

THE ÅLAND ISLANDS QUESTION IN THE LEAGUE OF NATIONS: THE IDEAL MINORITY CASE?

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This paper argues that the Åland Islands case, which was one of the first critical test cases brought before the at the time newly established intergovernmental organization called the League of Nations, has contributed considerably in shaping our modern understanding of what is a minority, emphasizing racial or national minorities. It has shaped our understanding of what is a minority issue, framed as an issue concerning the preservation of cultural identity, as a question concerning peace and security and, finally, as a matter of the right of self-determination. It is further argued that the Åland Islands case formulated the basic guidelines for how such a minority issue can be solved – emphasizing the international character of the dispute while balancing with the principle of respect for national sovereignty and internal affairs. In the title of this paper the term ‘ideal’ is used in the sense of ‘typical’ and ‘paradigmatic’ since most of the arguments forwarded by the parties as well as the very method of dispute solution have created a paradigm in the field of minority protection.

The background

Already in the second draft of the Covenant of the League of Nations (dated January 10, 1919), President Wilson and his legal adviser D.H.

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Miller had included a Supplementary Agreement VI with a final paragraph providing that:

The League of Nations shall require of all new States to bind themselves as a condition precedent to their recognition as independent or autonomous States, to accord to all racial or national minorities within their several jurisdictions exactly the same treatment and security, both in law and in fact that is accorded to the racial or national majority of the people.¹

It was clear at the outset that the drafters did not envisage a general system of minority rights or minority protection applicable to all states and all minorities. The drafts of other delegations (such as of France and Italy) did not mention minority issues. However, in the negotiations, President Wilson did not have the decisive voice and the text of the draft on minorities was dropped. So, the Covenant did not finally contain any mention of minorities and their protection. This was due to the assumed special and limited character of such a minority protection.² In other words, it was considered at that time that it was not possible to have general normative pronouncements, or even legal obligations, covering all minority related situations or minority rights.

However, already during this period we can find some of the basic characteristics and elements of minority rhetorics, many of which are still found also in more recent understandings and formulations. Among such understandings we find the following:

- Minority situations are exceptional and unusual, or even abnormal. As mentioned above, this was a basic underpinning of the thinking of the time and was reconfirmed after the Second World War when Article 27 of the International Covenant on Civil and Political Rights (adopted within the United Nations in 1966) starts off with the words 'In those States in which ... minorities exist...'.
- Only a few countries 'suffer' from minority 'problems' and are supposed to assume obligations concerning minorities. This was evident by the fact that the post First World War system imposed obligations only upon a limited number of countries, mainly those that were created after the disintegration of the Ottoman Empire and those that had lost the war (see below concerning the States affected). This opened up for the ever ending discussion on so-

called 'double standards', i.e. the argument that some countries are imposed a set of obligations while others are 'let off the hook'.

- There is constant ambiguity in the use of the concepts of racial and national minorities. In the Wilsonian draft above the terms are used interchangeably. While no definitions are given, the contradistinction of the two implied that there was either a difference of race or a political will of a minority to form a nation state, or of being affiliated with a kin-state. The intermingling of the two concepts implied indirectly that the 'ideal situation' was that of racial purity of nation states.

- Minorities are seen at the same time as a question of peace and security and an issue of equality and preservation of culture and identity. Here, there is an inherent tension between the two conceptualizations. A strong and big minority group may pose threats to peace and security, while a small and weak minority group deserves protection in order not to be extinguished.

- Minority issues are susceptible to international dispute resolution and the newly established 'international community' (i.e. the multilateral organization of the League of Nations) could function as a supervisor and a guarantor of minority regimes. This was one of the major shifts in contemporary thinking. While the main model remained one of bilateral or multilateral treaties, they were all posed under the guarantee offered by the League of Nations.

