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Protecting Indigenous Identity and Culture in the Modern Nation-State: A Case Study of the Sami in Norway

Claire Lockerby

SIT Study Abroad, claire.lockerby@gmail.com

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**PROTECTING INDIGENOUS IDENTITY AND
CULTURE IN THE MODERN NATION-
STATE:**

A CASE STUDY OF THE SAMI IN NORWAY

**CLAIRE LOCKERBY
SIT: SWITZERLAND
INDEPENDENT STUDY PROJECT
FALL 2010**

ABSTRACT

The plight of indigenous peoples around the world is a serious one, and without significant international action, many valuable cultural and linguistic traditions are in grave danger of disappearing altogether. Many of these indigenous groups have experienced detrimental consequences from the history of slavery, colonialism and imperialism, and the emergence of nation-states that stripped them of their autonomy and greatly threatened their way of life. Today, there are some positive examples of international and national efforts to protect indigenous peoples, but unfortunately, most indigenous populations remain dispossessed and underrepresented. Although the international community has established principles of unalienable human rights, it has done relatively little to extend these rights to indigenous peoples in particular. Even the United States has yet to adopt ILO Convention No. 169, the most important, binding international document on indigenous rights, nor has it supported the United Nations Declaration on the Rights of Indigenous Peoples. The first part of this paper examines several international initiatives that do promote indigenous rights and provide positive support, and the second part is dedicated to the case of the Sámi, the indigenous people in Norway. The Sámi are unique in the successes that they have achieved by working closely with the Norwegian government, and they currently stand stronger and more united than most indigenous peoples in the world. With a lot of input and pressure from the Sámi, Norway has developed institutions and legislation to safeguard the Sámi languages and culture that were once in danger of disappearing. This case study illustrates the positive changes that are possible for indigenous minorities and provides a model for other states to consider when developing their own indigenous policies.

NOTE: All references to the Sámi people in this paper refer only to the Sámi in Norway unless otherwise specified.

ACKNOWLEDGEMENTS

This research project was originally born out of a 2005 trip that I took to Norway with my family. The trip was my first experience in Europe, and I immediately fell in love with the quaint Scandinavian houses, spectacular fjords, and magnificent wooden Stave churches. One afternoon during a visit to the Norsk Folk Museum outside of Oslo, I saw an extremely interesting exhibit about the Sámi people, the original inhabitants of Norway who populate the far reaches of Northern Scandinavia. These reindeer herders with their colorful clothing, unique language, and fascinating religious and cultural traditions immediately captivated me. Five years later, I decided to focus my SIT Independent Study Project on the Norwegian Sámi and their prominence on the international stage in the arena of indigenous rights. I feel very strongly about the plight of indigenous peoples, who are among the most disadvantaged and underrepresented groups on the globe, and the Sámi have shown their leadership, initiative, and dedication to the promotion of indigenous rights, autonomy, and cultural and linguistic protection.

First and foremost, I would like to thank my parents, who have always fostered a love of traveling and learning in their children. Without their support and encouragement, I would never have been exposed to such a wide range of cultures and places, nor would I have had the courage to leave my university to study abroad without knowing a single person in advance. I would also like to express my appreciation for SIT and our Academic Directors, who have encouraged exploration, inquisitiveness, and pushing the limits of what we may think we know. My homestay mother will always have a special place in my heart, and I cannot imagine what Switzerland would have been like without her. She took me into her home for three months, and we formed a strong bond entirely through a language that is not my mother tongue. Lastly, I greatly appreciate the help of all of the people whom I interviewed during my research process. Without their willingness to take time out of busy schedules to meet with me, I never would have gained such valuable expertise and insight into such a complicated, multi-faceted, an extremely pertinent issue.

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**PROTECTING INDIGENOUS IDENTITY AND CULTURE IN THE
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INTRODUCTION

In the northernmost parts of Norway, the Midnight Sun illuminates the sky in the summer, when the land is lush and full of life. The fjords and seas are abundant with fish, and reindeer graze freely. But winter brings brutal ice and snow, and the Northern Lights splash vibrant colors across the frozen tundra deep in the heart of winter, when daylight is reduced to a grayish glow for a mere few hours a day. Here in Finnmarksvidda, the Sámi people have battled the elements in isolation for more than 11,000 years, following the reindeer herds and fishing in the fjords and seas. Yet their rich culture and way of life have only recently begun to garner protection and appreciation after centuries of suppression and imposed policies of assimilation into Norwegian culture. Although the Sámi are a very small population in Norway, numbering between 40,000 and 45,000 people, their story is an important one for the international community. The Sámi story illustrates what is possible when a state government finally begins to accept its indigenous population and diligently works with this minority to achieve internationally accepted standards of indigenous rights and autonomy. Norway is an excellent case study because it has made an effort to adopt policies that adhere to international, legally binding frameworks for indigenous rights. Indigenous concerns are especially relevant today, when “political issues regarding indigenous or national minorities are arguably among the most burning ethno-political

concerns throughout the world.”¹ With more than 370 million indigenous people living in more than ninety countries worldwide,² it is no small wonder that issues concerning indigenous rights and identities deserve a prominent place on the international stage.

