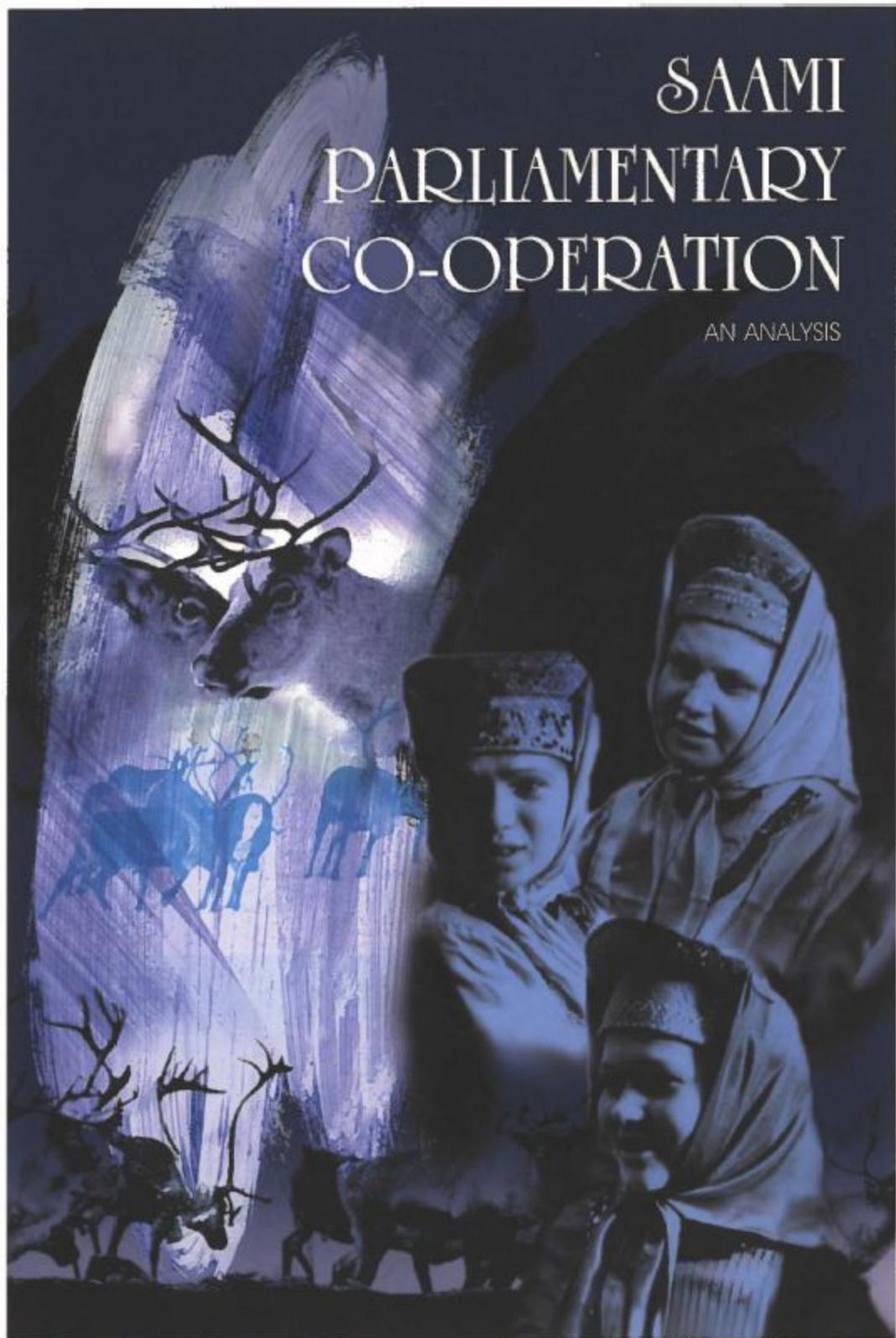


# SAAMI PARLIAMENTARY CO-OPERATION

AN ANALYSIS



JOHN B. HENRIKSEN





SAAMI PARLIAMENTARY  
CO-OPERATION



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An Analysis

John B. Henriksen

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**SAAMI PARLIAMENTARY CO-OPERATION**  
AN ANALYSIS

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FOREWORD

# FOREWORD

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This paper on the Saami Parliamentary Co-operation has been written for the Nordic Saami Institute. The goal of this work has not been to present a complete report on the need and possibilities for a permanent formal co-operation between the Saami Parliaments in Finland, Norway and Sweden. Rather the work aims to create a basis for initial concrete evaluations of the question of establishing a joint political body for the Saami Parliaments elected by the Saami people in the three Nordic countries. The first part of the report consists of general background material. It is my intention that these chapters contain a large part of the content of the total report; since I believe it necessary to try to understand possible future solutions in the light of actual historic conditions. The basic Saami political principles held by both the Nation States and the Saami cannot be satisfactorily explained without the necessary knowledge about the past and thus the historical foundation of the present.

For many years, the Saami political milieu has expressed the need for co-ordination across state borders with regard to Saami political questions. The authorities in Finland, Norway and Sweden have also identified such a need for co-operation.

Already today, there is a form of official Nordic co-operation in Saami questions. Both the Saami Parliaments and the state governments seek to co-ordinate Saami questions across state borders. But such co-operation has sometimes been difficult to carry out in practice, and co-operation in the form of practical Nordic Saami policy across territorial borders has therefore been realized only to a limited degree.

At the very first meeting<sup>1</sup> between the Saami Parliaments of Finland, Norway and Sweden in Hetta (Enontekiö) on 27 November, 1993, the question of co-operation between the Saami Parliaments was a central topic. It was agreed to try to develop a permanent co-operation between the elected Saami bodies.

The formulated goal of such co-operation is to co-ordinate the treatment of individual questions concerning the Saami in more than one country and the Saami as one people. In this connection, the Saami Parliaments also expressed the need to create appropriate co-operative bodies. Since this meeting, the Saami Parliaments have intensified work to develop permanent means of co-operation.

Co-operation between the Saami Parliaments today is formalized and carried out through regular consultations between the three respective elected political leaders<sup>2</sup> for the Saami Parliaments. These three have in practice also been responsible for co-ordinating and continuing work for a joint co-operative body for the Saami Parliaments. Upon the request of this group, the Nordic Saami Institute has assumed responsibility for drawing up a report on co-operation between the Saami Parliaments. The result of this work is presented in this document. The Saami Parliaments' political leaders: Pekka Aikio,<sup>3</sup> Ole Henrik Magga and Ingvar Åhren have been a reference group for this work. The draft report has been presented at three meetings in the reference group, and the members have presented their comments and proposed changes. The responsibility for the report's final content and form, however, is the author's.

3 January 1996

*John B. Henriksen*

## Notes

- <sup>1</sup> Meeting between the Saami Parliament's Working Committee of Finland, Saami Parliamentary Council in Norway and Saami Parliamentary Executive Committee in Sweden.
- <sup>2</sup> President of the Saami Parliament in Norway and the Chairmen for the Saami Parliaments in Finland and Sweden.
- <sup>3</sup> Pekka Aikio is also Director of the Nordic Saami Institute in Guovageaidnu.





PART I  
GENERAL BASIC MATERIAL

# THE SAAMI - ONE PEOPLE

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## 1.1 One people in four nation states

The territory traditionally designated as the Saami area lies today within the borders of four nation states: Finland, Norway, Russia and Sweden. The Saami people is an indigenous people in northern Fenno-Scandinavia, who in spite of being divided among four different nation states has maintained its common identity across state borders.

