

**United Nations Office of the High Commissioner for Human Rights and United Nations
Development Programme:
Seminar on Good Governance Practices for the promotion of Human Rights
Seoul, 15 – 16 September 2004**

**Indigenous people and democratic institutions – the case of the Sámi Parliament in
Norway**

By Eva Josefsen

Former member of the Sámediggi in Norway and political scientist at Norut NIBR Finnmark,
Alta, Norway

**Mr. Chair, Mr. Moderator, Ladies and Gentlemen, Your Excellencies– dear friends:
Buorre beaivvi buohkkaide!**

First, I would like to thank you for the invitation to participate and present a paper in this very important and interesting seminar on good governance practices for the promotion of human rights. It is an honour for me to be given an opportunity to contribute in highlighting a new democratic institutional tool for promoting co-operation between the Sámi people and the Norwegian state, namely the Sámi Parliament in Norway. In my presentation, I will use the Sámi term Sámediggi for the Sámi Parliament.

The establishment of the Sámediggi in Norway meant an extension of the Norwegian constitution. For most indigenous people, to get your own political institutions or be included into existing political institutions represent a new perspective in terms of political empowerment. When it comes to the Sámediggi formal structure, composition and functioning, I would like to refer to the organizers presentation abstract for more information.

The Sámi People live in the northern part of four countries (see map): Norway, Sweden, Finland and Russia. Our traditional territory is the shaded area on the map, but we are a majority of the population in only a minor part. There are established Sámediggis in Sweden, Finland and in Norway. The legal foundation and formal framework are however not similar, and therefore it is not possible to draw direct comparison in terms of Sámi influence over development within the Sámi society on the different sides of the nation-state borders.¹

Norway has ratified the UN covenant on Civil and Political rights (1966) as well as the covenant on Economic, Social and Cultural rights (1966) into Norwegian law through the human rights act. As a people's right to maintain and develop their own culture is a fundamental human right, both the Norwegian authorities and the Sámediggi has an obligation to safeguard the recourse base of both nature and culture of the Sámi people. In addition, Norway has ratified the ILO-convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries, which more definite is dealing with (among other topics) the land rights of indigenous people.

¹ For a closer presentation of the Sámediggi in Norway, Sweden and Finland, see: See: Josefsen, Eva (2003): *The Sami and the National Parliaments – Channels of Political Influence*, published at:
<http://www.galdu.org/govat/doc/politicalinfluenceevajosefsen.pdf>

Self determination for indigenous people within existing nation-states' borders are at least two sided. On the one side it implies co-operation with state authorities. On the other side; self determination includes the right for indigenous people to have their own public policy agenda in order to create public aims without any nation-state overruling.

The Sámediggi was opened in 1989, and has 39 representatives elected every four years. The elections occur by means of direct ballot and on the basis of Sámi electoral roll. The country is divided into 13 electoral districts with three representatives from each district. The Sámediggi is composed of Sámi representatives from the national Sámi organisations, Norwegian political parties, and local lists. The day-to-day work of the parliament is led by the President and the Sámediggi council, which is elected from the current majority in the Plenary. The Plenary is led by a Presidium. The Sámediggi has two major roles. Firstly it is a channel for the creation and development of Sámi public opinion within the Sámi society. Secondly, it is by law an advisory body for the Norwegian government, and therefore the Parliament has not much formal political power. But the Sámediggi have, at least to a certain degree, established itself as an influential political organ when it comes to promoting Sámi common interests towards the state public authorities. In a human right perspective the organ is thus playing a significant role in its effort to secure and maintain the future development of Sámi language, culture and way of living.

There are several reasons for this:

One is related to the executing of leadership in the Sámediggi. The first Sámi president for eight years was professor Ole Henrik Magga – the very same person who now is chairing the Permanent Forum of Indigenous Issues in the UN. Magga played a vital and essential part in making the Sámediggi a legitimate organ and creating a good foundation for co-operation with the Norwegian government.

Another was the events that forced the establishing of the Sámediggi. It is a direct result of the Sámi uprising in the 70's and early 80's, in connection with the building of a hydro electric power plant on Sámi traditional territory in Norway. The civil disobedience actions from Sámi actionists caused both national and international attention, and the national government was forced to give some acknowledgement towards the Sámi demands. The Norwegian international reputation as a defender of human rights was at stake.

A third background was the changes within international law that occurred in the same period as the human right approach changed towards group rights – or collective rights, and the strengthened recognition of cultural groups and indigenous people as significant within the framework of international law.

The positive development in Norwegian policy and positive attitude towards the Sámi people, by establishing the Sámediggi, giving it the opportunity of playing a significant part in public policymaking, may therefore be explained as a development under “voluntary coercion”.

The Sámediggi has played a significant role in placing Sámi interests, Sámi issues and Sámi political viewpoints on the public agenda, and forward these to the Norwegian Government. Since the Sámediggi official status is as an advisory body, there has been a necessity for the Norwegian Government to show good faith in relation to the Sámediggi. Without a will to deliberate – debate and discuss - from the Norwegian Government, the Sámediggi could have

just been a highly symbolic organ with very little influence. Still, one might say that the Sámediggi has been more successful in some political areas than in others.

In some policy-making areas, as developing a Sámi education system and improving the status of Sámi language, the Sámediggi have been delegated implementation-power of its own policy by the Norwegian Parliament. Especially important is the right to give provisions of the Norwegian Education Act, when it comes to the education in Sámi language, Sámi handicraft and Reindeer herding education.