PART I: INDIGENOUS RIGHTS ON THE INTERNATIONAL STAGE

Background on Indigenous Rights

In the modern age of globalization and increased interdependency between nations, the diversity and variety of cultures is more apparent than ever, as groups of people from around the world are coming into contact with each other in ways that have never before been possible. Yet despite these vibrant displays of diversity, attitudes towards indigenous peoples often remain either indifferent or hostile. The 370 million indigenous peoples currently living around the world represent one of the most disadvantaged groups on the globe. Though ethnically, culturally, and linguistically distinct from one another, they share several key traits that bind them together: subjection to colonial settlement, historical continuity with pre-invasion or pre-colonial societies, an identity that is distinct from the dominant society in which they are encased, and concern with the preservation and replication of their culture. Their cultures have historically been threatened, as “the expansion of the European society of states to an international society global in scope entailed the progressive dispossession and subordination of non-

¹ Weyermann, Daniel. “Indigenous Minorities’ Claims to Land.” *Intergenerational Justice Review*, Vol. 9, Issue 1 (2009), 23

² Unknown Author. “Permanent Forum: Origin and Development.” *United Nations Permanent Forum on Indigenous Issues*. 7 October 2010. <http://www.un.org/Esa/socdev/unpfii/en/about_us.html>

European peoples.”³ State boundaries were often drawn without any regard for indigenous or aboriginal peoples, and the pressing demands of European colonists greatly eroded indigenous rights. In many cases, indigenous cultures were nearly or completely wiped out. Today, indigenous peoples still face intense challenges and represent “non-dominant sectors of society” that are “determined to preserve, develop, and transmit to future generations of their ancestral territories, and their ethnic identity, the basis of their continued existence as peoples, in accordance with their cultural patterns, social institutions, and legal systems.”⁴ Many of these groups display unique ways of relating to people and to the environment and must now find a way to both adapt to modern society and preserve and protect their traditional cultures within the majority societies in which they live.

Throughout the past half-century, the international community has turned its attention to the spread and protection of fundamental human rights, greatly facilitated by the birth of the United Nations in 1945. It is the duty of international society to facilitate these humanitarian values among individual states, particularly in areas where the worst violations occur. Furthermore, it is necessary to place special emphasis on indigenous rights in particular, because they have been so long ignored. The relatively recent creation of ILO Indigenous and Tribal Peoples Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples reflect increased international attention to indigenous issues during the past several decades. After centuries of

³ Keal, Paul. *European Conquest and the Rights of Indigenous Peoples: The Moral Backwardness of International Society*. Cambridge: Cambridge University Press, 2003, 1

⁴ *Ibid.*, 7

violations of indigenous rights, it is now the duty of individual states and the international community to create mechanisms to address and correct these historical injustices.

ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples

As evidence of the international community's increased attention to indigenous issues, the 2005-2015 decade has been declared the Second Decade of the World's Indigenous Peoples. Coordinated by the Under-Secretary-General for Economic and Social Affairs, Mr. Sha Zukang, the decade is themed "Partnership for Action and Dignity" and is designed to raise awareness and mobilize support. The overall aim is to strengthen international cooperation on indigenous issues in hopes of eventually achieving consensus and collective action. Major goals include promoting non-discrimination and inclusion; advocating full and effective participation of indigenous peoples in decisions that affect their lifestyles and lands; redefining development policies; adopting policies, programs, projects, and budgets for the development of indigenous peoples; and developing strong monitoring mechanisms to enhance accountability at the international, regional, and national levels.⁵ These goals build upon two extremely important international documents dealing with indigenous concerns that have been released during the past two decades: ILO Convention No. 169 (1989) and the UN Declaration on the Rights of Indigenous Peoples (2007).

The Indigenous and Tribal Peoples Convention (ILO Convention No. 169) is arguably the most important binding international document on indigenous rights to date. Adopted on June 27, 1989 by the General Conference of the International Labor

⁵ Unknown, "Permanent Forum: Origin and Development," *United Nations Permanent Forum on Indigenous Issues*

Organization, the document was created out of a need for new international standards, as the previous ILO convention had been adopted in 1957 and was consequently outdated. The underlying principle of ILO Convention No. 169 is that because historically dispossessed indigenous peoples are often unable to enjoy their fundamental rights the way others do, it is the responsibility of governments to protect and guarantee indigenous integrity. Each article deals with a different aspect of indigenous rights and protection, but the two main pillars are the right to indigenous participation and the right to consultation with the majority government. Norway became the first nation to ratify ILO No. 169 on June 7, 1990. Since then, it has shaped its policy towards the Sámi people around this Convention. Unfortunately, only twenty-three nations have chosen to ratify ILO Convention No. 169, so its effectiveness is currently limited to those nations that have achieved ratification.⁶ However, the universal principles outlined in ILO Convention No. 169 are echoed in a well-known non-binding document: The United Nations Declaration on the Rights of Indigenous Peoples.

On September 13, 2007, the United Nations Declaration on the Rights of Indigenous Peoples was finally released after more than twenty years as a work in progress. It recognizes and lays out the individual and collective rights of indigenous peoples with the purpose of enhancing “harmonious and cooperative relations between the state and indigenous peoples.”⁷ States should implement the principles and guidelines set out in the UN Declaration and develop mechanisms to protect indigenous

⁶ Sigurdson, Broddi. Social Affairs Officer at the Secretariat of the United Nations Permanent Forum on Indigenous Issues. Interview on 25 October 2010

⁷ Various Authors. “United Nations Declaration on the Rights of Indigenous Peoples.” *United Nations General Assembly*. 13 September 2007. <<http://www.un.org/esa/Socdev/unpfii/en/drip.html>>

rights and transfer greater autonomy to indigenous peoples. Though the Declaration is nonbinding, it represents a well-respected international standard for the treatment of indigenous peoples. An increasing number of states are already voluntarily presenting annual reports on indigenous rights to the United Nations.⁸