The respective states' gradual recognition of the Saami as one people is a recent phenomenon, only occurring in the most recent decades. The Saami people was previously described in terms that were in many cases intended to convey the idea that the Saami was not a people. Terms such as "the Saami group of the population" or "the Saami minority" were used; or the Saami people was divided into groups: "reindeer Saami", "coast Saami", "river Saami", "forest Saami", "Norwegian Saami", "Finnish Saami", "Swedish Saami" etc. Not more than 15 years ago, prominent Norwegian politicians expressly denied<sup>1</sup> that the Saami were a people.

Identification of themselves as a people has been the bearing foundation for Saami political activity during most of this century. The Saami demand to be respected as a people has been and still is a fundamental Saami political principle. But this principle has in some cases been subjected to internal opposition, since it has not always been in agreement with some special Saami interests. However, it is the state assimilation policy and the general stigmatization of Saami that has been the strongest challenge to the Saami's common identity.

In spite of these conditions, the Saami today have confirmed their position as a people more strongly than ever before. The Saami national identity and basis is expressed, for example, in the Saami Political Programme<sup>2</sup> of the Saami Council:<sup>3</sup>

1. *We, the Saami, are one people, and state borders shall not divide our people's unity .*
2. *We have our own history, our traditions, our own culture and our own language. From our fathers, we have inherited the right to land and water and the right to livelihood.*
3. *It is our inalienable right to care for and develop our livelihoods and our societies on the basis of our own common conditions, and in*

*fellowship we will care for our fields, our natural resources and our national inheritance for the generations to come."*

In earlier times, traditional Saami habitation stretched over a very large area: along the Norwegian coast from today's Finnmark County down to Trøndelag County and inland across today's northern Sweden down to the northern parts of Dalarna. The Saami also populated the Kola Peninsula in Russia and most of the present Finland.

The Saami were gradually pressed further north by other peoples and groups who moved into the Saami territory. The area today that is considered Saami area, however, is much smaller than the traditional Saami territory. In Sweden and Norway, present Saami habitation still stretches south to Dalarna and Femunden, respectively. In Finland, the main Saami settlement is north of the Polar Circle, and in Russia, it is confined to smaller areas on the Kola Peninsula.

For a couple of centuries now, the Saami have had to cope with state authorities in four different countries, authorities which today we cannot always remember with any feeling of pride. Exercise of state authority has been a hard test for the Saami culture and identity as a people. Saami language, cultural values, livelihood traditions, family affiliations, social organization, common territorial base and religious values have been and are central elements in the Saami's self-identification as a people.

In spite of the unflattering policies that the Saami have been subjected to, the Saami have not expressed any wish to change the physical territorial conditions in the Saami areas. On the contrary, the Saami have throughout more or less the whole of this century tried to work together to protect and develop the Saami people's community, the Saami language, culture and society across state borders. This effort has been characterized by an attempt to minimize the negative effects of the territorial borders. In other words, efforts have not been directed against the borders as such, but have instead tried to find political solutions on the premise that territorial conditions are likely to remain static.

## **1.2 The term "peoples"**

The term "peoples" has no politically or legally clear and unambiguous definition, nationally or internationally. Several international instruments now recognize "peoples' rights". The United Nations Charter, for example, recognizes peoples' right to self-determination. However, even this fundamental instrument within the UN does not find it useful to give a definition of this term.

For several decades, international law has understood “peoples” as sovereign nation states. Recently, a gradual change has come about in how this concept is understood that departs somewhat from the past conservative and static point of departure. Today, there is growing acceptance for the idea that the concept of “peoples” must include more than just sovereign nation states.

This development is a natural consequence of what seems to be increasing recognition of the right to be different. The development toward a more conciliatory and tolerant attitude toward peoples with ethnic, religious, cultural or political differences is of course strongest in democratic and pluralistic states. In such countries, to a much greater degree than earlier, it is now accepted that several peoples with different languages, cultures, religions, customs and norms can live within the borders of one nation state. It is also possible for a nation state to embrace several peoples and be established on a territory belonging to several peoples, under the clear condition that mutual tolerance exists to a sufficient extent.

This positive development is being confronted today with a difficult challenge as a result of the extreme ethnic nationalism that seems to have won support in several European states. Markedly intolerant attitudes, known from the past, toward such factors as ethnicity, culture, religion and political conviction seem to be a common characteristic in these states. When the safety valves in such a state homogenizing system no longer function, the earlier habits of state intolerance can easily explode, as can be seen at present in several European states.

### 1.3 The term “indigenous peoples”

As is the case with the term “peoples”, the term “indigenous peoples” has not been clearly defined either. Authorities in Finland, Norway and Sweden, however, have all recognized the Saami as an indigenous people. This recognition is the political and legislative justification for the Saami Acts in these countries today. In Finland and Norway, this political and legal recognition is also expressed in the Constitutions, while Sweden has not yet added a similar paragraph to its Constitution. Moreover, through ratification of ILO<sup>4</sup> Convention no. 169 concerning indigenous and tribal peoples in independent countries, Norway has also recognized the Saami as an indigenous people in Norway.

Only the Finnish legislation, however, expressly uses the term “indigenous people”, since the Finnish Constitution §§ 14 and 51a and the Saami Act § 1 state that: “*The Saami as an indigenous people...*”. This difference, however, should not reflect any legal difference in relation

to the Saami's legal position as an indigenous people, as the legislative considerations for the respective Saami Acts in this regard can be said to be identical.

ILO Convention no. 169, article 1, contains a statement of coverage, i.e. a statement about who is the legal subject of this convention. The text of ILO Convention no. 169, article 1, is as follows:

*“Article 1.*

*1. This Convention applies to:*

- a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;*
  - b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.*
- 2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.*
  - 3. The use of the term ‘peoples’ in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.”*

As can be seen from the above, especially the convention's article 1, paragraph 1(b) applies to indigenous peoples. However, the convention covers both tribal and indigenous peoples. With regard to “indigenous peoples” the Convention acknowledges the importance of the historical conditions as an objective criterion. But also these peoples' social and societal organization and special character are almost just as important as the historical connection to the actual territory. The convention uses the word “peoples” exactly in order to indicate that the reference here is not to just any part of a country's population but a distinct people with their own identity and culture, their own traditions and society.

The nearest that can be found to a definition of the term “indigenous peoples” is found in a UN report that has come to be known as the Cobo study.<sup>5</sup> This comprehensive study was presented in 1983 and formed the basis of the UN's further work with questions regarding indigenous peoples. The definition of the term “indigenous peoples” in this

study is used today as an informal working definition within the UN, but not as a final and binding definition.

In the Cobo Study, indigenous peoples are those who have a historical continuity in the territory that other people later invaded or colonized. Indigenous peoples also primarily consider themselves distinct from the majority population that now inhabits their original territory. The study also finds that indigenous peoples are resolved to maintain, develop and transfer their original territory to future generations, in spite of the fact that they often play no dominating role in the actual society. The study reveals that indigenous peoples' desire to maintain, develop and transfer their distinct ethnic identity to future generations is fundamental for their continued existence as peoples with their own culture and their own social and societal institutions.

As mentioned above, *historical continuity* is seen as the important element in the attempt to arrive at a definition of the term "indigenous peoples". According to the Cobo Study, historical continuity should be related to one or more of the following conditions:

- a) that the ancestral (traditional) territory of a people, or part of this territory, is occupied, or is ruled by other peoples as a consequence of colonization or similar circumstances;
- b) that one is descended from those who have traditionally inhabited this territory, i.e., descended from the people who inhabited the area before conquest, occupation or colonization;
- c) the culture in general, or special forms of cultural expression such as religious practices, traditional customs, dress, livelihood etc.;
- d) language, whether the only language, first tongue, home or family language, main language, preferred language, customary language or normal language;
- e) habitation of parts of a country or particular regions of the world;
- f) other relevant conditions.

The Study states further that individuals' affiliation with a people is based on self-identification – they identify themselves as belonging to that people – and on a people's acknowledgement and acceptance of that individual as one of them. Also, the right to determine who belongs to a specific people is the sovereign competence and authority of this people without any form of outside interference.

