunities and options for cooperation (the promotion of ecologically, socially and economically responsible forestry according to the FSC) made it possible to activate marginal participants such as European buyers of Swedish timber. By promoting FSC and by developing appropriate partnerships, a broad commitment to the common goal and strategy was ensured and made the work effective.

Effective **information and lobbying** were carried out, helping to **bring together different factions sharing a common interest**, from social and environmental perspectives, in well-managed forests. The effort to promote the use of FSC

certification constitutes the perfect opportunity to build coalitions of different forest interest groups in defence of social and environmental values. The Sámi promoted FSC by presenting their cause and highlighting the importance of the social aspect within FSC certification.

Allies were found amongst environmental groups, indigenous peoples support groups, the timber industry, and their buyers and end consumers. The case is now well known internationally, especially in circles related to forests and indigenous peoples. Stakeholders who are well informed come from high-level government, the forest industry sector, certification bodies, NGOs, indigenous peoples’ groups and the buyers of wood and paper products. In Sweden, the entire forest sector was informed, creating new openings and new opportunities for cooperation.

Information work led to **broad outreach** in Sweden and in the main consumer countries of Swedish timber and paper products. High attention was gained internationally and nationally in mass media and in the forest-related branch media. International focus was useful and led to great interest in the Sámi cause, as expressed in European consumer countries. From December 1998 to May 2000, **powerful mass media**, such as ten major European television programmes including the BBC, reported the land rights conflict. Furthermore, more than 30 major radio transmissions in Germany, Great Britain and Holland reported the issue. Many more than 100 articles were published in international newspapers. (See Appendix 4 for a list of the international media (excluding Sweden) that reported the case.)

Most of these reports were compiled from first-hand information; i.e. journalists travelling to northern Sweden to interview Sámi and small private landowners, and to see the area of conflict. The media acted as **efficient multipliers in disseminating the message**. Considerable sympathy and support for the Sámi cause was the common reaction amongst the people informed, and as a result even more media were interested in coming to Sweden. This led to **pressure on the Swedish government** as well as **on the main opponents** of the Sámi (the SPLOs and their associations).

The approach to addressing the conflict in a **constructive manner** and offer solutions was highly beneficial and made it possible to create **unusual coalitions** in support of these ideas. Whenever the Sámi had the opportunity to give thorough first-hand information they immediately gained support, even from amongst those who had previously been wary.

Many effective activities that raised attention within and outside Sweden were initiated by the broad network of allies created. For example, the lobby tour of Europe in March 1999 led to several supportive actions. Letters to the Swedish government came from several high-profile political individuals and groups – such as the Committee for Agriculture of the European Union – urging the Swedish government to take action in order to secure Sámi traditional rights and livelihoods. Also, **powerful joint letters** with the same demands were addressed to the Swedish government by many European NGOs.

Over time, the conflict became increasingly better known in Europe, and by emphasising the significance of FSC certification, the forest sector became highly interested and concerned. Representatives of the Swedish forest industry, more importantly from amongst European buyers of Swedish wood products, increasingly asked for thorough first-hand information. Due to their **involvement in FSC** they became sensitive to social issues and, in particular, became aware of the situation of the Sámi. **Contacts with forest industry and buyers** gradually became more

important. The project shifted more and more from informing the general public towards informing Swedish forest industry and their buyers in the main consumer countries. This helped to **erase many existing prejudices** and created a **platform for mutual understanding and support** for the Sámi. It also strengthened the **commitment to FSC** of many of these stakeholders.

Dialogue with buyers and one-to-one meetings with them were highly beneficial and raised the level of awareness within the companies as well as within the forest sector via media attention. In addition, some **concerned buyers** took a step ahead and **started a dialogue with their suppliers in Sweden**, requesting “socially fair timber”; i.e., requiring that timber would not come from controversial sources where traditional rights of the Sámi are violated.

At the request of various stakeholders such as buyers, NGOs and politicians, several **lobby tours** were organised, such as the big lobby tour to European countries (see page 74) in March 1999. The tour was highly effective and **resulted in broad media attention and many new supportive coalitions**. In addition, a wide range of letters was addressed to the Swedish government, e.g. from German Members of Parliament. Joint letters by European NGOs sharply addressed the Swedish government, urging Sweden to resolve the land rights conflict and to secure Sámi traditional land rights.



Nanna Borchert

A German NDV television crew in the mountains of Sápmi at Härjedalen, northern Sweden, interviewing reindeer herder Ingvar Labj, May 1999.

The buyers and NGO tour to Sweden in April 2000 led to many discussions and mutual learning for all parties. Contacts with allies were strengthened and participants were very satisfied, especially as the Sámi had strived to show a holistic picture of the conflict by giving their opponents a voice, thereby allowing the visitors to gain their own picture. This made the complexity of the situation come to the surface, demonstrating how difficult it is for the Sámi reindeer herders. These tours, including guiding media through the area of conflict in Sweden, were highly beneficial. They resulted in increased media attention and in some lengthy television programmes. There was strong, significant interest on the part of the participants for the Sámi to continue giving such tours in future, yet the financial resources dried up.

Amongst the supporters were highly influential people such as members of the European Parliament and representatives from timber-buying companies such as Meyer International, Sainsbury's, Tetrapak and IKEA. The tours helped to establish close contacts and led to strong support, expressed by letters of concern to the Swedish government or in public statements.