The United Nations Permanent Forum on Indigenous Issues

The United Nations Permanent Forum on Indigenous Issues (UNPFII) is one of three UN bodies that deal with indigenous peoples' issues. It coordinates its work with the other two bodies—the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples—and acts as an advisory body to the UN Economic and Social Council. The UNPFII provides expert advice and recommendations on indigenous issues that are often related to economic and social development, culture, the environment, education, health, and human rights; raises awareness about these issues; and promotes the integration and coordination of activities within the UN system. The Secretariat of the UNPFII was established in 2002 and works year-round to prepare for the annual two-week sessions of the Permanent Forum, held in New York every April. The Secretariat provides support to members of the UNPFII, serves as a source of information, and facilitates the flow of information through its annual report to the UNPFII that discusses developments, priorities, and themes. Close cooperation between the UNPFII, the Expert Mechanism on the Rights of Indigenous Peoples, and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples is necessary

⁸ Madsen, Dorte Lindegaard. Specialist in Arctic Indigenous Peoples at the Secretariat of the United Nations Permanent Forum on Indigenous Issues. Interview on 1 November 2010

to achieving effective coordination of efforts, recommendations, and programs relating to indigenous issues. Most importantly, the UNPFII strives to uphold Article 42 of the UN Declaration on the Rights of Indigenous Peoples, which asks it to “promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.”⁹ The UNPFII views Article 42 as central to its mandate and bases its activities around this charge.

WIPO and the Protection of Traditional Knowledge and Cultural Expressions

Abuse and misappropriation of indigenous traditional knowledge and traditional cultural expressions is a less widely known aspect of the historical dispossession of indigenous peoples, but it is extremely relevant to the protection of indigenous languages and cultural practices. Without effective protection measures, many indigenous traditions are in danger of disappearing or being misused. The World Intellectual Property Organization has recently responded by taking on a leading role in the protection of indigenous traditional knowledge and traditional cultural expressions. The international community first turned its attention to indigenous intellectual property issues during the 1960s copyright reforms, but WIPO’s involvement truly began during the 1980s and 1990s in response to pressure from civil society. In June 1993, at the World Conference on Human Rights, the international community built upon ILO Convention No. 169 in recognizing “the inherent dignity and the unique contribution of indigenous peoples to the development of society and strongly reaffirmed the commitment of the international community to their economic, social and culture well-being.”¹⁰ However, ILO

⁹ Various, “United Nations Declaration,” *United Nations General Assembly*

¹⁰ Baer, Lars Anders. “Roundtable on Intellectual Property and Indigenous Peoples.” *World Intellectual Property Organization*. Geneva, 23-24 July 1998, 5

Convention No. 169 does not provide the desired protection for indigenous intellectual property rights, and thus the World Conference recommended that WIPO take on this role. None of the treaties within WIPO's system specifically addressed indigenous intellectual property rights, so WIPO began undertaking studies during the 1990s to uncover the full scope and concept of these rights. Their studies revealed that it is extremely necessary to develop mechanisms and international standards for the protection and preservation of forms of traditional knowledge and cultural expressions, which are in danger of losing their integrity and rightful ownership.

WIPO mostly deals with the protection aspect, which involves legal measures to prevent abuse of traditional knowledge and traditional cultural expressions.¹¹ It approaches these issues both from within indigenous communities as well as from the international community at large. One of its recently created initiatives is a fellowship program for members of indigenous groups designed to recognize and foster legal expertise within indigenous communities. The fellowship fund provides resources to facilitate indigenous participation in WIPO's activities in Geneva. Indigenous Intellectual Property law fellows work in WIPO's Traditional Knowledge Division, assisting in the development and organization of "activities related to intellectual property and genetic resources, traditional knowledge and traditional cultural expressions," undertaking research and consultation activities, and attending meetings.¹² In addition, WIPO established the Intergovernmental Committee in October 2000 to

¹¹ Legrand, Simon. Counsellor, TK Division, World Intellectual Property Organization. Interview on 18 November 2010

¹² Various Authors. "WIPO Indigenous Intellectual Property Law Fellow." *World Intellectual Property Organization, Request for Expressions of Interest*. January-September 2001. <<http://www.wipo.int/export/sites/www/tk/en/training/fellowship/pdf/program.pdf>>

undertake text-based negotiations with the eventual goal of creating an international legal instrument that will ensure the effective protection of traditional knowledge, traditional cultural expressions, and genetic resources. This instrument currently remains in draft form, but formal negotiations on a treaty were launched in September 2009. Other WIPO initiatives currently include providing indigenous peoples with technical assistance and capacity building using existing intellectual property regimes, creating a Traditional Knowledge Digital Library to ensure that traditional knowledge is correctly documented to prevent misappropriation, and launching pilot projects among certain indigenous populations to produce “multiplying effects”¹³ in other areas. Although its current team is small, WIPO hopes to expand this department and its work on traditional knowledge and traditional cultural expressions.

PART II: CASE STUDY OF THE SAMI IN NORWAY

Who are the Sámi?

