# What Justice for Sweden's Roma?

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THE SWEDISH FOUNDATION
FOR HUMAN RIGHTS

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**Authors' comments:**

For over 20 years, the Swedish Foundation for Human Rights has worked to nurture a culture of respect for human rights in Sweden and around the world. One way it does this is to bring a human rights perspective to issues where this is absent. We believe that there is a need to place human rights centre stage in the debate on redress for the rights violations that Sweden's Roma have suffered. Some progress has been made in dealing with discrimination and victimisation, but much remains to be done. Reparation and redress are often swept under the carpet.

In writing this booklet, we hope to bring our international experience to the debate on justice and redress for Roma in Sweden and to recommend possible ways to go forward. We also hope to raise awareness in Sweden about the importance of righting wrongs. The Swedish Foundation for Human Rights has long worked with issues linked to redress; one tool it has focused on is transitional justice, a concept that comprises all the processes and mechanisms a state uses to come to terms with a legacy of large-scale human rights violations. International experience tells us that redress is essential to fostering human rights and peace in a country. It is often easier for the relevant Swedish decision-makers, agencies, organisations and so forth to understand the importance of redress by using local examples – in this case human rights violations against Roma – but the principles addressed in this booklet can be applied to all sorts of situations around the world.

The recommendations presented in this booklet have been produced by the Swedish Foundation for Human Rights and make no claim to being exhaustive. If they are to be implemented, they have to be properly and widely anchored in the Roma communities.

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**Foreword 1**

Life! What is it? Ever since I could think for myself, I've been fascinated by what life, in all its forms, is. We have still found no other signs of life in the universe, and must conclude that it's unique to the planet Earth. I can't help thinking that life is a gift that we must nurture with love, compassion and respect. When I was a child, I was always wanting to know how and why everything turned out as it did. I was just 5 years old and dreaming myself away to another galaxy. But by the age of 7, my curiosity started to turn into fear. In Serbia, where I first went to school, my classmates would spit at me and hit me while the teacher just looked on, for the simple reason that I was Roma. I wondered who had decided that the Roma would be right at the bottom of our society. It's something I still wonder to this day.

In 2007 in Stockholm, Sweden, I trained as a Waldorf art teacher and started a new job. I reminded myself not to tell anyone I was Roma. I wanted my colleagues to get to know me before I said anything. But once I did, I was ostracised, bullied and discriminated against by them for the mere fact that I was Roma. I became traumatised and hid my roots from others. But by 2013 I'd had enough! I wanted the whole world to know who I was and that there was nothing wrong with being Roma! Should our children have to lie about their origins? So I started the organisation Unga Romer (Young Roma) to help people in Sweden and Europe understand that we're human beings too! Unga Romer wants to remove all negative terms for Roma, which in Sweden includes the Z-word – "Zigenare" (i.e. "gypsy"); so we don't say antiziganism, as we find the term offensive. Instead, we say anti-Romanyism. We're also trying to have the street name "Zigenarbacken" removed in the town of Köping.

"Zigenare" means stranger. If I was to exaggerate, everyone we see in town is a "zigenare" – a stranger. But I see everyone as Roma, because *Rom* means person. We are all Roma; we are all people!

Emir Selimi, chair Unga Romer (Young Roma Organisation)

**Foreword 2**

Have Sweden's Roma obtained justice? Does society know anything about Roma history in Sweden? Why doesn't anything happen, despite all that's being done? What can we do to change the situation?

Questions such as these are common amongst Roma today, and one of them was the reason I changed the way I worked with Roma issues. I felt that no matter what was done, my life remained the same, with unabated prejudice, discrimination and racism.

All these reports and commissions, white papers and strategies draw attention to Roma issues and are extremely important for dealing with structural discrimination, but what I wanted was tools to use in my daily life, tools to change my community.

This booklet contains many recommendations that I believe can change Roma lives, recommendations for suitable actions that can really reach the wider public rather than "just" being something for public officers and civil servants to know or read and then file away.

I believe that to change prevailing norms and combat the "everyday racism" and discrimination that Roma encounter, we must raise awareness and change attitudes in our local communities. The recommendations in this booklet are good and I'm confident that they would make a very real difference to Roma living in Sweden.

Susanna Hedman, advocate and *kaalérom* (Finnish-Romany woman)

## Contents

## 1. Introduction and recommendations

The Roma people are subjected to extensive discrimination in Sweden and Europe. Being a Roma can be a serious obstacle to finding work, receiving healthcare and obtaining decent – if indeed any – housing. This booklet is intended as a contribution to the debate on the redress that Roma are due for the human rights violations they have had to endure in Sweden. In writing it, we have sought inspiration from international experiences of working for justice and redress. This can comprise a variety of mechanisms: truth commissions, judicial proceedings, compensation and reparation, official apologies, memorials and institutional reforms. The booklet does not try to give an exhaustive answer or a complete analysis of the issue; it is, to repeat, our contribution to the debate about how Sweden can go about righting the wrongs it has committed against its Roma community.

Taking into account international experiences and what has been done for Sweden's Roma, the Swedish Foundation for Human Rights recommends, amongst other measures, the following:

- **That an official apology is issued by the Prime Minister for the historical abuses that Sweden's Roma have suffered and for the illegal Roma register kept by the Skåne County Police.**
- **That levels of compensation for human rights violations are more explicitly proportional to the perceived injury.**
- **That permanent memorials are erected as tangible acknowledgement of the abuses suffered by Sweden's Roma.**
- **That the International Roma Day, 8 April, is made a public "flag day".**
- **That a fund is set up to provide financial aid for pursuing strategically important cases that help bring justice and redress to the Roma people**.
- **That official names of places or things that derive from derogatory terms for Roma (e.g. "gypsy" and "tinker") are removed.**
- **That more truth-seeking takes place at municipal level.**
- **That attitude surveys and history research are conducted to more clearly demonstrate the extent of anti-Roma racism in Sweden.**
- **That Sweden establishes an independent national institution for human rights.**[1]
- **That Sweden ratifies the Optional Protocol allowing for an individual complaints mechanism to the UN Covenant on Economic, Social and Cultural Rights.**

[1] Since the publication of the Swedish edition of this booklet in April 2015, the Swedish government has announced that it intends establishing a national human rights institution according to the Paris Principles.