The peaceful "colonisation of Stockholm" made the Sámi and their demands public. **Several meetings with Members of Parliament led to good contacts, especially with the Green Party of Sweden, which now fully backs the Sámi case.** The Sámi issue has been increasingly discussed in Parliament. Besides politicians, the general public and media were regular visitors to the programme on Sámi culture. Done with a good deal of humour, the occupation generated positive attention in all areas. The timing of the occupation appeared to be particularly useful since major Parliamentary discussions about ILO Convention 169 were in process of finalisation.

The laxness of the Swedish government with regard to its responsibilities to its minorities was exposed. As a result, Sweden is receiving pressure to ratify the ILO Convention 169, which will force the government into dealing with indigenous issues.

Attending international forest-related meet-

ings and conferences such as FSC Trade Fairs offered the opportunity to spotlight the social as well as environmental benefits of FSC certification. At the same time, many new contacts with myriad representatives of the timber market were made and this initiated useful coalitions. Many different stakeholders from the political scene, the forest industry, and from timber and paper industries were informed about the Sámi cause. **FSC has taken the social question very seriously and highlighted the interests of indigenous peoples even more than before. This is very positive for the Sámi people.** A very crucial principle – that of percentage-based claims – has been finalised such that from now on no wood in FSC-certified products is allowed to come from controversial sources; i.e. from areas where there is clear demonstration of violation of traditional customary or civil rights, or of serious extant disputes with indigenous peoples.

The following are the most relevant allies/NGOs supporting the Sámi in their land rights struggle:

Belgium: Fern, WWF, Greenpeace.

Finland: Finnish Nature League, Friends of the Earth.

Germany: Robin Wood, Urgewald, Greenpeace, WWF, Society for Threatened Peoples, Pro Regenwald, Earthlink.

Great Britain: WWF, Fern, Friends of the Earth, Caledonia Reborn, Global Witness

Holland: Friends of the Earth, Earth Alarm, Arctic Peoples Alert, Netherlands Centre for Indigenous Peoples (NCIV), Both Ends.

Sweden: WWF, International Working Group on Indigenous Affairs (IWGIA), Swedish Association for Nature Protection, many different Sámi organisations including the International Sámi Council, the National Sámi Association.

International Organisations: Taiga Rescue Network, Greenpeace International, World Rainforest Movement, WWF International, IUCN–The World Conservation Union.

OBSTACLES AND CHALLENGES

Challenges related to Swedish legislation and politics:

1 **Present legislation does not guarantee**

traditional Sámi rights – i.e. Sámi access to traditional winter grazing lands. Swedish law (Reindeer Husbandry Act, 1971) is incomplete and needs clarification;

- 1 Legal processes move slowly and changes in law are difficult to enact; this is certainly true in the Sámi legal situation;
- 1 **The Sámi are being sued in many scattered (non-contiguous), relatively small forest areas, whereas traditional reindeer herding is an extensive form of land use, based on a rotational grazing system within a vast area of land, using different sub-units of the land in different periods;**
- 1 Creating a commission that defines the boundaries within which the Sámi have traditional winter grazing rights is a difficult process;
- 1 The Sámi do not have the financial resources to defend themselves in court;
- 1 The current legislation used in the courts does not accept the historical and academic proof that rotational herding was practised by the Sámi. For the Sámi, who have relied on an oral tradition, it is extremely difficult to produce material evidence to substantiate their claims;
- 1 **The indifferent stance of the Swedish government with regard to its indigenous peoples is a major obstacle in this conflict.** The government's lax position, "resting" on Swedish law, makes it nearly impossible to get the government to intervene in the conflict and mediate on behalf of the 12 Sámi reindeer herding communities;
- 1 The Swedish government should ratify ILO Convention 169, and the Sámi as indigenous people need to inform the general public as to what ratification would mean.

Challenges posed by the small private landowners and their unifying associations:

- 1 The uncompromising position taken by small private landowners excludes any out-of-court agreement. The SPLOs insist on conflict resolution via Swedish law;
- 1 The SPLOs were very negative in response to any international attention or interest by non-

local people getting involved in the conflict. For example, on the tour to Sweden the participants from other European nations were met with anger and harshly criticised by the SPLOs, who do not wish international mediators to become involved;

- 1 The SPLOs and their unifying associations (Federation of Swedish Farmers – LRF) and Forest Owners' Associations – FOAs) oppose forest certification in accordance with the Forest Stewardship Council (with the exception of a few individual SPLOs who are FSC certified);
- 1 The SPLOs have launched a campaign favouring another certification system (the Pan European Forest Certification scheme) that does not respect indigenous people's rights;
- 1 The SPLOs oppose ratification of ILO Convention 169 by the Swedish government and claim they have been completely ignored in this process;
- 1 The different Swedish interest groups lobbying against the Sámi, such as the LRF, are influential and powerful bodies with interests in natural resources who want to exclude reindeer herding from their lands.