With their brightly colored clothing and distinctive facial features, the Sámi are easily identifiable as the indigenous people of Norway. Having arrived in northern Scandinavia more than 11,000 years ago, the Sámi are the oldest known inhabitants of an area known as Finnmarksvidda that spreads from Jämtlands Län in Sweden through northern Norway and Finland all the way to the Kola Peninsula in Russia. There are currently about 100,000 Sámi, half of which live in Norway, although it is difficult to provide exact figures. Approximately 3,000 of these live in Karasjok, the Sámi capital in Norway, which is located about eighteen kilometers from the Finnish border. Some

¹³ Legrand, Counsellor, TK Division, WIPO

eighteen percent of the Sámi in Norway currently herd reindeer,¹⁴ while the rest are involved in agriculture, the tourist industry, other service industries, state and municipal business, and *duodji*, or Sámi handicrafts. In the past, the Sámi were often called “Lapps,” a term that is now considered derogatory and offensive. It has been replaced with the more positive term “Sámi” to discourage racism and discrimination and move beyond previous stereotypes and prejudices.

Traditionally, the Sámi lived at one with nature, following and herding reindeer and fishing in the fjords and seas. They wore colorful jackets and lived in tents and turf huts as they struggled to survive in the harsh conditions of the far north. However, their self-contained way of life eventually came under threat at the hands of Scandinavian settlers. Beginning in the 15th century, early missionaries made the Sámi drop their native language in favor of Finnish, burned Sámi artifacts, and put Sámi Shaman to death in condemnation of the Sámi religion. This oppression continued for more than 400 years, and the Norwegian government began to pursue a strict policy of assimilation, largely administered through the school system. These assimilation efforts became even stronger during the late 19th century, reflecting ideals of Social Darwinism and beliefs in “lifting ‘backward’ groups up onto a higher level.”¹⁵ This racist ideology was incorporated into a variety of social structures, including “legislation, education, research and practical policy.”¹⁶ Overall, Norway’s assimilation policies were the strictest in

¹⁴ Josefsen, Eva. “The Sámi and the National Parliaments—Channels for Political Influence.” *Gáldu Cála—Journal of Indigenous Peoples Rights*, No. 2 (2007), 9

¹⁵ Todal, Jon. “The Sámi School System in Norway and International Cooperation.” *Comparative Education*, Vol. 39, No. 2, Special Number (27): *Indigenous Education: New Possibilities, Ongoing Constraints* (May 2003), 186

¹⁶ Josefsen, “The Sámi and the National Parliaments,” 9

Scandinavia, as Sweden chose to adopt a segregation policy towards Reindeer Sámi and the degree of Finland's assimilation policies varied greatly in intensity. The Sámi languages and culture were in grave danger of dying out and were only able to survive through "the continuation of traditional activities such as reindeer herding, small farming, *duodji* [crafts], and fishing."¹⁷

Fortunately, in the decades following World War II, the international community began to agree that it simply was not possible "to treat everyone the same based on identical standards."¹⁸ Some states began to shift their policies towards minorities and indigenous peoples in a more positive direction, urged on by the United Nations' emphasis on universal human rights. The Sámi began to organize themselves to petition for collective rights, sparking a revitalization of Sámi culture and a surge of efforts to integrate the modern world into traditional Sámi culture and identity. The conflict surrounding the construction of the hydroelectric power plant along the Alta River in 1980-81, which threatened Sámi land, mobilized Sámi political opinions about the project and put the issue on the national agenda. Politically active groups of Sámi started to cooperate with the Norwegian government to obtain their own political body of representation, possession of their traditional lands, and control over primary and secondary schools and language education policies. Names with derogatory connotations about the Sámi were transformed into words with positive emotional connotations, and groups of educated, articulate ethnic activists emerged from among the Sámi people. These Sámi strengthened their activism with political rhetoric adopted from the radical left, and the Norwegian government started to listen to these concerns, marking a change

¹⁷ Keal, *European Conquest and the Rights of Indigenous Peoples*, 88

¹⁸ Josefsen, "The Sámi and the National Parliaments," 9

from its previous policies towards the Sámi. It began to handle conflicts in a much more humane manner, choosing to uphold and adhere to internationally defined principles and standards. Today, the Sámi stand stronger than most other aboriginal peoples in the world and are very active in international arenas. With their own parliament, flag, independence day, land, and education system, the Sámi are making immense strides towards greater autonomy and preservation of their traditional culture within the majority Norwegian state.

Sámi Right to Self-Determination

Norway's efforts to grant the Sámi the right to self-determination respond to the main pillars of ILO Convention No. 169, which grant indigenous peoples the rights of self-determination and consultation with majority governments and oblige these governments to establish mechanisms to uphold these provisions. Self-determination is at the heart of the principle of group rights, and the establishment of autonomous, indigenous bodies forms the basis of all other activities to protect and safeguard indigenous rights and interests. Article 6 of ILO Convention No. 169 requires governments to "consult the peoples concerned," to "establish means by which these peoples can freely participate...at all levels of decision-making in elective institutions," and to "establish means for the full development of these peoples' own institutions and initiatives."¹⁹ Norway actually began the process of setting up a Sámi Parliament before the release of the ILO Convention and achieved this initiative in the late 1980s. The government based its establishment of a separate Sámi Parliament on "the realisation that

¹⁹ Various Authors. "Indigenous and Tribal Peoples Convention, 1989 (No. 169). *General Conference of the International Labour Organisation*. 27 June 1989. <<http://www2.ohchr.org/English/law/indigenous.htm>>

the Saami will always be a small minority in the national political systems” and the belief that “the ordinary (direct) electoral channel does not ensure that the voice of the Saami is heard.”²⁰ Without self-determination and autonomous institutions, members of an indigenous group cannot fully express, protect, and promote their collective identity.