- Minority protection and minority rights are susceptible to legal regulation and the newly established Permanent Court of International Justice was entrusted with the competence to adjudicate minority disputes but also to render advisory opinions on such matters.³

Instead of including a general system of protection, preference among State representatives was for specialized treaties or specific minority clauses in peace treaties. Among them we can mention the Treaty between the Allies and Poland (Versailles, June 1919); The Treaty between the Allies and the Kingdom of the Serbs Croats and Slovenes (Saint-Germain, September 1919), Peace Treaties with Austria, Bulgaria, Hungary and Turkey; Bilateral treaties (e.g. the Treaty between Poland and Germany on Upper Silesia of 1922); as well as a number of unilateral declarations of states before the League and falling within the so called League Guarantee. Albania, Lithuania, Latvia, Estonia

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(between 1921 and 1923) and Iraq (1932) submitted such unilateral declarations on the protection of minorities.⁴

This was also the solution considered appropriate for the solution of the Åland Islands dispute, which was solved at the international level through the confirmation of an agreement between Finland and Sweden which was incorporated in a resolution of the Council of the League of Nations (June 1921). This is of course only part of the entire picture. The solution to the Åland Islands question is perceived and presented as the successful outcome of an international mediation and dispute settlement. At a domestic level, the Government of Finland had introduced a draft bill on autonomy already in 1919, and it was passed by the parliament and promulgated by the President of Finland in the spring of 1920, i.e. before the League of Nations made any substantive pronouncement on the issue.⁵

The initial phase of the Åland Islands Question and the main arguments of the actors

While the extent of autonomy of Finland (originally called a Grand-Duchy and later on referred to by the Tsar as 'the Finnish regions of Russia) within the Russian empire is disputed, it is clear that starting in the 1860s the Finnish Diet met regularly and legislated for the country.⁶ It is argued by Suksi that in addition to the possible 'model-effect' of the creation in 1919 of the Free City of Danzig under the Treaty of Versailles, the experience of Finland as an autonomous unit within Russia may be forwarded as an important factor conducive to the recognition of Ålandic autonomy in 1920.⁷

However, in the 1890s started within the Russian empire a period of Russification and pan-slavism commencing by control of the military and followed by the so-called February Manifesto of 1899 by which legislation in Finland was controlled by the new Governor-General. The so called *Finnish Question* was widely debated among jurists as well as the press in Europe and in the U.S.A. and Finland was seen as a geographical and cultural buffer between the West and the East. Following the turmoil of the Russian Revolution of 1917 Finland declared independence in December of that same year and was recognized un-dramatically by Lenin.⁸ In 1918 the civil war in Finland scared off the Ålanders further, since the outcome was uncertain and an alliance with Sweden was considered as a safer avenue.

This was the triggering factor for the Åland Islands issue and the inhabitants of the Åland Islands expressed in a petition presented to the King and Government of Sweden in December 1917 support for reunion with Sweden. More than 7,000 people signed the petition, a majority of Åland's electorate.⁹ The Ålanders were worried about the future of Finland and some of them became soldiers ('jägare') in Lockstedter Lager north of Hamburg actively working against Russia.¹⁰ Between 1917 and 1920 an intensive campaign takes place among the Ålanders and vis à vis Stockholm, London, Washington and Paris in order to achieve the unification of Åland with Sweden. The main arguments of *the Ålanders* are of an emotional, aesthetic and therefore epideictic nature, appealing to naturalness and purity. Their delegation wrote on 31 January 1919 while attending a meeting in Paris:

Through their origin, language traditions, history, intellectual and economic interests, the Ålanders are intimately linked to the Swedes. It is natural that their character and mentality are of a Swedish nature ['marqués de l'empreinte nationale suédoise]. It is then for the Ålanders an attack against their very life, when Finnish nationalism attempts to destroy all Swedish tradition in the Islands and 'Finlandise' this Swedish population.¹¹

Already more than a year earlier, in December 1917, in their emotional petition to the King of Sweden, the Ålanders refer to the suffering of Åland due to the consequences of the Treaty of Fredrikshamn (1809); the links 'since time immemorial' between the archipelagos and Sweden; the sacrifices of the Ålanders in the so called uprising of peasants in 1808 in defence of 'the common motherland' ['det gemensamma fäderneslandet' / 'la patrie commune']. This petition was signed by Julius Sundblom at the time editor of the newspaper 'Åland' and later the first speaker of the *landsting* (the Åland county parliament).

