



Joint submission to the UN Universal Periodic Review of

SWEDEN

21st Session of the UPR Working Group of the Human Rights Council

January/February 2015

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Civil Rights Defenders, Sweden

Supported by:

Expo Foundation, Sweden

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June 13, 2014

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Introduction

In accordance with Human Rights Council Resolution 5/1 of June 18, 2007, this joint submission is presented by *Civil Rights Defenders*¹ and supported by the following Swedish human rights organisations: *Expo Foundation*,² *É Romani Glinda*,³ *Young Roma*,⁴ and *Network Stop Rönnbäck Nickel Mining Project in Ume river, Tärnaby*.⁵ This submission is intended to supplement the report drafted by the government of Sweden, which is scheduled for review by the Human Rights Council during its 21st session.

The submission focuses on Sweden's failure to comply with its international human rights obligations, especially regarding:

- (a) Police use of lethal force/firearms;
- (b) State failure to adequately address the increased occurrence of hate crimes;
- (c) State failure to protect personal integrity;
- (d) Widespread discrimination of the Roma population; and
- (e) Discrimination of the Sami population, particularly in relation to land rights.

We include recommendations that adequately and concretely address the shortcomings of Sweden in relation to the specific issues under consideration.

a. Police use of lethal force/firearms

The last couple of years have witnessed a dramatic increase in deaths following police interventions in Sweden. Between January 2013 and May 2014 interventions ended in the deaths of seven persons as a result of the use of firearms by the police. This must be contrasted with the fact that in the previous ten years a maximum of one person per year died under similar circumstances.⁶ Persons suffering from psychiatric illnesses have constituted at least half of the total number of victims of police violence since 1995.⁷

Certain circumstances appear particularly relevant in this worrying trend. Laws and regulations in this field are hard to interpret, obsolete and internally inconsistent.⁸ There are serious shortcomings in the working methods of the police, illustrated by cases where police officers unnecessarily end up in situations where they are compelled to use lethal force in self-defence.⁹ The police also deal with psychiatrically ill persons without adequate training or preparation. Further, the mandatory ammunition for Swedish police officers is expanding bullets (so-called dum dum bullets); ammunition whose usage has been banned in wartime since 1899 under international law because of the unjustifiable suffering it causes.¹⁰ The use of this ammunition is particularly problematic since Swedish police officers are always armed.

There is only one instance of fatal police shootings since 2000 that has resulted in liability for the police officer responsible for the death.¹¹ All others to date have resulted in acquittals.¹² Thus, mechanisms for accountability are ineffective. The basis for acquittal has in all cases been the provision regulating the general right to self-defence under the Swedish Penal Code. Given the police duty to protect and the law enforcement's monopoly on the use of violence, a higher standard of care regarding self-defence should be applied by the police than for ordinary citizens; nevertheless, so far

the government has failed to heed calls for a separate regulation of the self-defence for law enforcement personnel.¹³

Finally, the State has failed to establish a mechanism for follow-up, investigation and accountability in instances of police violence. There is no independent body charged with investigating the circumstances surrounding deaths resulting from police interventions; instead, the investigative unit forms part of the Swedish National Police Board and thus lacks independence and institutional integrity.¹⁴ Human rights bodies have called for an independent investigative body, but so far, to no avail.¹⁵ Statistics on the use of force by the police are also inadequate; reporting such incidents is voluntary for the specific police departments involved and there is thus a lack of comprehensive information that would enable analysis and critical assessment.

Recommendations:

- I. Undertake a thorough, impartial and speedy investigation into the increase of fatal police violence as a matter of urgency;
- II. Immediately replace dum-dum bullets with non-expanding ammunition for the police;
- III. Revise the legal framework regulating the use of firearms and self-defence;
- IV. Improve the working methods of the police to minimise situations whereby the police have to resort to self-defence, and build specific competences regarding psychiatric illness; and
- V. Establish a fully independent body in charge of investigating instances of police violence, bring those responsible to justice, and ensure the collection of comprehensive data on the police use of firearms.

b) Hate crimes

In several recommendations from the 2010 UPR review, Sweden was urged to effectively implement its laws on hate crime.¹⁶ In its mid-term progress report, the government simply referred to relevant hate crime legislation, but failed to address the fact that few reports of hate crime lead to convictions and redress for the victim. In fact, in its review of Sweden in 2013, the UN Committee on the Elimination of Racial Discrimination (CERD Committee) expressed concern at the “reported discrepancy between increased reports to the police of hate crimes and the decrease in the number of preliminary investigations and convictions.”¹⁷ The CERD Committee also noted that measures against hate crimes are only applied in some parts of the country, and urged Sweden to “extend to all parts of the country the training given to the police, prosecutors and judges to effectively investigate, prosecute and punish hate crimes, in order to close the gap between reported incidents and convictions.”¹⁸

According to the Crime Prevention Board (*Brottsförebyggande rådet*) only 6 percent of all hate crimes that had been reported in 2011 had led to legal action as of April 2013.¹⁹ Furthermore, many hate crimes remain unreported or are not categorised as such in official statistics.²⁰

Sweden has justified its decision not to criminalise racist organisations, as mandated under CERD, with the argument that it has a comprehensive hate crime legislation and a

functioning system to address hate crimes in practice. However, the number of hate crimes committed in Sweden remains at a consistently high level—and these are only the cases reported to the police—illustrating that this strategy does not work in practice.²¹

In relation to hate speech there are clear procedural obstacles that prevent the effective prosecution of such crime. Hate speech in written form can only be brought by the Chancellor of Justice, who has shown a documented unwillingness to bring those responsible to justice, other than in the most serious cases.²²

The Swedish police authority is currently undergoing reorganisation. From the current 21 regional police departments, the Swedish police intend to centralise and create one national police department. In this process, it is paramount that the good practices of the hate crime unit in Stockholm²³ be replicated, developed, and given priority in the new national organisation to ensure more effective work against hate crimes throughout the country.