As is clear from the above, historical continuity is a central element in the attempt to develop a definition of "indigenous peoples". The essential characteristic of an indigenous people is that they have historical continuity in relation to all or parts of the present national state territory, and that this continuity has existed since the period *before* the area came under the state's sovereignty. An indigenous people does

not necessarily have to be a minority in the state. In some cases, they constitute a majority in numerical terms, as in Guatemala and Bolivia today. The fact that a people has its own culture that distinguishes it from the rest of the population is an important indicator. Very often this culture continues to be especially strongly connected to this people's traditional nature-based forms of livelihood and way of life.

The individual's self-identification as belonging to the people in question is the fundamental criterion. By self-identification is meant the individual's own feeling of belonging to his or her people, and the people's or society's acceptance of the individual as a member of this people or society.

Differentiation between the term "minority" and "indigenous peoples" is another difficult question that I will not discuss here. The expressions "the Saami minority" and "Saami as an indigenous people" are often used as synonyms. Such uncritical use of terms is very misleading in relation to the Saami people's historical, political and legal position, and can easily have the consequence that a distinction is not always made between the Saami as an indigenous people and national minorities in general. Indigenous peoples have a stronger historical connection to the actual territory than minorities in general.

As can be seen, it is very difficult to give an exhaustive definition of the term "indigenous peoples" in spite of the fact that there exist a whole series of obvious characteristics.

#### 1.4 The Saami as an ethnic group

In relation to the question of the Saami as an ethnic group, I will limit myself to quoting some passages of the Norwegian Committee on Saami Rights' considerations of this question in NOU 1984: 18 – On the Saami's legal position, page 114:<sup>6</sup>

*"In recent social scientific literature, the term 'ethnic group' is used as an alternative or collective term for several expressions that in common usage are either ambiguous or can have a negative connotation, e.g. 'people', 'tribe', 'clan', 'nation'. The term 'ethnic group' is derived from the Greek word 'ethnos', which can be translated as people. A relatively unambiguous international use of the term has gradually evolved, especially within anthropology, but it is also used in legal contexts, e.g. in art. 27 in the UN convention of 1966 on civil and political rights.... Norwegian usage usually includes the Saami as a sub-group of the term 'Norwegians', as if the Saami culture is some kind of local variety of the Norwegian people's culture. This is clearly in conflict with the fact that the Saami language, dress, livelihood and feelings of belonging stretch beyond and across state borders. Dialect borders, for example, do not*

*follow state borders, nor do family and marriage traditions nor often old siida (traditional community) borders.*

*Saami clearly define themselves as an ethnic group distinct from other peoples who are defined in their own special terms, e.g. in the following ways...."*

NOU 1984: 18, page 117, states further:

*"On the basis of the above description of the Saami's specific character and of the general theories about ethnicity, it seems clear that the Saami people comprise an ethnic group in the social scientific sense. The existence of a comprehensive cultural identity does not require that all characteristics shall apply to the whole group (e.g. language, reindeer husbandry) but that the characteristics overlap so that an inner cohesion is created.*

*An ethnic group's existence and life force does not depend on the characteristics remaining static and unchanged, either. They will develop over time and some will be replaced by new ones. It is necessary, however, that there is a strong degree of cultural continuity, i.e. that changes in cultural characteristics naturally overlap each other in the course of development and create a cohesion over time.*

*Comparative research indicates that loss of this continuity results from assimilation, i.e. a gradual identification with another culture. Parts of an ethnic group can be totally assimilated into another, while other parts can continue and even strengthen their cultural character and ability to create continuity. Such phenomena seem to have been typical for the Saami population in the course of the last centuries. Assimilation can however be superficial or ostensible if it has occurred in a specific area for a relatively short time. Special cultural characteristics and ethnic consciousness can be re-activated. Such re-activation can be found today in many Saami areas that were earlier considered to be completely assimilated."*

Within the disciplines of ethnology and social anthropology, "ethnicity" is seen to be based on cultural and subjective factors, in contrast to a concept of "race" where physical differences such as skin colour also play a part. One of the most important elements in relation to ethnicity is the individual's subjective feeling of belonging to the group. In other words, an ethnic group is a group of people who consider themselves a unit and who wish to maintain their membership of the group and thereby maintain the group as such. This subjective feeling of belonging to an ethnic group is inextricably connected with the group's common historic origins and cultural heritage.

## 1.5 The term “Saami”

Apart from the criteria in the Nordic Saami Acts connected with the right to vote, be elected and present proposals in relation to elections to the Saami Parliaments, there is no formal definition of the term “Saami”. These criteria have no formal relevance and significance outside the Act’s area of application and can therefore not be seen as a general definition of the term “Saami”. However, these criteria do indicate who are considered to be Saami.

The Norwegian Saami Act of 12 June No. 57 1987, § 2-6, stipulates the following criteria for the right to be included in the Saami census:

- “Everyone who declares that they consider themselves to be Saami, and who either*
- a. has Saami as home language, or*
  - b. has or has had parents or grandparents with Saami as home language has the right to be enrolled in the Saami census in the region of residence.”*

In 1995, the Saami Parliament in Norway reviewed the rules for election to the Saami Parliament and in that connection proposed changes in the above criteria in order to give more persons the right to participate in parliamentary elections. The Saami Parliament has proposed to add a great-grandparent-criterion to the parent- and grandparent-criterion.

The Swedish Saami Act (Saami Parliament Act, passed on 17 December, 1992) stipulates the following criteria in § 2:

- “Saami according to this Act is anyone who considers himself to be Saami and*
- 1. can confirm that he has or has had Saami as home language, or*
  - 2. can confirm that one of his parents or grandparents have or have had Saami as home language, or*
  - 3. has a parent who is or has been eligible for the Saami Parliament*

The recently passed Finnish Saami Act, in effect from 1 January 1996, stipulates the following criteria in § 3:

- “Saami according to this act is anyone who considers himself Saami on the condition that*
- 1. he, himself, or at least one of his parents or grandparents have learned Saami as first language,*
  - 2. he is descended from a person who is recognized as a mountain, forest or fish Lapp in the census, or*

3. *at least one of his parents is recognized or could be recognized as eligible to vote for the delegation to the Saami Parliament."*

As can be seen, the Nordic Saami acts use both objective and subjective criteria. The fundamental element in the criteria is the subjective self-identification as Saami, that a person considers himself/herself to be Saami and therefore belonging to the Saami people. The common objective criterion is related to the Saami language, that the person himself/herself, one of his/her parents or one of his/her grandparents have or have had Saami as first language or possibly as home language.

In addition to this formal basis, the term "Saami" of course also has a Saami origin. The term "Saami" comes from the Saami's own name for themselves, more specifically from the Saami term for themselves as a people and for the traditional Saami territory. This is expressed in the Saami language by the Saami term "Sâpmi", a term which is found in all Saami dialects.

## 1.6 The Saami People

At present, we do not know the exact size of the total Saami population, but the correct number is estimated to be between 70,000-100,000 living in four states. In Norway, the number of Saami is 40,000-60,000;<sup>7</sup> in Sweden, 15,000-20,000;<sup>8</sup> in Finland, about 6,500;<sup>9</sup> and in Russia, about 2,000.<sup>10</sup>

These figures are somewhat uncertain but can be considered a qualified estimate of the total Saami population. Uncertainty about the size of the total Saami population is due to several factors. One is that no recent Saami census exists, and even if there were such a census, it could not provide any certain figures, because so many people still do not acknowledge their Saami background, mostly because of the historical discrimination and stigmatization of the Saami. Earlier periods' state assimilation policy toward the Saami has also meant that the two possibly strongest self-identification factors, the Saami language and culture, have died out in several Saami areas.