Other related challenges are:

- 1 Forestry practices, as well as other means of exploiting natural resources (such as hydropower, road building, etc.) which are detrimental to reindeer herding and forest biodiversity;
- 1 Conflicting interests in natural resources (over forest use and hunting and fishing rights), coupled with a lack of awareness within the general public about the situation of the Sámi, are reasons for the negligible support the Sámi receive;
- 1 The neutral stance of the Swedish forest industry (the seven major timber companies) in the conflict; i.e., the forest industry trying to be "Sámi-friendly" without antagonising the SPLOs;
- 1 The forest industry currently advertises their respect of Sámi rights as a positive public relations move. However, at the same time,

the companies buy timber from SPLOs who are either not interested in FSC certification or deny the Sámi grazing rights in their forests. While it is alright for a company to buy wood from SPLOs in general (regardless of their certification status), it is not alright to buy wood from SPLOs who sue the Sámi in court. Wood from such areas where Sámi rights are not respected is considered to be controversial and is comparable to wood from old-growth forests. According to FSC standards, such wood should be excluded from products that are to carry the FSC logo. Therefore it cannot be accepted that forest companies buy wood from controversial sources;

- 1 Other human rights issues, including wrongful arrests of Sámi for having committed crimes and the resultant unfounded arrests of Sámi occurring still today, even though such actions usually lack substantial proof of guilt. This issue is far beyond the scope of this document. However, it can be stated how astonishing it is that in a country like Sweden it is possible to have such shady and unclear arrests happen against Sámi from State police, without ever being clarified afterwards.

For example, one of the heads in the Initiative, a Sámi leader, was arrested the day after coming home from a very successful lobby tour in Europe, and was accused of having blown up two major public power transmission towers. He had nothing to do with the stated offence. After being held in jail for eight days while his computers and other belongings were searched through, it was clear that all accusations and so-called “proof” had been without any substance, and he was fully innocent. He was released without any clarification of why he had been accused, even though there had been no links from the crime to him. It was a shock for the outside world (for all the allies working with the Sámi in this project who had met with him in person only a few days earlier) that this kind of arrest could happen in Sweden. While such arrests are common elsewhere in the world, it seemed very odd in a country like Sweden. As a consequence, letters of protest asking the government to clarify this unfair

treatment of a Sámi were written, yet led to no further clarification by either the State police nor the government. Although this situation ended up strengthening the solidarity with the Sámi among their allies, such events bear a high potential to destroy trust and good relationships, particularly with the general public. For example, within hours of the arrest, newspaper headlines ran stories of the Sámi as being guilty of the supposed crime. Besides the fact that the speed with which the event happened appeared suspicious, once such headlines are run the impacts they make are hard to erase, regardless of whether the accused is guilty or innocent.

- 1 The 17,000 Sámi are a small minority compared to the 9 million Swedes, and their financial resources to carry out lobby work for their people and interests are equally crippling. They are also an uninteresting group for politicians in terms of votes, and have no direct representation in the Swedish Parliament.

LESSONS LEARNED

“Lessons learned” regard the following main areas of the Initiative: organisation of the project, strategy, and cooperation. Both positive and negative aspects of the Initiative are combined. Please note that we are writing from a Western European perspective and while the experiences gained through running the Initiative perhaps apply to other situations internationally, large differences may exist between the contexts within which the Initiative ran and contexts within which other groups may work. This would then require respective adjustments of strategy and approach according to the system or context faced.

Organisation:

- 1 The organisational structure of the Initiative was kept flexible, which made it possible to react immediately to developments concerning the land rights conflict. The coordinating team for the project was small and thus efficient and effective;
- 1 Flexibility and openness to go alternative ways when unexpected events happen was necessary,

- 1 The steering committee was an important and necessary feature, consisting of different key people: a Sámi leader, a journalist, a nature conservation representative, a local representative and a lawyer. The steering committee decided on important questions of major impact, such as ultimate responsibility for finances and overall strategy;
- 1 A full-time information officer was crucial to the Initiative, responsible for "holding the strings together". The person should be multilingual to work internationally and have networking and media experience. Allies seeking to work with the Sámi expressed the need and appreciation for a single representative of the Sámi with whom to liaise. Cooperation can otherwise be a difficult affair;
- 1 An expert group advised the Information Officer. Experts kept track of what was happening in their field; e.g., current events in forestry, indigenous peoples' issues, national politics, reindeer herding, etc. This allowed the coordinator to be kept well informed, and thus effective in cooperating with allies;
- 1 A good communications strategy and means (Internet, e-mail lists, phone lists, etc.) was essential;
- 1 A minimum of one year's time for activities such as successful networking and information dispersal is needed. For example, it took nearly half a year to build up an effective coalition network, and thus the Initiative needed to be extended in length to make full and effective use of it. The Initiative started too late and was too short in length;
- 1 Sufficient funds for undertaking activities and the maintenance of staff should be ensured before initiating a project. Donations need to be unrestricted, given on the basis of an agreed common goal.

Approach/strategy:

- 1 Clear messages, phrased in the language of the common people instead of technical jargon, helped get the message across simply;
- 1 Production of comprehensive and appropriate information material was essential for getting the message out and gaining support.

In addition, it constituted a basis for coalition-building and effective cooperation;

- 1 Different target groups needed different kinds of information, although the Initiative intended to inform about only one main issue. Thus, a thorough definition of target groups needed to be carried out early on so that it was possible to determine what information material was appropriate for what group;
- 1 Spreading information indirectly via multipliers such as media and allies was of particular importance as personal and financial resources were scarce. This largely included writing articles for newsletters, NGOs and guiding media on tours in Sweden. However, information was also distributed directly by attending meetings, conferences and by giving presentations. Distribution through a wide range of channels, particularly those international, was beneficial;
- 1 Focusing on the media was essential. A good media strategy and an interestingly "presented" story were essential for engagement;
- 1 To work internationally, a multilingual approach (i.e. information available in several languages) was of high importance, allowing the Sámi to reach out further than would otherwise have been possible;
- 1 Producing simple information material, such as a postcard in three languages, was an effective and cheap means of spreading the information;
- 1 A positive working attitude and message was a basic principle that made gaining support and understanding easier. For example, lobbying *for* something, rather than *against* something raises different public reception. A boycott of the opposition would only have made the local conflict escalate, making it harder to find a solution at the local level, which is always a priority. In the Sámi case this meant lobbying for FSC certification, for a compensation fund, for multiple forest use, for respect of indigenous peoples' rights (which does not take away rights from anybody else), etc. Offering constructive ideas for solutions is totally different from being seen as a complaining, critical group;

