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COMMISSION ON HUMAN RIGHTS  
Sub-Commission on Prevention of  
Discrimination and Protection  
of Minorities

Working Group on Indigenous Populations  
Third session  
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Items 4 and 5 of the provisional agenda

REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND  
PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF  
INDIGENOUS POPULATIONS (item 4)

CONSIDERATION OF THE EVOLUTION OF STANDARDS CONCERNING  
THE RIGHTS OF INDIGENOUS POPULATIONS (item 5)

Report of the Secretary-General

Addendum

The present document contains replies received from the Governments of Cyprus, Honduras, Islamic Republic of Iran, St. Vincent and the Grenadines and Sweden. \*

\*/ The Government of the Republic of Botswana communicated to the Secretary-General that it had no information to submit.

GE.84-12169

CYPRUS

[Original: English]

[15 June 1984]

The Ministry of Labour and Social Insurance fully supports the promotion of the protection of human rights and fundamental freedoms of indigenous populations throughout the world.

As far as Cyprus is concerned general principles of non-discrimination on grounds of race, language, ethnic origin, religion, etc. are embodied in article 28 of the Constitution.

In accordance with these principles the population of Cyprus has equal access to all the services and programmes offered by the Ministry of Labour and Social Insurance and enjoys the relevant benefits without any discrimination.

More specifically:

The right to social security is guaranteed by article 9 of the Constitution of the Republic of Cyprus which reads as follows:

"Every person has the right to a decent existence and to social security. A Law shall provide for the protection of the workers, assistance to the poor and for a system of social insurance".

The Social Insurance Law, through which the right to social security is given effect, does not make any discrimination on account of race or ethnic origin. Moreover, according to the Public Assistance and Services Law, every destitute person lawfully residing in Cyprus is entitled to public assistance.

Every person has the right to practise any profession or to carry on any occupation, trade or business. (article 25 of the Constitution). Furthermore, Cyprus legislation and government policy is in line with the ratified ILO Conventions "Discrimination (Employment and Occupation)" No. 111 and "Employment Policy" No. 122.

All training institutions, functioning under the Ministry of Labour and Social Insurance, offer training opportunities to all persons irrespective of race, colour, descent or national or ethnic origin, provided that the standards set by these institutions regarding admissions are satisfied and met.

According to Article 21 of the Constitution:

- "1. Every person has the right to freedom of peaceful assembly.
- "2. Every person has the right to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. Notwithstanding any restriction under paragraph 3 of this article, no person shall be compelled to join any association or to continue to be a member thereof.

- "3. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are absolutely necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person, whether or not such person participates in such assembly or is a member of such association."

It should be stressed that indigenous population of Greek ethnic origin that was forcibly expelled from a part of Cyprus territory by the Turkish military forces in 1974, continues to be deprived of the right to return to their land.

Moreover, in the territory, at present under Turkish military occupation, oppression and discrimination is practised against the indigenous population of Greek ethnic origin.

## II

In Cyprus as a result of the Turkish invasion in 1974 and the subsequent occupation of almost 40 per cent of the island's northern part, the Greek Cypriot population is to-day facing direct discrimination practices.

Nearly 200,000 Greek Cypriot inhabitants of the part now occupied by the Turkish armed forces were forcefully expelled and became refugees in their own homeland.

Hereinafter are some examples of how the rights of education and the right by the indigenous people to develop their own culture, tradition, language and way of life were violated.

### I. The Right to Education

Education has been seriously affected by the Turkish invasion and occupation. The effects are apparent from the following figures:

#### A. Elementary Education

A total of 171 out of 548 public primary schools were occupied and 25,107 pupils, i.e. 42 per cent of the total school population were displaced. Also 904 teachers out of 2,200 became refugees.

#### B. Secondary Education

Twenty-two secondary school buildings out of 57 were occupied (including 3 out of 8 technical schools) and 18,000 students out of 46,000 were displaced.

#### C. Special Education

More than half of the special education institutions were located in the occupied areas and had to be abandoned.

II. The right of the indigenous people to develop their own culture, tradition, language and way of life

A. Cultural heritage

The forceful uprooting from their homes of 200,000 people deprived them also of their right to develop and enjoy their cultural heritage. A tradition of thousands of years was interrupted. In the ancestral homes of the native population, colonizers from Anatolia (Eastern Turkey) are being transferred and settled in an effort to radically change the demographic character of the island. Ancient toponyms are being changed, masterpieces of our ancient, byzantins and folk art are being destroyed.