In all the petitions, letters and submissions we find repeated references to the purity of the Swedish race and the Swedish language in line with the spirit prevailing in Europe.

In June 1918, the Ålanders elected an unofficial popular representation to further their ambition. It came to be known as the non-legalised *landsting* (county assembly) and its main task was to work for the idea of reunification. To start with the Ålanders used the language of politics and population representation and of self-determi-

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nation in their actions and strategies and adopted elements of parliamentary deliberation.

Finland insisted upon the sovereignty over the islands and the Swedish Minister in Helsinki was soon thereafter recalled. The two most prominent Ålanders Carl Björkman and Julius Sundblom were arrested in Mariehamn in June 1918, were taken to Åbo/Turku and were accused of treason. They were found guilty but were given a rather mild sentence, but were actually never forced to serve their sentences.¹²

Sweden had barely entered the League of Nations when the Åland Islands question became a pressing problem. Sweden's interests were expressed in two different ways:

First of all, there was the issue of self-determination of the Ålanders. While the principle of self-determination was still an open debate in legal and political circles following President Wilson's Fourteen Points from January 1918, Sweden, and especially Hjalmar Branting, leader of the social democratic party, incorporated it strongly in the pacifist movement. Scandinavian states (Sweden, Norway and Denmark) did see it as their task to defend the rights of smaller states and peoples through multilateralist channels.¹³ At the same time one may recollect that Swedish membership in the League of Nations was not an altogether uncontroversial political process and the suggestion had also been made that Sweden should enter the League only after the U.S.A. had done the same thing, something which as we know never happened. For Branting it was an issue of principle that the Åland Islands issue be settled by the League of Nations.¹⁴

The second aspect of vital importance for Sweden was the demilitarization and neutralization of the islands - mainly fearing Russia but also Germany. Sweden seized the opportunity to link the two aspects in a package solution.

Sweden supported the line of argument of the Ålanders in terms of the internationalization of the issue, the purity of Ålandic Swedishness, and the crucial attention given to the principle of self-determination.¹⁵ Sweden played however on one single card, i.e. the prospect of unification of Åland and Sweden. When it became clear to the Swedes that the League of Nations would suggest and prefer granting the sovereignty of the islands to Finland, there was great confusion in the Swedish quarters. There was no alternative scenario, no Plan B.¹⁶

Finland, on the contrary, chose a double track very early in the negotiations and worked in parallel at the international and the domestic level. The first line of argument was that the Åland Islands Question was an issue of domestic affairs. This had been made clear by the early adoption of the Act on Self-Government of 1920. Instead of the emotional style of the Ålanders and of Sweden, Finland explained the fears of the Ålanders through rational arguments, i.e. the experience and effects of the war. Finland emphasized at the same time the constitutional and legislative steps and guarantees offered to Swedish speakers in Finland in general and in the Åland islands in particular.¹⁷

The argument of the parties expose the typical themes mentioned earlier: the mixture of national and international issues and politics and the mixture of security and cultural considerations. As we shall see, this puzzle was complemented with the mixture of legal steps and of political actions.

The legal issues

Finland did not support the idea of a settlement through the mediation of the League of Nations. After the issue was brought before the Council by a joint Swedish-British initiative, a Commission of Jurists was appointed by the Council of the League to decide upon the jurisdiction of the Council in view of its rejection by Finland. Its members were three law professors, Larnaude (from France), Struycken (from the Netherlands) and Huber (from Switzerland) and a secretary. The jurists dealt with two main questions: was this an international dispute for which the Council of the League of Nations had jurisdiction? And secondly, what was the relevance of the newly proclaimed principle of self-determination in the Åland Islands Questions?¹⁸

The jurists asserted the international nature of the dispute and asserted the jurisdiction of the Council. While emphasizing the importance of the principle of self-determination they concluded that this principle had not been firmly established in international law. It could render support to the claims for a referendum, but did not allow automatically for a right to secession. Nor could this principle be examined in isolation of other economic and political aspects.