- 1 Continued work on local conflict resolution was crucial to keep credibility;
- 1 Seeking international attention was beneficial, based on the precondition of local support;
- 1 The holistic, interdisciplinary approach of the Initiative, whereby all stakeholders were considered in attempts to evolve a multiple forest-use strategy, was appreciated and led to credibility and support for the project;
- 1 Determination of a realistic process with short- and long-term goals kept the goals manageable;
- 1 The demands and suggestions of the Sámi, with regard to land use, are based on their traditional knowledge and practice. This lent great credibility while ensuring legitimacy and accountability;
- 1 Efforts such as urging the government to establish a separate fund to compensate forest owners for damages to young trees by reindeer grazing were used to keep the mounting conflicts between forest owners and herders in check.

Cooperation/coalition:

- 1 Good communication and open dialogue with all stakeholders was crucial to maintain coalitions and to enable them to work towards solution-finding from their end. Keeping good cooperation alive with coalition partners required flexibility and openness to change plans according to discussions with the partners; i.e. action plans are easier to develop than strong partnerships;
- 1 Cooperation depends on individuals not on organisations. Good cooperation was based on good contact with individuals, rather than focusing much effort and concern on certain organisations or institutions (companies). It was useful to remain open and to establish relationships of trust. However, this implies that whenever important people leave their positions, one might not be able to continue working with the organisation, or at least much less than before (new people can equal new priorities and values);
- 1 The Initiative received much support from

well-established NGOs concerned with environmental and human rights issues. Dialogue and cooperation with such groups in Europe – based on mutual learning – was highly beneficial for promoting the Sámi perspective;

- 1 Collaboration with independent forest management bodies, such as the FSC, was well received and highly beneficial. The FSC certification of forest products, derived from forests managed in a responsible way, has unified the interests of the Sámi, the forest industry and consumers;
- 1 Finding common ground on which to base cooperation with different groups was fundamental even though such groups may have different agendas and expectations. Again, the FSC acted as a “common denominator” as the goal of NGOs, the forest industry and the Sámi. Alliances are best achieved by unifying efforts around an issue that benefits all parties;
- 1 An important basis for the Initiative was that it was fully supported throughout the Sámi community. All were consulted and all stood behind the effort. Only a few elected people were charged with the responsibility for executive decisions and actions;
- 1 Having several Sámi families willing to host journalists/reporters made it possible for them to come to northern Sweden for periods long enough to allow thorough reporting;
- 1 A high level of motivation on the part of the people running the project was necessary to maintain a good spirit and to keep the Initiative alive through exhausting phases.

3.4 In Conclusion

It can generally be said that the land rights struggle of the Sámi in Sweden was made known within the period of the Initiative. It is now on the agenda of many environmental and social non-governmental organisations that work towards responsible forest management and FSC certification, as well as on social rights and/or indigenous peoples’ issues. The majority of these organisations would be happy to continue working intensively with the Sámi. These organisations use the Sámi case as a perfect example of how important

the social aspect is in friendly forestry. This is not only beneficial for the Sámi but can be seen as very positive for other forest-based indigenous peoples around the world. The forest industry, especially in Europe, is now informed and alerted. European commercial buyers of Swedish wood and paper products are informed and thus concerned, as are politicians in relevant positions.

However, the land rights conflict is not at all over. The Sámi financial situation is grim not only in terms of supporting the court cases, but also severely hampers the chances of any continued efforts to make their case known and to raise support internationally. Their situation could easily be forgotten by the public if no direct efforts to raise awareness and keep news flowing,

such as through the Initiative, are continued.

ILO Convention 169 is still not ratified by the Swedish State, a compensation fund has not been established, a border-drawing commission has not been established, and prospects of out-of-court settlements are dismal.

Should the reader wish to continue research, become involved or keep updated on the Sámi land rights conflict, resources can be found in the appendices and bibliography. SSR (Svenska Samernas Riksförbund – the Swedish National Sámi Association) acts as the main contact address and welcomes requests and channels information about all the issues raised in this report for the Sámi people.



Acronyms and Glossary

CBD	Convention on Biological Diversity
EU	European Union
FOAs	Forest Owners' Associations
FSC	Forest Stewardship Council
ILO	International Labour Organisation
ILO 169	Convention on Indigenous and Tribal Peoples' Rights of the International Labour Organisation
IP	indigenous peoples
LRF	Federation of Swedish Farmers
NGO	non-governmental organisation
PEFC	Pan European Forest Certification
SPLOs	small private landowners (owners of small private forest/land)
SSR	Swedish Sámi Association

Crown, State and government are used interchangeably

Sápmi/Lapland:

Lapland is a term used to refer as a whole to the northern reaches of Norway, Sweden, Finland and the Kola peninsula of Russia, which the Sámi call Sápmi, the land of the Sámi.