B. Libraries and art collections

Some 33.5 per cent of the Greek Public Libraries of Cyprus (36 out of 107) are occupied by Turkish Forces. These libraries used to serve an equal number of communities of a total population of 111,225 inhabitants. Another 48 communities with a population of 40,000 served by mobile libraries of the Ministry's of Education Cultural Service had their vehicles as well as a vehicle of the mobile library unit donated by UNESCO, carrying about 2,000 volumes, seized by the Turkish invasion forces.

Many art galleries, and private art and folk collections, are situated in the area now occupied by the Turkish army and are inaccessible to their owners. Moreover according to reliable information many of them have been looted or destroyed.

HONDURAS

[Original: Spanish]

[5 June 1984]

The Government of Honduras has submitted two documents: information provided by the Ministry of Culture and Tourism, concerning indigenous populations, and a preliminary report, presented by the Honduras Government Institute of Anthropology and History, entitled "Indigenous population of Honduras and the situation with its natural resources."

The following document is the one submitted by the Ministry of Culture and Tourism in response to the United Nations resolutions on discrimination and the rights of indigenous communities. It is basically concerned with the institutional activities of SECTUR and other State bodies in this field, giving a summary review of the background and the action taken so far in this area. It also describes the present state of affairs, ethnic development and identity, the protection of ethnic minorities and other institutional activities which make up the policy of the Honduran State in this field.

Towards a policy on indigenous populations

At present, in 1984, the State of Honduras does not have a fully developed indigenous policy as such. There is a range of institutional activities aimed at indigenous communities and at cultivation of the surviving ethnic heritage. We may note, however, that statistically the indigenous population is not

particularly significant, either in number or in proportion, if Honduras is compared with other Latin American countries. It is a feature of Honduras's history that there has been a great deal of cross-breeding. The ethnic group in its pure state is not really a decisive or characteristic factor in Honduran culture and society.

Honduran culture is hybrid and plural. That is, up to a point it owes something to indigenous culture, but that culture survives in small communities representing a minimal percentage of the population. That is why there has so far been no policy governing the treatment of indigenous communities by the State and why there is absolutely no prospect of any ethnic conflict in the Honduran State. For example, we can say that in Honduras there has been no discriminatory attitude towards the indigenous communities nor have they been subjected to any degrading practices. Racial discrimination is thus not a characteristic of Honduran culture. There is no historical experience of discrimination or infringements of the dignity of the indigenous people. The indigenous situation has been resolved through a policy of tacit and voluntary integration. There has been a process of consolidation of cross-breeding, through an ethnic sedimentation which began during the sixteenth and seventeenth centuries and has still not finished. There has thus been a gradual ethnic integration and a permanent cultural fusion. We recognize that this process has not taken place systematically. Integration has not been imposed on the indigenous communities by the State, through forced absorption and assimilation. The absence of an indigenous policy has admittedly led to a permanent loss of the authentic values of the ethnic heritage. There has been an erosion of the indigenous population's traditional ways and specific human contributions. Around the 1970s policies were undertaken to salvage the heritage of the ethnic groups and minority communities through joint action by non-governmental institutions and organizations formed to protect the indigenous communities. Knowledge of the subject is relatively recent, and there is no fully developed awareness of the indigenous question in Honduras.

We should point out also that there has been specialized research into the history and heritage of the ethnic groups, into the pre-Hispanic and indigenous structures, as part of a scientific approach to their protection. There is also some documentation on the subject, which seeks to evaluate the indigenous communities in Honduras and to give them theoretical status. A considerable bibliography had been produced by the 1980s. Educational activities and efforts to promote greater ethnic awareness will no doubt alleviate the cultural tension created and induced by the problem in the Honduran cultural consciousness.

#### New activities

As part of efforts to deal with the indigenous question, the Honduran Indigenous Institute was set up in the 1960s, and its activities have helped to create an awareness of the indigenous issue. The Institute, which has links with the Inter-American Indian Institute and other regional organizations, has helped to gain access to and analyse the historical experience of Mexico in this field. This has created an attitude towards ethnic groups on the basis of historical experience in more or less similar social and cultural conditions. Since then there has been greater support for indigenous social organizations and respect for their legitimate representatives, for their traditional and structural principles and, in short, for their cultural and social identity. Finally, it has permitted a more correct evaluation of the indigenous question in Honduras.