Regarding the question of to what extent an exact demographic description can be given of how many Saami have existed in the Saami areas throughout history, and the question of how exactly the size of the Saami population can be determined, I choose not to discuss them further but to quote from "National State and the Minority",<sup>11</sup> page 4:

*"The difficulties are due to inadequate and approximate censuses, changing borders in the area where Saami traditionally lived, and varying criteria for ethnic classification. Additional explanations are*

*found where the concept of assimilation as a social phenomenon plays a significant role. Changes in census figures occur because Saami have abandoned their Saami identity. They have allowed themselves to be assimilated into Norwegian society, and thereby come to be characterized as Norwegian.*

*On the basis of these conditions, it is complicated to ascertain the exact population of the Saami today. As Mathisen (1993) indicates in relation to the population of Maori in New Zealand, the question of exact population figures is so unwieldy because "ethnicity" in this form is not an absolute and quantifiable unit. It must rather be understood as characteristics in the relations between people and their various understandings of themselves and others. Here, we have to do with complex sociological relations, where a person in one context can present himself as Saami, and in another context choose to understate his Saami identity."*

The purely numeric values are, in my view, less significant in this context. What is important is the fact that Saami are one people, with an indisputable will to continue to exist as such in a living Saami society regardless of state borders. In order to maintain and strengthen this common feeling of identity, Saami today have several common symbols: a national day, national anthem, flag and several common official holidays.

## Notes

- <sup>1</sup> Source: "Becoming Visible – Proceedings of the Conference on Indigenous Politics and Self-Government" – page 86. University in Tromsø/Centre for Saami Studies, Skriftserie No. 2 (1995).
- <sup>2</sup> Adopted by the Saami Conference, which is the highest body of the Saami Council.
- <sup>3</sup> Formerly, the Nordic Saami Council.
- <sup>4</sup> Abbreviation for: The International Labour Organization.
- <sup>5</sup> "Study of the Problem of Discrimination against Indigenous Populations" by José R. Martínez Cobo, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.
- <sup>6</sup> NOU 1984: 18 = Norges Offentlige Utredninger om Samernes Rettsstilling, published 15.06.1984 (white paper).
- <sup>7</sup> Source: The Saami Parliament in Norway.
- <sup>8</sup> Source: The Swedish Saami Rights Committee.
- <sup>9</sup> Source: The Saami Parliament in Finland.
- <sup>10</sup> Source: The Saami Council.
- <sup>11</sup> "Nasjonalstat og Minoritet" – a comparative study of Norwegian and Swedish Saami policy by Nils Jørgen Nystø, University of Tromsø, Norway.

# ORGANIZATION AND INSTITUTIONALIZATION OF SAAMI POLITICS

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## 2.1 General development

In the 1870s, the Saami gradually acknowledged the need for a more permanent form of organization that was better adapted to the demands of the time. However, several decades passed before the first local Saami association was founded. This happened in Norway, more specifically in Kvænangen in 1903. The main purpose was to publish the Saami periodical, “Sagai Muittalaegje”, which was concerned with political and social questions. During the course of the following year (1904), the first formal Saami organization in Sweden, “Lapparnas Centralförbund” (The Lapps’ Central Association), was founded, as well as several local Saami associations.

Many more years passed before the first formal meeting among Saami across state borders was arranged. This meeting took place on 6 February 1917 in Trondheim. Participants were Saami from Norway and Sweden – from north and south. This date, 6 February, has later been declared as the Saami national day, to remember and mark this historic Saami political meeting.

Later, additional Saami organizations were founded. At present, there is a Saami organization in Russia<sup>1</sup>, while in Sweden and Norway there are several Saami organizations representing a broad range of interests: cultural, business and political. Saami in Finland differ in that they have chosen not to form any special Saami organizations.<sup>2</sup> In addition to the national Saami organizations, there are today some Saami organizations that organize Saami across state borders. In addition to organizations representing purely Saami interests and politics, Saami are also active participants in the political debate within established national political parties, and at present an increasing number of political parties have formulated their own Saami policy in their political programmes. Especially in Norway, in connection with election to the Saami Parliament, there is a steadily increasing interest in Saami policy among the Norwegian political parties.

After the Second World War, political organization of the Saami developed continuously. In the 1950s, Nordic Saami political co-operation won a serious place on the Saami political agenda, also as a result of the more developed and formal co-operation among the Nordic

countries. The Nordic Saami Council,<sup>3</sup> an organization for co-operation of Saami in Finland, Norway and Sweden, was founded in Karasjok in 1956 during the 2<sup>nd</sup> Nordic Saami Conference. The Saami Conference and the Nordic Saami Council were the central Saami political institutions until the establishment of the Saami Parliaments. This Saami political institutionalization represented by the Saami Conference and Saami Council made it easier for Saami in the Nordic countries to take initiatives in relation to the political agenda, on both the national and Nordic levels.

## 2.2 The Saami Council

Since 1956, Saami political co-operation across state borders in the Nordic countries has mainly gone through what was then called the Nordic Saami Council. In 1992, the Council changed its official name to the *Saami Council*, after the Saami in Russia were included as full-fledged members of the Council. The Nordic Saami Council had been founded because Saami in the Nordic countries found it imperative to have a Pan-Saami organization for co-operation in order to promote the Saami's interests and rights as one people.

The Saami Council consists today of 15 representatives; 5 from Norway, 4 each from Finland and Sweden, and 2 from Russia. The Saami Council's representatives are elected at the Saami Conference, which is normally held every four years. The Saami Council is a body for co-operation among the Saami organizations and the publically elected Saami Parliament in Finland. Member organizations from Sweden are Svenske Samers Riksforbund and Riksorganisasjonen Sami Ætnam, and from Norway, Norske Samers Riksforbund, the Norske Reindriftssamers Landsforbund and Samernes Landsforbund. As mentioned earlier, there are no specifically Saami organizations in Finland, so Finland is represented through the publically elected Saami Parliament. The Saami in Russia are represented by the Kola Sameforening. The Saami Council has a permanent secretariat in Ohcejohka/Utsjoki in Finland.<sup>4</sup>

Since it was founded, the Saami Council has worked actively in order to ensure that the Saami is acknowledged and treated as one people. The goal of the Saami Council is to protect and develop the Saami people's economic, cultural, linguistic and social rights and right to livelihood. The Saami people's rights to land and water and the resources residing in them have had a central place in the Saami Council's political efforts since it was founded. The Saami Council has as its formulated goal to protect Saami rights through legislation in each of the respective countries and through agreements between the

bodies that represent the Saami and the respective States. The Saami Council's present goals are formulated in the Saami Political Programme adopted by the Saami Conference in 1986.

Since the middle of the 1970s, the Saami Council has increasingly worked internationally. This international effort is based on an acknowledgement of the fact that protection of Saami interests also requires an international engagement. National and international efforts are not carried out on two separate and independent levels, because the two levels are mutually dependent. The international processes often comprise the premises for national development and vice versa. But the Saami Council's international engagement also has its background in the fact that it is also important to participate in the universal development of standards for indigenous peoples' rights and formulation of world society's general policies for indigenous peoples.

The Saami Council's international engagement really started in 1976 when the Saami Conference formally approved joining the World Council for Indigenous Peoples (WCIP), a world-wide indigenous peoples organization that the Saami Council participated in founding in 1975. Since 1989, the Saami Council has also had an advisory status within the United Nations, acting in a consulting capacity for the United Nations Economic and Social Council (ECOSOC). The Saami Council, as an NGO<sup>5</sup> with this advisory status, can freely and independently participate in meetings and processes related to indigenous peoples within the UN, normally within the structure of the Economic and Social Council. The Saami Council's status is therefore of great significance for the Saami, as well as for indigenous peoples in general. Today, only 15 indigenous peoples' organizations have such status. The Saami Council, together with the other indigenous peoples' organizations with advisory status, constitute a form of guarantee for the world's indigenous peoples, in the sense that these organizations can speak for the indigenous peoples in various contexts within the UN, where indigenous peoples' organizations without this status are excluded.

