**Professor Jacob W.F. Sundberg in memoriam**

Professor Jacob W.F. Sundberg has passed away, and with him we have lost a great lawyer and a powerful personality with a rich and internationally recognised lifetime achievement.

Professor Sundberg very early on made himself internationally known, first through his work in air law (including his doctoral thesis Air Charter 1961), civil law (major works on, among other things, the transformation of Swedish family law and the development of civil liability for defects in leased goods), international law, including international criminal law (writings on terrorism, airline hijackings and treaty interpretation, etc. ), and particularly after his appointment in 1970 as Professor of General Jurisprudence at Stockholm’s University, as a strong advocate of human rights and respect for the rule of law and democracy, especially in the light of the requirements of the European Convention on Human Rights He was thus a strong critic of the then dominant Hägerströmian philosophy and its value nihilism, often known as the so-called Uppsala School, and its negation of any concept of rights. A major achievement, also highly topical, was the organisation of the Nordic moot court competition "Sporrong and Lönnroth" with the European Convention as its guide.

Professor Sundberg was born on 29 May 1927. He was the son of Professor Halvar G.F. Sundberg and his wife Margit, née Hammarberg. Halvar Sundberg was a professor of public, administrative, and international law, a member of the Stockholm City Council and founder of the Institute of Public and International Law in 1943. Jacob Sundberg had an international upbringing with many stays abroad. During the war, the family also received children fleeing the war in Finland, with whom he grew up. He graduated from Östra Real in Stockholm in 1945 and obtained his law degree in 1948 at the age of 21. He completed his military service with reserve officer training in 1949-51 at the Naval Academy in Näsby Park and eventually became a captain in the naval reserve. He was elected to the Royal Naval Officers' Society as a corresponding member in 1967 and also taught international law at the Military Academy on various occasions.

After reserve officer training, his legal career began in earnest with court service in Sundsvall, followed by a Master of Comparative Jurisprudence at New York University in 1957, doctoral studies in air law, concluding with the dissertation Air Charter in 1961 and court of appeal service in 1962-63. In the latter year he also became a preceptor in civil law at Stockholm University.

His entire legal career has been characterised by an international, comparative, critical and creative perspective on law and its role in society and an unusually well-developed capacity to enthuse generations of young students, in Sweden, Europe, the USA and many other countries.

His comparative perspective was not only geographical, it was also historical. His first paper set the tone: 'Francisco de Vitoria and natural law' published in “Statsvetenskaplig tidskrift” (Journal of Public Law) in 1949. His major work on legal history, "Från Eddan t. Ekelöf" (From Eddan (the Viking epos) to Ekelöf (famous Swedish legal scolar in Hägersröms spirit, active until his death in 1972) in 1973, which analysed the history of legal sources in the Nordic countries, typically began with the observation that law was in many ways the weapon of the weak. Despite his international perspectives, he was also a great 'Nordicist'. The promotion of Nordic community and understanding also became an important part of his life's work.

During his service on the Court of Appeal, he became one of the first, probably the first, Swedish judge to use the European Convention on Human Rights and its protection of rights and freedoms in the Swedish judicial process. In the 1963 judgment in question, he found that the Convention's requirement of respect for freedom of expression outweighed the requirements of order under the Public Order Act. The case concerned the question of criminal liability for participation in a provocative political demonstration in Stockholm, the so-called "Algérie française" case. In this and other ways he developed the ideas expressed already by his father professor Halvar G.F. Sundberg at the time of the ratification of the Convention in 1950. The latter had been one of the first to recognise the Convention's potential to strengthen the protection of individuals and to attack the Hägerstömianism prevalent in Sweden and had therefore directly included it as an important source of law already in 1957 in the seventh edition of Malmgren’s “Swedish Constitutional norms and relevant texts and explanations”, which Halvar Sundberg published together with Erik Fahlbeck.