## 2. The Victimisation that Never Ends – the Situation of Roma in Sweden

The discrimination of the Roma minority in society is as serious as it is widespread. In 2013, it came to light that the Skåne County Police had been keeping an illegal register that contained details of some 4,700 Roma, many of whom were children or deceased. The National Agency for Education testifies again and again to how Roma children are discriminated against by the country's schools. Almost half of the Equality Ombudsman's rulings and settlements on housing discrimination concern Roma.

Even though laws that directly discriminate against the Roma have been abolished, the prejudices remain. Structural obstacles mean that Roma rights are violated in area after area. Belonging to a Roma group in Sweden can still, in effect, be a serious impediment to obtaining work, gaining access to healthcare and finding a decent – if indeed any – place to live. The constant violations that affect Roma are a huge and complex societal problem. Discrimination serves to limit the Roma people's access to a great many human rights, such as the right to education, work, housing, health and equal treatment.

Before we can begin to understand the circumstances under which the Roma live and analyse the extent to which Sweden has redressed the injustices, we need a proper grasp of the serious human rights violations to which the Roma have been historically subjected. What follows, therefore, is a brief summary of the abuses, discriminatory measures and human rights violations that were inflicted upon the Roma people in Sweden in the 1900s. Since this account is based on a government white paper, it is illustrative rather than exhaustive.

### a. Registration

The Skåne county police's database may be the latest in a long list of such manoeuvres to register the Roma minority to come to light, but it is by no means the first. In the 1900s, public authorities around the country were continually conducting surveys of the Roma population in Sweden, and keeping all kinds of registers on them. Such registers were far from value-neutral, and almost all were maintained on the assumption that the Roma were a societal problem that needed addressing.

On four occasions between 1907 and 1921, the Social Welfare Commission ordered social welfare boards, police authorities and parish offices to draw up a census of Roma in the country. The data kept by the then Swedish Royal Board of Social Affairs in the early 1940s had an explicit eugenic influence. In the 1950s, an investigation was conducted to register everything from literacy, living and work conditions to personal finances and hygiene. In the 1960s, other surveys were done on the grounds that they would be used as a basis for occupational rehabilitation, and included eugenic studies of such criteria as blood type. In Stockholm, a section for the monitoring of Roma was set up in 1957, and would remain for forty years. Here, every aspect of Roma life was the object of scrutiny, from children's absence from school to achievements and conduct.

What all these surveys and registers have in common was that, irrespective of objective and purpose, they constituted a massive violation of several fundamental rights, and they reinforced and confirmed rather than challenged anti-Roma prejudice.

## b. Sterilisation and the compulsory care of children

Between 1935 and 1974, Sweden had sweeping sterilisation legislation that derived from population control interests and that aimed to "raise" the quality of the population. While the law did not identify Roma as a particular target for sterilisation, in practice a large proportion of Roma households were affected. In theory, people could only be sterilised with their consent, except those, like the mentally ill, who had a permanent incapacity to give it. In reality, however, some were forced to undergo the procedure through extensive pressure, persuasion and even outright blackmail. Social welfare boards and childcare boards were highly proactive in this, and drew up and issued numerous applications for sterilisation. Often, initiative was taken for sterilisation for reasons other than those cited in the application. In the 1940s, the Board of Social Affairs issued a manual ordaining that Roma were not to be entitled to maternity care and would only receive it on condition that they agreed to sterilisation.

Many Roma bear witness to how sterilisation was an active part of their treatment by society, along with the compulsory care of their children. Roma were subjected to this arbitrary and legally uncertain dispossession on the pretext that they were "clearly unsuitable" to raise children. Decisions were taken over their heads and their protests were ignored. Sometimes Roma had to undergo sterilisation in order not to have their children taken from them.

## c. Entry ban

Between 1914 and 1954, an entry ban was in force in Sweden for Roma, who were considered a social threat and thus targeted for deportation already at the border. The effect of this was to hamstring Roma already living in Sweden, who, uncertain of gaining re-entry should they travel outside the country, found their freedom of movement and ability to maintain relations with family and friends abroad severely hampered. Even after the ban was lifted, politicians in the 1960s and 70s operated on the assumption that the Roma population was to be capped and that entrance into the country strictly regulated. A decision was taken at this time on so-called "organised transfer" and that only certain quotas of Roma would be given permission to enter Sweden.

## d. The right to housing, education and work

**During the 1900s, Swedish society was rife with different segregation mechanisms that made it difficult if not impossible for Roma to obtain housing, education and work on the same terms as other citizens.**

In the first half of the century, the expulsion of Roma was a legitimate measure in many municipalities. Roma were denied the ability to register as domiciled, and were thus deprived of access to general welfare services. Different initiatives were taken to induce Roma to move on, and residency was conditional. Neighbourhood suspicions and opposition also stood in the way of the Roma people's ability to find decent accommodation.

Also in the first half of the 1900s, school doors were closed to many Roma children, some of whom were taught individually in ambulatory schools. Those Roma children who did attend regular school were often placed in special classes, where they were given remedial education based on preconceived notions of their learning abilities. Roma were eventually formally included in the compulsory school system in the latter half of the century, but since many of them were still placed in special classes, their opportunities to obtain an equal education were limited.

**The term** "Roma" is the Romani (romani ćhib) word for "man" and "person".

While there are many Roma groups, the Swedish government often divides those living here into five main communities: Swedish Roma (the descendents of those who settled here at the turn of the 1900s), Finnish Roma (Kaale or Kalé), Travellers/Travelling Roma, non-Nordic Roma (e.g. Lovara, Kelderash, Polish Roma, Churari) and newly arrived Roma from the Balkans (e.g. Arli and Gurbeti).