Recommendations:

- I. Investigate and analyse the hurdles to legal action in criminal cases involving hate motives and remedy the identified flaws as a matter of urgency;
- II. Ensure, as part of the reorganisation of the Swedish Police, that adequate resources and training be given to police units specialised on hate crimes.

c) Violations of integrity protections, including ethnic profiling

The right to private life includes the right to personal integrity. Mass surveillance of electronic communication without proper oversight and due process guarantees is a serious threat to this right. At the same time, experience has shown that while mass surveillance affects everyone to some degree, certain groups are particularly vulnerable to violations of integrity protections. This is the case with respect to certain minority groups who are targeted by the police and other state authorities. Ethnic profiling by the police constitutes a serious violation of the right to integrity.

c. 1. Surveillance of electronic communications

In the 2010 UPR review, Sweden accepted the recommendation to “[c]losely monitor the interpretation and application of the 2008 Surveillance Act to prevent any interference with the right to privacy.”²⁴ In its mid-term progress report, the government only briefly addressed this recommendation, stating that the relevant law includes both control mechanisms and due process guarantees that adequately ensure integrity protection. However, in reality, the control mechanisms of the 2008 law are a far cry from standards of integrity protection under human rights law, and the past couple of years have shown additional preoccupying features of the Swedish practice of mass surveillance.

A report commissioned by the European Parliament Committee on Civil Liberties and Home Affairs in 2013 point to several severe flaws of Swedish legislation and practice.²⁵ For example, Swedish control mechanisms, built into the legislative framework, are weak and lacking in independence.²⁶ The system is characterised also by a lack of

transparency. It fails to properly balance the express objective of the surveillance—counter-terrorism, crime prevention, and national defence—and the resulting violations of integrity. There is ample evidence that Sweden’s National Defence Radio Establishment shares substantial quantities of data with foreign intelligence services, including the US National Security Agency.²⁷ Furthermore, a wide range of actors and institutions has access to the collected data, raising concerns from a privacy rights perspective and indicating, “data are being used for a wide range of security purposes far beyond the narrow focus of counter-terrorism and defence.”²⁸

In March 2014, the European Parliament adopted a strongly worded resolution on US and European mass surveillance programs and their impact on fundamental rights.²⁹ The resolution specifically names Sweden as one of the EU countries whose mass surveillance programs fail to take privacy rights into account, calling on Sweden, amongst a few other countries, to:

[C]larify the allegations of mass surveillance activities, including mass surveillance of cross border telecommunications, untargeted surveillance on cable-bound communications, potential agreements between intelligence services and telecommunication companies as regards access and exchange of personal data and access to transatlantic cables, US intelligence personnel and equipment on EU territory without oversight on surveillance operations, and their compatibility with EU legislation;³⁰

The Swedish government has not shown any interest in remedying these very severe flaws identified by the European Parliament. The government issues a yearly report to the Swedish Parliament in which it reports on the implementation of the 2008 Surveillance Law and its potential impact on personal integrity. In stark contrast with the conclusions of the European Parliament, in its 2013 report—which is merely three pages long—the government reiterates that there is no reason for concern over privacy rights violations.³¹ It concludes that the control mechanisms built into the law function properly and finds no flaws in the application of the law on integrity grounds.³²

c. 2. Arbitrary migrant controls/ethnic profiling

In 2012 Swedish media revealed that, as part of the so-called internal migrant controls mandated by Sweden’s participation in the Schengen Agreement, persons were stopped by the police and asked to prove their legal status in Sweden solely on the basis of their appearance. The police justified the controls with the need to identify so-called irregular immigrants. Identity checks of foreigners are legal in Sweden, but can only be prompted when there is a suspicion of criminal activity or when the police have grounds to believe that the person is in the country illegally. Identity checks based solely on ethnicity or appearance are prohibited both by Swedish law and international human rights principles.³³ Persons who have spoken out in the media have claimed to be stopped merely as a result of their “foreign-looking” appearance, strongly indicating the use of ethnic profiling as a means of combating irregular immigration.³⁴ According to studies, 90% of all persons checked in Stockholm in February 2013 were wrongly mistaken for being irregular immigrants.³⁵

Reports illustrate that the police have insufficient tools for monitoring and documenting identity controls of foreigners or suspected foreigners. A mapping published in 2014 found that in some parts of Sweden standard routines are lacking regarding the

production of documentation in instances where the targeted person was a legal resident.³⁶ In other words, when the police were “wrong” in their assumptions of irregularity, oftentimes they failed to register the identity check. The practical consequences of this failure are that persons who have been wrongly targeted as irregular migrants, and who may have been subjected to illegal ethnic profiling, lack the means of proving this fact in subsequent complaints to the police and the courts.

Another example of ethnic profiling as a potential working method of the police are the registers of persons of Roma origin, kept by the police in southern Sweden and made known to the public in 2013. The Equality Ombudsman has expressed concern that this register indicates that the police use ethnic profiling as a working method.³⁷ See further next section.

A report published in 2008 by the Crime Prevention Board concludes that systematic ethnic discrimination in the areas of law enforcement and the judiciary remains a serious problem and a human rights concern, rendering the right to equality before the law illusory for parts of the population.³⁸ The report describes the widespread practice of ethnic profiling on behalf of the Swedish police and highlights how this practice not only threatens due process but also results in skewed statistics of criminal activity where persons of non-majority background appear to be overrepresented.³⁹

Recommendations:

- I. Revise legislation that regulates electronic surveillance to improve transparency and strengthen the independence and effectiveness of existing control mechanisms;
- II. Evaluate the results of surveillance on crime prevention, counter-terrorism, and national defence;
- III. Immediately put an end to ethnic profiling as a working method of the police and all other law enforcement staff;
- IV. Take measures to establish a solid system for documentation of all identity checks of presumed foreigners, including those where the presumption is incorrect;
- V. Ensure that victims of ethnic profiling be granted adequate redress and compensation.

d) Discrimination of Roma

In several of the recommendations emanating from 2010 the Swedish government was urged to take stronger measures against discrimination on ethnic grounds, including discrimination of the Swedish Roma population.⁴⁰ In its mid-term progress report, the government claims to be acting forcefully to eliminate the discrimination that the Roma population suffers. While it is true that the state has taken certain measures to map and counteract discrimination of Roma in the past years, much remains to be done, and new forms of discrimination and abuse against this group have emerged since the 2010 review of Sweden.