The approach was not uncontroversial, and he showed unusual courage in tackling fundamental legal issues even when they were politically or academically sensitive, even clearly unpopular or outside the frame of Swedish public debate at the time. His book 'Memories of a Stormy Professorship' tellingly describes the many battles that followed his sharp criticism of the prevalent official uncritical faith in the socialist message, with its absence of understanding for the rule of law and individual rights. His approach challenged the Hägerstömian practical concept of law, which was shared by many important Marxist and socialist politicians, civil servants and researchers. Law was merely an instrument of power subservient to politics. The result was that, as Professor Lundstedt put it, a claim that a law could violate a right was "as meaningless as a parrot's chatter". In the early 1970s, the then Minister of Justice, Mr Geijer, put a more political spin on the matter: it was an undemocratic approach to see the courts as protectors of individuals against the state. However, as Professor Sundberg noted in the book 'Hägerström and Finland's Struggle for Law', Hägerström's followers appeared to have embraced the doctrine more uncritically than the master himself, Hägerström, professor Sundberg recalled, had himself, confronted with the consequences of the naked Russian language of power vis à vis Finland (then a part of the Russian empire) in the years around 1900, asked himself fundamental questions about the scope of his doctrine in such a confrontation.

This view also went completely against the general European experience that politics must have limits to guarantee European peace and social and economic progress. The limits were set by the necessity to respect democracy, the rule of law and human rights. This called for a collective guarantee. History had clearly shown that what Germans did in Germany was not just German business, it was also European business. The main response became the European Convention, the first European post war instrument to give an international organisation the right to take decisions on important issues by majority vote: the Committee of Ministers of the Council of Europe was thus given the right to decide by a two-thirds majority on violations of the Convention and on the effect of decisions on violations. Other instruments with similar arrangements would follow, notably the Coal and Steel Union, Euratom and the European Economic Community.

Professor Sundberg's continued efforts to create an understanding for the Convention strengthen the reception of the Convention in Swedish law and respect for the individual remained, however, unpopular at home, despite Sweden's international involvement in the Council of Europe.

In 1982, with support from the Swiss Embassy, he managed to organise a large colloquium at the Svea Court of Appeal with the Ministry of Foreign Affairs and senior Council of Europe dignitaries. Despite the colloquium the Ministry of Foreign Affairs as well as a number of university colleagues, continued to maintain that the Convention could not be directly relevant for the administration of Swedish law. Such relevance could mainly be achieved with respect to the bits and pieces of the Convention which had been transformed to national law by Parliament.

In parallel, inspired by his American experiences and Nordic ambition, Professor Sundberg managed to organise a very successful moot court competition based on the European Convention - the Sporrong and Lönnroth competition. The first one was held in 1984. The competition was a huge success and was led by Professor Sundberg for 20 years. The competitors were students from Nordic universities, organised in clubs led by prominent lawyers and supported by lawyers from both the practical and academic world. The prestige and Nordic dimension of the competition was reinforced by the fact that the Nordic supreme courts in turn lent their premises to the competition (in Sweden, however, the Supreme Court soon declined, but the Svea Court of Appeal quickly took its place on the initiative of President Birgitta Blom). The final is held before the Nordic judges of the European Court of Justice. The competition continues to run as Professor Sundberg organised it and has been cited in a recommendation of the Committee of Ministers of the Council of Europe to all Council of Europe member as a good example of how to spread knowledge of the Convention. It has also been replicated in the Balkans, and for some years now a "grande finale" has been organised in Strasbourg by Human Rights Defenders between the winning teams in each competition.

Professor Sundberg’s commitment to the European Convention was strongly supported by the President of the European Court of Human Rights Rolv Ryssdal, the President of the European Commission Jochen Frowein, as well as many other senior personalities and officials of the Council of Europe. In parallel with the development of the competition, Professor Sundberg was entrusted by the Council of Europe in 1983 to become the Swedish rapporteur as regards the application of the European Convention in Sweden. The result was the series "Human Rights in Sweden", 1984-1988, which detailed the legal and political developments in the implementation of the ECHR.