At the end of the 1970s an inter-institutional State committee was set up, its membership including various ministries and development agencies, with the aim of protecting and promoting the indigenous communities. These now represent some 10 per cent of the total Honduran population, including the Afro-Caribbean minorities (Garifunas and the Anglo-American population in the Archipelago of Islas de la Bahia). This intergovernmental programme is designed to create a more favourable awareness of the ethnic minorities and to strengthen their position in the Department of Yoro, where an integrated rural development programme has been launched with the advice of the European Economic Community. The programme covers such matters as housing, health, land tenure, agro-forest projects, craft and cultural heritage, etc. It was launched in 1980 and will serve as the basis for a development operation among other tribal communities in Honduras. Efforts are also under way to rescue their heritage and cultivate their linguistic and cultural assets.

There are also associations of indigenous groups. One of them brings together the 21 tribal communities in the Department of Yoro and includes the Torrupan and Xicaque populations. The Payas, in the department of Olancho, have received State assistance and on more than one occasion the support of the Ministry of Culture and Tourism as well. The Misquitos, Sumos, etc. in the Mosquittia region also receive government support and have their own representative body. The Ministry of Culture and Tourism specifically provides advice on the formulation of programmes which respect the ethnic heritage, on the establishment of the infrastructure for tribal and community development, etc. Other projects have been undertaken among the various indigenous communities already mentioned - Sumos, Misquitos, etc. - and in other areas where ethnic groups survive, in an attempt to create awareness and participation in development through encouragement of their crafts and their traditional and cultural heritage. The institutions have substantial documentation, which will be collected together at a later stage in order to increase its educational impact and its effect in creating an indigenous awareness in the country. The promotion of an indigenous documentation centre in Yoro and the establishment of cultural centres which decentralize cultural activities are two of the main ways of reaching these minority cultures.

#### Preservation of the heritage of ethnic minorities

The action undertaken for ethnic minorities in Honduras has been carried out within an approach emphasizing community development and qualitative integration. This policy of protection has given rise, subsequently, to progressive efforts at promotion and the formation of an indigenous awareness. The Ministry of Culture and Tourism has undertaken programmes for the cultural preservation of traditional indigenous features by publicity campaigns using films, documentaries, audio-visual aids, collection of documentation on customs and traditions, recording of literature and the oral language, with the support of the Organization of American States (OAS) and Venezuelan organizations, preservation of dances, costumes and crafts, encouragement of the development of crafts in key indigenous survival areas and research and conservation programmes relating to indigenous culture, Honduran ethnography and oral and popular folklore.

#### Other similar measures

Other field of institutional action in this same area, as far as the Ministry of Culture and Tourism is concerned, consist in attempts to find solutions to the problems of indigenous development, the active involvement of

indigenous people in culture, their real and effective integration within the State. These matters were initially tackled at a first national indigenous seminar in 1980, which combined inter-institutional activities on the basis of a common and coherent indigenous development policy, and whose preliminary conclusions served as the basic framework for the intervention of the Honduran Institute of Anthropology and History in relation to the treatment of ethnic groups and continuing efforts to publicize and spread knowledge of them. Other forms of intervention include the treatment of land tenure, the definition of the indigenous agro-forest heritage, in connection with which the specific historical and legal aspects of ownership are being investigated and analysed. Various State bodies are involved in analysing land ownership, with the assistance of the National Agrarian Institute, which is responsible for the matter. They are studying the question of land titles, historical and tribal documentation, agro-forest tenure, etc. in such a way as to promote and defend the rights of the communities. This situation aggravates the already difficult situation of the indigenous populations in relation to the non-indigenous majority. From the ethnic point of view, the socio-cultural situation and the collective psychology of the tribes in a development context deserve special attention. Belonging to a tribe often makes their socio-economic position worse and places them in a situation of dependence and social disadvantage in relation to the groups surrounding them, threatening their way of life and cultural standards. These relationships have not always received enough attention and should be covered in the evaluation and analysis of ethnic and cultural discrimination in the daily life of the communities. The historically and culturally depressed living conditions of these same communities should be analysed. This applies to all ethnic minorities who are to be gradually integrated into the development of the national community.

