

## **SECTION 2 - Preparation for the Thirteenth session of the UN Permanent Forum on Indigenous Issues**

The report of the 12<sup>th</sup> Session of the UN Permanent Forum on Indigenous Issues provides a number of recommendations within its mandated areas, some of which are addressed to Member States.

### **Question 1**

*Briefly state what recommendations from the Twelfth Session of the United Nations Permanent Forum on Indigenous Issues (UNPFII)<sup>1</sup> or recommendations from previous sessions (not addressed in previous reports) were addressed by your Government.*

Nothing to report.

### **Question 2**

*At its thirteenth session in 2014, UNPFII will address the follow theme “Principles of good governance consistent with the United Nations Declaration on the Rights of Indigenous Peoples: articles 3 to 6 and 46”. The provisional agenda for the thirteenth session also includes Half-day discussion on the Asian region; Discussion on the World Conference on Indigenous Peoples; and Discussions on a number of ongoing priorities and themes, such as indigenous children, indigenous youth, the Second International Decade of the World’s Indigenous People and the Post-2015 Development Agenda.*

*Briefly state how your Government deals with these issues in regards to indigenous peoples.*

#### **Q2 (a). The theme on Good governance**

The Norwegian authorities played an active part in the work on the Declaration since it started in 1984. The Government’s goal was to arrive at a declaration that could strengthen the protection afforded to the world’s indigenous peoples. The Government cooperated closely with Sámediggi (the Sami Parliament), which was represented at all times in the Norwegian delegation to the negotiations in the United Nations.

The Declaration concerns the rights of the world’s indigenous peoples. The national legal framework is in line with our international obligations, and Norway’s Sami policy is in accordance with the Declaration.

#### **Sámediggi**

Sámediggi (The Sami Parliament) was established in 1989 and is the representative political body for the Sami in Norway. Sámediggi is an important dialogue partner for

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<sup>1</sup> The following paragraphs of the Report on the Twelfth Session of the Permanent Forum (E/2013/43) contain recommendations addressed to Member States: 7 (b), 7 (c), 7 (e), 12, 14, 15, 16, 17, 19, 20, 24, 28, 29, 30, 31, 32, 34, 37, 38, 41, 45, 46, 47, 48, 49, 50, 51, 52, 89, 91, 95, 96, 97, 98, 100, 102, 103, 112, 115, 118, 120, 122.

the central government and has assumed administrative responsibilities and implements policy instruments in certain areas.

The past few decades' policies towards the Sami have given priority to recognising and strengthening minority and indigenous rights and to developing an infrastructure of institutions in Sami society. Legislation and programmes have been established to strengthen Sami languages, culture, industries and society. These measures have been developed and implemented in dialogue and cooperation with Sámediggi.

### **Other important institutions**

Other important institutions are the Sámi University College and the Gáldu Resource Centre for the Rights of Indigenous Peoples. Specialised institutions have also been put in place to maintain the Sami's rights to traditional industries, land and culture.

### **Consultations**

In Norway, the right of indigenous peoples to participate in decision-making processes was formalised in 2005 by an agreement on procedures for consultations between the state authorities and Sámediggi. The agreement is a tool to ensure that work on matters that may affect the Sami is carried out in a satisfactory manner. Central Government authorities may also be obliged to consult with other Sami interest groups besides Sámediggi. This applies in particular to matters that directly affect Sami land use such as reindeer husbandry.

As a consequence of these procedures, 30-40 formalised consultations take place every year. In our experience, the numerous consultations have strengthened Sámediggi as a representative voice for the Sami people, and enhanced the awareness and knowledge of Sami issues in Government ministries and agencies. Consultations must be conducted in good faith on the part of both parties, and with the objective of achieving an agreement. This does not mean that Sámediggi and the Government reach an agreement in all consultations. However, the mechanism of consultation ensures that decision-makers are well acquainted with the views of Sámediggi.

## **Q2 (b). Ongoing priorities for indigenous children and youth**

- **Language/Education** – The government support language project and teaching materials for kindergardens and schools. For Sami youth that live in areas where few speak Sami there are programs for distant education and regularly organized language camps. The Action Plan for Sami languages (2009-2014) gives an overview of the measures concerning Sami languages.
- **Children- and youth organizations** receive funding from Sámediggi and/or the government in order to strengthen relationship with Sami youth in the other Nordic countries and in general to work with issues that engage young Sami people.

## **Norway. White paper No. 28 (2007-2008) on Sami Politics**

### **1.3.6 The UN Declaration on the Rights of Indigenous Peoples**

The UN Declaration on the Rights of Indigenous Peoples was adopted by the United Nations General Assembly on 13 September 2007. The Declaration is not binding under international law, but will constitute an important framework for further efforts to establish the rights of indigenous peoples. The Declaration will have particular significance in those countries where indigenous peoples reside, but which have not ratified ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

Work on the Declaration has continued for many years. In 1993, the Human Rights Commission's Working Group on Indigenous Populations submitted a draft declaration. The draft was then worked on by a special working group of the Commission until a final draft, after lengthy negotiations, was adopted by the Human Rights Council in 2006. The General Assembly adopted the Declaration on the Rights of Indigenous Peoples with an overwhelming majority. Four countries, Australia, Canada, New Zealand and the USA, voted against adoption of the Declaration.

Representatives of the indigenous peoples and UN member states cooperated closely in the work on the text. The Norwegian delegation to the working group that drafted the text consisted of representatives of the Norwegian authorities and Sámediggi (the Sami Parliament in Norway). Together with Sámediggi and Sami organisations, the Norwegian authorities have played a proactive role in bringing about a declaration.