Lapp/Laplander/ Sámi:

Sámi is the correct form (deriving from Sámi language) used currently, whereas "Lapp" and "Laplander" are historical terms no longer used today (unless to intend condescension).

Sámi reindeer herding community/herding community:

An economic and administrative cooperation performing and overseeing reindeer herding in a certain geographic area; a Sámi community always makes its living from reindeer herding. (Swedish term: sameby).

Mountain area/summer grazing area:

The term "mountain area" refers to area of Sámi summer reindeer grazing lands, which are up in the "fjäll", the mountainous area of Sweden. Most of the "mountain area" is above the tree line. This area is used for grazing when the ground is free of snow (summer and partly spring, autumn). It is situated north-west of the "winter grazing (forest) lands". Often the "mountain area" is also referred to as "all year round area"; this can easily be misleading. It is only called "all year round area" because the Sámi have the right, secured by law, to keep their reindeer in this mountainous area all year round. However, the reindeer would not survive winter in this area. Thus the animals need to be in lower forested grazing areas in winter to survive.

Winter grazing area/forest lands:

In winter the reindeer move to the lower-elevation forested lands, the "winter grazing area". These lands are under a complex pattern of ownership, and the Sámi land right conflict concerns some of the small private lands in this lower, forested area.

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Appendix 1

Submissions of Proof by Sámi

The following documents were submitted to Svegs District Court in Fall 2000, as written proofs by Tåssåssen Sámi community to show that it has a right to graze in wintertime in the districts which were visited in old custom and practice:

- 1 Proposition for a decree concerning the Swedish Laps and the settled in Sweden, investigation of 1883;
- 1 Appendix to the Parliament's protocol of the ordinary parliamentary session in Stockholm 1886, Statement of the special committee;
- 1 Reindeer Grazing Act of 1886;
- 1 Proposition to the Swedish Laps' right to reindeer grazing in Sweden, committee of 1895;
- 1 Reindeer Grazing Act of 1898;
- 1 SOU*: 1923:51 Proposition regarding Laps reindeer husbandry etc., committee of 1919;
- 1 SOU: 1927:25 Proposition regarding Swedish Laps' right to reindeer grazing in Sweden etc;
- 1 General Announcement of the County of Jämtland Nr. 27, 1929;
- 1 General Announcement of the County of Jämtland Nr. 161, 1946;
- 1 Reindeer Grazing Act of 1971 SFS: 437 revised 1993, SFS: 1993:36;
- 1 Investigation of Elof Huss, regarding reindeer grazing districts for Laps in the county of Jämtland and Kopparberg together with map.

* Official State Investigation

Appendix 2

Contacts and Resources

Please see next section 'Essential Browsing' for all the information about the Sámi case available on the web. In case you need a printed version of some specific information, please contact Taiga Rescue Network (TRN) at the address given below and they will send it to you by regular mail.

Essential browsing:

Printed brochure (4 languages) with background information and photos about the land rights conflict, history of the Sámi people, the link to forests and to forest certification (FSC) etc. giving a good overall picture of the case available at TRN or at the web at:

http://www.taigarescue.org/the_taiga/brochure_swe.shtml	Swedish
http://www.taigarescue.org/the_taiga/brochure_eng.shtml	English
http://www.taigarescue.org/the_taiga/brochure_esp.shtml	Spanish
http://umwelt.org/robin-wood/german/saami/saami-d.htm	German

Case study about reindeer herding and forestry in northern Sweden, (with maps) available at: <http://www.oloft.com/casestudy.html>

Press folder with specific information about the Sámi of southern Lapland, information about FSC certification and its significance for the Sámi, a historical calendar (info about Sámi history, Swedish legislation, court cases, history of land), customary rights in an international perspective, reindeer herding and Sámi communities in Sweden etc. available at: <http://www.oloft.com/pressfolder.htm>

"Adopt a reindeer!" Sámi campaign to encourage financial support in their land right struggle. Info how to adopt a reindeer at:

http://www.sapmi.se/domen/fadder_eng.html	English
http://www.sapmi.se/domen/fadder_tysk.html	German

Essential Contacts:

For further information about current developments of the land right conflict please contact:

Swedish National Sámi Association (SSR)
Brogatan 5, 90325 Umeå, Sweden
Tel : +46 (0)90 141180
Fax: +46 90 (0)124564
E-mail: ssr@sapmi.se
Website: <http://www.sapmi.se>

Note: This is the organisation to which all questions about the Sámi should be addressed.

Taiga Rescue Network
Box 116, 96223 Jokkmokk, Sweden
Tel: +46 (0)971 17039
Fax: +46 (0)971 12057
E-mail: info@taigarescue.org

Appendix 3

Swedish Sámi in a Trans-Nordic Perspective

The following information concerning Sámi people in Finland, the Russian Federation, Norway and Sweden is a set of excerpts from a United Nations document* which provides statements by the Sámi Council. The Sámi Council is an international NGO which acts as an umbrella unifying the Sámi of these four nations. To better illuminate the Sámi situation in Sweden it is helpful to consider the actions other Scandinavian nations have taken regarding their Sámi. Although our report has examined in detail the Swedish Sámi situation, we include in this appendix the UN and Sámi Council information on Swedish Sámi to allow the reader to compare the perspectives of a “neutral” organisation (the UN) and statements of the Sámi Council with the information provided in our report.