In a situation where elected Saami bodies were lacking, the Saami Conference and the Saami Council could earlier, with a great degree of legitimacy, be said to represent the Saami people across state borders. After the Saami Parliaments were established, this legitimacy could hardly be said to exist any longer. Today, the Saami in Finland, Norway and Sweden are represented by their respective Saami Parliaments. It is therefore natural that the Saami Parliaments together now take over more of the tasks that were earlier assigned to the Saami Council. But there will continue to be some important tasks that the Saami Parliaments will not be able to take over completely, such as co-operation with the Saami in Russia and the practical political work with Saami

questions there. Saami cultural questions and practical cultural work across state borders is another area where the Saami Council has an advantage in relation to the Saami Parliaments.

Moreover, the Saami Parliaments, as part of the respective constitutional systems, cannot take over the Saami Council's function in the international work regarding indigenous peoples. The Saami Parliaments' international engagement must necessarily be primarily conducted through formal co-operation with the respective national authorities. This seems to be a natural division of roles between the Saami Parliaments as elected bodies and the Saami Council, which is a non-governmental organization.

It has been suggested, since the establishment of the Saami Parliaments, that the Saami Council was no longer needed. Such suggestions have come both from authorities and from parts of the Saami political milieu. This may be largely due to the fact that earlier the Saami Council functioned only as the representative body for the Saami people, while its role as an international NGO was perhaps not fully identified. On the other hand, the Saami Council itself had not undertaken a satisfactory analysis of its own role after the establishment of the Saami Parliaments. The interaction between authoritative bodies and NGOs is generally considered to enrich political activity and political development in all democratic systems. There is no apparent reason why this should not also be the case for the Nordic states and Saami NGOs.

## 2.3 The Saami Parliaments

Today, elected Saami bodies exist in Finland, Norway and Sweden, although the three Saami Parliaments do not have exactly identical functions and tasks. They share the ability to freely and on their own initiative raise questions and issue statements on all questions within their area of activity. The Saami Parliaments' *formal* mandate or area of activity is not defined, except that it comprises all questions that, according to the parliaments, relate to and are of special interest and significance for the Saami.

Apart from the purely administrative authority given to the Saami Parliaments, they do not have very much formal political authority. Formally, the Saami Parliaments have only an advisory status, but actually they play a central political role within the national constitutional system in relation to Saami political questions. Since the political and economic frameworks vary for the three Saami Parliaments, the actual general economic and political conditions for their work are somewhat different.

### 2.3.1 The Saami Parliament in Finland

Finland was the first Nordic country to establish an elected Saami body. The first Saami parliamentary election was held already in autumn 1972. The parliament began its work about a year later – autumn 1973. The Saami Parliament's work from 1973 to 1975 only had the form of an experimental arrangement – the first regular election took place in 1975, and the first ordinary Saami Parliament met in 1976.

The *Saami Parliament* was established by the Presidential Ordinance for the delegation of Saami questions<sup>6</sup> in 1973. A committee appointed by the Government (*Saami Committee*) for the purpose of making a comprehensive evaluation of the legal position of the Saami proposed in its report<sup>7</sup> to make a special Saami Act. The committee argued that the Saami are an indigenous people in Finland, that they are a distinct ethnic group with their own language and a culture different from that of the majority population. The committee proposed establishment of a separate geographic area for the Saami in order to protect the traditional Saami use of renewable resources, but the committee's proposal for a special Saami Act was never taken up to comprehensive debate either in the Government or in the Finnish Parliament. However, the Ordinance for the delegation of Saami questions mentioned above was completed in 1973. The central content of the Ordinance was the establishment of the Saami Parliament and the so-called Saami Homeland.

The Saami Parliament had 20 representatives elected on the basis of a public Saami census. The official Saami census in Finland is based on both an active demand for entries and automatic entries based on public ethnographic statistical data.

The Saami Parliament had no decision-making authority. Its formal political role was primarily limited to a right to issue statements. But it could also, on its own initiative, raise and discuss questions that were of such a character that they ought to be discussed in the parliament.

By the end of 1995, the Saami Parliament no longer existed in its original form. Earlier that year, the Finnish Parliament passed a Saami Act and a revision of the Finnish Constitution which significantly strengthens the Saami's political and legal position as an indigenous people in Finland. This relatively comprehensive legislation means, among other things, that the Saami elected body in Finland has a new official name, *Sameting* (instead of *Sameparlament*). Election to the first Saami Parliament in Finland was held in 1995. The first ordinary meeting of the Parliament was held in 1996.

The new Saami Parliament has 21 representatives, elected for a period of four years. At least three of these representatives and one elected vice-representative must come from each of the municipalities within the so-called Saami Homeland.<sup>8</sup> The whole country is one elec-

tion district with special representation ensured for the Saami Homeland. For the election in 1995, 2,550 eligible votes were given. At the start of the election, 4,672 Saami were registered in the separate Saami census as eligible voters.

The Saami Parliament's chairman is its elected political leader who, as of 1996, receives a full-time salary. The chairman is also the leader of the Saami Parliament's executive committee, which is elected by the Parliament from among its representatives. The Saami Act sets the maximum number of executive committee members at seven, including the chairman and two vice-chairmen. The executive committee's mandate is to carry out and attend to the tasks assigned to it by the Parliament in Plenary.

The Saami Parliament has its own secretariat in Enare. Formally, it is under the administrative jurisdiction of the Justice Department of Finland, with the Minister of Justice as the minister responsible for Saami questions.

Also Saami who are not Finnish citizens have the right to vote and to be elected in the Saami Parliamentary elections, on the condition that they have resided in Finland for two years prior to the election year. There is a similar rule for the election to the Saami Parliament in Norway, with the difference that Saami with citizenship other than Norwegian must be registered as residing in Norway for three years prior to election day. In Sweden, however, Saami without Swedish citizenship do not have the right to be elected to the Saami Parliament but do have the right to vote, if they have been registered as residing in Sweden for three years prior to election day.

The recently passed Finnish Saami Act 9 L 974/95, effective 1 January 1996, defines the mandate for the Saami Parliament in § 5:

*"To the Saami Parliament belong the areas that relate to the Saami's language and culture and their position as indigenous people.*

*In the areas that belong to the Saami Parliament, it can take initiatives, make proposals and issue statements to the authorities. In relation to these areas, the Saami Parliament also has the right to make decisions as provided for in this or any other law."*

The Saami Act, in § 6, contains a provision that expressly states that the Saami Parliament is the representative body for Saami in Finland, while it also assigns the Saami Parliament the right and obligation of representation. In other words, the Saami Parliament shall represent the Saami in Finland. The Saami Act, § 6 has the following wording:

*"The Saami Parliament shall in the areas belonging to it represent the Saami in national and international relations."*

The basis for the Saami Parliament's right and obligation of representation is that the Saami Parliament is the body that represents the Saami in Finland, and that the Saami Parliament is a democratically elected Saami body. Thus, no other body in Finland has the same legitimacy to represent the Saami. This is the basis for maintaining that the Saami Parliament shall represent the Saami in all contexts that fall within the mandate of the Saami Parliament.

As mentioned above, Finland's Constitution also underwent significant change in 1995. The Saami Act and the new provision in the Finnish Constitution represent important strengthening of the Saami's formal legal and political position in Finland. These changes recognize the Saami's cultural autonomy within a limited geographic area called the Saami Homeland. This cultural autonomy also influences the Saami Parliament's political mandate, since it is the Saami Parliament that on behalf of the Saami (according to the Saami Act: § 1, 2nd sentence) shall practice and protect Saami self-determination.