There should therefore be agreement on a basic policy for the defence and promotion of ethnic populations and minorities which will ease their material and spiritual existence and alleviate the depressed way of life of the communities which find it difficult to survive in the present social system.

#### Resolutions and policies

Honduras fully supports the adoption of resolutions to defend indigenous communities and promote the interests of ethnic minorities with regard to their culture and their historical heritage. It supports the resolutions of the United Nations on the subject and endorses the agreements of its subsidiary organs and specialized agencies on this subject. The Honduran Government is making vigorous efforts to protect the minorities in its territory and to promote their social, human, historical and cultural development. Its policy for the promotion of the ethnic heritage is part of its efforts to defend human dignity and identity. It is concerned with protecting and furthering the human rights that have been internationally recognized and set forth in specific resolutions by the United Nations on the treatment of ethnic groups and indigenous communities throughout the world.

The Government of Honduras fully supports past and future resolutions adopted along these same lines by the United Nations Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities which contain specific and essential provisions on the treatment of the indigenous problem within the context of a humanist and universal mission to defend the human being. Finally, it expresses its firm support for the resolutions of the World Conference to Combat Racism and Racial

Discrimination, held in 1978, which were designed to create a universal consensus on the protection of minorities, of their human, social and cultural rights and of the ethnic minorities themselves within a context of universality and humanism.

The contents of the preliminary report entitled "La población indígena de Honduras y la situación de sus recursos naturales", containing tables and maps, \*/ are as follows:

Acknowledgments

1. Introduction
2. Indigenous groups of the present day
3. Natural resources of the Indians

Indigenous lands

Parks and forest reserves affecting Indians

The quality of indigenous lands; invasion of indigenous lands and measures to defend them

4. Final considerations: the indigenous population and natural resources in the future

Appendix I: Nicaraguan Indian refugees in Honduras

Appendix II: Garífuna villages and settlements in Honduras

Appendix III: Ethnic groups in Honduras

Bibliography

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\*/ The full text of the report is available for consultation at the Secretariat.



ISLAMIC REPUBLIC OF IRAN

[Original: English]

[19 June 1984]

Prior to the victory of the Islamic Revolution, religious minorities in Iran suffered a two-fold oppression; they were, under the monarchical regime, afflicted by a system of suppression and partiality which prevailed in Iranian society, and further, they had in many ways become both tools and victims within their own society of the avarice of the capitalists who, to further their own interests, spared no effort to serve the Pahlavi regime and world arrogance.

At the same time the regime of the Shah, by making an issue of the religious rights of the minorities, managed to segregate them from the Muslim majority of Iran in order to demonstrate their dependence upon the regime and to persuade them that the destruction of the regime would mean their own destruction.

After the victory of the Islamic Revolution, contrary to misleading propaganda reflecting both Eastern and Western arrogance, the Constitution of the Islamic Republic of Iran, which is inspired by the noble laws of Islam, not only officially recognized the rights of the minorities of divine religions, but actually stressed the preservation of cultural, social, economic and political freedom within the framework of Islamic laws. It is self-evident that the policy of the Islamic Republic of Iran, which is based upon the observance of the Constitution, also preserves all the rights and the freedom of the minorities in Islamic Iran.

The minorities recognized in the Constitution of the Islamic Republic are as follows: Jews, Zoroastrians and Christians. (It is necessary to indicate that Christians are divided into two major groups, Armenians and Assyrians, each being considered a separate minority).

With regard to the question of culture, the minorities enjoy all the necessary freedom. In the field of cultural development and expansion, every religious minority has its own associations, assemblies and other official institutions which are engaged in their own particular cultural propagation and publishing activities. Celebrations and regular classes in language, art, history, music are witness to these claims. Similarly the minorities have their own newspapers and magazines, peculiar to themselves, and which, apart from their own special issues, also review political issues of the country as a whole. Two of the most notable publications are "Alik" belonging to the Armenians and "Tamooz" belonging to the Jews which are printed in appreciable quantities.

Minorities in Iran, in addition to studying side by side with Muslim students in school, also have their own schools. Minority students not only study the normal school course but also study subjects dealing with their own religious teachings and participate in their religious ceremonies. In addition, followers of official religions in Iran have the right to continue their education in any field they wish, even to the highest degree of education. There is no form of obstruction regarding them in this matter. A proof of this is the high percentage of literacy among the minorities even in comparison to the ratio with regard to the Muslim population of the country.