The UN Treaty Monitoring Bodies have expressed serious concern over the situation of the Swedish Roma population. In its most recent review of Sweden, the CERD Committee

addressed the lack of progress in the actual enjoyment of rights of the Swedish Roma population, "in particular [regarding] the continued stigmatization of and discrimination against Roma in access to services, their ongoing precarious socioeconomic situation due to low levels of employment, [...] discrimination in education, and the prevailing lack of access of Roma to adequate housing."⁴¹ Similarly, in 2008 the UN Committee Against Torture urged Sweden to intensify its efforts to combat discrimination against the Roma.⁴²

d. 1. Illegal registration of persons of Roma origin

In September 2013 Swedish media revealed that the police department of Skåne in southern Sweden had for years kept a register entitled "Travelers" (in Swedish: *kringresande*), largely consisting of persons of Roma origin. The register contains entries of over 4,700 persons, among which can be found 220 deceased persons, a large number of persons living outside of the relevant geographical area, and over 1,000 children under the age of 15. The police assert that the register was kept not on ethnic grounds but on the basis of links to criminal activity, and that its purpose has been intelligence and crime prevention. Nevertheless, the police have failed to provide a satisfactory explanation of why so many children and persons living outside of the relevant area figure in the register, and many individuals have expressed outrage over finding their names in the register, unable to find an explanation other than their ethnicity. Keeping a register exclusively or principally on ethnic grounds does not only go against Swedish law but also against fundamental rights such as the right to privacy and the right to non-discrimination.

In November 2013 the Swedish Commission on Security and Integrity Protection (*Säkerhets och integritetsskyddsnämnden*, SIN) stated that the register was illegal in numerous ways. Among other things SIN found that the suggested purpose of the register was too broad to be permitted for collection of personal data and that a connection between many of the registered persons and the supposed criminality was lacking.⁴³ SIN did not conclude that the register was based *exclusively* on ethnicity and therefore failed to rule that it was an expression of ethnic discrimination *per se*. However, upon investigating the matter the Equality Ombudsman expressed serious concern over the predominance of persons of Roma background in the register, and concluded that this suggests that the police in their crime prevention use ethnic profiling as a working method.⁴⁴

Nobody has been held responsible for this large-scale registration of Roma persons. A criminal investigation against two of the police officers in charge of the register was initiated, but the prosecutor dropped the case in December 2013 on the basis that no crime could be proven.⁴⁵ The Swedish Parliamentary Ombudsman (*Justitieombudsmannen*) has also started an investigation into the legality of the registers.⁴⁶ However, regardless of outcome,⁴⁶ this investigation will not result in individuals being held responsible nor ensure accountability of relevant state institutions.

In May 2014 the Chancellor of Justice (*Justitiekanslern*) issued a decision confirming that the register was illegal and ruled that those whose names are listed on it will be awarded 5,000 SEK (ca 550 EUR) each in damages.⁴⁷ The decision is based exclusively

on the formal flaws already identified by SIN, and does not address the aspect of ethnic discrimination and the potential for ethnic profiling. As such, the Chancellor of Justice fails to put the register into the context of historical ethnic discrimination, registration and harassment of the Swedish Roma, and fails to appreciate the depth of harm suffered by the affected individuals.

d. 2. Discrimination of Roma in the field of social and economic rights

Discrimination of Roma in Swedish daily life remains widespread and is a cause of concern from a human rights perspective. At the same time, due to the history of racism, persecution, marginalisation, forced assimilation and forced sterilisation of Roma in Sweden, the trust in state bodies among many Roma is low and as such many instances of harassment and hate crimes go unreported. For example, in relation to the Skåne register mentioned above, some Roma have expressed reluctance to query whether their names are in the register, out of fear that “coming out” as Roma would stigmatise them even further. The difficulties for Roma to get redress for harassment and hate crimes are also well known (see further below), effectively discouraging those affected from reporting violations.

According to a 2011 report from the Equality Ombudsman, about 70 percent of reports of discrimination between 2004 and 2006 to DO of Roma came from Roma women, who had experienced discrimination and harassment in daily life such as in grocery shops, hotels, and restaurants.⁴⁸ Several also reported discrimination in relation to access to housing and social services. A government report on Roma inclusion published in 2010 suggests that as many as 90 percent of all adult Roma are unemployed in Sweden, that school dropout rates are significantly higher among Roma children than in other groups, and that as many as 30 percent of the adult Roma population may have experienced discrimination when it comes to access to housing.⁴⁹

States have an immediate obligation to remedy and prevent ethnic discrimination in relation to the enjoyment of social and economic rights.⁵⁰ Sweden has in recent years started to address the historic discrimination and harassment that Swedish Roma have been subjected to,⁵¹ but widespread discrimination in all spheres of society continue and there is a lack of forceful and concerted action on behalf of State bodies to counteract these human rights violations.

In 2012 the government launched a strategy for Roma inclusion.⁵² However, the strategy does not go far enough. For example, it states that not until 2032—twenty years from its launch—should Roma enjoy all rights on equal terms with the majority population, which is a deplorably low level of ambition. Resources are limited and the strategy focuses primarily on actions and the potential of the Roma themselves, instead of suggesting concrete and targeted measures by which the attitudes and behaviour of the majority population and state institutions change in order to welcome Roma as equal citizens in society and ensure their rights.

d. 3. Hate crimes against Roma

According to statistics from the Swedish Board of Crime Prevention, hate crimes against persons of Roma origin are on the rise—or at least the number of reports of hate crimes

against this group has increased considerably over the past five years.⁵³ At the same time, anti-Roma hate crimes are those that have the lowest clarification rate, as illustrated by the fact that by April 2013 individual perpetrators had been identified in only 2 percent of hate crimes committed against Roma that were reported in 2011.⁵⁴ Another feature of hate crimes committed against Roma is that an unusually large proportion of these take place in close vicinity to the victim's home, and that in over a quarter of the cases the perpetrator was reported to be a neighbour or service provider. These features illustrate that hate crimes against Roma may involve violations of privacy and security of the home to a larger degree than other hate crimes, exacerbating the suffering and trauma for those affected.⁵⁵

d. 4. Forced evictions of EU migrants of Roma origin

During the past year, State authorities have carried out several forced evictions of EU migrants of Roma origin. The migrants, most of whom fled ethnic discrimination and harassment in Romania and Bulgaria, have as EU nationals a legal right to stay in Sweden for three months.⁵⁶ Several hundred have established settlements in different parts of the country and in several locations they have been forcibly removed, sometimes by use of force.⁵⁷ According to media reports, one group of between 40 and 100 Roma migrants from Romania was evicted three times in less than a month from different locations outside of Stockholm where they had built their camp.⁵⁸ Some evictions have taken place in the presence of riot police in spite of no signs of violent resistance. City officials offered the migrants tickets to return to Romania, but did not offer any social or economic support for those who wished to stay in Sweden as required under national law. Their sheds were destroyed with bulldozers.