A second area where the Sámediggi has achieved formal political power is in area of cultural heritages Act where the Sámediggi are delegated the right and authority to safeguard and manage the Sámi cultural heritage.

The Sámediggi has also been successful in negotiating bilateral contracts with two Norwegian counties within the Sámi traditional living area. These agreements includes important issues concerning Sámi language and culture, forming education- and health policies in Sámi communities, clarifying the Sámi position in the regional economic policy as well as in regional developing programmes. This indicates that the Sámediggi also are strengthening its position.

In the question of land rights, Sámi self government and co-management are not resolved. In the Report on ILO-convention 169 in 2003, the Sámediggi pointed out the gap between the Norwegian Government positive attitudes on a formal and principal level, and the lack of implementing it “*on a concrete and practical level*”.

The Sámi Parliament is also experiencing shifting times in governmental policy – in some areas there have become a harsher political climate with the present Government in Norway. In 2003 the Government presented a new legal Act proposal on land rights called the Finnmark Act (Finnmark is the northernmost county in Norway). The proposal was a result of a process that started in 1980 with the purpose to clarify and regulate the Sámi land rights. The Sámi Right Committee presented in 1997 a report that outlined the proposals for new land right management legislation. The Government forwarded however a proposal that, according to Sámi spokesmen, disregarded over twenty years of work. They pointed out that Sámi collective rights were recognized in accordance with neither national nor international law.

The Government’s use of the Sámediggi as an advisory body was mainly lacking, during the preliminary phases of the land Act proposal. When it turned out that the Act was not according to the Norwegian obligations in the ratified international instruments in terms of actual recognition of Sámi land rights, the Sámediggi rejected the Government proposal, stating that there are no room for compromising for the sake of harmony towards the Norwegian society. The responsibility and loyalty towards other indigenous people’s struggle for collective land rights was more essential to the Sámediggi. The fact that the Norwegian Government did not consult with its own advisory organ in Sámi issues, might then give an immediate impression that the Sámediggi has experienced a set back.

But this situation has had a surprising, but positive side effect that might also turn out to give a positive result regarding the land-right issue. In connection to the Norwegian Parliament handling of the act proposal, there has been established a co-operation structure between the Sámediggi and the Norwegian Parliament. Previous, the Sámediggi has been treated as an

ordinary interest group in its contact with the national Parliament. This might however turn out to be the starting point of a new structure where the Sámediggi may have a directly formalized connection to the Norwegian parliament, without having to go through the national Government in every issue.

This demonstrated that the Sámediggi as a new democratic experiment in the Norwegian Political system is not a static political organ with limited power, but that it has potential to develop further as an influential organ in the Norwegian democracy. But if this potential is going to be further transformed into actual influence, both the Sámediggi and the Norwegian authorities have to contribute.

The Sámediggi is not just a political organ that regulates the relations between the Norwegian authorities and the Sámi people. An essential condition for a people is its right to self determination also in terms of having an own public sphere, where the exchange of a Sámi public opinion can take place. Human rights towards indigenous people includes the right to have internal political debates, to make internal collective decisions when it comes to the society development, to have the right to produce knowledge about itself, to inform and so on. In that sense, The Sámediggi plays an important role, and has an obligation to inform and promote debates about important internal issues for the Sámi society.

One of the major challenges for the Sámediggi is to increase the low number of female representatives. In the last election period only 7 out of 39 are women. There have been a lot of debate about this topic, but so far the female representation has decreased in every election. One of the explanations for this might be found in the values and characteristics of traditional societies, another explanation may be that gender related topics is looked upon as less important than cultural survival and thus is not so important in the nomination process ahead of an election. But the Sámediggi has initiated several campaigns and made other efforts to get a more balanced gender representation. The upcoming election next year will show how successful these efforts have been.

It is quite a challenge for the Sámediggi to balance the main two roles; on the one hand the advisory position and on the other hand the role of influencing, developing and managing Sámi society values. The relation to the Norwegian government will naturally play a significant part of the Sámediggi tasks, also because the decisions from the government have an impact on all parts of the Sámi society. So every relevant issue that the Norwegian government is asking the Sámediggi view upon, the Parliament have to respond to because if not Sámi interests might not be taken into consideration. The legitimacy of the Sámediggi will thus be dependent both on its own ability to raise issues that are relevant for the Sámi society, but also the Norwegian government willingness to take into account the advices from the Sámediggi it is receiving.

In this presentation, I have tried to show the ambiguity in the relationship between the Sámediggi and the Norwegian government on the national level. This is also the case when it comes to acting on the international arena, for example in the UN, where the Sámediggi participates as a part of the Norwegian delegation. The Sámediggi thereby has a position to influence on the UN human right policy, without having status as a member state or as a NGO. This is a unique position for an indigenous people; especially since the Sámediggi and the Norwegian Government may have crossing interests.

So finally, is this model fruitful for other indigenous people? It might be, but one should always bear in mind that every institution is embedded in its surroundings of history and

present society. I think at least one major condition has to be in place namely a binding attitude from the Government to take into consideration and then actually oblige themselves to listen to the indigenous people views and standpoints. The indigenous elected organ must be secured an explicit and a distinct place in the public system. Without such a condition, an elected indigenous parliament as we have in Norway could easily turn into a place for non-constructive internal conflicts that would only serve those who are convinced that indigenous people are not capable of governing themselves.