This European support did not prevent the fact that Professor Sundberg's commitment continued to be ill-received in Swedish academic and political circles. Opposition was particularly strongly expressed in the so-called *ius docendi* affair. This was an initiative taken in 1989 by the the “*board of line”* (“linjenämnden” a university board, distinct from the faculty, responsible for the organisation and content of the education in the line of studies concerned) at Stockholm University to take away his right to teach - *ius docendi* as his teachings on human rights were allegedly not "scientific"! However, much thanks to Professor Sundberg’s important international academic recognition the initiative attracted so much international attention and indignation that the attempt, also supported by the UHÄ (the National Board on University and Higher education), had to be abandoned.

Despite these incidents, Professor Sundberg's work, perhaps especially through the success of the trial competition and the familiarity with the Convention requirements it gave Swedish lawyers and judges, gave strong support to the "judicial" incorporation of the Convention that developed in the late 1980s and early 1990s. It can be noted that during this time the Supreme Court came to give the Convention a de facto direct effect, including as a starting point for the interpretation of the Swedish protection of rights and freedoms. This development echoed the emergence, notably in other Nordic states, of the so-called theory of presumption according to which courts and authorities are entitled to presume that legislation must be given a Convention conform interpretation. However, many in the doctrine as well as the Ministry of Foreign Affairs believed that taking the Convention into account in the application of law required transformation through legislation. The situation was resolved when the Swedish Parliament adopted a law in 1994 that formally incorporated the Convention into Swedish law as of 1 January 1995. The law gave rise to a friendly comment: this is all thanks to Sundberg! Be this as it may, his work and activities had prepared the ground for Sweden's membership of the newly created EU where, since the 1970s, the Convention had been part of the fundamental legal principles that bound the Communities and was thus part of the acquis new members had to accept.

It should in this context be recalled that the shortcomings of the transformation theory had been noted also by the Committee of Ministers of the Council of Europe, which early encouraged all efforts to give direct effect to the requirements of the Convention, in particular when it monitored the execution of the judgments of the European Court of Human Rights. Not without result. In 2004, the Committee of Ministers was able to note with satisfaction that the Convention had been accepted as part of the national legal system in all Council of Europe member states.

Professor Sundberg's great interest for legal, historical and philosophical questions and international commitment, besides that relating to the European Convention, was expressed in many other ways. He was an assiduous writer with a very rich and varied production (many publications are presented on the web site of the Institute for Public and International Law). He also had numerous assignments, particularly in the AIDP (Association de Droit Penal) and ILA (the International Law Association), and as a rapporteur in various UN contexts, notably in matters of airline hijacking. His very rich and comparative research also led him to be invited to teach at several foreign universities, particularly in the United States, including New York University, the Fletcher School of Law and Diplomacy and Akron University.

His international engagement led to a number of memorable incidents.

During his visit to Sweden in 1990, Uruguayan Foreign Minister Héctor Gros Espiell asked, for example, the Swedish government for a special meeting with the professor. Shortly thereafter, he was also asked to chair the non-governmental committee charged with investigating the real causes of the Ukrainian famine during the Stalin era 1933-34 -Holodomor. The committee published a highly acclaimed report in 1990 establishing crimes against humanity. In recognition of his efforts, he received a personal award from Ukrainian President Yushchenko in 2005. Professor Sundberg's commitment to human rights also led the Danish Wallenberg Society to award him a gold medal at a ceremony in the Danish Parliament in 1998. His efforts also led to his election to the prestigious American Society of Arts and Sciences in 2002.

Professor Sundberg formally retired in 1993 but continued his activities for a long time. As professor emeritus, he led the Sporrong Lönnroth Competition for another 10 years until 2003 and continued as an honorary participant in the now renamed competition - "the Nordic Moot Court Competition" - until 2019. His research activities also continued and included a long series of high-profile historical observations and writings on the European Convention and its role in Sweden and Europe, particularly in the light of the major European developments of the 1990s and 2000s. In addition, in 2008 he published the above-mentioned profound reflection on the developments of society and his own role in these - the book “Memories from a Chair in storm” ("Minnen från en stormig professur"). As one reviewer noted, 'surprisingly conciliatory towards his detractors'.

A great man, a friend of youth, universal values, Europe and the Nordic community, has passed away.