The movement to establish a separate parliament was born out of the growth of national Sámi organizations after World War II. Norske Reindriftssamers Landsforbund, the first nationwide Sámi organization, was established in 1948, and other such organizations quickly followed. All emphasized “the demand for a separate elected body and Sámi land rights.”²¹ Giving the Sámi their own parliament that consults with the Norwegian government would allow them to have much more control over issues that directly affect them. The adoption of the Sámi flag at the 13th Nordic Sámi Conference on the 15 August 1986 immediately precluded the creation of the Norwegian Sámi Parliament. The Sámi Act was passed on the 12 June 1987 to enable the Sámi people in Norway “to safeguard and develop their language, culture, and way of life”²² outside of ordinary electoral channels. The most important result of the Sámi Act was the creation of the Sameting—a nationwide Sámi Parliament elected by and among the Sámi Parliament in Norway.

The Sámi Parliament deals with any matter that particularly affects Sámi people and can raise and pronounce its opinion on any matter within the scope of this business. The Norwegian Ministry sets its budget, but the Sámi Parliament is free to delegate these

²⁰ Josefsen, “The Sámi and the National Parliaments,” 18

²¹ *Ibid.*, 21

²² Various Authors. “Act of 12 June 1987 No. 56 Concerning the Sameting and Other Sámi Legal Matters.” *Government and Ministries of Norway*. 12 June 1987. <<http://www.regjeringen.no/en/doc/Laws/Acts/the-sami-act-.html?id=449701>>

financial resources as it sees fit. It has its own administration and appoints its own administrative staff. Furthermore, the Sámi Parliament can establish boards, councils, and committees, and delegate authority. Everyone has the right to speak in either Sámi or Norwegian at each meeting. The first Sámi Parliament convened in 1989, with forty-one representatives elected by direct ballot from thirteen constituencies. Elections are held every fourth year simultaneously with elections for the Storting, or Norwegian Parliament. All people included on the Sámi electoral register in each constituency are eligible to vote on election day. One must consider himself to be Sámi, have Sámi as his or his parent's or grandparent's domestic language, or be the child of a person registered on the Sámi electoral register in order to be included on the electoral register.

Today, the Norwegian Sámi Parliament possesses more resources and thus more power and influence than its Swedish and Finnish counterparts. However, it is still bound to the larger Norwegian government, so its autonomy remains somewhat limited. At a conference with the UN Special Rapporteur James Anaya at the annual UN Economic & Social Council meeting in April 2010, the Sámi Parliament voiced its ongoing concerns about the state of Sámi affairs in Norway. It advocated the establishment of an independent monitoring mechanism designed to monitor breaches of the human rights of the Sámi in Norway and stipulated that, “this body must have “solid knowledge of Sámi culture and society” and “a complete overview of Norway’s international law obligations to the Sámi as an indigenous people.”²³ The existing monitoring mechanism, the Centre for Human Rights, was deemed inadequate because it does not possess specific cultural

²³ Unknown Author. “The Saami People’s Right to Self-Determination.” *Saami Parliament in Norway, Conference with the UN Special Rapporteur Professor James Anaya in Rovaniemi*. 14 April 2010, 2

expertise about the Sámi. The Sámi Parliament proposed giving the Resource Centre for the Rights of Indigenous Peoples (GALDU) the necessary resources to make it a national monitoring institution for Sámi human rights. They also expressed concern that current consultation procedures with the Norwegian government do not adequately include the Sámi Parliament in important processes, notably budget-setting. Lastly, the Sámi Parliament recently created a working group to petition the Norwegian government to release a revision of the Sámi Act clarifying that the Sámi Parliament is a self-contained body independent of the Norwegian authorities. These negotiations are still in progress.

Sámi Languages and Education

Like many aboriginal peoples, the Sámi people have historically experienced intense pressure to conform to the imposed cultures of their colonizers, which became institutionalized through school systems based on the dominant language and culture. Without education in indigenous languages, the diversity of languages in the world is severely threatened, and indigenous languages also run the risk of being underdeveloped. Today, education is key to preserving Sámi languages and culture, because if children are only educated in the dominant language and culture of Norway they will lose their indigenous heritage and thus their ability to pass this heritage on to future generations. Children must be surrounded by their traditional language and culture, for language, culture, customs and traditions are not automatically transmitted at birth; they have to be “lived, acquired and taught.”²⁴ Furthermore, in many cases dominant language instruction is damaging to indigenous students, who are forced to see their own language

²⁴ Skutnabb-Kangas and Robert Dunbar. “Indigenous Children’s Education as Linguistic Genocide and a Crime Against Humanity? A Global View.” *Gáldu Cála—Journal of Indigenous Peoples Rights*, No. 1 (2010), 10

and culture as backward and secondary to the majority. The Sámi place great value on ensuring that current and future generations of Sámi receive proper a education and contribute to the cultivation and celebration of Sámi languages and traditions.