The Commission of Rapporteurs, or, the carrot and the stick

To a large extent the lawyers accepted the claims of the Ålanders, even though they did not draw any concrete conclusions and recommendations. A second commission was then appointed by the Council, this time of a political nature to propose possible solutions. It was called the Commission of Rapporteurs. In its report of April 1920 (i.e. simultaneously with the parliamentary debates in Helsinki on the draft bill on Ålandic self-government), the Commission of Rapporteurs rejected the application of the principle of self-determination as implying a right to secession by the Åland Islands, but proposed a strengthening of the autonomy of the islands as well as support for the Swedish language used on the islands. Sovereignty over the Islands was found to belong to Finland. In its report the commission made reference to the factual control of the territory, the will of the inhabitants, the position of the Åland islands and the islanders as part of the Swedish speaking minority in Finland while at the same time expressly thanking Finland for averting the waves of bolshevism coming from the East.

The Commission of Rapporteurs combined elements of blackmail and compensation, the carrot and the stick, trying to find an acceptable compromise. The Ålanders and Sweden were to accept Finnish sovereignty over the islands, while they would win an extensive autonomy for the Ålanders and (for Sweden) the renewal of the demilitarization regime this time strengthened by guarantees for neutralization. A new convention on demilitarization and neutralization was also adopted in 1922.¹⁹

The Commission of Rapporteurs brought forward additional arguments, in particular viewing the Swedish speakers in Finland as a whole, the Ålanders being only a small part of that group. This is a classical point of contestation in minority discourses. Who defines the minority? How do we draw the borders to groups with similar cultural, linguistic characteristics and historical experiences?

The Commission of Rapporteurs emphasised the role of teaching in Swedish, of control over real property (a principle of preemption in real property transactions for the Ålanders), and of restriction for newcomers to the Åland Islands in terms of voting rights. Finland introduced immediately legislation on considerable autonomy for the Åland islands that same year (1920), i.e. before the Council started discussing the matter. The Commission of Rapporteurs directed a threat

to Finland to enact the legislative framework suggested, or otherwise a right to secession would be accepted by the League of Nations.²⁰ As we have seen the government of Finland had already proposed such legislation in late 1919, but the domestic, Finnish legislation was further developed, strengthening the regime of self-government, with new legislative acts in 1921-1924.

Conclusions

The final arrangement on the Åland Islands epitomizes the ambiguities of the matter itself. It was constituted at the international level of a unilateral declaration by Finland registered as an agreement in the League of National Official Journal within the framework of a Council Resolution. The League Council in practice approved the text agreed upon by the representatives of Finland and Sweden but Finland was never required to give the same kind of formalized minority guarantees as those imposed upon other countries. Ever since, international lawyers dispute over the nature of this document, whether it is an international agreement or not, and on the scope of the legal obligations and rights it creates for the parties involved (Finland, Sweden, the League of Nations and its organs and member states).

Over time it seems that the emotional, epideictic rhetoric of the Ålanders shifts into a pragmatic negotiation rhetoric over the details of the Autonomy Act. We have seen in the arguments of the parties the close link perceived between the concepts of self-determination and minority protection. There is in the argumentation a mixture of arguments based on culture and race, on peace and security and on participatory rights. Today this mixture has been complemented by references to individual human rights and an expanded participation claim, not on the basis of self-determination but rather on the basis of democracy.

In all the above senses the Åland Islands Question is paradigmatic. At the same time it is still exceptional. The vital security interests of Europe vis à vis Russia, the geographic isolation, the strong economic potential, the strong voice of the Ålanders and their strong organizational skills with international leverage are not common to other comparable situations.

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In terms of research and a comprehensive understanding of the outcome of the Åland Islands dispute we still have blank spots. What did really happen between the two Commissions? Whose were the ideas incorporated in detail in the report of the Commission of Rapporteurs? Was it so that the Åland Islands issue had to be interpreted as an 'international' issue in order to establish the jurisdiction and abilities of the League of Nations and to verify the international ambitions of the Branting government in Sweden? How can we understand the interplay between the Finnish domestic discourses and the debates and actions at the international level in the case of the Åland Islands? Perhaps the most important question of all is that of finding ways to understand and explain the robustness of the regime. While most other regimes of autonomy and demilitarisation from that early 20th century period have been abolished the self-government and demilitarization of the Åland Islands survives and evolves.²¹ All these questions are what makes Åland such a remarkable object for research.