Roma people have lived in Sweden since the 16th century, and since 1999 have been recognised as a national minority along with Sami, Sweden-Finns, Tornedalers and Jews. All these minority groups have a historical presence in Sweden and an explicit sense of unity. They also have their own linguistic or cultural affinity and a desire to keep their identity intact.

Throughout the 1900s laws, regulations, norms and personal attitudes made it hard for the Roma people to earn a livelihood. In spite of this, rather than focusing on combating this marginalisation, the attitude was to blame their exclusion from the labour market on the Roma themselves; still today, 80 per cent of the estimated 50,000 Roma living in Sweden are thought to be unemployed.

Attitudinal and behavioural change is often slow in coming and can take several decades to take root. Legal and social reforms do not automatically bring about a change in attitudes and informal praxis. Before we can begin to understand the circumstances under which the Roma live and discuss what genuine redress should entail, we need a proper grasp of the serious human rights violations to which the Roma have been historically subjected in Sweden.

# 3. Routes to justice and redress

Swedish society generally has limited knowledge about Roma, the conditions under which they live, and the human rights abuses to which they have been subjected. At the same time, the memory of such abuses is very much alive in the Roma community. Many Roma say that they still harbour a strong distrust for Sweden's majority society and public authorities.

**Prejudice and discriminatory attitudes against the Roma are still all too prevalent in Swedish society. If this distrust is to be fixed, there needs to be greater public awareness of Roma history and a proper process of justice and redress. Without such a process, the gap of trust will never be bridged between the Roma and Swedish society. Here, inspiration and learnings from other countries can help us find appropriate routes to justice and redress.**

A toolbox for redress and reparation can be found in the concept of **transitional justice**. In this booklet, we have looked at how different transitional justice tools have been used around the world. We have taken our point of departure in a range of contexts: the truth commission in Canada, judicial proceedings in the Czech Republic, reparation and compensation in Germany, official apologies in Australia, memorials in Guatemala and elsewhere, and institutional reforms for minority languages in Europe. The idea is, with these experiences as a platform, to analyse what has been done in Sweden to bring redress to the Roma here, and what should be done in the long-term to achieve greater equality for the Roma communities in Sweden.

## a. Transitional Justice – a Route to Justice and Redress

The concept of transitional justice emerged around the late-1980s and early 1990s in the wake of the collapse of dictatorships in Latin America and the disintegration of the Eastern Bloc. Victims of abuses in these two regions demanded redress and a comprehensive administration of justice. Transitional justice has often been misconstrued as a special kind of exceptional

**Transitional justice**

Transitional justice comprises all the processes and mechanisms used by a society to come to terms with a legacy of large-scale violations of human rights and humanitarian law in order to ensure accountability, serve justice and achieve reconciliation. This covers both judicial and non-judicial mechanisms, such as prosecution, reparation, truth-seeking, institutional reforms, commissions of inquiry and the dismissal from public office of those responsible for such violations.

justice that tampers with already established constitutional principles. In fact, transitional justice is about redressing former wrongs in accordance with international law.

What distinguishes transitional justice is that a government must choose whatever tools suit its particular situation, such as truth commissions, judicial proceedings against perpetrators, financial or non-financial compensation, institutional reforms, official apologies or memorials. Transitional justice can also include alternative models of justice like community service, dialogue or methods of conflict resolution as practised by some indigenous peoples. The last three tools will, however, be given no further consideration in this booklet.

The most effective course of action is to take the need for redress and reparation that exists and work from there. The objective of this type of process is to avoid recurrences of such abuses, mitigate suffering and restore the victims' dignity. Transitional justice ought to take into account all human rights – civil, political, economic, social and cultural.

Any process of redress must contain the following four elements if it is to make any claim to comprehensiveness:

**The right to attain justice and combat impunity**

Justice and impunity

Impunity occurs when governments do not fulfil their obligation to investigate allegations of abuse, impose appropriate sanctions on the perpetrators, provide victims with effective legal instruments, and give victims fair and proper reparation and compensation.

Governments are to conduct swift, serious, exhaustive, independent and impartial investigations into alleged human rights violations and the perpetrators of serious violations are to be prosecuted, tried and, if convicted, punished.

## The right to the truth

The right to the truth

The concept of the right to the truth originates from international humanitarian law and the right of families to know what happened to relatives during armed conflict. The concept has since been developed and become an accepted norm in international law. In this context, the word *truth* does not refer to anything absolute, since it is always subjective; it does, however, denote how everyone has an intrinsic right to learn the circumstances behind large-scale or systematic human rights abuses.

A comprehensive and effective application of the right to the truth is crucial to the prevention of further abuses. Victims and their families are always entitled to learn about the circumstances surrounding abuses, regardless of whether or not legal proceedings have been entered into.

## The right to reparation

The right to reparation

Every human rights violation entitles its victim to reparation. All victims shall have access to easily accessible, swift and effective legal remedy in the form of criminal, civil, administrative or disciplinary proceedings. When exercising this right, they are to be protected against reprisals.

The right to reparation entails offering just satisfaction, such as restituting the victim's situation to its pre-violation state (restitutio in integrum) or, if this is not possible, some appropriate form of financial and/or symbolic reparation for the injury caused.

Reparation can also be provided through programmes for individuals or groups. Whatever form such programmes take, however, the victims and civil society ought to play a key part in their design and implementation.

**The obligation to prevent future human rights abuses**

Guarantees of non-recurrence

It is the responsibility of governments to ensure that victims of rights abuses are spared repeated suffering. This they must guarantee by upholding the principles of the rule of law, fostering and sustaining a culture of respect for human rights, and restoring or establishing public trust in public bodies. Such can be achieved through institutional reform or other measures devised in consultation with the victims. For all this to be possible, the adequate representation of women and minority groups in public institutions is essential.

**Milestones on the Path to Redress**

Milestones on the path to redress are the creation and development of international criminal courts, such as those set up for the Rwandan genocide and the atrocities committed in the former Yugoslavia and the International Criminal Court in the Hague. Such institutions provide a framework for countering impunity for serious human rights violations.