Norway has responded positively to the provisions in ILO Convention No. 169 in reforming its education system to include the Sámi languages and culture. Article 27 of the Convention decrees, “Education programmes and services for the peoples concerned shall be implemented in cooperation with them to address their special needs, and shall incorporate their histories, their knowledge and technologies, their value systems and their further social, economic and cultural aspiration.”²⁵ Traditional methods of learning and teaching must be included to transmit authentic indigenous language and culture. Article 28 guarantees children’s rights to “be taught to read and write in their own indigenous language”²⁶ so that they can continue to develop and understand their cultural identity. The UN Declaration on the Rights of Indigenous Peoples also includes similar educational provisions. Article 13 establishes the right to indigenous histories, languages, oral traditions, philosophies, writing systems and literatures. Moreover, Article 14 stipulates the right to “establish and control their [indigenous populations’] educational systems and institutions providing education in their own languages.”²⁷ Facing increased pressure from national Sámi organizations, Norway actually began taking action before the release of the either document. The history of language and

²⁵ Various, “Indigenous and Tribal Peoples Convention,” *General Conference of the International Labour Organisation*

²⁶ *Ibid.*

²⁷ Various, “United Nations Declaration,” *United Nations General Assembly*

education reform in Norway spans more than four decades, but the pace and magnitude of the changes greatly increased after the ratification of ILO No. 169 in 1990.

In 1967, Norway initiated the first experiments in the use of Sámi languages in primary schools, and in 1969 the first Sámi language senior secondary school opened at Karasjok. However, progress was slow during the next few decades until Norway ratified ILO Convention No. 169 in 1990. As the first nation to ratify the convention, Norway proved its dedication to the protection of Sámi rights, languages, and culture and passed the Sámi Language Act in 1992. This Act gave the Sámi languages official legal protection and enabled the Sámi to safeguard and develop their language, culture, and way of life, giving equal status to the Sámi and Norwegian languages. In 1997, Norway reformed its education system and introduced a Sámi curriculum that is modeled after the general Norwegian curriculum. Sámi students receive instruction in Sámi languages but are also still socialized into the Norwegian culture.

Under the current system, primary education in the Sámi districts begins at age seven, and all subjects are taught in Sámi until Grade Nine, when students are sixteen years old. Pupils receive Norwegian as a second language in the same way that Norwegian children receive Sámi as a second language. As there are several different Sámi languages, “The choice of Sámi language used in schools (Northern, Southern, or Lule) is decided according to the needs of students and the region of the school.”²⁸ For example, only Northern Sámi is taught in Oslo, all three languages are taught in Kautokeino, and in Trondheim only Southern Sámi is taught. Another aspect of Sámi

²⁸ Corson, David. “Official-Language Minority and Aboriginal First-Language Education: Implications of Norway’s Sámi Language Act for Canada.” *Canadian Journal of Education*, Vol. 21, No. 1 (Winter 1996), 95

education is “learning the language while doing.”²⁹ Students engage in traditional activities such as reindeer herding and *duodji* as part of their curriculum. In some regions, children even spend three or four days living with nomadic families in *lavvos*, learning the local language and reindeer husbandry culture firsthand.

As students grow older, they often begin to use Sámi as a language of play, and a Sámi children’s television show reinforces language proficiency. A monthly teen magazine funded by the Ministry of the Family and the Sámi Culture Council circulates among all Sámi children in Norway, encouraging the use of Sámi languages among teens and uniting children who are scattered in far-off regions outside the Sámi districts. However, there are currently only two secondary schools that offer Sámi-medium instruction in many subjects. They are located in Kautokeino and Karasjok, and thus graduates of these schools are usually the most successful bilinguals in Norway. Students from other districts must travel to these schools in order to receive further instruction in Sámi. The existing educational reforms have produced positive results, and there is now a greater use of the Sámi languages among children than there was fifteen years ago. However, Sámi graduates outside the six Sámi districts are much less proficient in the languages, and challenges remain in adequately meeting the needs of Sámi students.

Sámi Land and Natural Resources

Indigenous claims to regain land rights are a significant political issue in many part of the world and often lie at the heart of indigenous peoples’ struggles. Like many indigenous peoples, the Sámi have a unique, spiritual relationship with the land that they have occupied and used for centuries. They view land not as something that cannot be

²⁹ Ibid., 95

bought or sold, but rather something that is a source of identity as well as livelihood. Dispossession strips indigenous peoples of their collective rights and violates the “Principle of First Occupancy,”³⁰ in which the first individual or group that occupies and uses a piece of land becomes its owner. A few governments, including Norway, have recently begun to return tribal lands to their rightful “owners,” but unfortunately many nations have yet to do so. Article 13 of ILO Convention No. 169 obliges state governments to “respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories.” Articles 14 and 15 extend even further, requiring that “the rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy...be recognized” and the rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded.”³¹ In line with these requirements, Norway recently enacted legislation to transfer traditional lands back to the Sámi, who depend on these lands for reindeer husbandry, fishing, and agriculture.

The Sámi having been living in Finnmarksvidda for 11,000 years, but it was not until the passage of the Finnmark Act in 2005 that they finally gained legal control of the region. The Finnmark Act was the product of more than twenty years of research and discussions, and it eventually led to the transfer of approximately 46,000 square kilometers, or ninety-five percent, of Finnmark to the original inhabitants. The original Finnmark Act was not written in consultation with the Sámi Parliament, and thus consultation procedures had to be established before the Act was released in its current

³⁰ Weyermann, “Indigenous Minorities’ Claims,” 24

³¹ Various, “Indigenous and Tribal Peoples Convention,” *General Conference of the International Labour Organisation*

form. In 1984, the Norwegian government appointed the Sámi Rights Committee to discuss pertinent questions about Sámi rights to traditional lands and waters. They found that the Sámi acquired individual and collective ownership and the right to use the lands and waters in Finnmark County through centuries of use. The Sámi Council's recommendations formed the basis of the Finnmark Act, which was designed to facilitate the management of land and natural resources in the county of Finnmark in a balanced and ecologically sustainable manner. Finnmark is the basis for Sámi culture, reindeer husbandry, commercial activity, and social life, and its return to it to its rightful owners is vital to the survival of the Sámi livelihoods.