Forced evictions go against human rights law, in particular the right to adequate housing as established under the UN Covenant on Economic, Social and Cultural Rights but also the right to privacy and a host of other rights.⁵⁹ States at all times have an obligation to ensure that evictions do not involve any components of discrimination.⁶⁰ Indeed, forced evictions of groups of Roma such as the ones carried out recently in Sweden raises concerns about discrimination on the basis of ethnicity. Not only should Sweden provide persons in need with temporary housing and other basic services in line with its international human rights obligations, but should also offer refuge and counteract the systematic discrimination that have compelled persons of Roma background to flee their home countries in the first place.

EU citizens who have experienced discrimination, harassment and persecution are effectively barred from having their asylum claims assessed in other EU countries, in violation of the right to asylum under international refugee law.⁶¹ Furthermore, Roma from non-EU countries such as Serbia and Kosovo are routinely denied asylum in Sweden, regardless of their individual claims, based on the assumption that State authorities in their home countries are able and willing to protect them against harassment.⁶² Ample evidence speaks to the contrary.⁶³ Roma are one of the most marginalised and persecuted groups in Europe.⁶⁴ Under international law they have a right to apply for asylum and be assessed on equal terms with other groups of asylum seekers in Sweden—regardless of whether they are EU nationals or not. As such, denying EU nationals and other European Roma the basic right to have their asylum claims assessed violates basic human rights standards.

Recommendations:

- I. Immediately investigate the illegal police register of Roma and ensure that the responsible persons and institutions be held accountable; that victims be granted adequate compensation and redress for the harm suffered also in relation to discrimination; that policies are put in place that guarantee non-repetition; and that a formal apology from the highest possible state body is offered to those affected;
- II. Introduce positive measures, including affirmative action, to combat structural discrimination against Roma in daily life;
- III. Improve access to justice for Roma by allocating more resources to the Equality Ombudsman and civil society for litigation against discrimination and other human rights abuses of the Roma;
- IV. Take forceful action to prevent, investigate and punish anti-Roma hate crimes and provide redress to victims;
- V. Immediately halt the forced evictions of Roma EU migrants and ensure that their basic needs are met and rights respected, including their right to non-discrimination in the field of social and economic rights;
- VI. Ensure that EU and non-EU nationals of Roma background be treated on equal terms with others in the asylum process and work towards a repeal of the EU policy that denies EU nationals the ability to be assessed for asylum within the EU.

e) Discrimination of the Sami

A number of recommendations were made to Sweden in the 2010 UPR round concerning the rights of the Swedish Sami population. Sweden accepted many of them, including to “[c]onsider ratifying ILO Convention No. 169 as a matter of priority”⁶⁵ and “ensure that affected Sami communities can take part and participate actively in consultations held between federal government and municipalities on issues related to land rights, water and resources.”⁶⁶ In its mid-term progress report, the government fails to mention any steps taken towards the ratification of the ILO Convention, and touches only vaguely and in a non-committing manner upon the critical issue of rights of the Sami to consultation and informed consent in matters that concern them.

Indeed, since the 2010 UPR round, Sweden has received massive criticism from other international and regional bodies relating to its failure to safeguard the rights of the Sami.⁶⁷ Instead of heeding calls for action, the government has taken measures that further aggravate the situation, in particular by allowing the acceleration with regards to exploiting the natural resources in the North of Sweden. Large-scale prospecting and mining due to lenient mining legislation and policies in the Sami territory have had devastating consequences on Sami rights over the past five years. The right of the Sami to influence matters that concern them has been blatantly ignored in these processes—contrary both to domestic⁶⁸ and international law.⁶⁹

In February 2013, the Swedish government presented a new strategy for extraction of minerals.⁷⁰ According to this strategy, the government aims for a doubling of the number of mines by 2020 and a tripling by 2030.⁷¹ The new strategy was met with

widespread protests from the Sami community and civil society, but to no avail. In fact, as pointed out by the Swedish Sami Parliament and echoed by the Swedish Equality Ombudsman, the mineral extraction policy and the application of the Swedish mineral law go contrary to well-established principles of respect and protection of the rights of indigenous peoples, the right to self-determination over matters that concern them, and the right to free, prior and informed consent.⁷² The Equality Ombudsman recently called the situation for Sami rights in relation to extractive industries “alarming” and urged the government to put an end to all discriminatory practices against the Sami.⁷³

One major problem is the application of the “balancing of interests,” called for by the law, where different national interests at stake should be weighed against each other prior to permission being granted to exploit natural resources. According to the Swedish Environmental Code (*miljöbalken*), when interests collide the State shall give precedence to the interest that best promotes long-term sustainable use of land and water and the assessment must take ecological, social, culture and economic factors into account.⁷⁴ In practice, relevant state bodies routinely assess relevant interests from a purely macroeconomic perspective, prioritising opportunities for job creation and so-called local development over the rights of the Sami to their culture and their traditional lands to which they have established property rights under Swedish and international law.⁷⁵ For example, reindeer herding, a traditional livelihood of the indigenous Sami people, is routinely assessed exclusively from an economic perspective and balanced against the state’s interest in job creation and state revenue from mining activities.⁷⁶ Other parts of Sami culture and livelihood are also neglected in the process. One example is the recent approved application by a mining corporation to initiate nickel mining in Rönnbäck, Västerbotten, in August 2013. In its decision to grant concessions to the mining company the State explicitly prioritised the national interest of extraction of minerals over reindeer herding and other Sami rights and interests, *de facto* only giving regard to socio-economic concerns.⁷⁷

The widespread and systematic exploitation of land and water threatens not only the Sami’s livelihood but also their culture, environment, physical and mental health, food supply, and ability to exercise their spirituality. Access and use of land is critical for the Sami not only for reindeer herding but also for fishing, hunting, handicraft, herbs, food security, art, tourism, design, etc. The Sami culture is so strongly connected with the use of land and water that one cannot be disconnected from the other, thus, the widespread exploitation of natural resources in the Sami territory per definition jeopardises the existence of the Sami as a people.⁷⁸ The government routinely ignores these critical elements in addressing applications from private mining corporations seeking exploration licences in traditional Sami territories.