The background of the UN and Sámi Council statements is as follows:

1. “In resolution 1982/34 of 7 May 1982, the Economic and Social Council authorized the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish annually a working group on indigenous populations to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations, together with information requested annually by the Secretary-General, and to give special attention to the evolution of standards concerning the rights of indigenous populations.

2. “The Sub-Commission, in its resolution 1996/31 of 29 August 1996, requested the Secretary-General to invite indigenous and non-governmental organizations to provide information, in particular on matters relating to environment, land and sustainable development. The Commission on Human Rights, in its resolution 1997/32 of 11 April 1997 urged the Working Group to continue its comprehensive review of developments and welcomed its proposal to highlight specific themes of the International Decade of the World’s Indigenous People. In accordance with the resolutions, appropriate communications were sent. The present document [the following statements] contains replies received as of 10 June 1997 from indigenous and non-governmental organizations concerned with the promotion and protection of the human rights and fundamental freedoms of indigenous populations.”

The following are excerpts of the Sámi council original English statements of 29 May 1997, titled “Indigenous peoples: land, environment and sustainable development”. Emphasis in boldface is added to the original text.

Finland

Most of the Sámi people in Finland inhabit and use the northernmost part of Finland, recognized as the Sámi Homeland in the Finnish Constitution and the Sámi Act. Within this demarcated area the right to cultural autonomy for the Sámi people, through the Sámi Parliament, is now acknowledged in the Finnish Constitution and the Sámi Act, as a result of legal amendments which came into force on 1 January 1996. The current Finnish legislation does not acknowledge or grant any special land rights to the Sámi people in their own Homeland, neither does the legislation acknowledge any exclusive rights for the Sámi people to pursue their traditional livelihoods [reindeer herding]. **Most of the land areas (90%) within the demarcated Sámi Homeland in Finland are regarded as State property.**

In principle all citizens of Finland and the other European Union member States have the same right to land and resources as the indigenous Sámi people themselves in their own traditional Homeland.

* United Nations Economic and Social Council Commission on Human Rights; Sub-Commission on Prevention of Discrimination and Protection of Minorities Working Group on Indigenous Populations; Fifteenth session, 28 July–1 August 1997; Item 5 of the provisional agenda: *Review of Developments Pertaining to the Promotion of Human Rights and Fundamental Freedoms of Indigenous People: Environment, Land and Sustainable Development*. Note by the Secretariat, Addendum, Information received from indigenous peoples and non-governmental organizations. 16 June 1997: <http://www.suri.ee/doc/saamide.html>

The question of old Sámi title to present State land has yet to find a legal solution. The absence of legal acknowledgement and protection of Sámi land rights in Finland is due to the principle of terra nullius. The legal principles which created the base for the present Finnish legislation rested on the notion that Sámi, as a nomadic people, cannot own or possess land.

Furthermore, it was an accepted principle that all land within the State boundaries must have an owner. If land did not have an owner, it was considered as belonging to the State. The Sámi were not considered as possessors of land rights, owing to their lifestyle which was defined as primitive and nomadic without any legal effects for the land used by them. The lands which the Sámi had considered and used as their own since time immemorial were defined as “ownerless”, meaning that the State was the lawful owner.

The Russian Federation

The Sámi in Russia do not have their own official institutions. Unlike the three other States encompassing the Sámi, where the Sámi are the only indigenous people, within the Russian borders there are many other indigenous peoples. Many of the indigenous people of the north of Russia are traditionally hunting, fishing and reindeer-herding peoples like the Sámi. What is written here about the Sámi in Russia applies also to a certain extent to the other indigenous peoples in Russia.

Fishing has always had great importance for the Sámi. Before the establishment of the Soviet Union, the Sámi divided the fishing waters between themselves according to the size of their communities. During the Soviet era there were limitations on the Sámi fishing rights, but the Sámi were entitled to use the land and water for their own subsistence. Under the Soviet regime, the means of production, among them reindeer were collectivised. Many of the State-owned reindeer herding farms in the Soviet Union were multi-ethnic. For example, the Komi, Nentsi and Sámi people often herded reindeer together within the cooperative structure of the farm. A programme of forced centralisation of the means of production was introduced and implemented. Sámi and other indigenous peoples were relocated to large towns, centres for the collectivisation programme. In this way, the indigenous peoples were forced to leave their traditional villages, which were often destroyed to prevent their return. This forced relocation of indigenous peoples resulted in the destruction of indigenous social, cultural and economic structures. In 1992 the Governor of Murmansk county issued a decree which gave the local authorities the power to lease all the waters of the Kola Peninsula [the main region of Russian Sámi herding] to persons or organizations offering the highest rent. The decree was issued without reference to any legal basis for the empowerment of the local authorities.

The present Constitution of the Russian Federation, adopted in 1993, contains at least three articles which directly apply to the indigenous peoples. [The following are excerpts]:

“Land and other natural resources are utilized and protected in the Russian Federation as the basis of life and activity of the peoples living on corresponding territories...Citizens and their associations have the right to possess land as private property...Possession, utilization and management of land and other natural resources are exercised by the owners freely, if it is not detrimental to the environment and does not violate the rights and lawful interests of other people...The Russian Federation guarantees the rights of indigenous small peoples according to the universally recognized principles and norms of international law and international treaties of the Russian Federation.”

Many uncertainties exist concerning the application of these constitutional provisions. There are disputes concerning the concept of private ownership: what are the exact rights and obligations of the owner versus other private parties and the authorities. There is no consensus on this matter in the legislative Assembly (Duma).