In accordance with the Constitution, the use of minority languages in newspapers and by the mass media in addition to Persian which is the official language, is permitted and the teaching of ethnic literature is not restricted in schools.

Hence, in view of the Islamic beliefs concerning the accordancy of official recognition to the above-mentioned religions, minorities have total freedom to participate in their religious ceremonies. Due to the religious nature of the Iranian Revolution, the desire of believers of the religious minorities to practise their religious obligations and ceremonies has increased appreciably compared to the situation before the revolution. This increase has been about 40 per cent among the Jews.

The religious scholars and personalities of the minorities have been officially recognized, and the continued contact of their religious leaders with senior officials of the Government reflects the respect afforded to these religions and the acceptance of their leadership. Similarly on appropriate occasions, interviews take place and their views and opinions on various subjects are reflected in mass media both within and outside the country.

Every year, on the occasion of religious holidays, such as Christmas, Easter, etc. the Radio and Television of the Islamic Republic of Iran broadcast special programmes. Similarly the Government also assists in any manner possible in order to facilitate the celebration of religious festivals of the minorities.

Public holidays are granted for the celebration of major religious festivals of the recognized minority religions. For example Christians have one week of leave for Christmas celebrations and Jews have three days for the celebration of the Passover. It should be borne in mind that a few days ago, on the instructions of the Prime Minister of the Islamic Republic of Iran, the Passover holidays were extended to one week for the Jews.

The minorities in Iran have numerous religious establishments and shrines, to such an extent that only in Palestine are there more religious and sacred establishments for the Jews than there are in Iran. Similarly one of the oldest shrines and places of worship of the Christians, Gara Church, the famous shrine of St. Thadeus, which was built in memory of "Tatavoo", the first apostle of Jesus Christ, who had travelled to Iran and Armenia more than 19 centuries ago, and which is considered a place of pilgrimage for the Armenians, is in North West Iran.

The Jews have more than 30 synagogues, places of worship and congregations in Iran.

Gregorian Armenians have 20 large churches and Assyrians (Aashooris) have several churches affiliated to the Eastern Churches throughout the country. Catholics have their separate churches and Armenian Protestants and Orthodox Christians have their own religious centres. Similarly Zoroastrians have their religious centres throughout the country.

From the social point of view, the minorities, in view of the principles of the Constitution which afford equality to the people of Iran, men and women alike, from any tribe or any ethnic group, share equal rights and are protected legally in administrative and judicial affairs according to the laws of the country.

It is also to be noted that all these religious minorities have formed their own associations which, in accordance with the Constitution, are legally recognized. These associations or religious foundations are based on tradition and members are elected and their role is to solve social disputes and, in some instances, religious issues.

Jews in Tehran and other provincial cities where their numbers are appreciable, have formed their own associations. Similarly the Armenians have two archdioceses, one for the north of Iran and the other for the south. Assyrians and Zoroastrians have also created associations in Tehran and in various provincial cities. The religious minorities also have their own sports complexes and establishments which cater for their sporting activities. The Ararat sports complex of the Armenians is one of the best equipped sports complexes in Iran.

With regard to the use of the other social services, such as the right to health care and medical treatment, it should be pointed out that first of all the followers of minority religions have the same rights as other members of the population. Secondly an appreciable percentage of practising doctors in the country belong to the minority religions. Thirdly, the minorities also have their own medical and health centres, such as the Dr. Seipar Hospital which belongs to the Jewish minority and which is both well-equipped and well staffed; the latter has played a major role in the treatment of those wounded in the imposed war.

With regard to the use of other social services, in accordance with the principles of the Constitution, it is the right of every individual to be afforded support in the case of retirement, unemployment, old age and disablement. Hence there is no partiality in these cases.

With regard to social security and unemployment benefits, it is necessary that it be made quite clear that minorities who have been installed in Iran for the past few centuries have always enjoyed the same social rights as other citizens. The people of Iran, bearing in mind the moral attitudes of Islam, have always treated these people in a cordial manner. They have also enjoyed the support and protection of the religious leaders of Islam. The proof lies in the existence of places of congregation of the various minority religions in the vicinity of mosques or close to the residences of religious leaders, which is in itself a moral encouragement in their development in Iran.