In September 2013 the Sami Council together with one Sami community submitted a complaint to the UN Committee on the Elimination of Racial Discrimination, claiming that the government’s decision to grant permission for the mine in Rönnbäck violates property rights and the right to non-discrimination of the affected reindeer herding Sami population.⁷⁹ In October 2013, the CERD Committee in an interim decision requested that the Swedish government suspend all mining activities in the relevant area while the case is under consideration by the Committee.⁸⁰ The government, nevertheless, has rejected the Committee’s request.⁸¹ Other Sami representatives have

also appealed the decision, to no avail. More complaints against mining activities in traditional Sami territory are likely to follow.

In addition to the urgency in relation to the extraction of natural resources in traditional Sami territories, there are also inherent discriminatory elements of the historic state categorisation and colonisation of the Sami. The Reindeer Grazing Act (*rennäringslagen*)⁸² provides for certain protections in regard to land use but the implementation of this law distinguishes reindeer-herding Sami from those who are not, thus granting rights based on property and profession and unnecessarily causing divisions within the Sami community. No land or water rights are granted to the non-reindeer herding Sami population, effectively denying the Sami the broader rights linked to land and water, both as a livelihood and in relation to rights to culture, health, and dignity as a people. As a consequence, non-reindeer-herding Sami are excluded in the mining prospecting processes, even when mining projects are of concern for the larger Sami community. In the case of Rönnbäck the majority of the local Sami population has been denied standing in the process.

For almost 20 years, the governments of Sweden, Norway, and Finland and the Sami Parliaments in the three countries have discussed and negotiated a Nordic Sami Convention. The purposes of the convention are to strengthen domestic norms for indigenous rights in accordance with international standards and to harmonise legislation in the three countries. In 2005 a draft text was presented, but negotiations have dragged on and the governments have still not agreed on a final text. Sami representatives express concern over the significant delays and the perceived lack of interest and commitment from the governments and call for the closure of negotiations and adoption of the Convention no later than 2016.⁸³

The Swedish government has failed to investigate and remedy the historical discrimination and repression of the Sami. In May 2014 the Sami Parliament voted to support the establishment of a truth commission on the treatment of the Sami people throughout Sweden's history. Such a commission would be an important contribution to the recognition of the structural violations of the human rights of the Sami population.⁸⁴

Recommendations:

- I. Ratify ILO Convention 169 as a matter of urgency and review all laws and policies to place them in accordance with the Convention;
- II. Ensure the timely negotiation and adoption of a Nordic Sami Convention in line with well-established principles on the rights of indigenous peoples;
- III. Put a moratorium on all extractive industries in traditional Sami territory until the ratification of ILO Convention 169 and the finalisation and adoption of the Nordic Sami Convention and until the relevant review of all laws and policies to put them in accordance with these standards has been undertaken;
- IV. Legislate an absolute right to free, prior and informed consent to any exploitation of natural resources in traditional Sami territory, as per the right to self-determination as established by international human rights treaties to which Sweden is a party,⁸⁵ and

- V. Respect the land rights of the Sami as one people, for example, in exploitation of land and water ensure that all Sami concerned are included in the consultative processes;
- VI. Establish a truth commission on the treatment of the Sami throughout Sweden's history and establish procedures for redress and compensation for human rights violations of the Sami people.

¹ Civil Rights Defenders is an independent expert organisation founded in Stockholm, Sweden in 1982, with the aim of defending human rights, and in particular people's civil and political rights, and to support and empower human rights defenders at risk. For more information, see www.civilrightsdefenders.org.

² Expo Foundation is a privately owned research foundation founded in 1995 with the aim of studying and mapping anti-democratic, right wing extremist and racist tendencies in society. For more information, see <http://expo.se>.

³ É Romani Glinda (*The Roma Mirror*) is a non-profit Roma organisation founded in 1997. Its objective is to improve the living conditions of Roma in Sweden and in Europe through a range of activities targeting both Roma and non-Roma groups. For more information, see www.romaniglinda.se.

⁴ The organisation Young Roma fights to put an end to racism and Anti-Roma discrimination and for the equality of all people. For more information, see <http://ungaromer.se>.

⁵ Stop Rönnbäck Nickel-Mining Project in Ume River, Tärnaby is a network opposing a large-scale nickel-mining project in Ume River in the mountains of Tärnaby, a project related to extremely high risk and situated on traditional Sami land. The network has been filing complaints, raising awareness and knowledge on the mining situation in Sweden and is collaborating with other mining struggle groups and organizations. For more information, see <https://www.facebook.com/groups/stoppagruvan/>.

⁶ Dagens Nyheter, "Rekordmånga polis-skjutningar – 'inget mönster'" (*Record-breaking number of police shootings – 'no pattern'*), November 13, 2013, available at <http://www.dn.se/nyheter/sverige/rekordmanga-polisskjutningar-inget-monster/>.

⁷ Conclusion drawn from media analyses carried out by Civil Rights Defenders.

⁸ Noree, Annika, Polisens rätt till våld (*Legitimate use of violence on behalf of the police*), Norstedts Juridik 2008, pp. 90-95.

⁹ Ibid, pp. 120-123. See also Boucht, Johan, Polisiär våldsanvändning (*Police use of violence*), Iustus förlag 2011, pp. 463-464.

¹⁰ See Declaration on the Use of Bullets Which Expand or Flatten Easily in the Human Body; July 29, 1899 (1899 Hague Convention IV,3).

¹¹ Aftonbladet, "Polisman döms till fängelse för dödsskjutning" (*Police officer convicted to prison for fatal shooting*), October 30, 2000, available at: <http://www.aftonbladet.se/nyheter/0010/30/polisman.html>. See also Pettersson, Fanny, "Är domstolar ovilliga att fälla polismän?" (*Do courts hesitate to convict police officers?*), LL.M thesis, Faculty of Law, Lunds Universitet, 2013, available at: <http://lup.lub.lu.se/luur/download?func=downloadFile&recordId=3800978&fileId=3865283>.

