

# Governance in the Arctic - Sharing Best Practises – Indigenous Peoples

Final and extended version

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Mm Chair!

Excellencies, dear friends of the Arctic, ladies and gentlemen!

First of all I will thank the organisers for inviting me to this conference and giving me the opportunity to address this distinguished audience. Due to time constraints, in the following I will briefly touch upon the development of the relationship between the Sami and Government in Norway and address the Ilulissat Declaration before I finish with my five key areas in order to achieve progress.

At the outset of my intervention, I will first stress the point that the most important feature regarding the Arctic is the people living there, so the human dimension, the wellbeing of people and societies is a paramount objective in Arctic politics.

When considering best governance practises in the Arctic, it is important to draw the attention to Arctic success stories regarding indigenous peoples’ rights and modern governance systems. Let me suggest two successes. The first is the still evolving recognition of Sami rights and in particular the Sami rights to land and natural resources in Norway. We have come a long way from protests in the 1970s and beginning of 80s against the damming of Alta/Kautokeino watercourse<sup>1</sup>. Now we are reflecting international human rights standards in the Sami relationship to the Norwegian Government and the Sami rights to land. Regarding national legislation, the Sami are protected in the Constitution, § 110a<sup>2</sup>. The Sami Act was adopted in 1987<sup>3</sup> containing the establishment of the Sami Parliament<sup>4</sup> and Sami language provisions. Sami rights on education<sup>5</sup>, reindeer husbandry<sup>6</sup>, kindergarten<sup>7</sup>, place-names and

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<sup>1</sup> Briefly on the issue: [http://galdu.org/govat/doc/eng\\_damning.pdf](http://galdu.org/govat/doc/eng_damning.pdf)

<sup>2</sup> Briefly on the issue by the Norwegian Government: [www.regjeringen.no/en/dep/fad/Selected-topics/Sami-policy/midtspalte/the-foundation-for-sami-policy.html?id=87039](http://www.regjeringen.no/en/dep/fad/Selected-topics/Sami-policy/midtspalte/the-foundation-for-sami-policy.html?id=87039)

<sup>3</sup> The Sami Act: [www.regjeringen.no/en/doc/Laws/Acts/the-sami-act-.html?id=449701&epslanguage=en-GB](http://www.regjeringen.no/en/doc/Laws/Acts/the-sami-act-.html?id=449701&epslanguage=en-GB)

<sup>4</sup> The Sami Parliament, Norway: [www.sametinget.no/artikkel.aspx?AId=884&back=1&MIId1=270](http://www.sametinget.no/artikkel.aspx?AId=884&back=1&MIId1=270)

<sup>5</sup> On Sami curriculum: [www.regjeringen.no/en/dep/kd/Selected-topics/compulsory-education/the-norwegian-education-system.html?id=445118&epslanguage=en-GB](http://www.regjeringen.no/en/dep/kd/Selected-topics/compulsory-education/the-norwegian-education-system.html?id=445118&epslanguage=en-GB)

<sup>6</sup> On reindeer husbandry rights in Norway: [www.galdu.org/web/index.php?artihkkal=259&giella1=eng](http://www.galdu.org/web/index.php?artihkkal=259&giella1=eng)

“Reindeer Husbandry in Norway” in Jernsletten and Klovov: Sustainable Reindeer Husbandry. Arctic Council 2000-2002: [www.reindeer-husbandry.uit.no/online/Final\\_Report/norway.pdf](http://www.reindeer-husbandry.uit.no/online/Final_Report/norway.pdf)

The International Centre on Reindeer Husbandry: <http://icr.arcticportal.org/>

cultural heritage and monuments<sup>8</sup> are enacted as well. International law instruments as the UN Covenant on Civil and Political Rights, UN Covenant on Economic, Social and Cultural Rights (both 1966) and the ILO Convention No. 169 on Indigenous and Tribal Peoples apply for Norway<sup>9</sup> (cf. footnote 2 as well).

The National Parliament of Norway has instituted a mandatory system on annual reports from the Government to the Parliament on the work of the Sami Parliament. The Sami Parliament Annual Report is the foundation of the Government Report. Once in the term of office the Government tables an extent report in the National Parliament on Government Sami Policy. Together with annual grants on the state budget to Sami measures, the system guarantee that Sami affairs are dealt with by the Norwegian Parliament annually twice.

Procedures for consultations between the Central Government Authorities and the Sami Parliament<sup>10</sup> took effect in 2005. Voluntary agreements on Sami issues between the Regional Governments on the County level were Sami lives<sup>11</sup>, and the Sami Parliament have successfully been negotiated. Sami land claims in Norway's northernmost region, the Finnmark County are settled. The Finnmark Act adopted in 2005, recognize Sami rights and facilitate co-ownership and co-management of the previous so-called "Crown land" (45 000 km<sup>2</sup>) between the Sami and other inhabitants in Finnmark. The Finnmark Land Right Commission and the Finnmark Land Right Court are established to deal on future land right claims from groups and individuals<sup>12</sup>. Regarding Sami land claims further south in the counties of Troms, Nordland and the South Sami Area, the Sami Rights Commission tabled its proposal in 2007 and the issue is at present under consideration of the Government after hearings.