From the Constitution,<sup>10</sup> § 51a:

*"The Saami as an indigenous people shall, according to the provisions in the law, be ensured cultural autonomy within their Homeland area, in relation to their language and culture."*

This provision stands out now as the central legal and political guarantee for the Saami in Finland. It recognizes the Saami's right to cultural self-determination in the highest and most honourable form imaginable in a political and constitutional democracy. The passing of this constitutional provision is a milestone in the Saami's struggle for their rights.

The law proposition RP 248/1994 rd<sup>11</sup> recognizes that the Saami's formal legal position in Finland is weaker than when the Saami were under the jurisdiction of Finland-Sweden (a period that in Finland is called the Swedish period). This is due to the fact that during the succeeding period, the lawmaking authorities in Finland did not sufficiently consider the Saami and their rights. The proposition also emphasizes that the Saami's culture and language have until now not had the same protection in the constitution as the Finnish and Swedish speaking groups of the population.

This political and legislative argument for the new Finnish Constitutional provision is in many respects a recognition that goes further than is the case in both Norway and Sweden. For example, it is expressly recognized that in earlier times the Saami only belonged officially to the Finnish population, and they only formally were included in the Finnish general administration, administrative structure and service. In other words, the Saami's own society existed relatively

undisturbed and independent of the formal Finnish society structure. Thus, significant emphasis is given to the fact that the purpose of the Finnish authorities' revision of the law is not to change the Saami's position in Finland, but to give the Saami a political position that to a greater degree reflects their earlier political and administrative position. RP 248/1994, page 15, states:

*"This proposition strives not to change the Saami's position in society but to recreate it so that it better matches their earlier political-administrative position. The Saami's ancestors, the Lapps, constituted a distinct group of fellow citizens in our country. They lived and decided over their own lives on the basis of the laws then in effect and in the practice of their own culture, their own language and their own lifestyle. Later, the Lapps' legal position was weakened by no fault of their own. This negative development has meant that Saami in the municipalities and in the state have suffered under a form of political and administrative guardianship that has resulted in their passivity, frustration and integration into the majority population. In recent times, the state has striven in various ways to change this development in a more positive direction for the Saami."*

In addition, the Saami autonomy is also based on the principles of ILO Convention's article 7, which states that indigenous peoples shall have the right to decide their own priorities in the development processes pertaining to their life, religion, institutions, spiritual welfare and territories. Indigenous peoples shall also have as much control as possible over their own economic, social and cultural development.

The Saami Homeland in Finland is geographically limited to comprise the municipalities of Enontekiö, Enare and Utsjoki, and the reindeer grazing area in Sodankylä municipality called "Lapin Paliskunta". The majority of the Saami in Finland today live in the Homeland area. It is the intention that the size of this area will remain unchanged. In other words, it shall remain the same even if the municipality borders are eventually changed or some municipalities are merged. This cultural autonomy means that the Saami as an indigenous people within this traditional Saami area are awarded a greater degree of the right to self-determination in relation to language and culture, and thereby a greater degree of self-determination in regard to their own future.

The Finnish Saami Act also provides that the national authorities have an obligation to negotiate. They are obligated to negotiate with the Saami Parliament in all extensive and important cases that directly or distinctly relate to the Saami as an indigenous people. This obligation includes more than only pure consultation, since it also includes

the obligation to seek a solution through negotiation with the Saami Parliament. In the future, this obligation to negotiate can prove to be an important protective mechanism for Saami interests and rights.

The Saami Act § 9 has the following provision for the obligation to negotiate:

*“The authorities shall negotiate with the Saami Parliament on all extensive and important questions that can directly or distinctly influence the Saami’s position as an indigenous people and that in the Saami’s Homeland area apply to:*

- 1) society planning*
- 2) protection, use, rental and transfer of state fields, protected areas and wilderness,*
- 3) license applications regarding mining concessions of minerals and mining prospection,*
- 4) changes in legislation or administration regarding livelihood that is part of Saami culture*
- 5) development of education using the Saami language or in the Saami language, and of the social and health services, and*
- 6) other similar areas that influence the Saami’s language, culture or position as an indigenous people.*

*To fulfil the obligation to negotiate, the relevant authorities shall give the Saami Parliament the opportunity to be heard and to negotiate any specific question. The fact that the Saami Parliament does not utilize this opportunity shall not prevent the authorities from continuing to consider the question.”*

As can be seen from the above, this obligation to negotiate is very comprehensive and represents far better protection of Saami rights than was formerly the case. There is no similar provision in either the Swedish or Norwegian laws. The Norwegian Saami Act<sup>12</sup> states that other public bodies “ought” to give the Saami Parliament the chance to “issue a statement” before any decisions are made regarding cases within the Saami Parliament’s area of activity. In other words, there exists no direct obligation to consult, much less conduct negotiations, with the Saami Parliament in Norway. Experience so far indicates that other public bodies in Norway do not always follow this request by the legislators. The Swedish Saami Act<sup>13</sup> is completely silent on these matters. The nearest it comes is to state that the Saami Parliament shall contribute to society planning.

In accordance with the white paper on Saami rights, this obligation to negotiate that is now a provision in the Finnish Saami law is based on the principles of ILO Convention no. 169, which states that such negotiations always shall take place before legislation or administra-

tive action that can directly influence indigenous peoples is even considered.

The Saami Parliament is assigned responsibility for some administrative tasks that the law does not describe in detail. The Saami Parliament is assigned administrative authority in relation to the economic funds designated for purposes relating to the Saami in the state budget. Furthermore, the Saami Parliament shall appoint the necessary election commission for the Saami parliamentary elections. The Saami Parliament also has the authority to appoint the bodies necessary to carry out the administration of the Saami's cultural autonomy.

The Saami Parliament's role in Finland has been significantly upgraded through these legal amendments. Such provisions as the constitutionally protected cultural autonomy, the obligation of the authorities to negotiate, and the Saami Parliament's right and obligation of representation are important elements in the Saami Parliament's strengthened political and administrative position. This recent development in Finland is in accordance with the continuing international developments in relation to indigenous peoples' rights, where also the question of autonomy and self-determination is central. It also seems clear that with these recent revisions of its laws, Finland has consciously tried to fulfil the demands that the ILO Convention no. 169 requires of the states that ratify it. Finland appears to be actively preparing to ratify the ILO Convention no. 169. In this context, the latest legislative actions must also be seen as necessary, in order to harmonize Finland's laws with the Convention's requirements before ratification can be accomplished.

### 2.3.2 The Saami Parliament in Norway

The Saami Parliament (*Sameting*) in Norway was established in 1989, or 15 years after the Saami Parliament in Finland was established. The Saami Parliament in Norway was thus the second body elected by the Saami to begin to function.

When the Saami Parliament began to function, the former state advisory body in questions relating to the Saami, the Norwegian Saami Council, was abolished. The Norwegian Saami Council had been preceded by the Saami Council for Finnmark, which the County Parliament in Finnmark had decided to establish in 1953. The Saami Council for Finnmark was originally only an advisory body for the County Prefect (*Fylkesmannen*) in Finnmark. The national Norwegian Saami Council, a state institution, was founded about ten years later by a Royal Resolution of 1964 and thus replaced the earlier council, which only covered Finnmark County.

The Norwegian Saami Council (should not be mixed up with the Saami Council which is a pan-Saami organization) was to act as an advisory body for the central and regional authorities on questions with special significance for the Saami. At this time, the Saami question and the question of Saami livelihood, with special emphasis on reindeer husbandry, were nearly seen as synonyms in a political context. The council was therefore initially administered under the Ministry of Agriculture but was later transferred to the Ministry for Labour and Local Government. The council was appointed by the government on the basis of proposals from some of the Saami organizations, some Norwegian interest organizations and the involved county's and municipalities.