However, it is clear that the Sámi people in Russia today de facto do not hold title to their traditional land and water, and their right to use the land and its resources is also denied. Even basic subsistence use has now been curtailed dramatically.

Traditional Sámi land and water are now leased to private companies, foreign as well as Russian;

about 65 good fishing rivers are leased to private companies. These companies in their turn sell exclusive fishing rights to wealthy foreign tourists. Owing to this system of leasing rivers to private companies, the Sámi and other indigenous people in Russia, have hardly any opportunities for fishing for their own daily subsistence needs. Although the Russian Constitution gives indigenous people certain rights, including the right to land and natural resources in their own regions, without the necessary political and legal implementation measures these rights do not have much practical value for the people concerned.

Norway

The usufruct of land in Norway by Sámi is regarded as “creating a right”, although this is not followed in all cases. **The current Norwegian legislation does not acknowledge or grant any special land rights to the Sámi people in Norway.** The absence of legal acknowledgment and protection of Sámi ownership rights to their traditional lands in Norway, as in Finland and Sweden, has its historical background in the principle of terra nullius. However, before 1751 Sámi ownership to land in parts of present Finnmark [Lapland] county was recognized for a certain period while this area was under Finnish-Swedish jurisdiction. Although, this area came under Norwegian jurisdiction, State authority was based on a border treaty which had territorial effect only. However, the Sámi right to ownership of their ancestral land was never recognized or denied by any formal legislative act after 1751.

The notion that the land and water in the northernmost parts of Norway belong to the State started gradually to influence the State administration of the areas. Later, the Norwegian legislative assembly also started to make legal amendments in order to confirm this notion legally. Sámi customary law, as well as recognized Sámi rights, during the Finnish-Swedish period were ignored in all legislative actions.

This ignorance and rejection of Sámi rights in Norway results from the principle of terra nullius, due to the fact that the State could only claim ownership of “ownerless land”. This is the historical fact, even if the present legal justification for the takeover and the present legal status of Sámi land rights avoids this type of argumentation. **The Sámi ownership and possession of the land where they traditionally live are so far not recognized by the Norwegian Government.**

The Government appointed a Sámi Rights Commission in 1980, which inter alia was to look into the Sámi rights to land and water. In 1984 the Commission appointed a group of six Norwegian legal experts to study the legal aspects of the question of Sámi land rights without including any Sámi legal experts. This group of experts submitted its recommendations to the Commission in 1993 and concluded that the State holds title to unregistered land areas in Finnmark county. However, one member of the group was of the opinion that the Sámi hold title to the land in Inner Finnmark.

In 1995 the Commission appointed another group of legal experts to study the international legal aspects of the question of Sámi land rights. The group of experts in international law submitted its recommendations to the Commission in 1997 and concluded that the Sámi people have right to ownership and possession of certain traditional areas. The relevant land rights provisions of ILO Convention No. 169 are essential parts of their legal argumentation and conclusions. The expert group also stated that if Norwegian legislation or established conceptions of law fail to comply with the requirements of ILO Convention No. 169 (which was ratified by Norway), the State is obliged to amend such legislation. Furthermore, ILO Convention No. 169 imposes on States the obligation to identify the lands to which indigenous peoples have rights and to guarantee effective protection of their rights in this respect.

Sweden

Sámi customary law is de facto rejected in national courts. Theoretically according to the principles in the national sources of law the courts should be able to take cognisance of Sámi customary law if there is uncertainty or ambiguity. However, Sámi customary law is never applied if it is in contravention of national law. In practice only if the law is very unclear can Sámi customs be a relevant consideration. Sámi customary law and the Sámi concept of law have been reflected in very limited scale in the law-making process.

The Swedish Sámi Parliament has no formal legal position with regard to use and management of traditional Sámi land. The Swedish authorities acknowledge the Sámi as indigenous people, but **the**

Swedish Constitution does not provide any explicit guarantees or protection for the Sámi and their culture and traditional livelihoods, as the Finnish and Norwegian Constitutions do.

The question of Sámi ownership and usufructuary rights in Sweden came up in the Supreme Court in the case which became known as the “Taxed Mountains case” [regarding the mountain or summer grazing area]. This case took nearly 20 years before it finally came up in the Supreme Court, and the decision was handed down on 29 January 1981. The Taxed Mountains case concerned the claim of Sámi ownership of certain areas, mainly in the northern parts of Jämtland county. The Sámi party, which consisted of a certain number of reindeer husbandry communities, also counter-claimed several types of curtailed rights to the areas concerned. The questions to be discussed in the court also included law and facts which originated from the Swedish-Finnish period when Sámi ownership was officially recognized.

The Supreme Court came to the conclusion that the State has to be regarded as the owner of this disputed area (the Taxed Mountains), and that the rights of the Sámi have been limited to rights of use. On the basis of this opinion the Supreme Court decided that the Swedish State is the owner of the disputed mountains, and that the Sámi only held usufructuary rights to this area. It is noteworthy that none of the respective laws stated who was the owner of the disputed area. Even if the Supreme Court rejected the Sámi ownership claim it clearly stated that the Sámi have reindeer grazing and fishing rights in the Taxed Mountains, based on a general interpretation of the Swedish Constitution. The Court did not have the same clear opinion concerning Sámi hunting rights in the Taxed Mountains, although it said that the Sámi most likely also have such hunting rights.