Though many people who live in Finnmark are Sámi, the Finnmark Act is ethnically neutral, meaning that it applies to all residents of Finnmark County. All residents of Finnmark have the right to exploit natural resources on the land because “it is the [traditional] use [of the land] that counts—not the ethnic origin of the user.”³² Anyone residing in Finnmark falls under this category. However, the Act does contain some guarantees that “sufficient regard shall be paid to Sámi interests before making decisions that may have significance for Sámi culture, reindeer husbandry and the like in uncultivated areas,”³³ particularly because the Sámi have exclusive rights to reindeer husbandry in Norway. In effect, the Finnmark Act involves no change in the rights of use and ownership to the land in Finnmark and is rather a very important legal recognition of preexisting activities. Unfortunately, there are currently no provisions concerning fishing in the seas outside Finnmark, and this issue is under heated debate.

³² Lawson, Richard. “The Finnmark Act—A Guide (English Translation).” *The Ministry of Justice and the Police and the Ministry of Local Government and Regional Development*. August 2005. <www.jd.dep.no>, 1

³³ *Ibid.*, 3

The Finnmark Act also established several important bodies to oversee and investigate the official transfer of the land to its original inhabitants and mitigate any resulting conflicts. The Finnmarkseiendomen, or Finnmark Estate, was created to deal specifically with the actual act of transferring the land. Governed by a board of six members that are comprised of three board members appointed by the Sámi Parliament and three appointed by the Finnmark County Council, the Finnmark Estate is a private landowner that has the same relationship to public authorities as other landowners. The Finnmark Commission was established as an investigative body that examines existing rights to land in order to obtain rapid and complete clarification of the land rights in Finnmark. It is not a court and therefore is not dependant on any parties initiating legal action in order to be able to investigate an area. However, it does hold the responsibility for ensuring that each matter of contention is sufficiently elucidated and resolved. With legal protection of traditional lands, the Sámi can safely practice their unique lifestyle.

The Sámi in Comparison to Other Arctic Indigenous Peoples

Although it is difficult to adequately measure the varying degrees of autonomy among the Arctic indigenous peoples, it is possible to briefly compare their parliaments to that of the Norwegian Sámi, who seem to have progressed the most. In Finland, Act No. 974 on the Sámi Parliament, which also gave the Sámi status as an indigenous people, created the Sámi Parliament in 1995.³⁴ However, it only has twenty-one representatives and does not have nearly as many financial or political resources as the Norwegian Sámi Parliament. The situation in Sweden is similar. The first Sámi Parliament convened in 1993 and consists of thirty-one representatives. However, the

³⁴ Josefsen, "The Sámi and the National Parliaments," 19

Swedish government maintains tight control over the Sámi Parliament's financial resources and must approve any projects. Interestingly, the indigenous population of Greenland has achieved levels of autonomy similar to those in Norway. The Greenlandic government now has its own budget and decides everything in Greenland independently of the Danish government. In 2009, Greenlandic became the official language, replacing Danish.³⁵ The Inuit in Canada do not have their own parliament, but they do have a legal representative, the Nunavut Tunngavik Incorporated, that represents the Inuit in Nunavut in the negotiation of native treaties. Beyond the national level, there is cooperation between the various Arctic indigenous peoples. The Arctic Council is an intergovernmental body established between countries in the Arctic region, and it recognizes and includes the indigenous populations of these nations. A Secretariat has been set up specifically to facilitate cooperation and coordination between Arctic indigenous organizations and the Arctic Council.

Remaining Challenges for the Sámi

The Sámi stand infinitely stronger today than they did fifty years ago, but there are still a number of areas that need to see substantial improvement. Discrimination and racism against the Sámi unfortunately still exist, particularly in the Sámi districts, where Norwegians are in the minority. Unemployment among the Sámi currently stands at above 20% and especially affects older people, who are usually less well educated.³⁶ Many of these issues extend to all of the Sámi nations, and cooperation between the Nordic state governments is vital to the improvement of the situation of all Sámi. In April 2010, James Anaya, the UN Special Rapporteur on the Situation of Human Rights

³⁵ Madsen, Specialist in Arctic Indigenous Peoples, UNPFII

³⁶ Corson, "Official-Language Minority and Aboriginal First-Language Education," 89

and Fundamental Freedoms of Indigenous Peoples, met with representatives of the Sámi Parliaments and the governments of Norway, Sweden, and Finland to discuss cross-border and other issues affecting the Sámi people. He found that the preparation of a Nordic Sámi Convention is a necessary next step in the process of ensuring that all of the Nordic states confirm that the Sámi have the right to self-determination, as enumerated in ILO Convention No. 169 and the UN Declaration on the Rights of Indigenous Peoples. According to Anaya, the proposed Nordic Sámi Convention “has the potential to strengthen Sámi self-determination and protection for their rights to lands, natural resources and culture, in the face of ongoing human rights challenges.”³⁷