The draft Nordic Sami Convention<sup>13</sup> is hugely important in international governance in the Arctic. It will enable the Sami to exercise their rights with minimal interference by national borders. So I ask, can Sami experience help Inuit, Gwich'in and Athabaskans exercise their rights across national borders in the North America?

The second success is the land and self-government agreements – modern treaties – in northern Canada. I know there are problems implementing those agreements, but Canadian Inuit now own more land than any other indigenous people or non-governmental group in the world. It is these agreements that help us to bridge together the Arctic as "homeland" and "frontier". On this basis, it is important to disseminate and explain these two success stories to the global public.

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<sup>7</sup> Day care institutions, cf. chapter 6:

[www.regjeringen.no/nb/dep/bld/dok/veiledninger\\_brosjyrer/1998/framework-plan-for-day-care-institutions.html?id=419211](http://www.regjeringen.no/nb/dep/bld/dok/veiledninger_brosjyrer/1998/framework-plan-for-day-care-institutions.html?id=419211)

<sup>8</sup> Sami cultural heritage monuments:

➤ [www.ra.no/English/About\\_us/Cultural\\_Heritage\\_Management\\_at\\_County\\_Level/](http://www.ra.no/English/About_us/Cultural_Heritage_Management_at_County_Level/)

<sup>9</sup> On the relationship between international law and Sami self-determination: Gáldu čála; Journal of Indigenous Peoples Rights No. 2/2008: [www.e-pages.dk/grusweb/43/](http://www.e-pages.dk/grusweb/43/)

<sup>10</sup> Norway's consultation duty in Sami matters: [www.regjeringen.no/en/dep/fad/Selected-topics/Sami-policy/midtspalte/consultation-duty-in-sami-matters.html?id=86931](http://www.regjeringen.no/en/dep/fad/Selected-topics/Sami-policy/midtspalte/consultation-duty-in-sami-matters.html?id=86931)

<sup>11</sup> Counties mentioned from the south and northward: Hedmark, Sør-Trøndelag, Nord-Trøndelag, Nordland, Troms and Finnmark. The agreements were negotiated on voluntary basis in the years 2004-2006.

➤ [www.regjeringen.no/en/dep/fad/Selected-topics/Sami-policy.html?id=1403](http://www.regjeringen.no/en/dep/fad/Selected-topics/Sami-policy.html?id=1403)

<sup>12</sup> About the Finnmark Act: <http://finnmarksloven.web4.acos.no/artikkel.aspx?AId=146&back=1&MIId=123>

<sup>13</sup> The Nordic Sami Convention: [www.galdu.org/govat/doc/samekoneng\\_net.pdf](http://www.galdu.org/govat/doc/samekoneng_net.pdf)

The Ilulissat Declaration<sup>14</sup> adopted by ministers of the five Arctic coastal states 28 May 2008 in Greenland, is a watershed document in terms of future options regarding governance systems in the Arctic and the political process regarding the work on future Arctic issues. The declarations sovereign rights and jurisdiction focus and the work which will follow in terms of implementing the declaration, will inevitably alter the nature of to the present Arctic discourse and the political feasibility of various options concerning governance.

On the other hand, the declaration points on important steps and work needed to be done in order to face the challenges that follow in the wake of climate change in terms of economic development, environmental protection and sustainable management of the Arctic. We need clear borders both on shore as well as off shore on the ocean surface and the sea bed. Solving overlapping claims regarding the continental shelf in the Arctic is a prerequisite of developing future sustainable industrial prospects in the region.

Clear borders prevent discord both between states and peoples. Indigenous peoples are living on and across national borders. We have experienced how this in given situations arouses suspicion and that the security card<sup>15</sup> has been played against indigenous peoples rights, that today are ubiquitously accepted in the western hemisphere. One observation is important to emphasize in this regard; States' exercise of sovereignty must not be mixed with outstanding issues concerning indigenous peoples' land claims. Sovereignty is not concurrent to land ownership and possession.

By addressing the Ilulissat Declaration, I try to render visible the unfinished political processes surfacing now in the wake of the declaration. In the realm of politics, perceptions are important. It might be to exaggerate, but I feel the need to debate these issues both in a domestic and an international setting. Other stakeholders might as well, as the Permanent Participants<sup>16</sup> (six indigenous peoples' organisations) in the Arctic Council<sup>17</sup>, the regions in the north, other NGO's and probably the three non-littoral Arctic states as well as non Arctic states.