However, the Supreme Court rejected the primary governmental claim that Sámi as nomadic people cannot acquire title to land. The decision stated that it was possible for the Sámi to acquire title to land by using it for traditional Sámi economic activities such as reindeer husbandry, fishing and hunting, without engaging in farming or having a permanent dwelling. The Supreme Court concluded that, even if traditional use of land could establish title to land, the Sámi party did not have a proper evidential basis for the claim that such use had taken place in the disputed Taxed Mountains. Although, this recognition was not given legal effect in the disputed Taxed Mountains, it can be of great legal importance for those parts of traditional Sámi land not included within the territorial ambit at issue in the Taxed Mountains case.

In 1982 the Government appointed a Sámi Rights Commission to study questions concerning Sámi rights, including Sámi land rights. However, this did not lead to any positive measures in favour of Sámi land rights.

The Sámi culture and livelihoods – reindeer husbandry, hunting and fishing – are today facing threats from the Swedish urban society and its demand for the opportunity to fish and hunt in Sámi areas which up to recently have been an intrinsic part of exclusive Sámi reindeer herding rights. In 1992 the Swedish Parliament adopted legislative measures affecting traditional Sámi hunting and fishing rights. **The Swedish Legislative Assembly decided that all traditional Sámi hunting grounds shall be accessible and open for all Swedish citizens.** This change took place despite the principle support for Sámi land rights in the Supreme Court eleven years earlier in the Taxed Mountain Case. The 1992 legislative measure made possible unrestricted small-game hunting and fishing for non-Sámi in traditional Sámi areas. Until this change took place, hunting and fishing in Sámi areas had been considered an exclusive Sámi right.

Appendix 4

Media Coverage of the Land Rights Conflict from January 1999 Onwards

Sweden:

Coverage of the land right conflict in general was far too regular and common to be listed herein.

Belgium:

Forest Watch (European Union related forest journal, 04-99, 05-00), Panda WWF Magazine (04-99), Club 97/Buyers Group Newsletter (6/99).

England:

The Guardian (12-98), Sunday Telegraph Home News (12-98), BBC International Radio News (03-99), BBC Domestic News (03-99), The Times (03-99), WWF UK (various publications, 03-99), Dagens Nyheter (03-99), Agence France Press (03-99), Sunday Morning (03-99), Sunday Telegraph (12-99), BBC TV Breakfast News (02-00), BBC TV World News (02-00), BBC Today's Program (02-00), BBC News Online, Buyers Groups Newsletters WWF (11/99, 12/99, Spring 00), BBC TV Environmental channel (10-00).

France:

TV TF1 (01-00), National Geographic (99), Arte TV (12-00).

Germany:

Radio Deutsche Welle (international environmental program, 03-99), Deutschlandfunk Radio (03-99, TV), NDR (Ostseeprogramm, 05-99), TAZ (03-99), Sender Freies Berlin (Radio, 05-99), Greenpeace Magazine (03-99), Robin Wood Magazine (1/99, 2/99, 4/99, 2/00, 4/00, etc.), Papier und Umwelt (1/99), Euwid Holz (04-99), Berliner Zeitung (04-99), Schrot und Korn (05-99), WWF Buyers Group Magazine (3/99), Verbraucherinitiative Forest Certification Leaflet (10-99), GfbV Magazine (several), Radio WDR (Funkhaus Europa 12-99, Mittagmagazin 12-99), Radio Deutschlandfunk (12-99), Verbraucherzentrale NRW (Forest Certification Leaflet), Ökozid 12-99), Vlothoer Tageblatt (12-99), WB, Vlothoer Anzeiger (12-99) Neues Deutschland (12-99), Pogrom (01-00), Bumerang (01-00), ZDF Auslandsjournal, National TV (03-00), Geo TV (12-00), Radio WDR (03-00), Papier und Umwelt (05-00), ARD TV (Spring 01), Urgewald Magazine (Winter 00).

Holland:

TV News for Children (Dutch National News Programme, 03-99), National Radio Program (03-99), Nordic Magazine (Spring 99), Earth Alarm Magazine (03-99), Arctica (06/99 and 07/99), Netherlands Centre for Indigenous Peoples Magazine (Spring 99), Friends of the Earth Magazine (Spring 99).

Switzerland:

Weltwoche (Autumn 00), WWF.

Others:

Taiga News (05-99), TRN Bulletins (several), IWGIA Sweden (winter 98, spring 99), WWF Forest and Trade Initiative (99), Ajtte Nytt (Autumn 99), 4th World Association Magazine Finland (Autumn 99), 4th World Association Magazine Sweden (Summer 99), YEE Newsletter (Winter 99), European report for the IFF in NY (02-00), IUCN News (Winter 99), WWF EKO (12-99), IUCN European Profile (2001), WRM Annual Report (99), Both Ends Encyclopedia (99).

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Editor: Kenyon Fields

Photos: Kate Kärrberg, Olof T. Johansson, Maja Borchert, Nanna Borchert,
Kristina Norderupp, Rudolf Fenner and Fredrik Herrlander

Maps by Nanna Borchert

Swedish translation: Henrik Frånberg

German translation: Nanna Borchert

Printed by Nussbaum Medien, St. Leon-Rot, Germany

Cover printed by Druckerei Vöhringer, Walldorf, Germany

Cover photos by Kate Kärrberg:

(Front) Young reindeer winter grazing in the forests

(Back) Reindeer herd in mountain area

The publication is available at: www.oloft.com/pressfolder.htm

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