Throughout the world, indigenous peoples are among the most marginalised social groups. Recognition of the rights of indigenous peoples in a United Nations document will be an important instrument for strengthening their status. Although the Declaration is not legally binding, it contains a strong encouragement to states to recognise the rights of indigenous peoples to land and resources.

Great importance has been attached to a declaration on the rights of indigenous peoples by the Sami. Although many of the rights laid down in the Declaration have already been implemented in Norway, for example, through the Finnmark Act and the Procedures for Consultations between the State Authorities and Sámediggi of 11 May 2005, the Declaration is an important signal of the State's general position regarding the rights of indigenous peoples.

The Declaration concerns the rights of the world's indigenous peoples. The Declaration contains provisions regarding both fundamental requirements such as food, health and education, and provisions regarding use of traditional resources and land areas. The Declaration ascertains the rights of indigenous peoples to land and natural resources that they have traditionally owned, occupied or used. These rights are restricted to apply to the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use. The Declaration's provisions concerning rights to land in article 26 et seq. can be interpreted in various ways. In the case of Norway, indigenous peoples' rights to land are defined by ILO Convention No. 169.

The principal debate during work on the Declaration concerned the right of indigenous peoples to self-determination. In connection with the voting in the General Assembly, Norway submitted an interpretive declaration on the right of indigenous peoples to self-determination, stating that this right shall be exercised within the framework of the State's territorial integrity, and that, in Norway; it is deemed to be safeguarded through current arrangements and rights pursuant to Norwegian law. Recognition of the right to self-determination for Sami is consistent with the position held by Norway for a number of years, inter alia, in the two previous main white papers on Sami policy (Report No. 55 (2000–2001)

to the Storting and Report No. 33 (2001–2002) to the Storting). We refer also to point 5.2.1 of the Standing Committee's recommendation S. No. 110 (2002–2003) concerning the concept of self-determination.

The Declaration makes it clear that self-determination embraces the right of indigenous peoples to work freely for their own economic, social and cultural development. At the same time, the right to self-determination may not be invoked in respect of actions contrary to the UN Charter or UN human rights conventions.

When exercising their right to self-determination, indigenous peoples have a right to autonomy or self government in matters concerning their internal and local affairs, and a right to an arrangement for financing their self government functions, cf. article 4. Recognition of the right to self-determination as referred to in the Declaration further requires that indigenous peoples have full and effective participation in a democratic community, and in decision-making that is relevant to them.

However, the practical implications of the right of the Sami to self-determination have not been fully clarified. The Government assumes that the debate on the right to self-determination must include a debate on the interpretation of the concept, and on how a right to self-determination can be implemented in practical policy. A people's right to self-determination does not necessarily have the same implications in cases where the right can be associated with a people that resides alone within a well-defined geographical area and cases where the right is associated with a people that is dispersed in areas where other ethnic groups also reside. The development of the right of the Sami to self-determination must also be considered in relation to any international precedence effects. Further clarification of the right of the Sami to self-determination may be of interest when the right to self-determination for indigenous peoples is to be defined by other states. See also section 3.1 of the Annual Report of Sámediggi for 2007.

In the preamble to the Declaration on the Rights of Indigenous peoples it is established that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration. In practice, this means that the rights laid down in the Declaration must be implemented in a manner adapted to the situation of the indigenous people concerned. In the Norwegian context, Sami self-determination is a question of whether our democratic system is capable of giving the Sami population an adequate degree of influence on the national political processes and decisions that concern them.

In Norway, a number of political areas will be relevant and be of considerable importance to the Sami. As regards such matters, the right to self-determination can be viewed as a right to influence and co-determination in matters that affect the Sami as a group. When such a right to participation and influence is to be implemented, two categories of rights may be considered. Firstly, it concerns a right to make decisions alone in matters that only apply to the Sami, i.e. cultural and linguistic autonomy. Examples are measures concerning Sami language and the Sami Development Fund<sup>2</sup>. Secondly, it must concern a right to genuine, effective participation in the exercise of public administration affecting both the Sami and the community that it is part of, for example as regards decisions concerning land-use planning and exploitation of resources. A right to participation may *inter alia* be implemented through consultations, and an obligation to consult the indigenous people concerned is also referred to in the Declaration. In Norway, the consultation obligation is implemented through the procedures for consultations between the State authorities and Sámediggi in accordance with article 6 of ILO Convention No. 169. The right to participation in the management of natural

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<sup>2</sup> In the budget resolution for 2008, the Sami Parliament decided that the Sami Development Fund would be abolished. The arrangement would be replaced by *søkerbaserte tilskudd for næringsutvikling* [industrial development grants]. The geographical scope is the same as before.

resources can also be exercised by the appointment by Sámediggi of representatives to joint governing bodies, such as *Finnmarkseiendommen* (“the Finnmark Estate”) and the regional predator management boards.

In practice, the rights referred to must primarily be exercised through Sámediggi as an elected body with decision-making and consultative authority.

Although the concept of self-determination does not have a precise meaning, the Government and Sámediggi have conducted a dialogue on practical measures to implement Sami decision-making authority and co-determination within the scope of current regulations. Certain measures have already been implemented, such as the Finnmark Act and consultation procedures. Some have been submitted to the Storting, such as new provisions in the Planning and Building Act concerning Sámediggi’s authority to oppose in planning matters. Others are currently under assessment or are undergoing consultation, for example the proposal from the Coastal Fisheries Committee for Finnmark concerning participation in the management of sea fishing in Finnmark and the proposals from Sami Rights Committee II.

There will be a need for continued efforts to establish the specific implications of the right of the Sami to self-determination. It is moreover probable that importance will be attached to the solutions arrived at in Norway in international developments associated with the right to self-determination of indigenous peoples. The Government presupposes that the development of Sami self-determination will take place within the framework of an existing independent and democratic state and within Norway’s existing geographical boundaries.