The Arctic political collaborative landscape was given a new and an important dimension by the Ilulissat Declaration. On the other hand, in the wake of the declaration, uncertainty has aroused regarding the place and the maintenance of the developed driving force of the Arctic Council. Pledges on the future importance of the Arctic Council as a high level forum to be strengthened and developed, needs to be followed-up by affirmative action at the same speed new Arctic five coastal state meeting are held. As a friend of the Arctic Council, I like to witness the mandate of the council amended and more resources provided in order to reinforce the relative strength of the council in a foreseeable future.

So far, the most visible reaction to the Ilulissat Declaration by indigenous peoples is the Circumpolar Inuit Declaration on Sovereignty of 28 April 2009. As transnational rights holders in the Arctic, the Inuit emphasises their legitimate "place at the states table" in all Arctic issues, and puts an emphasis on sovereignty, autonomy and self-determination for Inuit in the Arctic<sup>18</sup>.

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<sup>14</sup> The Ilulissat Declaration: [www.oceanlaw.org/downloads/arctic/Ilulissat\\_Declaration.pdf](http://www.oceanlaw.org/downloads/arctic/Ilulissat_Declaration.pdf)

<sup>15</sup> Regarding securitization of ethnic relations in the wake of the fall of the Soviet Union, cf. Will Kymlicka; *Multicultural Odysseys*, pp.180-196. Oxford University Press 2007.

<sup>16</sup> The Permanent Participants and Arctic People's Secretariat: [www.arcticpeoples.org/](http://www.arcticpeoples.org/)

<sup>17</sup> The Arctic Council: [www.arctic-council.org/](http://www.arctic-council.org/)

<sup>18</sup> A: The Circumpolar Inuit Declaration on Sovereignty:

Having shared experiences on Sami issues in Norway and addressed the Ilulissat Declaration, I shall now turn to my five key priorities in order to achieve progress on indigenous peoples' issues in the Arctic. They are<sup>19</sup>:

1. Minding and orchestrating the internal and external perspectives of the indigenous dimension in the High North. This comprises the collaboration between indigenous peoples themselves (internal) and the cooperation between indigenous peoples and other peoples (external). Make the indigenous dimension an integral part of the High North policy as a cross-cutting theme in a holistic way, and give it particular reference when necessary. Equal status, partnership and gender equality are central elements in this regard. The indigenous peoples' rights and place as rights holders in the Arctic have to be strengthened both domestically and on the international level regarding future governance of the Arctic. Moreover, it is equally important to encompass duties and responsibilities in indigenous peoples' rights-oriented agendas.
2. Adapting to changing conditions has always been a part of the cosmos of indigenous peoples. That's the reason why they still exist. When encroachments are planned in indigenous peoples' areas, impact assessment studies are the most common science based tool to map and evaluate the consequences. Traditionally, these studies are inherently substantially technical. To overcome this weakness, and in order to bring the human and community dimension to the forefront when assessing encroachments, we should consider replacing the impact assessment studies with vulnerability- and adaptation studies. Moreover, to meet international human rights standards regarding the extractive industry in the Arctic, the principle of full participation and free, prior and informed consent of indigenous peoples<sup>20</sup> should be implemented in the High North policy. I have noticed with satisfaction that this is a key principle of European Union development policy<sup>21</sup>. The next step could be to extend this principle beyond the indigenous dimension by including coastal communities concerning plans on oil and gas exploitation in coast near areas.
3. Indigenous peoples' community life has been knowledge based since time immemorial, and has developed traditional indigenous knowledge of inestimable value. Sami societies are also progressively developing into knowledge based communities in the modern western globalizing sense of comprehension. This contributes to transform traditional Sami knowledge into sound mounting for future knowledge-based occupations and industries. This again attracts young people to settle in Sami areas. Therefore, it is important to integrate the indigenous peoples' traditional knowledge in the development of knowledge on – and governance of the High North. Concurrently integrate the indigenous peoples' traditional knowledge on – insight in – and comprehension of adaptation into planning, stewardship and monitoring of the High North. This in order to

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➤ [www.itk.ca/publications/circumpolar-declaration-sovereignty-arctic](http://www.itk.ca/publications/circumpolar-declaration-sovereignty-arctic)

B: Press Release 10 November 2008 regarding the declaration by Inuit Circumpolar Council:

➤ [www.inuitcircumpolar.com/files/uploads/icc-files/PR-2009-04-28-CircumpolarInuitLaunchDeclarationonArcticSovereignty.pdf](http://www.inuitcircumpolar.com/files/uploads/icc-files/PR-2009-04-28-CircumpolarInuitLaunchDeclarationonArcticSovereignty.pdf)

<sup>19</sup> These have been developed over a few years in terms of input from various people and piecemeal assessment in bodies working on Arctic issues. Contingent flaws and shortcomings are my own.