In 2011, the UN Human Rights Council appointed a special rapporteur for the promotion of truth, justice, reparation and guarantees of non-recurrence.

The various tools used for achieving redress *must* be mutually complementary. Truth-seeking without compensation mechanisms can be construed as mere lip-service; compensation without truth-seeking can be construed as the government attempting to silence victims by buying them off with some kind of *impunity tax*. The same applies if a government omits to consider possible institutional reforms. If it only prosecutes and punishes the guilty without compensating victims or implementing institutional reforms, it could be accused of acting inconsistently and merely in retaliation against the perpetrators.

Following are some of the redress mechanisms that are used in reconciliation processes following serious human rights violations in international contexts.

## b. Truth Commissions

The right to know the details of past events is an important aspect of all efforts to bring about justice and redress. More than 30 states have set up truth commissions to investigate and report on former human rights violations. Truth commissions are non-legal, independent bodies set up by a country not only to uncover individual human rights violations but also to identify patterns and contexts of historical violations in order to provide support for victims and to inform proposals for how decision-makers can prevent their recurrence. Truth commissions are also important for redress as they offer a forum where the victims, often for the first time, can tell their own stories and give public testimonies. Most truth commissions release a report containing recommendations for judicial proceedings, institutional reforms and so forth, which also goes part way towards official acknowledgement of the violations that have occurred. While the search for truth, in bringing the past to light, is an end in itself, it is also part of a larger process of achieving justice.

### Independent and competent truth-seeking

> **If a truth commission is to succeed in the task it is set, it must be perceived as credible and transparent; it must be independent; and it must not yield to pressure from either the government or society.**

A truth commission must manage its own resources independently, make recommendations on the basis of the stories, rights, interests and needs of the victims, and be sufficiently well-informed to speak with credibility and inspire the trust not only of the victims but also of the decision-makers and society at large. Its final report should be made public and circulated as widely as possible.

Truth commissions are not merely tools for states transitioning from dictatorship to democracy or from armed conflict to peace. A relevant example in this context is the truth and reconciliation commission set up in Canada to look into historical crimes against the country's indigenous peoples, specifically the boarding schools that their children were forced to attend in order to be assimilated into society. Here at these *Indian Residential Schools*, which were run by the Canadian government and the church, the children were to be "civilised"; they were forbidden to use their native languages, and were often exploited and abused physically, mentally and sexually. The schools started operating in 1874, and by the time the last one closed in 1996, they had left many of the 150,000 children who attended them with permanent scars and traumas. The truth commission was set up in June 2008 in order to draw attention to the impact the schools had on the people who were sent there, to promote truth and reconciliation events, to raise public awareness of the programme's existence and to produce a report with recommendations for the Canadian government. The commission has gathered in over 6,500 testimonies from former pupils of these schools, and released its report in June 2015.

The initiative to set up Canada's truth and reconciliation commission has been supplemented with four compensation programmes: lump-sum reparations for all former IRS pupils; individual financial compensation for specific abuses; a support fund for spiritual renewal, counselling and so forth; and a commemoration fund.

It takes more than truth to give redress and heal wounds. Truth commissions are not a substitute for judicial proceedings or victim reparation. When the truth about human rights violations comes to light, if no other action – such as implementing institutional reforms, punishing the guilty or setting up reparation programmes – is taken, it can cause feelings of deep frustration in the victims and general mistrust in the public at large.

## c. Judicial Proceedings

Legal action is an important step on the route to redress and justice.

> **Not only can court hearings help to make an enormous personal difference, they can also have a powerful strategic impact by enhancing the confidence that the public or victimised groups have in government institutions and the legal system.**

All people are entitled to a fair and public trial, held within a reasonable time after the event before an independent and impartial court established by law.

In the event of very large-scale violations, judicial proceedings can become very complicated, and there is often no hope of prosecuting everyone involved. Such situations are thus dealt with by the adoption of specific strategies, most commonly – in international criminal law – the prosecution of officials at the highest level of command, who are often the ones with the greatest degree of control and insight into the violations.

Historical violations of a specific group of people are often very difficult to handle, especially when they include both individual cases of clear criminal accountability *and* more general collective discrimination. The disadvantage of taking up individual cases one by one is that there is a tendency not to see the woods for the trees and to therefore miss potential discrimination patterns. Another common difficulty is that so much time has elapsed from the original injustice that the period of limitation for the particular crime might well have expired or that evidence is almost impossible to gather.

An interesting case that addresses the situation of individual Roma as well as more general discrimination patterns is *D.H. and others versus the Czech Republic*, which was heard by the European Court of Human Rights. Eighteen Roma pupils from the Ostrava region in the Czech Republic appealed to the ECHR after having been placed in special-needs schools, despite having no such psychological or social disabilities. It is common in the Czech Republic for Roma children to be placed in these special schools, and in some cases they even make up between 80 and 90 per cent of the total pupil body. The court ruled that the children were being denied their right to education and that the practice qualified as illegal discrimination.

The court also underlined the fact that the case revealed not only individual cases of discrimination but also a larger pattern of discrimination that made it impossible for the Roma pupils to obtain a fair education. It also maintained that denying the Roma access to education is a problem that pervades the European continent. The Czech government was ordered to cease its discriminatory practices and to take responsibility for their consequences; the pupils each received 4,000 euro in reparations and a joint award of 10,000 euro to cover legal expenses.

Today, 8 years later, nothing much has changed, and Roma children are still segregated in the Czech Republic despite the government's strategy plan, adopted in response to the court ruling. Owing to the ongoing discrimination of Roma in the country, the European Commission launched an infringement procedure against the Czech Republic on 26 September 2014 on suspicion that it had violated the EU's anti-discrimination laws. The outcome of the proceedings is currently unclear; but if the commission is dissatisfied with the Czech Republic's response, the case can be brought to the EU Court of Justice.

The aims of judicial proceedings are to avoid impunity by punishing the perpetrators and to award reasonable reparation to the victims.