¹² At the time of writing, in one case the responsible police officer has been indicted and is currently pending trial. This is the case of a police shooting in Varberg in July 2013. In another case, the shooting of a 64-year-old man occurring in Gothenburg in March 2014, the preliminary investigation is ongoing and the police officer has been notified of charges, pending indictment.

¹³ See, Boucht 2011, *supra* note 9, pp. 463-464 and Hårdh, Robert, and Stauffer, John, "Se över polisens vapenhantering" (*Reform regulations on police use of firearms*), Svenska Dagbladet, May 17, 2013, available at: http://www.svd.se/opinion/brannpunkt/se-over-polisens-vapenhantering_8179958.svd.

¹⁴ See for information, Swedish Police: Internal investigations unit, available at: <http://polisen.se/Om-polisen/Organisation/Internutredningar/>.

¹⁵ See, for instance, Council of Europe: European Commission Against Racism and Intolerance (ECRI), *ECRI Report on Sweden (fourth monitoring cycle): Adopted on 19 June 2012*, CRI(2012)46 p. 44, available at: <http://www.refworld.org/docid/513da78c2.html>.

¹⁶ See, for instance, recommendation 95:23 (South Africa), recommendation 95:24 (United States of America), and recommendation 95:25 (Qatar).

¹⁷ UN Committee on the Elimination of Racial Discrimination, CERD/C/SWE/CO/19-21, September 23, 2013, para. 11.

¹⁸ Ibid.

¹⁹ Brottsförebyggande rådet, Hatbrott 2012 (*Hate Crimes 2012*), June 2013, p. 33, available at: https://www.bra.se/download/18.6b82726313f7b234a5839/1372231125966/2013_16_Hatbrott_2012.pdf.

²⁰ Ibid, pp. 15-16.

²¹ In 2010, a total number of 5,139 hate crimes were reported to the police. In 2011 the number was 5,493, and in 2012 it was 5,518. See Brottsförebyggande rådet 2012, *supra* note 19, p. 29.

²² See for further information the CRD report "Hatets språk" (*Language of Hatred*), 2005, available at <http://www.civilrightsdefenders.org/files/Hatets-sprak-gransen-mellan-hatpropaganda-och-yttrandefrihet.pdf>.

²³ See, for information, "Hatbrottsgruppen i Stockholm" (*The Hate Crime Unit in Stockholm*), available at http://polisen.se/Stockholms_lan/Om-polisen/lan/St/op/Polisen-i-Stockholms-lan/Brottsutredning/Test-Polisarbete-med-HBT-och-hatbrott/Hatbrottsjouren-i-Stockholm-City/.

²⁴ Recommendation 95:84 (Netherlands). See also recommendation 96:48 (Russian Federation), where Sweden accepted the first half: "Find, with reference to the law on screening electronic messages, a rational balance between upholding the rights of citizens and real steps to combat terrorism on the Internet."

²⁵ Directorate General for Internal Policies, Policy Department C: Citizens Rights and Constitutional Affairs. Civil Liberties, Justice and Home Affairs. "National Programmes for Mass Surveillance of Personal Data in EU Member States and their Compatibility with EU Law", October 2013 (requested by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs), available at: [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/493032/IPOL-LIBE_ET\(2013\)493032_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/493032/IPOL-LIBE_ET(2013)493032_EN.pdf).

²⁶ Ibid pp. 60-61.

²⁷ Ibid p. 60.

²⁸ Ibid. p. 24.

²⁹ European Parliament resolution of 12 March 2014 on the US NSA surveillance programme, surveillance bodies in various Member States and their impact on EU citizens' fundamental rights and on transatlantic cooperation in Justice and Home Affairs (2013/2188(INI)), available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2014-0230&language=EN&ring=A7-2014-0139>.

³⁰ Ibid.

³¹ Integritetsskydd vid signalspaning i försvarsunderrättelseverksamhet (*Integrity protections in interception used in defense intelligence activities*), skr. 2013/14:54, available at: http://www.riksdagen.se/sv/Dokument-Lagar/Forslag/Propositioner-och-skrivelser/Integritetsskydd-vid-signalspa_H10354/?text=true.

³² Ibid.

³³ See, for instance, information from the Swedish Police: "Fakta om inre utlänningskontroller" (*Facts on internal migrant control*), February 22, 2013, available at: <http://polisen.se/Arkiv/Nyhetsarkiv/Gemensam/Polisens-arbete-med-inre-utlanningskontroller/>.

³⁴ See, for instance, SVT Nyheter, "Polisen tvingade Gonzalo bevisa att han är svensk" (*The Police forced Gonzalo to prove that he is Swedish*), February 20, 2013, available at: http://www.svt.se/nyheter/regionalt/abc/id-kollades-av-polis-for-att-han-ser-utlandsk-ut?fb_action_ids=10151748416064325&fb_action_types=og.recommends&fb_source=other_multiline&action_object_map=%5B436308433115725%5D&action_type_map=%5B%22og.recommends%22%5D&action_ref_map,

³⁵ Dagens Nyheter, "Hög felmarginal när polisen jagar papperslösa" (*Large margin of error when the police searches for irregular migrants*), February 25, 2013, available at: <http://www.dn.se/sthlm/hog-felmarginal-nar-polisen-jagar-papperslosa/>.