<sup>20</sup> Additional information on human rights, international law and corporate social responsibility, cf. Gáldu čála; Journal of Indigenous Peoples Rights No. 4/2006: [www.galdu.org/govat/doc/oilengelsk2.pdf](http://www.galdu.org/govat/doc/oilengelsk2.pdf)

<sup>21</sup> In: The European Union and the Arctic Region, p.4. Communication from the Commission to the European Parliament and the Council, Brussels, 20.11.2008 COM (2008) 736 final.

➤ [http://ec.europa.eu/external\\_relations/arctic\\_region/docs/com\\_08\\_763\\_en.pdf](http://ec.europa.eu/external_relations/arctic_region/docs/com_08_763_en.pdf)

enhance the Arctic people's ability to adapt, promote research, exchange experiences and result for developing sound strategies in managing peoples' health, culture, economic life and well-being in the North.

4. The globalising forces are visible in indigenous peoples' areas in terms of modifying the conditions on localization of enterprises, where indigenous youths - particularly young high educated women, prefer to homestead, live and prosper. Consequently, and in order to check the urbanisation of indigenous youths, it is of paramount importance to prepare for a development in the High North that allows the indigenous peoples themselves, in a proactive way, on their own require, face and take advantage of the opportunities future industrial utilization of natural resources can provide, when simultaneously the traditional industries, culture, languages and community life of indigenous peoples are safeguarded and developed in a sustainable manner. This in order to preserve the viability of the indigenous peoples' communities when non-renewable resources run out.
5. With the expected increase in the industrialisation and transport in the Arctic due to easier access to natural resources because of the climate change, it is necessary to develop and implement common standards concerning indigenous peoples with respect to rights and participation in decision making to apply to all economic activity in the High North<sup>22</sup>. The purpose with these standards – or ethical guidelines as named in the Norwegian High North Strategy<sup>23</sup>, is to ensure that indigenous peoples' rights are respected in the management and exploitation of natural resources and the natural environment. This is a view which was adopted by the European Union in its Second Northern Dimension Action Plan, 2004-2006<sup>24</sup> and the Conference of the Parliamentarians in the Arctic Region (CPAR) in 2004<sup>25</sup>. In this light, it's a challenge to develop a common industrial agenda across national borders in the Arctic, due to the fact that many of time and oft, the same industrial companies are seeking for prospects in various countries in the Arctic. It would benefit all if the companies were met with a framework of regulations with common standards and features applying everywhere in a cross-border perspective.

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<sup>22</sup> Hans Corell: "Chairman's Conclusions", p.30 and Sven-Roald Nystø "Applying Traditional Knowledge to New Challenges", p.140 in Common Concerns for the Arctic. Conference report from the Nordic Council of Minister's conference 9-10 September 2008, Ilulissat, Greenland. ANP 2008:750. NCM, Copenhagen 2008.

➤ [www.arctic-governance.org/files/Common\\_Concern\\_for\\_the\\_Arctic.pdf](http://www.arctic-governance.org/files/Common_Concern_for_the_Arctic.pdf)

<sup>23</sup> New Building Blocks in the North. The next step in the Government's High North Strategy, No.7.3 Developing ethical guidelines for economic activities in the north, p.43. Norwegian Ministry of Foreign Affairs 12/03/2009:

➤ [www.regjeringen.no/upload/UD/Vedlegg/Nordområdene/new\\_building\\_blocks\\_in\\_the\\_north.pdf](http://www.regjeringen.no/upload/UD/Vedlegg/Nordområdene/new_building_blocks_in_the_north.pdf)

<sup>24</sup> Second Northern Dimension Action Plan, 2004-2006, Brussels, 10.06. 2003 COM (2003) 343 final, Annex I, No. 1.1 Trade, Investment promotion and business co-operation, p. 19: "To support industrial enterprises in their moves toward more sustainable production, in order to improve economic performance while addressing environmental concerns and offering socio-economic opportunities to the indigenous peoples of the region.

- Strengthening attention to be paid by all Northern Dimensions partners to indigenous interests in relation to economic activities, and in particular in extractive industry, with a view to protecting inherited rights of self-determination, land rights and cultural rights of indigenous peoples of the Arctic."

➤ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0343:FIN:EN:PDF>

<sup>25</sup> CPAR 2004 conference statement No. 26) vii, which read: "Strengthening attention to indigenous interests in relation to economic activities, and in particular in extractive industry, with a view to protecting the rights to self-determination, land rights and cultural rights of indigenous peoples of the Arctic."

➤ [www.arcticparl.org/\\_res/site/File/static/conf6\\_statement.pdf](http://www.arcticparl.org/_res/site/File/static/conf6_statement.pdf)