As a direct consequence of the well-known Alta-Kautokeino Case at the end of the 1970s - beginning of the 1980s, the Norwegian Government appointed a Saami Rights Commission in 1980 to analyse the legal position of the Saami. The Commission had 16 members under the chairmanship of the then Professor of Law and present Supreme Court Justice Mr. Carsten Smith.

The Commission's mandate was to study and make recommendations about how to secure the Saami's opportunity to utilize the natural resources in the areas they inhabit. Consideration for the Saami culture and way of life was the central element in the Commission's mandate. The Saami Rights Commission presented its first recommendations,<sup>14</sup> NOU 1984: 18, to the Ministry of Justice in 1984. These recommendations formed the basis for approval of the Saami Act<sup>15</sup> and the addition of a new provision on Saami rights to the Norwegian Constitution,<sup>16</sup> in 1987 and 1988 respectively.

The authority for establishing a Saami Parliament in Norway is found in the Saami Act's § 1-2, which states that the Saami shall have their own national Saami Parliament elected by and among the Saami. About the background for the establishment of the Saami Parliament, the Government has, in its announcement to the National Parliament<sup>17</sup> on Norwegian Saami policy, stated:

*"The Saami Act of 12 June 1987 no. 56 was passed on the recommendation of the Saami Rights Commission, NOU 1984: 18, which is based on the recognition that the Royal Kingdom of Norway is established on the territory of two peoples, the Norwegians and the Saami, and that the Saami have thus lived within and by the present Norwegian state borders as long as Norway has existed as a State. This fact distinguishes the Saami from other minority groups in this country."*

The Saami Act's statement of purpose is in its wording almost identical with the formulation in the constitution's §110a, which states that the authorities shall ensure that the Saami in Norway shall be able to

protect and develop the Saami language, culture and society. The Constitution's § 110a states:

*"It is the obligation of the State authorities to create the conditions necessary for the Saami to protect and develop their language, their culture and their society."*

The Saami Parliament must be seen to be the central element in the fulfilment of the provision of the Constitution. The substantial legal and political content of the provision appears somewhat unclear, and it is at present difficult to formulate the provision's content in especially concrete terms. There has been a debate in Norway about the extent of the legal obligation that the provision assigns to the Norwegian authorities versus the political and moral obligation. In other words, whether or to what degree this provision is more of a political manifestation than a legally binding instrument.

It should be obvious, however, that the Constitution's § 110a has a concrete legal content, even though just this dimension has not been given much attention until now. It seems also clear that the Constitution's § 110a represents a fulfilment of Norway's obligation to the Saami purely on the basis of international law. It seems in any case that Norway's obligation in regard to article 27 of the UN Covenant on Civil and Political Rights<sup>18</sup> must now be considered, via the Constitution, to be included in the domestic Norwegian laws on the constitutional level. The white paper for the constitutional provision can be understood thus: that questions connected with the so-called dualism problem in relation to article 27, at the cutting edge between domestic Norwegian law and international law, have been eliminated since the Constitutional provision must be considered to represent a fulfilment of the obligations of article 27.

The Constitutional provision must be seen as a Constitutional guarantee for the Saami as an indigenous people, as a legal and political guarantee for the protection and development of the Saami language, culture and society. Even though § 110a does not expressly use the term "indigenous peoples", it must be assumed that the state's obligation expressed in the Constitution is clearly based on exactly this fact, that the Saami are an indigenous people in Norway.

The addition of this provision to the Norwegian Constitution represents great progress for the Saami in Norway. Much of the positive development of Saami policy in the wake of the establishment of the Saami Parliament can be directly related to the political and legal framework established with the approval of § 110a.

In the Government's announcement on Saami policy to the National Parliament mentioned above (Stortingsmelding no. 52, 1992-93), the

Government also indicates that this announcement is based on the principle guidelines formulated in international law, the Constitution and other internal Norwegian laws. Furthermore, it states:<sup>19</sup>

*“The government has as its goal to be able to follow a Saami policy that is as comprehensive as possible. The government also finds it essential that Saami policy to the greatest extent possible is based on the Saami’s own premises. In this policy, the Saami Parliament, as the Saami’s elected body, will be the most important to define these premises, and will seek to develop models for greater Saami self-determination within the areas where it is natural and reasonable.”*

The Saami Parliament in Norway has 39 elected representatives, elected on the basis of a special Saami census covering the whole country, which is divided into 13 election districts. The census is made on the basis of active enrolment on the part of the individual, qualified, eligible voter.

The Saami Parliament’s elected political leader – the President of the Saami Parliament – is the only full-time salaried Saami parliamentary politician. The President of the Saami Parliament is also the leader of the *Saami Parliamentary Council*, which consists of five members chosen from among the Saami Parliament’s representatives by a majority vote of the parliament in plenary. The President of the Saami Parliament and the Vice-President are the leader and deputy leader respectively of both the Saami Parliament and the Saami Parliamentary Council.

The Saami Parliamentary Council prepares cases for the plenary, effectuates decisions made in plenary and is also the Saami Parliament’s executive body. In addition to *Saami Parliament in plenary*, *Saami Parliament’s Meeting Leadership and Saami Parliamentary Council*, the Saami Parliament has several appointed sub-committees. These sub-committees are all under the authority of the Saami Parliament.

The Saami Parliament is composed of three representatives from each of the 13 election districts. In both the elections of 1989 and 1993, there were relatively large differences between the different election districts regarding the number of registered voters and votes. Since each district shall elect the same number of representatives, the first two elections have resulted in large differences in the number of votes backing each representative. Especially in the election districts in Inner-Finnmark where the largest voter base exists, the voters have been critical of this system. They do not believe that they receive reasonable representation for their voting population, and they find that the distribution of mandates does not reflect voter backing in the different districts.

In the election of 1989, there were 4,134 valid votes, while in 1993, there were 5,389.<sup>20</sup> The total number of votes at both elections was somewhat less than the number of eligible voters according to the census, which was 5,497 in 1989 and 7,236 in 1993.<sup>21</sup> It is expected that this increase in participation will continue in the years to come. On the basis of historical conditions, it can be assumed that the greatest unused voter potential resides in the coastal areas of Finnmark, Troms and Nordland Counties, in contrast to Inner-Finnmark, where most of those eligible to vote have now registered.

The Saami Parliament has its own administration located in the town of Karasjok. The Saami Parliament is under the administration of the Ministry for Labour and Local Government, with the Minister for Labour and Local Government as the Minister responsible for Saami questions.

The Norwegian Saami Act § 2-1 defines the following areas of activity and authority for the Saami Parliament as follows:

*“The Saami Parliament’s area of activity includes all questions that the Parliament considers to relate to the Saami.*

*The Saami Parliament can on its own initiative raise and issue statements on all questions within its area of activity. It can on its own initiative also raise questions before public authorities and private institutions etc.*

*The Saami Parliament has the authority to make decisions when this follows from other provisions in the law or is decided in another way.”*

The plenary of the Saami Parliament is its highest body and it is sovereign in the execution of its duties within the framework of the Saami Act. The Plenary also adopted rules and procedures of the Saami Parliament as well as its sub-committees.

The Saami Parliament itself has defined its mandates as twofold: (1) to be the Saami’s elected political body and (2) to carry out the administrative tasks delegated to the Saami Parliament. The Saami Parliament has given priority to its political activity with the goal of more real political authority. The Saami Parliament wishes to avoid administrative tasks that could just as well be carried out by other bodies that are either under the authority of the Saami Parliament or independent of it.

When the Saami Parliament received its mandate, the national authorities presumed that it should primarily have an advisory function. During the debate on the law proposition, the Legal Committee of the National Parliament was among those that meant that the area of authority of the Saami Parliament could not be defined once and for all. Therefore, at a later time, when experience had been gathered about how the Saami Parliament functioned, it would be necessary to evaluate the Saami Parliament’s authority in relation to its work and the

general view of society. The Saami Parliament has had a continuing dialogue with the Government regarding the question of authority, and some authority has been transferred to the Saami Parliament in questions of an administrative nature. But the Saami Parliament's formal political authority is still limited to the original advisory function.