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- ³⁶ Leander, Peter "Skyldig tills motsatsen bevisats?" (*Guilty until proven innocent?*), Arena Idé, February 2014, pp. 11-20, available at <http://www.arenaide.se/rapporter/skyldig-tills-motsatsen-bevisats/>.
- ³⁷ Diskrimineringsombudsmannen, ärende GRA 2013/617 handling 34, February 20, 2014, available at: <http://www.do.se/Documents/granskningar/Beslut%20GRA%202013-617.pdf>.
- ³⁸ Brottsförebyggande rådet, "Diskriminering i rättsprocessen" (*Discrimination in the judicial process*), Report 2008:4, available at: http://www.bra.se/download/18.cba82f7130f475a2f180007887/1311604817813/2008_4_diskriminering_i_rattsprocessen.pdf.
- ³⁹ Ibid, pp. 28-31.
- ⁴⁰ See, for instance, recommendations 95:44 (Russian Federation) and 95:73 (Netherlands).
- ⁴¹ UN CERD 2013, *supra* note 17, para 20.
- ⁴² UN Committee against Torture, CAT/C/SWE/CO/5, June 4, 2008, para. 21.
- ⁴³ Säkerhets och integritetsskyddsnämnden, "Polismyndigheten i Skånes behandling av personuppgifter i uppgiftssamlingen benämnd "Kringresande" (*Treatment of personal data by the Skåne Police Authority in the register titled "Travelers"*), Dnr 173-2013, November 15, 2013, available at: <http://www.sakint.se/Uttalande-Skanepolisens-personuppgiftsbehandling.pdf>.
- ⁴⁴ Diskrimineringsombudsmannen 2014, *supra* note 37.
- ⁴⁵ Svenska Dagbladet, "Utredning om polisregister nedlagd" (*Investigation into the police register dropped*), December 20, 2013, available at: http://www.svd.se/nyheter/inrikes/utredning-om-polisregister-nedlagd_8841492.svd.
- ⁴⁶ Dagens Nyheter, "JO granskar romregistret" (*The Parliamentary Ombudsman investigates the Roma register*), March 10, 2014, available at: <http://www.dn.se/nyheter/sverige/jo-granskar-romregistret/>.
- ⁴⁷ Justitiekanslern, "Skadeståndsanspråk med hänvisning till att personuppgifter i det s.k. Kringresanderegistret har behandlats i strid med polisdatalagen" (*Claims for damages due to the fact that the treatment of personal data in the so-called Travelers' register has breached the Police Data Act*), diariennr. 1441-14-47 May 7, 2014, available at: <http://www.jk.se/sv-SE/Beslut/Skadestandsarenden/1441-14-47.aspx>.
- ⁴⁸ Diskrimineringsombudsmannen, "Romers rättigheter. Diskriminering, vägar till upprättelse och hur juridiken kan bidra till en förändring av romers livsvillkor" (*Roma rights. Discrimination, paths of redress and how the law can improve the situation of Roma*), 2011. pp. 22-24, available at: <http://www.do.se/sv/Material/Romers-rattigheter/>.
- ⁴⁹ Romers rätt: en strategi för romer i Sverige (*Roma rights: a strategy for the Roma in Sweden*), SOU 2010:55. pp. 367, 310-315, 403, available at: <http://www.regeringen.se/sb/d/12482/a/150025>.
- ⁵⁰ See UN Committee on Economic, Social and Cultural Rights, "General Comment No. 20: Non-discrimination in economic, social and cultural rights," E/C.12/GC/20 (2009).
- ⁵¹ See, for instance, the government strategy on Roma rights, *supra* note 49, the government's recently published White Paper on violations against Roma in Sweden's recent history: "Den mörka och okända historien. Vitbok om övergrepp och kränkningar av romer under 1900-talet" (*The dark and unknown history. White paper on abuses and rights violations of Roma during the 1900s*), March 2014, available at: <http://www.regeringen.se/sb/d/18377/a/236904>, and the recent government initiative to appoint a commission against anti-ziganism, see <http://www.regeringen.se/sb/d/18158/a/237168>.
- ⁵² En samordnad och långsiktig strategi för romsk inkludering 2012-2032 (*A coordinated and long-term strategy for Roma inclusion 2012-2032*), February 2012, available at: <http://www.regeringen.se/content/1/c6/18/70/41/b7e89fd9.pdf>.
- ⁵³ Brottsförebyggande rådet, Hatbrott 2012, *supra* note 19, p. 47.
- ⁵⁴ Ibid, p. 49.
- ⁵⁵ Ibid.
- ⁵⁶ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.

⁵⁷ Evictions have occurred, among other locations, in Högdalen outside of Stockholm in February 2014, in Flemingsberg and in Sollentuna outside of Stockholm in March 2014, and in Mölndal outside of Gothenburg in April 2014.

⁵⁸ See, for instance, Dagens Nyheter, "Migranter vräktes från läger i Helenelund" (*Migrants evicted from camp in Helenelund*), March 13, 2014, available at: <http://www.dn.se/sthlm/migranter-vraktes-fran-lager-i-helenelund/> and ETC, "Romer vräktes – igen" (*Roma evicted – again*), March 13, 2014, available at: <http://www.etc.se/nyheter/romer-vraktes-igen>.

⁵⁹ See, for instance, Resolution 1993/77, UN Commission on Human Rights, E/CN.4/RES/1993/77 (1993), and CESCR General Comment 7 on forced evictions and the right to adequate housing, U.N. Doc. HRI/GEN/1/Rev.6 at 45 (2003).

⁶⁰ CESCR General Comment 7 (2003), *supra* note 59.

⁶¹ See Stern, Rebecca, *Refugee Survey Quarterly* (2014) 33 (2), "At a Crossroads? Reflections on the Right to Asylum for European Union Citizens" pp. 54-83.

⁶² See, for instance, Amnesty International Swedish section, *Romer i asylprocessen (Roma in the asylum process)* 2011, pp. 31-34.

⁶³ See, for instance, Amnesty International, *Not Welcome Anywhere. Stop the Forced Return of Roma to Kosovo*, 2010, available at <http://www.amnesty.org/en/library/info/EUR70/011/2010>, European Roma Rights Centre, *Abandoned Minority. Roma Rights History in Kosovo*, December 2011, available at <http://www.errc.org/cms/upload/file/abandoned-minority-roma-rights-history-in-kosovo-dec-2011.pdf>, and European Roma Rights Centre, *Serbia: Country Profile 2011-2012*, available at <http://www.errc.org/cms/upload/file/serbia-country-profile-2011-2012.pdf>.

⁶⁴ See, for instance, Amnesty International briefing EUR 01/002/2013 *Europe: Human Rights Here, Roma Rights Now: A Wake-up Call to the European Union*, available at <http://www.amnesty.org/en/library/asset/EUR01/002/2013/en/bacd6558-c244-4fcb-a71a-8fcd2ed59143/eur010022013en.pdf>.

⁶⁵ Recommendation 95.2 (Norway).