With regard to political freedom, it is worthy of note that in the Islamic Republic of Iran, any political development which remains independent of the influences of superpowers, which does not have the intention to topple the Islamic Republic and which is recognized from the ideological point of view as not having any harmful inclinations is permitted to participate in political affairs. After the Islamic Revolution, groups among minorities began their political activities. Their various meetings and congregations are a proof of this. The minority religions have parliamentary representation on the following scale:

Zoroastrians - one person

Armenians - one person

Southern Armenians - one person

Jews - one person

Assyrians (Christians) - one person.

The number of parliamentary representatives from among the minority religions should increase proportionately with their increase in the population. In the Islamic Consultative Assembly (Parliament) they are also free to determine their own destiny and have actively participated in elections of the religious and

tribal associations and in the general elections, i.e. the elections of members of parliament, presidential elections and City Councils. A recent example is their active participation in the parliamentary elections held on 15 April 1984.

As has previously been explained, the religious minorities (99 per cent) live largely in urban areas and have become involved in commerce and technology and many firms belong to them and they enjoy an advantageous material situation. These minorities have lived in Iran since ancient times and were thus originally rural people who migrated to the cities in the early days of urban life.

Finally, it is necessary to make it clear that although the Islamic Republic of Iran has the largest number of followers of minority religions in the Middle East, contrary to the assertions of both East and West propaganda machinery, nothing has been done to discomfort minority groups or to deprive them of their rights. On the contrary, more efforts are being made than ever before to protect these rights within the framework of the existing laws of the country and to prevent any differences coming between minority citizens and other Iranian people.

ST. VINCENT AND THE GRENADINES

[Original: English]

[22 May 1984]

The Ministry has the further honour to bring to your attention that the Caribs are the only indigenous population. They represent a mixture of Carib and Negro. They are fully integrated into the cultural, political, religious, educational, administrative and linguistic life of St. Vincent and the Grenadines. As a property-owning group, they may be slightly more disadvantaged than the blacks and Indians. However, their civil rights are guaranteed under the Constitution just like any other ethnic group.

SWEDEN

[Original: English]

[22 May 1984]

The only original ethnic minority in Sweden are the Samis previously referred to as Lapps. The Samis have inhabited Sweden since ancient times. This gives them a special status in comparison with other minorities in Sweden.

The area of Sami settlement extends over the entire Nordic arctic region and stretches along the mountain districts on both sides of the Norwegian-Swedish border down to the northernmost part of the province of Dalarna in Sweden. The Sami population is estimated at 40,000 - 50,000, 17,000 of whom live in Sweden. There is no single legal criterion, however, in Sweden for determining if a person is a Sami. Reindeer breeding, kinship and language are all possible criteria, and the total differs according to the criterion used.

Sami culture is closely connected with reindeer husbandry. Out of the total Swedish Sami population, as estimated in 1976, approximately 2,500 (600 - 700 households) were directly engaged in reindeer husbandry or entirely or partially dependent on reindeer husbandry for their livelihood. The number of Samis engaged in reindeer breeding tends to decrease. Most Samis therefore earn their living by other means within Swedish society. They are found in different occupations both in the traditional Sami settlement areas and in other parts of Sweden. Their ties with Sami culture vary all the way from strong identification with the Sami as an ethnic group to total assimilation in the Swedish majority.

The Samis are regarded as the original population of the northern Swedish interior. In the seventeenth century the Swedish authorities encouraged non-Sami settlers to move into these very sparsely populated areas to take up farming. This policy led to conflicts between the settlers and the Samis. Different measures were taken to resolve the conflicts. In the middle of the eighteenth century a delimitation between the coastal areas and the Sami areas (the Laplands) was established. This delimitation is still applicable in certain respects. It was founded on investigations and testimonies and was laid down in the outskirts of the areas to which the Samis, at the time, had an undisputed usufructuary right. In 1967 it was decided that a border line should be determined between the "mountain area" and the area suitable for farming in the counties of Norrbotten and Västerbotten, which comprise the northern third of Sweden. The areas above this "farming line" were in principle to be reserved for the Samis. This principle has not been totally respected over the years. Non-Sami population concentrations have emerged in mining areas, e.g. the city of Kiruna. Non-Sami farmers have also to some extent settled to the west of this border line. On the other hand, the establishment of the farming line did not exclude the Samis from pastures they had traditionally been using below this line.