In 2005, a group of experts appointed by the governments of Norway, Sweden, and Finland presented a draft Nordic Sámi Convention designed to “develop a legal basis for the Sámi as a separate people, regardless of whether individual Sámi live in or are citizens of one or another of the 3 states.”³⁸ The draft’s fifty-one articles establish a “pan-Sámi law”³⁹ and allow “the Sámi people to safeguard and develop their language, culture, livelihoods and way of live with the least possible interference by national borders.”⁴⁰ Norway currently has the strongest, most active Sámi Parliament, and the Convention seeks to extend similar rights across all three countries. It defines the Sámi’s minimum rights and states that all Sámi have the right to self-determination. The Nordic

³⁷ Unknown Author. “United Nations Expert on Indigenous People Supports Restart of Negotiations on Nordic Sámi Convention.” *The United Nations in the Heart of Europe*. 16 April 2010. <[http://unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/ACE67D5D949772BEC1257707004E4804?OpenDocument](http://unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/ACE67D5D949772BEC1257707004E4804?OpenDocument)>

³⁸ Dodson, Michael and Carsten Smith. “Report on Indigenous Fishing Rights in the Seas with Case Studies from Australia and Norway.” *United Nations Economic and Social Council, Permanent Forum on Indigenous Issues*. Ninth session, New York, 19-30 April 2010, 19

³⁹ *Ibid.*, 19

⁴⁰ Josefsen, “The Sámi and the National Parliaments,” 12

Sámi Convention also stipulates requirements for the relationship between the state and the Sámi, the status of Sámi languages and culture, education, and land and water rights. However, the Convention is still in the middle of a consultation process and must be approved by all three governments before it can take effect. Another complicating factor is the failure of Sweden and Finland to ratify ILO Convention No. 169 to date. Until all three countries adhere to the same legally binding standards, it will likely be difficult to establish effective cross-border cooperation.

Although the educational reforms of 1997 have produced encouraging results, the current system is still flawed. A 2008 study conducted by Pigga Lauhamaa, a professor at the Sámi University College in Kautokeino who has a Master's degree in education, revealed that many schools in the Sámi area are having difficulties in observing the Sámi curriculum. Norwegian methods of socializing and adapting pupils into society and the role of Sámi culture in schools are constantly in conflict with one another. Schools are desperately in need of mediating factors to bridge these differences. Another problem is that the 1997 Norwegian Sámi curriculum is based on Norway's national curriculum rather than on Sámi culture. Thus far, the use of local people and nature and flexible scheduling have only been included in teaching to a limited degree.⁴¹ Schools have also not adequately observed Sámi ways of knowledge, time, and place in the organization of teaching, which often differs from Norwegian methods. In many cases, "Teachers do not always have enough support, knowledge and skills to implement the Sámi curriculum in their teaching."⁴² The challenge is effectively training enough teachers to address these

⁴¹ Lauhamaa, Pigga. "Sámi School Culture Requires Considerable Changes." *Samisk Høgskole*. 4 July 2008. <<http://www.samiskhs.no/article.php?id=482>>

⁴² Ibid.

needs. Children living outside the Sámi districts are also at a disadvantage and usually graduate with much less proficiency in the Sámi languages than those children who live in the Sámi districts. In addition, with three or four different Sámi languages, it is difficult to ensure that the integrity of each language is protected and that each is adequately taught.

Finally, the question of Sámi rights to coastal fishing in the seas is currently up for debate. Article 15 of ILO Convention No. 169 protects the rights of peoples concerned to safeguard the natural resources pertaining to their traditional lands. However, the main issue is whether the seas are included in traditional lands and if the Sámi have the right to a preferred position when it comes to fishing quotas. The use of the ocean has had an instrumental effect in creating the coastal Sámi's culture throughout the centuries, and many Sámi traditionally combined fishing with farming, hunting, and gathering from inland areas. However, in recent decades, large commercial fishing vessels have drastically transformed the Norwegian fishing industry. Norway's recent fishing policies have favored larger boats and harmed smaller vessels. Sámi fishing is a small-scale activity when compared to these larger boats, and coastal Sámi could face a "cultural genocide" if protection measures are not established. The legal and political debate surrounding coastal fishing rights began in the 1980s and has continued through the present. Norway appointed the Coastal Fishing Committee in 2006 "to undertake research and make recommendations regarding Sámi demands for rights to fish in the ocean north of Finnmark."⁴³ In 2008, the Committee concluded that Sámi living in fjords and along the coast of Finnmark have rights to fish that are based on historical use and

⁴³ Dodson, "Report on Indigenous Fishing Rights," 17

rules of international law regarding international peoples, such as Articles 13 and 15 of ILO Convention No. 169. However, the Coastal Fishing Committee's work has not yet gone to Parliament, and the debate is still alive in Norway. The draft Nordic Sámi Convention includes provisions concerning rights to inland water areas as well as use of fjords and coastal seas, but they will not apply unless the Convention takes effect.

CONCLUSION

Assimilation policies that force indigenous peoples to abandon their traditional languages, cultures, and religious practices are psychologically damaging and harmful to members of indigenous populations, both individually and collectively. Such policies threaten the diversity of the world's cultures and prevent a significant number of people from enjoying their fundamental humanitarian rights. The international community cannot claim respectability or authority if it does not protect all people in the world, including indigenous minorities. It must direct individual states to enact policies that are satisfactory to indigenous populations. The Sámi story illustrates the necessity of cooperation, collaboration, and adherence to international standards. With hope, initiative, and innovation, the international community can work with existing bodies, such as the UNPFII and WIPO, and existing documents to further the cause of indigenous peoples while also creating new methods for the protection and preservation of indigenous cultures and identities around the globe.

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