NOTES

1. D.H. Miller, *The Drafting of the Covenant*, 1928, vol. 2, p. 238-246.
2. P. De Azcárate, *League of Nations and National Minorities: An Experiment*, 1945, p. 92. De Azcárate was director of the Minorities Section of the Secretariat of the League of Nations.
3. See e.g. PCIJ, Ser. A, No. 15, Judgment No. 12 (1928) regarding *Rights of Minorities in Upper Silesia* and PCIJ Ser. A/B, No. 64 (1935) regarding *Minority Schools in Albania*.
4. Athanasia Spiliopoulou Åkermark, *Justifications of Minority Protection in International Law*, 1997, pp. 101-118
5. Artur Tollet & John Uggla, *Lagstiftningen angående självstyrelse för Åland*, Helsingfors, 1930, p. 11.
6. Outi Korhonen, *International Law Situated*, The Hague, Kluwer Law International, 2000, p. 28.
7. Markku Suksi, The Constitutional Setting of the Åland Islands Compared, in Lauri Hannikainen & Frank Horn, *Autonomy and Demilitarisation in International Law: The Åland Islands in a Changing Europe*, The Hague, Kluwer Law International, 1997, 99-129.
8. Korhonen, loc. cit.
9. Lars Ingmar Johansson, Åland Autonomy – Its Background and Current Status, in *Islands of Peace*, The Åland Islands Peace Institute, Åland, 2006, p. 42.
10. Håkan Skogsjö & Jonas Wilén, *Skotten I Tornvillan; Historien om Ålands självstyrelse*, Ålands museum, 1997, p. 8.
11. *Ålandsfrågan inför Nationernas Förbund*, Diplomatiska Aktstycken utgivna av Kungl. Utrikesdepartementet, Stockholm 1920, pp. 56-59 (the text is here in Swedish and French and this is the translation of the author).
12. Skogsjö & Wilén, loc. cit.
13. S. Shepard Jones, *The Scandinavian States and the League of Nations*, 1939.
14. Harry Maiander (red.), *Sveriges historia genom tiderna, femte delen*, Stockholm, Saxon & Lindströms förlag, 1953, 241-248.
15. See e.g. the submission of the Government of Sweden to the Council of the League of Nations on 2 July 1920, *Ålandsfrågan inför Nationernas Förbund*, Diplomatiska Aktstycken utgivna av Kungl. Utrikesdepartementet, Stockholm 1920, pp. 2-37.
16. L. Hannikainen, *De folkrättsliga grunderna för Ålands självstyrelse och svenskspråkighet*, Åbo, 2004, p. 11.
17. *Notes of the Government of Finland of 5 June 1919, 3 June 1920 and 12 June 1920 in Ålandsfrågan inför Nationernas Förbund*, Diplomatiska Aktstycken utgivna av Kungl. Utrikesdepartementet, Stockholm 1920.
18. *Ibid.*, pp. 234-279. The report of the Commission of Jurists is dated 5 September 1920.
19. Convention on the Non-fortification and Neutralisation of the Åland Islands, 1921.
20. *Ålandsfrågan inför Nationernas Förbund*, Diplomatiska Aktstycken utgivna av Kungl. Utrikesdepartementet, Stockholm, Vol. II, Stockholm, 1921, pp. 2-139.
21. Pertti Joenniemi, The Åland Islands Issue, in C. Archer & P. Joenniemi, *The Nordic Peace*, Aldershot, Ashgate, 2003, 88-104. For an overview of demilitarized and neutralized territories in Europe see Christer Ahlström, *Demilitarised and Neutralised Territories in Europe*, Mariehamn, The Åland Islands Peace Institute, 2004; Sia S. Åkermark What makes the Åland example still relevant (forthcoming in M. Chillard (ed.), *La question des Iles Åland*, Paris: L'Harmattan, 2009).