## d. Reparation and Financial Compensation

Victims of human rights violations are entitled to adequate compensation. Financial compensation can be paid if the damage or harm done cannot be wholly rectified. It is often difficult to completely restore a victim's situation to what it was before the violation, and besides, this prior situation can itself have been discriminatory and grounds for reparation. For example, a person can be remanded without legal reason and then abused while in custody. Financial compensation can be paid either directly to an individual or collectively through an increase in financial support for education, healthcare, housing, or other such need.

It is exceedingly difficult to put a price on the terrible hardships that people have had to endure. Human rights courts such as the European and Inter-American courts of human rights have ruled on compensation levels in hundreds of cases, basing their decisions on two grounds: the material and the moral/psychological damage. The former is always measured in terms of what has been destroyed; the latter varies from system to system. It is impossible to compensate for the loss of a parent, a child or a partner, or for the trauma left by torture or other kinds of abuse. It is therefore important to see reparation not as a proportional instrument of compensation for the damage or harm caused, but more as a means of raising the victim's quality of life for the future.

Very large-scale violations are a different matter, and in some cases awarding individual reparation through the courts is infeasible. In such cases, the government can draw up specific compensation programmes. Such programmes, which can also be applied to collectives, can have an advantage over trials, as they are less costly, time-consuming, and spare the victims the anguish of having to relive their experiences and have them subjected to the court's detailed scrutiny.

**Large-scale abuses are often evidence of more structural flaws in a society, in which case the compensation must be considered from a broader perspective.**

Historical abuses give rise to even greater challenges, as time is often unable to heal old wounds; consider, for instance, the way that the post-traumatic stress syndrome resulting from human rights violations is often passed down the generations.

Another interesting example to look at as regards financial compensation for large-scale historical human rights violations is the compensation awarded by Germany to the Jewish victims of the Holocaust. It was the largest compensation programme ever implemented and with its long list of violations and abuses – such as "unlawful death", health damage and loss of property or freedom – represents a milestone in the history of reparation.

The German government received applications for individual compensation from 4.3 million people. Two million of these applications were approved. By 2000, it is estimated that the compensation awarded amounted to 38.6 million dollars. In addition to this personal reparation, the state of Israel and several Jewish organisations have also received financial compensation from Germany, most of which has gone towards medical support for the victims and promoting economic growth.

The reparation programme has also come under heavy criticism, in particular for excluding, and thus failing to compensate, many other victims of the Nazi pogroms, such as Roma and LGBTI people.

Another example of a group that has been awarded both individual and collective compensation for human rights violations is the Roma of Norway, who have been able to apply for individual compensation for their mistreatment and abuse at the hands of government representatives ("billighetserstatning"). A cultural fund has also been created to which Roma people can apply for grants to subsidise activities promoting their language, culture and history.

Financial compensation may never be offered as a substitute for accountability as a kind of *impunity tax* or *blood money*. It must be treated as a complement to redress and justice work that in itself is acknowledgement of the victims' suffering.

## e. Official Apologies

Ultimate responsibility for reparation rests on the government and the highest political power as representatives and symbols of the social collective.

**What we find underlying the accounts of many victims of human rights violations is the desire to have their experiences validated and to be given a proper apology.**

Commonly, the purpose of official apologies is, in a broad sense, to recognise what has been deliberately suppressed or neglected and to demonstrate a willingness to accept liability for – and the consequences of – the injustices done.

For an example of a comprehensive public apology for human rights violations, we can turn to Australia, where a commission was set up in the mid 1990s to look into how Aboriginal children were forcibly removed from their homes and placed with white families or in church or state-run orphanages in order to assimilate them into white, Western Australian society. This programme ran from 1869 to 1969, and is said to have included up to 100,000 children.

The commission's report, *Bringing them home,* made Australian society aware of the abuses that had been meted out to the Aborigines. Within the space of a year, 100,000 Australians around the country had voluntarily signed their names in so-called Sorry Books. Churches and organisations added their names to these books, and as more and more state assemblies joined in, pressure mounted on Canberra to do likewise. The government, however, felt that, regardless of what many Aborigines said about how important official acknowledgement and apologies were to their personal healing, the need for an official apology was outweighed by that for practical reforms.

An official apology finally came with the accession of the new government in 2008. It was given in the parliament and according to witnesses, people crowded in front of large screens to listen. The apology was deemed to be of great symbolic value.

As the above example shows, one of the purposes of official apologies is to give victims a platform on which to rebuild their lives. Since an official apology has such symbolic value, it is naturally critical who makes it, and where and how it is made.

**An official apology is rooted in the government's responsibilities for human rights and should therefore come from the highest political level (e.g. the president or prime minister).**

In many situations, regional and local bodies are directly to blame for human rights violations and so it is reasonable for an official apology to be given at these levels as well.

The forum in which the apology is given is also significant, as there is a big difference between it appearing in a newspaper opinion piece read by few and it being broadcast live on public TV from the opening of parliament in order to underline its gravity. If an official apology is made at a ceremony, adequate provision should be made for the victimised so that no one need be turned away due to a lack of space.

In sum, official apologies are a way of demonstrating that society understands its responsibilities and of ensuring that such injustices are never repeated. Official apologies are not sufficient in themselves, but are a key component of broader efforts to bring about redress and reconciliation.

## f. Memorials

Memorials are important features of redress processes and are often sought after as material acknowledgement of human rights violations. They can also have a distinct educational purpose, and as reminders of events past are another way of trying to prevent their recurrence. “Memorial” is a term that, in this context, is used to denote different kinds of initiative designed to commemorate historical human rights violations. They are sometimes erected at the actual site of where gross abuses took place, such as concentration camps, mass graves, prisons and places of execution. Symbolic memorials are also common at other sites, and may take the form of museums, statues, sculptures, artworks, parades, ceremonies, exhibitions and even on the internet.

Memorials are often created for not only historical but also contemporary and future purposes. Their historical purpose is to remember and acknowledge injustices, honour the victims and emblematise historical narratives; their contemporary purpose is to contribute to healing, redress and the rebuilding of trust in a society marked by historical human rights violations; and their future purpose lies in their potential to raise awareness and educate so that similar abuses are not repeated.