In reindeer husbandry, natural pasture is by far the dominant production resource. Two different systems of reindeer breeding have evolved in Sweden. One known as mountain reindeer breeding, is geographically dispersed. It is characterized chiefly by relatively long migrations between summer grazing lands in the mountains and winter pastures in the forests or along the coast. The other system is a more stationary system in which the reindeer are allowed limited freedom of movement within a forest region.

The total reindeer husbandry area, which covers parts of the five northernmost counties, comprises some 165,000 km<sup>2</sup>, i.e. more than 30 per cent of the entire area of Sweden. According to a treaty between Sweden and Norway the Samis may move freely with their herds across the national border. Swedish Samis have certain summer pasture rights in Norway and Norwegian Samis have certain winter pasture rights in Sweden.

The number of reindeer in Sweden is around 250,000. It may not exceed roughly 270,000. This figure is determined by the regional agricultural board taking into account the need to protect other land uses in the reindeer husbandry area. It should be noted, however, that the number of reindeer is mainly regulated by the possibilities of providing them with accessible and concentrated winter pastures. This factor varies with the climatic conditions each winter.

Samis' rights to reindeer pasture have been regulated by legislation since 1886. The Act applicable today is the 1971 Reindeer Husbandry Act.

One of the basic reasons for the passage of the 1971 Act was the low productivity level in reindeer breeding in many regions. According to this Act, which in many respects retains the principles of previous legislation, reindeer husbandry is a monopolized and privileged source of livelihood. It is monopolized in the sense that reindeer husbandry using the land of others is reserved for Samis. The "reindeer husbandry right" includes the right in principle to use anybody's land and water for the purpose of reindeer breeding. Thus the Samis have the right to migrate with their reindeer herds between reindeer pasture areas along routes that have been traditionally used. In reindeer pasture areas the Samis have the right to erect cots and storage sheds. In certain cases they may build fences for the marking and separation of reindeer. The Samis can take wood for household purposes and have fishing and hunting privileges in these areas.

The Act does, however, give the Government the power to exclude certain areas from reindeer breeding if they are needed in the public interest. If the restrictions cause damage and nuisance to reindeer husbandry, due compensation is paid.

The reindeer husbandry right is reserved for a person, whose mother or father or any grandparent has had reindeer husbandry as a permanent occupation. The right of adopted children to reindeer husbandry is determined by the extraction of the adoptive parent. Anyone who marries a person possessing the reindeer husbandry right acquires the same right.

The reindeer husbandry area is divided into Sami villages. A Sami village is an administrative unit representing both a geographical grazing area and the community interests of the Samis with reindeer husbandry rights belonging to the village. The introduction and spread of mountain reindeer breeding have given these administrative units their characteristic physical shape - long, narrow and stretching in lines running northwest to southeast. The reason for this is that the migrations of the reindeer generally follow the main river valleys and lake systems.

The Sami village is a kind of economic association responsible for reindeer breeding within the pasture area of the village. It plans, constructs and maintains common facilities as well as distributes the costs among its members. The power of jurisdiction over individual Sami matters possessed by ordinary public authorities under the 1928 Reindeer Grazing Act and subsequent village by-laws has been removed by the 1971 Reindeer Husbandry Act.

All reindeer belonging to a village are listed in the official reindeer list of that village. According to the Act reindeer have to be marked with the owner's registered reindeer mark.

Questions connected with reindeer breeding, especially those concerning land and water rights, have been the subject of conflicting legal interpretations. In 1966 most of the Sami villages brought a civil action against the Government in order to establish that their right to the reindeer grazing mountains of Jämtland County superseded that of the Swedish state. The suit was eventually brought to an end in the Supreme Court in 1981. As a secondary claim the Samis maintained that, even if the State was the owner of the mountains in question, they had more far-reaching usufructuary rights than those granted by the 1971 Act.

Like the lower courts before it, the Supreme Court dismissed the Sami claim of ownership to the area. In its very lengthy judgment the court expounded the legal situation all the way back to the seventeenth century. It noted that according to case law ownership may be based upon immemorial prescription provided that the land has been used in a way which is natural taking into account its properties. Consequently reindeer grazing, hunting and fishing could in principle suffice. The use of the land, however, must have been intense, permanent and virtually undisturbed by others. Furthermore the area in question had to have roughly defined boundaries. The court also noted that usufructuary right can be acquired through immemorial prescription.

