

### **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

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>1</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 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.

### **1.3.7 The Draft Nordic Sami Convention**

A Nordic expert group submitted its recommendations with a draft Nordic Sami Convention in autumn 2005. The governments of Finland, Sweden and Norway agree to continue work on a Nordic Sami Convention, initially through continued work at the national level on follow-up of public hearings and relevant impact assessments. A working group consisting of representatives from the Ministry of Labour and Social Inclusion, the Ministry of Justice and the Police, the Ministry of Foreign Affairs and Sámediggi has worked on Norway’s follow-up of the draft convention, and submitted

---

<sup>1</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.