Purely legal processes have also drawn inspiration from and made use of symbolic memorials as a route to justice and redress. The Inter-American Court of Human Rights has frequently ruled that some form of memorial be created alongside the financial compensation it has awarded the victims of human rights violations. For example, in its ruling on the Rio Negro massacre in Guatemala, the court demanded that the government build a museum to honour all victims of the internal armed conflict.

Memorials are most effective if they are made publically accessible and if there is a well-thought out idea about how they can be put to educational use. In Italy, the Monte Sole Peace School was erected on the site of the slaughter of 770 civilians by SS soldiers during the Second World War; the school has centred its activities on this event and regularly invites young people from different conflict-torn communities to study and discuss how historical events can help to prevent future abuses.

Many memorials are set up long after the abuse they commemorate took place. In 2012, seventy years after the Second World War, a monument was erected in Berlin in memory of the half million Roma that were murdered during the Holocaust.

Some memorials are erected in honour of actions rather than victims. One such is the Yad Vashem in Israel, built in commemoration of all those who, at the risk of their own lives, chose to protect others from persecution during the Second World War.

Other memorials are created to convey a message rather than stand as permanent reminders. One such was a twelve-metre tall column that was erected against war and fascism in Hamburg in 1986 and so designed as to slowly sink into the ground every time a visitor wrote his or her name on it. By 1993 it was fully buried, a potent symbol of how, at the end of the day, it is people, not memorials, that have the power to prevent the recurrence of human rights violations.

It is also important to remove symbols and signs from the public space that support or aggravate discrimination and oppression. Symbols that honour human rights abuses in the public realm can often breed oppression. In 2007 Spain passed a historical memory law (Ley

de Memoria Histórica) that tasks public authorities with removing crests, signs, plaques and other commemorative objects put up in homage to the legacy of the Spanish dictatorship. Some 600 such objects have been removed and certain streets have been renamed in a bid to renounce Spain's violent past.

## g. Institutional Reforms – to Prevent Future Recurrences

When state institutions allow, be it actively or passively, human rights violations, it erodes public trust in the government; it is the restoration of such trust that is essential to the success of a process of justice and redress. Another fundamental component is the prevention of repeated violations. The main function of institutional reforms is therefore to gain the victims' trust and reassure them that they will never have to endure abuse again.

Institutional reform can take many forms, from internal boards of inquiry within government institutions to consultation mechanisms with different social actors or national strategies for strengthening rights. The creation of hate-crime police units is one example of institutional reform designed to strengthen the protection of minority groups often particularly subjected to such crimes.

In countries that have seen armed conflict or the transition to democracy, it is vital that the perpetrators of human rights abuses are held to account. This responsibility also covers people who cannot necessarily be held criminally responsible for the crimes, such as civil servants who let them happen without directly participating, or people who exploit an unstable situation to embezzle money or otherwise foster corruption.

Institutional reform should always be conceived with the participation of the victims; furthermore, if a public institution is to inspire genuine trust, it must be appropriately representative of women and minority groups.

**Institutional reforms are not only needed in countries that have experienced armed conflict or a transition from dictatorship to democracy. The same loss of trust can have been caused by a long tradition of discrimination against a particular community.**

Interesting examples of institutional reforms in Europe include initiatives for enhancing the status of minority languages. Generally speaking, the minority languages of Europe have been quashed by those of the majority, sometimes to the point of extinction. This plus the sidelining of their rights seriously undermines any confidence and trust that minority communities have in the authorities and the majority society.

To elevate the status of minority languages and thus help rebuild trust in the state, a government can implement institutional reforms that give these languages extra protection by, for instance, ensuring their statutory inclusion in the public discourse through the media, and making language courses and minority-language teaching more accessible at all levels of education.

# What has Been Done to Bring Sweden's Roma Justice and Redress?

## - Recommendations for a Possible Way Forward

Anti-Roma discrimination is not a thing of the past; indeed, it is still very much alive today, and while Sweden has taken some positive action towards its Roma communities, just how all-embracing are its efforts, given what, in view of international experiences, manifestly needs to be done to bring real justice and redress?

The Swedish Delegation for Roma Issues was set up in 2007 to help establish how the Roma were to obtain justice and redress for the abuses they had suffered in Sweden.

**Some commissions of inquiry have been set up in the past to look into improving the lives of the Roma people but they have neglected to involve the Roma themselves. Moreover, although these measures have often looked to the future, they have not necessarily included comprehensive acknowledgement of human rights violations against the Roma and proposals for redress.**

After centuries of marginalisation, achieving justice and redress is no small or easy task, involving as it does the difficult task of confronting the attitudes and prejudices of the majority population. What follows is a brief overview of what the government has already done to bring the Roma justice and redress, and our recommendations for moving forward. These recommendations are based on international experiences and are our contribution to the debate about what can be done from a human rights perspective. They have been produced by the Swedish Foundation for Human Rights and make no claim to being exhaustive.

### a. Truth Commissions

All efforts to bring about justice and redress must be informed about the history of abuses to which Sweden's Roma have been subjected and the circumstances and conditions that gave rise to them. No truth commission as such has been set up to this end in Sweden, despite this being one of the recommendations given by the Delegation for Roma Issues in its 2010 report "Roma rights – A Strategy for Roma in Sweden". The delegation maintained that ignorance of historical abuses of the Roma people is at the root of their continuing deprivation and marginalisation, and issued a two-point recommendation: that such a commission chart and document the abuses that took place in the 20th century, and that a historical analysis be carried out of how the preceding four centuries have impacted on present injustices.

**The government deemed reparation, the administration of justice and perpetrator accountability, which usually form part of a programme of justice and redress, unnecessary to the truth-seeking process surrounding the abuse of Sweden's Roma.**

It therefore decided to draft a white paper on the matter instead of setting up a truth and reconciliation commission, reasoning that since most of the victims and perpetrators are no longer alive and since many Roma arrived in Sweden after 1950, the community has little personal experience of historical abuses. "The Dark, Unknown History – a White Paper on Abuses and Rights Violations against Roma in the 20th Century" was finally presented by the government in March 2014.