The Supreme Court did not grant the Samis ownership to the area in question but determined that they had a usufructuary right of a special kind. According to the court the content of that usufructuary right is totally regulated in the

1971 Reindeer Husbandry Act. The Supreme Court did not find that the Samis in the areas in question had the same right as land-owners inter alia to farming, minerals and water-power and to the conveyance of these rights. On the other hand, the court established that the usufructuary right of the Samis was protected in the Swedish Constitution in the same manner as the property right against restrictions without compensation. Consequently, the Sami usufructuary right has a particular status somewhere between property right and ordinary usufructuary right. It should be noted that this judgment may not be of relevance to the legal situation in the grazing areas in the Laplands of the counties of Västerbotten and Norrbotten.

It has been determined that the maintenance of reindeer husbandry is of crucial importance for the survival of the particular Sami culture and for the preservation of the distinctive character of the Sami population. Therefore, the provisions for the protection of minorities in the Swedish Constitution have special implications for the Sami minority. In the travaux préparatoires to chapter 1, article 2 of the Swedish Instrument of Government dealing with the promotion of the possibilities inter alia of ethnic minorities to preserve and develop a social and cultural life of their own, special mention is made of reindeer husbandry being a central feature of the traditional life style of the Samis.

As to land use, the strongest constraints on reindeer breeding are forestry, tourism, community construction, mining, water-power and predatory animals. Over the years reindeer husbandry appears to have been undercompensated for the encroachments on the grazing areas caused particularly by large-scale forestry and tourism. In the preservation of the Sami right to reindeer husbandry the protection of the natural environment has an important role. This issue has been discussed within the Nordic Council, which has recommended that the Nordic Council of Ministers work out a programme for the protection and preservation of the Sami heartlands in the exploitation of natural resources.

The interests of reindeer husbandry are also being taken into account in Sweden's national physical planning. A leading principle in national physical planning is that the management of land and water is considered in a long-term perspective and is based upon ecological considerations. A proposed Act of Natural Resources states inter alia that land and water areas of importance to reindeer husbandry shall be protected as far as possible from measures which may have significant harmful effects on such husbandry.

As has been pointed out before, reindeer husbandry requires extensive land areas. This means that even if the Samis should through a judgment acquire ownership to a certain area, reindeer husbandry would still have to be carried out on land belonging to others as well.

There is no legal definition of the Samis in Sweden. Ethnic minorities are not noted in the official population registers. Up to the 1960s the registration authorities noted "extraction" - e.g. Sami - of each individual. This system was abolished as it was regarded as discriminatory. The practical consequences of this policy are that there is no particular registration of the Samis apart from the registration entered in the reindeer lists of persons engaged in reindeer husbandry. The reindeer lists for the period 1965 - 1971 were in fact used by a Government Commission on Sami Affairs when attempting to determine the actual Sami population in Sweden.

The steady reduction in the number of Samis engaged in reindeer breeding has stimulated growing interest in other Sami problems. Most important is the problem of giving the Samis an opportunity to preserve their language and adapt their culture to new living conditions. At the same time as the Swedish Cabinet presented its bill for a new Reindeer Husbandry Act it therefore appointed a special commission to investigate Sami affairs as a whole.

The main task of the Government Commission on Sami Affairs was to examine the various problems confronting the Samis in Swedish society, particularly those Samis who have left reindeer husbandry and moved away from reindeer breeding areas. The proposals of the Commission were implemented in a parliamentary bill in 1977.

Considerable government subsidies are today being paid to support reindeer husbandry. In 1979 a government commission was established to study the economic conditions of reindeer husbandry. This Commission has recently proposed that the government subsidies to reindeer husbandry should be increased and that the subsidies should be financed through contributions from large-scale forestry and tourism. The proposals of the Commission are presently being studied by the authorities concerned.

In 1982 another government commission was entrusted with the task of investigating the possibilities of strengthening the legal position of the Samis in respect of reindeer breeding. The Commission shall also consider the need for a special Sami organ to represent the Samis on various matters. Furthermore, the Commission shall propose measures to preserve and develop the Sami language.

In February 1983 the Government amended the terms of reference of the Commission. A primary concern of the Commission should be to clarify the special needs which can be derived from the situation of the Samis as an indigenous population. The three main tasks of the Commission remain unchanged. The work of the Commission ought to be completed within one year.