⁶⁶ Recommendation 95.72 (Austria).

⁶⁷ See, for instance, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, "The situation of the Sami people in the Sápmi region of Norway, Sweden and Finland," A/HRC/18/35/Add.2, June 6, 2011, at <http://unsr.jamesanaya.org/country-reports/the-situation-of-the-sami-people-in-the-sapmi-region-of-norway-sweden-and-finland-2011>, UN CERD 2013, *supra* note 17, paras. 17-19, Council of Europe: European Commission Against Racism and Intolerance (ECRI), *ECRI Report on Sweden (fourth monitoring cycle): Adopted on 19 June 2012*, CRI(2012)46, available at: <http://www.refworld.org/docid/513da78c2.html>; Council of Europe: Committee of Ministers Resolution CM/ResCMN(2013)2 on the implementation of the Framework Convention for the Protection of National Minorities by Sweden, June 11, 2013, available at: <https://wcd.coe.int/ViewDoc.jsp?id=2075435&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>.

⁶⁸ See 5 § Lag (2009:574) om nationella minoriteter och minoritetsspråk: "Förvaltningsmyndigheter ska ge de nationella minoriteterna möjlighet till inflytande i frågor som berör dem och så långt det är möjligt samråda med representanter för minoriteterna i sådana frågor." (5 § Law on national minorities: "Administrative bodies shall grant national minorities the possibility to influence matters that concern them and as far as possible consult with representatives for the minorities in such matters.")

⁶⁹ UN International Covenant on Civil and Political Rights Art. 1.1, UN International Covenant on Economic, Social and Cultural Rights Art. 1.1.

⁷⁰ Sveriges mineralstrategi. För ett hållbart nyttjande av Sveriges mineraltillgångar som skapar tillväxt i hela landet (*Sweden's Mineral Strategy. For sustainable use of Sweden's mineral resources creating growth in the whole country*), February 2013, available at <http://www.regeringen.se/content/1/c6/20/96/57/14fbe930.pdf>.

⁷¹ *Ibid*, p. 11. According to the strategy Sweden is the leading mining nation in Europe and stands for about 93 % of the iron ore (p. 14). Sweden was in 2014 ranked as the country in the world with most generous policies for mining prospecting, according to the Fraser Institute's annual survey of mining companies. See <http://www.reuters.com/article/2014/03/03/idUSnMKW2RzDCa+1d6+MKW20140303>.

⁷² Declaration by the 4th Sami Parliamentary Conference held on 20 February 2014 with Sami commissioners from the Finnish, Swedish and Norwegian Sami Parliaments and with participation of

Russian Sami (Umeå Declaration), available at <http://www.sametinget.se/73159>, Sametingets syn på gruvor och mineraler i Sápmi, (*View of the Sami Parliament on mines and minerals in Sápmi*), statement adopted by the Swedish Sami Parliament on May 20, 2014, available at <http://sametinget.se/73597>, and Equality Ombudsman Agneta Broberg, "Stoppa diskrimineringen av samer med ny urfolkspolitik," (*Stop discrimination of the Sami by adopting a new policy for Sweden's indigenous people*), Dagens Nyheter, September 16, 2013, available at <http://www.dn.se/debatt/stoppa-diskrimineringen-av-samer-med-ny-urfolkspolitik/>.

⁷³ Equality Ombudsman Agneta Broberg 2013, *supra* note 72.

⁷⁴ Miljöbalken (*Swedish Environmental Code*), SFS 1998:808, Chapters 3-4.

⁷⁵ According to Swedish case law, the traditional use of land by Sami reindeer herding communities results in property rights to such areas. See Supreme Court cases *Skattefällsmålet*, NJA 1981 p. 1, and *Nordmalingsmålet*, NJA 2011 p. 109. For land rights of indigenous peoples under international law *see*, for instance, UN Committee on the Elimination of Racial Discrimination General Recommendation 23 on indigenous peoples, HRI\GEN\1\Rev.6 at 212 (2003) para. 5.

⁷⁶ *See*, for instance, Equality Ombudsman Agneta Broberg 2013, *supra* note 72.

⁷⁷ Regeringsbeslut (*Decision of the Government*) N2012/1637/FIN, N2012/2776/FIN, N2012/5276/FIN, 2013-08-22, "Överklaganden av bergmästarens beslut om bearbetningskoncessioner för områdena Rönnbäcken K nr 1 och Rönnbäcken K nr 2 samt Rönnbäcken K nr 3 i Storumans kommun, Västerbottens län" (*Appeal of the decision of the Chief Mining Inspector on exploratory concessions for the areas Rönnbäcken K nr 1 and Rönnbäcken K nr 2 and Rönnbäcken K nr 3 in the department of Storuman, region of Västerbotten*).

⁷⁸ Sametingets syn på gruvor och mineraler i Sápmi 2014, *supra* note 72.

⁷⁹ Individual communication submitted under the Optional Protocol to the International Convention on the Elimination of All Forms of Racial Discrimination on behalf of the Vapsten Sami Village, September 18, 2013, available at: <http://sverigesradio.se/diverse/appdata/isidor/files/2327/13804.docx>.

⁸⁰ Communication from the UN Committee on the Elimination of Racial Discrimination, 22 October 2013, available at: <http://www.svt.se/nyheter/regionalt/vasterbottensnytt/article1590056.svt/binary/AC.pdf>.

⁸¹ Swedish Ministry for Foreign Affairs, UD/FMR/2013/18/CERD, Communication No. 54/2013, Mr Lars-Anders Ågren and Others v. Sweden, December 5, 2013.

⁸² Rennäringslagen (*Reindeer Grazing Act*), SFS 1971:437.

⁸³ Den samiska parlamentarikerkonferensens deklaration om nordisk samekonvention antagen i Umeå 2014, (*Declaration from the Sami Parliamentarian's Conference on the Nordic Sami Convention adopted in Umeå 2014*), available at <http://www.sametinget.se/72947>.

⁸⁴ Swedish Sami Parliament motion adopted on May 21, 2014, Records from Sami Parliament plenary session in Åre 2014.

⁸⁵ *See*, for example, the joint Article 1.1 of the UN International Covenant of Civil and Political Rights and the UN International Covenant of Economic, Social and Cultural Rights.