Almost two decades previously, in 1997, the Swedish government launched a special inquiry into "the issue of sterilisation in Sweden from 1935 to 1975" from a historical and not exclusively Roma perspective. Its final report, which was presented in 1999, contains elements of truth-seeking.

None of these initiatives – the Roma delegation, the white paper and the sterilisation inquiry – was conceived as a truth commission or meets the necessary criterion of independence from government.

**Moreover, the truth-seeking efforts that have been made in Sweden have mainly endeavoured to bring clarity to historical events and have omitted to tackle the issue of justice and reconciliation.**

The UN's special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence is often critical of the tendency for states to gather and publish information on violations while overlooking issues of justice and accountability. The Swedish Foundation for Human Rights notes that this also seems to be the case in Sweden.

With its white paper, the government claims to want to "highlight and denounce historical abuses", but instead of giving priority to justice and redress it has decided to focus on improving the Roma people's situation today. Succeeding in this endeavour, however, takes more than just knowledge of the past; it also needs justice and redress.

## We therefore recommend:

**That any future truth commissions are made independent of and not directly accountable to the government.**

**That more truth-seeking takes place at municipal level.**

**That the knowledge uncovered by these truth-seeking initiatives is properly disseminated and publicised.**

## b. Judicial Proceedings

One way of exposing human rights abuses against the Roma people and helping to bring about justice and redress is to take such cases to court. While it is not the intention of this booklet to give a complete overview of how judicial proceedings are and could be used to help bring justice and redress to Roma in Sweden, we can note that studies by the EU's Fundamental Rights Agency and conclusions drawn by the Swedish Equality Ombudsman show that the tendency towards reporting discrimination is low amongst the Roma, and that the number of unrecorded potential judicial proceedings is high.

The Swedish Discrimination Act is, alongside the hate crime legislation and the European Convention for the Protection of Human Rights and Fundamental Freedoms (now the European Convention on Human Rights), is probably the most important legal tool for Roma victims of discrimination in Sweden. The Discrimination Act covers a wide range of areas and proscribes discrimination by employers, schools, the Public Employment Service, the healthcare services, social services, etc. as well as in terms of the provision of goods, services, housing, social insurance, unemployment insurance and treatment in public employment.

The Equality Ombudsman is the authority mandated to ensure compliance with the Discrimination Act. Between 2004 and 2010, the Equality Ombudsman received 230 reports of discrimination against Roma, some thirty of which the ombudsman verified. Most of the reports concern goods and services, followed by housing and social services. One field that is much less researched is the discrimination of Roma by the legal and juridical sector.

In 2009 judicial avenues were opened for NGOs and pressure groups to take their own legal action, but although in theory this should make it easier for Roma to obtain justice through the courts, in practice such access to redress is hampered by legal costs, which are often too high for such organisations to cover.

The tendency to file reports is low amongst the Roma minority, and the number of unreported cases of discrimination is high. If this is to be changed, the Roma need more trust in the authorities and organisations that can plead their case and more knowledge of their rights. Some work has been done to inform Roma communities about their rights and the opportunities that exist for obtaining justice and redress. Such rights-based educational initiatives require a broad approach if they are to reach the grassroots and are important for building trust in the law as a tool for obtaining redress.

Discrimination within the legal system is particularly serious since the courts are meant to be the ultimate instance of justice and redress. Today, the prohibition against discrimination covers only certain aspects of public office, such as treatment during the administration process; it is not, however, applicable to how a certain regulation is to be interpreted.

More actors than the Equality Ombudsman must have recourse to the courts if the protection afforded the Roma by the Discrimination Act is to have more of an impact on juridical processes.

**We therefore recommend:**

**That a fund is set up to provide financial aid for pursuing strategically important cases that help bring justice and redress to the Roma people**.

**That more rights-based educational initiatives are conducted through the cooperation of public authorities, NGOs/pressure groups and educational actors.**

**That the current legislation is reviewed in order to ascertain its adequacy for countering and preventing discrimination by the courts.**

## c. Reparation and Financial Compensation

Financial compensation for human rights violations can help to heal wounds; this alone, however, can be seen as an attempt by governments to silence victims. Reparation must therefore be accompanied by other initiatives.

Just like with judicial proceedings, it is difficult to obtain a complete picture of the compensation that has been awarded to Roma people for human rights abuses in Sweden. Be that as it may, we want to highlight two better-known and interesting reparation initiatives, one related to a historical injustice – sterilisation – and the other to a contemporary injustice – the Roma register.

One outcome of the "Sterilisation issue in Sweden, 1935 – 1975" report was the adoption of a reparation law. While the sterilisation programme covered more people than just the Roma, a very large proportion of Roma families were affected. The victims themselves had to apply for compensation, and almost 1,600 individuals were granted it.

In September 2013 it was revealed that the Skåne County Police had been keeping a register of Roma people based solely on ethnicity. The Office of the Chancellor of Justice ruled that the register was in several respects illegal but failed to address the ethnic dimension. Compensation for the consequent violation of integrity was set at SEK 5,000 for each person registered, which many Roma consider insulting and demeaning of their experience of being branded potential criminals. Justice and redress for the abuses suffered by Roma in Sweden must be provided at different levels, from individual to community.

The government's decision to draft a white paper detailing the abuses suffered by the Roma in Sweden raised the question of financial compensation.

**The government decided not to assess the grounds for reparation – financial or otherwise – at any level, arguing that its priority was to improve the situation of Roma in Sweden. The reparation aspect was thus totally ignored.**

## d. Official Apologies

Official apologies are an important tool for acknowledging the abuses and human rights violations that Sweden's Roma have suffered. A handful of such apologies have been made in Sweden at different levels, for example:

In 2000, deputy Prime Minister Lena Hjelm-Wallén and Minister for Social Affairs Lars Engqvist issued an apology for the persecution and abuse of the traveller community on behalf of the Swedish government. The apology, which was published on the opinion page of the national newspaper *Expressen*, has been criticised for not drawing on a thorough investigation into the unjust treatment meted out by Sweden's public authorities, and for being so low profile that many people did not even know that it had even been given.

