Superlawyers and Sami in Sweden

By Tomas Cramér

Professor Kjell-Åke Modéer of Lund University has said that Johan Thyrén and Ivar Afzelius, these two great lawyers, should not be treated just as marble statues but that they can also be criticized when you do their biographies.

I have said before that in a development towards racism in a legal establishment there may be a point where friendly criticizing of a specific group can change in a malignant way into very dangerous racism and this is what happened in Germany. One explanation of the roots of anti-semitism and death camps in Germany is given in Daniel Gasmann: The Scientific Origins of National Socialism, Studies in Ernst Haeckel and his Monism. Much has also been written on the development in the legal thinking in Germany. It has been suggested that the historical school might have been used in a malignant way to explain and give reasons for the nazi turn in German jurisprudence. I doubt whether these tries are very realistic. Maybe Adolf Hitler and his gangster-gang learned most of it in a pragmatic way from Stalin and other predecessors and maybe even from Cortez and Pissaro in South America or from what was looked upon as good legal principles in the German colonies in Africa. When it comes to Spain it is obvious that the discussion between Francisco de Vitoria and others founded a good basic legal concept but, when it came to enforcing the Indian land-rights and other rights on the spot, these legal rules were neglected or had loopholes for the local commanders to use. Maybe Hitler borrowed very much from Stalin and his concentration camps and only arranged for legal niceties in a German academy just playing for the galleries.

In Sweden race biology was active around the year 1900 and professor Herman Lundborg got his institution in Uppsala University in 1921. He wrote a big study on some families in the southern Swedish province of Blekinge who were criminal and had a very criminal off-spring. The rational consequence of Lundborg's study would be, that annihilating a couple of persons in Blekinge in the 18th century would have been very practical and would have saved the Swedish law enforcement branch and the prisons from very expensive undertakings. The study by Lundborg was an argument for »Euthanasie«, as the nazi term was for annihilating idiots and handicapped persons. This is described in Ernst Klee: »Euthanasie« im NS-Staat, die Vernichtung Lebensunwerten Lebens, Fischer Verlag, Frankfurt-am-Main 1983.

We had dangerous tendencies in Sweden also as is shown by the publications of Herman Lundborg and his colleagues in Uppsala, especially on the Swedish Sami population. One collaborator with professor Herman Lundborg was professor K. B. Wiklund who was an Uppsala professor in Sami language and a totally dominating expert, at the time, of all Sami questions. A very enlightening exposition is made by professor Wiklund in the periodical Dagny 1906, where the racist views held by Wiklund are exposed very clearly. Later on in the 20th century such experts did not use such clear language, so it is harder to give evidence for these opinions during the 1930's when a certain reaction against Adolf Hitler was rising in Sweden. However the opinions in Uppsala and even worse in Lund were rather anti-semitic in 1939 when the Uppsala student meeting »Eden i Bollhuset« denied access to Sweden for a group of twenty Jewish doctors. In Lund one professor of law, Karl Olivecrona, was an obvious and declared admirer of the Germany of national socialism.
I am convinced after studying this issue for 30 years, that the Sami question in Sweden can be used as a litmus paper for the advanced feelings of racism against the Lapps that were inspired largely from Ernst Haeckel's German version of Darwinism. Haeckel dealt with race questions and was preceded by Rudolf Virchow who was made a member of the Swedish academy of science already in 1861, two years after the publication of Darwin's *Origin of Species*. In the Swedish encyclopedia *Virchow* is given a portrait on one whole page, and he has a skull and a skull measuring instrument in his hands. Haeckel was made a member of the Swedish academy of science in 1882. When I, in 1984, gave a lecture in this academy of science on *The academy, the Sami and the national parks*, I was able to show a picture of Virchow published in a Swedish magazine in 1879. Virchow is shown measuring the skulls of some Sami, who have been imported from Kautokeino in Norway by the zoo firm Hagenbeck, and Virchow is measuring their brain volume in a room in the Berlin zoo.

This 1879 drawing in the Swedish magazine gives a good picture of the shift of paradigm from the famous Swedish painter Gustav Fredric Höckert's painting »Lappmässan i Lövång« (a painting of a Sami mass in northern Sweden) which is free from all hints of racism. The Sami painted by Höckert are even famous artist's models from Paris, dressed up in Sami clothes taken down from Sweden to France by Höckert. The Höckert painting got a gold medal at the Paris Salon in 1855 and was bought by the emperor Napoleon III. It has been rebought back to Sweden and is now in the museum of Norrkoping. Gradually the German darwinism permeated the Swedish scientific thinking and you can see the consequences of this by the turning around, »volting«, by three important Swedish lawyers, judges who were also members of international courts.

In 1868 the supreme court judge in Sweden Edvard Henrik Carleson had defended the Sami land right eagerly in the Swedish supreme court. He was followed by nearly all of the other judges, Cramer et al.

The prominent member of the court Knut Olivecrona followed Carleson in 1881 and 1883 but he makes his volt in 1884 in a rather racist votum in the supreme court over a proposal for a Swedish national statute on Sami land rights and other questions. Knut Olivecrona volts around in one or three years and goes in the absolute opposite direction. In his 1884 votum in the Swedish supreme court he passionately exposes the advantages of agriculture, railways and industrialism and gives a rather racist description of the Sami, he talks about invasions of an alien tribe and so on. His darwinist approach is obvious when he speaks about the necessity to have permanent houses and to develop. He says that these Sami fight the last battle against the industrial culture and agriculture who alone have a future to look forward to. Knut Olivecrona advocates the American »manifest destiny« doctrine and he also makes parallels with the Indians in North America. Experts in the history of ideas like professor Gunnar Eriksson in Uppsala and professor Magnus Mörner in Gothenburg have described the influence of vulgar darwinism on Knut Olivecrona and other prominent lawyers and have pointed to it as an important fact that I have shown the typical, from other fields wellknown, influence of darwinism also in the legal domain and among the prominent jurists.

Another man who can serve as a litmus paper in the Sami question is the professor of law, politician and judge Ivar Afzelius. Afzelius had Norwegian connections especially with professor Francis Hagerup who was a lawyer, a prime minister and a diplomat. When the union between Sweden and Norway broke in 1905, it was a duty for Sweden to take care of and preserve the rights to pastures in Norway for the Sami-