During his stint as Minister for Integration (2010–2014) Erik Ullenhag made several apologies to Sweden's Roma. He also said that the white paper served as an official apology.

After the revelations regarding the Skåne County Police's Roma register came to light in September 2013, the Minister for Justice Beatrice Ask apologised to the Roma people affected.

The Church of Sweden has also issued an apology for its role in the abuse of Roma people. At its synod in 2000, the then archbishop, K G Hammar, apologised to the country's Roma and traveller communities for the way in which they had been treated. Common to all these apologies is that no real effort was made to ensure that they actually reached the people to whom they were made. Insufficient attention was given to the apologies for them to reach a wider public, and some of them only concerned certain sections of the Roma community. Finally, no apology has ever been issued from the country's highest political level, the Prime Minister.

Official apologies are powerfully symbolic, so it is important that they are given weight as a demonstration of how seriously the government takes the abuses suffered by Sweden's Roma community.

### We therefore recommend:

**That an official apology is issued by the Prime Minister for the historical abuses that Sweden's Roma have suffered.**

**That the Prime Minister apologises for the illegal Roma register kept by the Skåne County Police.**

**That the apologies are issued at a public memorial ceremony that is given proper advance publicity so that those who want to attend are able to do so. The apologies should also be broadcast live on TV.**

## e. Memorials

Memorials are important as material acknowledgement of past events and sources of public information. In the wider sense of the term, memorials can also include exhibitions. It is difficult to present a complete list of all exhibitions on Roma people, history and culture, but here are some recent examples.

In 2013, Gothenburg City Museum arranged an exhibition on Roma lives and history called "We are Roma – meet the people behind the myth". The exhibition went on to tour the country. The Living History Forum (a public authority) has produced a touring exhibition on the Roma during the Holocaust in order to bring awareness to the generally overlooked fact that the Roma were also victims of Nazi genocide. Roma during the Holocaust was also the Living History Forum's theme for the 2014 Holocaust Remembrance Day. Despite this, there is no physical memorial to Roma history and culture in Sweden.

**Greater visibility for the Roma in Sweden could help to build their trust in the majority society.**

It is also important to remove insulting or offensive symbols or signs from the public space. Official names of places and things that use the derogatory terms "gypsy" and "tinker" are considered by many Swedish Roma to be highly inappropriate and demeaning.

### We therefore recommend:

**That permanent memorials are erected as tangible acknowledgement of the abuses suffered by Sweden's Roma, as a contribution to justice and redress and as a means to prevent future injustices.**

**That International Roma Day, 8 April, is made a public "flag day".**

**That official names of places or things that derive from derogatory terms for Roma (e.g. "gypsy" and "tinker") are removed.**

## f. Institutional Reforms

The improvement of Roma lives in Sweden requires strong institutions able to protect their rights. One initiative towards this end is the twenty-year strategy for Roma inclusion adopted in 2012, which states that all Roma who turn 20 in the year 2032 shall have the same opportunities and rights as their non-Roma peers. The strategy, which comprises a number of measures in a variety of fields, such as education, employment, housing, health, social care, culture and language, creates no new rights for Sweden's Roma, but aims instead towards a higher degree of compliance with already existing rights. Much of the strategy deals with targeted initiatives, such as bridge-building with Roma language and cultural skills in pre- and primary schools. The Government Offices have also appointed a Roma focus group to influence how the government develops the control and content of its strategy.

The Equality Ombudsman is an important actor in the work being done in the interests of equal rights and opportunities for Roma and of countering discrimination against them. However, in that the Equality Ombudsman gives priority to pursuing certain strategic cases through the courts, it is not always an instance that guarantees court hearings and redress for individual cases. There is currently no national human rights institution in Sweden able to tackle human rights violations against Roma more broadly through the instrument of international law. The Equality Ombudsman is an authority under the auspices of the government and does not meet the internationally defined criterion of independence that the Paris Principles impose on a national human rights institution.[2]

In 2014 the government appointed a commission to oppose anti-Roma racism and to bridge the gap in trust between the Roma community and the rest of society. The commission will be gathering knowledge and taking part in the public debate on strengthening Roma rights in Sweden, and implementing certain initiatives in public administration and the education system that have been identified as particularly important.

**Many of the Roma rights that have been violated – such as the rights to housing, education, work, health, and a language and culture – are enshrined in the UN Covenant on Economic, Social and Cultural Rights (ESC rights). It is therefore important to strengthen the status of economic, social and culture rights as justiciable rights.**

Sweden has not ratified the optional protocol to the Covenant on ESC rights that makes it possible for individuals to present individual complaints to the UN if they feel these rights have been violated. Consequently, the justiciability of ESC rights in Sweden is weak.

The Council of Europe has stated that the linguistic and cultural rights of Roma in Sweden need to be strengthened. For instance, it is difficult for Roma to speak their own language when engaging with the public sector in Sweden, despite this being guaranteed in law.

[2] Since the publication of the Swedish edition of this booklet in April 2015, the Swedish government has announced that it intends establishing a national human rights institution according to the Paris Principles.

A great many decisions and measures have been taken to improve the living conditions of the Roma in Sweden, and a detailed review of these initiatives and the accompanying recommendations would require a separate book. We have therefore concentrated here on more general recommendations aimed at strengthening the recognition of the Roma community's human rights in Sweden.

## We therefore recommend:

**That Sweden establishes an independent national institution for human rights.**[3]

**That Sweden ratifies the Optional Protocol allowing for an individual complaints mechanism to the UN Covenant on Economic, Social and Cultural Rights.**

**Attitude surveys and historical research are conducted to more clearly demonstrate the extent of anti-Roma racism in Sweden.**

[3] Since the publication of the Swedish edition of this booklet in April 2015, the Swedish government has announced that it intends establishing a national human rights institution according to the Paris Principles.

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