The Saami Parliament has several sub-committees that function both as administrative bodies and as expert bodies. The Saami Act provides for the appointment of a Saami Language Council by the Saami Parliament. In addition, the Saami Parliament has appointed a *Saami Livelihood Council*, *Saami Council for Cultural Heritage and Saami Cultural Council*. These councils are located in Kautokeino, Karasjok, Nessby and Drag in Tysfjord respectively. All these councils have their own secretariats, but they are still under the authority of the Saami Parliament, both politically and administratively.<sup>22</sup> *The Saami Parliamentary Council* is a body of appeal for all questions in which the sub-committees act as administrative bodies.

In Norway, there is not a clearly defined Saami Homeland area as there is in Finland. This is due to historical factors, among others. Saami in Norway are spread over wide parts of the country so that many of the traditional Saami areas appear today as Saami "islands" surrounded by Norwegian habitation. In Finland, Saami to a greater extent live in the northernmost areas of the country. Saami in Norway have also been reluctant to attempt to define such a geographic territory, for fear that some Saami areas would be excluded.

However, in Norway, there is something called the *administrative area for Saami language*. This area includes the Finnmark municipalities of Karasjok, Kautokeino, Nesseby, Porsanger and Tana, and the municipality of Kåfjord in Troms County. Within this area, Saami and Norwegian have an equal status as public languages. This implies that written material from public institutions directed especially towards part or all of the Saami population within the administrative area shall be in Saami and Norwegian. Furthermore, anyone who communicates in Saami with a local public institution in the administrative area has the right to receive an answer in Saami. Anyone who writes to a public regional institution in the administrative area has the right to receive a written answer in Saami. Also, everyone has the right to individual church services in Saami in the Norwegian church's congregations within the administrative area. There is also an extended right to the use of Saami in the legal system and in the health and social systems. Provisions regarding Saami language were added to the Saami Act as Chapter 3 by the law of 21 December No. 78 1990, which became effective on 1 January 1992. As mentioned above, the Norwegian Saami Act does not provide for the same obligation for the authorities to negotiate that is found in the Finnish Saami Act. The Saami Act in Norway only expresses in general

terms that public institutions ought to request views from the Saami Parliament concerning questions that fall within its area of activity. Experience shows that the Norwegian authorities do not always follow this admonition. The Saami Act's § 2-2 states:

*“Other public institutions ought to give the Saami Parliament the opportunity to make a statement before making decisions in questions within the Saami Parliament's area of activity.”*

This not a very binding formulation and it represents an effective limitation of the Saami Parliament's actual political position, since it cannot express its views if it has not been informed about the fact that questions are actually under preparation.

In comparing the Saami Parliaments in Finland and Norway, it can be said that in Finland the Saami Parliament today probably has a greater formal political authority than in Norway. The provisions for Saami cultural autonomy, the obligation to negotiate and the right and obligation of representation are decisive elements in such a comparison. The Saami Parliament in Norway has, in spite of its somewhat weak formal political authority, developed into a very central and real political actor, so that the Saami Parliament is to a very great extent involved in all questions concerning the Saami in Norway. The Saami Parliament in Norway also has a far better economic framework than does the Saami Parliament in Finland.

### 2.3.3 The Saami Parliament in Sweden

The Saami Parliament in Sweden began its activities in August 1993. Establishment of its own elected Saami body was the fulfilment of the most important goal of the Saami in Sweden. It also represented a great step forward in relation to the expressed need for formal Nordic Saami co-operation between the Nordic Saami elected bodies, since thoughts about such a co-operation could not, of course, be realized without the existence of a Saami-elected parliament in Sweden.

The first somewhat comprehensive political treatment of the Saami question took place in Sweden at the end of the 1970s. In 1977, the Swedish Parliament discussed and approved the political initiatives regarding the Saami that were proposed in a proposition<sup>23</sup> from the Government. The proposition's evaluations and proposals are based on the completed Saami Report (SOU<sup>24</sup> 1975: 99-100), which presumes that the Saami, as an indigenous people in Sweden, have a special position both in relation to the majority population and to minorities in general. During the Parliament's discussion of the proposition, its

Culture Committee<sup>25</sup> stated:

*“The considerations reflected by the proposition and the proposals presented are based on the basic understanding that the Saami are an ethnic minority in Sweden, that in their capacity as an indigenous people in their own country have a special position. The committee agrees with this basic understanding and finds it valuable that it is so clearly expressed.”*

In 1977, the Swedish authorities established a working group for Saami questions, located in the central administration, to co-ordinate state activities regarding the Saami. The Working Group had among other goals that special Saami interests should come to expression in all municipal activities and planning. The group also worked with questions concerning reindeer husbandry and Saami schools.

The question of the Saami's position in Sweden became especially relevant once again in 1981, mainly as a direct consequence of the events during and after the Alta-Kautokeino episode in Norway. The Saami in Sweden demanded in 1981 that the Government must now make a comprehensive evaluation of the Saami's position and work toward a separate Saami Act.

In 1982, the Swedish Government established a Commission to (1) evaluate the need to strengthen the Saami's legal position in questions regarding reindeer husbandry, and evaluate to what extent a strengthening can be accomplished, and (2) evaluate the need for a Saami body to represent the Saami, and finally (3) propose initiatives to maintain and develop the Saami language. But the Government expressed rather clearly that it did not wish an eventual representative body for the Saami to be given any special Constitutional role.

After a change of Government in the fall of 1982, the new Government gave the Commission an additional directive in 1983. This expressly defined the Commission's primary task as an evaluation of which special needs the Saami have on the basis of their position as an indigenous people in Sweden. The Commission then completed a report called the *Saami Rights Report* that was published in three parts during the period from 1986 to 1990. The first part of the Report,<sup>26</sup> on the Saami's position in relation to international law, was published in the spring of 1986. The second part,<sup>27</sup> concerned with the Saami laws and the Saami Parliament, was published in June 1989. The last part,<sup>28</sup> on the Saami laws and Saami language, was published in the fall of 1990.

In fall 1992, the Swedish Government presented a proposition<sup>29</sup> to the National Parliament proposing approval of a separate Saami Act. Just before Christmas 1992, the Parliament discussed this proposition, and a separate Saami Act<sup>30</sup> was approved<sup>31</sup> by the Parliament on 17 December 1992.

The Saami Act (1992: 1433) provides for establishment of a Saami Parliament in Sweden and also defines the Parliament's mandate. The Saami Parliament consists of 31 elected representatives. Its expressed primary task is to concern itself with questions concerning Saami culture. The Act states that the Saami Parliament shall initiate and work for the promotion of a living Saami culture.

The Saami Parliament's mandate is defined in the Saami Act's chapter 2 § 1:

*"The Saami Parliament shall work for a living Saami culture and thereby take initiative to work and propose measure that promote this culture.*

*The Saami Parliament's tasks especially include*

- 1. making decisions about the distribution of State funds and means from the Saami Fund to Saami culture and Saami organizations, and of other funds that are placed at the collective disposal of the Saami*
- 2. appointing the Board for the Saami schools as provided in chap. 8 § 6 of the school Act (1985: 1100)*
- 3. directing the Saami linguistic work*
- 4. participate in society planning and Chapter 2 monitoring that Saami needs are taken into consideration, among others reindeer husbandry's interests in the use of land and water.*
- 5. disseminating information on Saami matters."*

The Saami Parliament in Sweden has a formal mandate that distinguishes it significantly from the mandates for the Saami Parliaments in Finland and Norway. The Saami Parliament in Sweden has a more concretely formulated mandate, since it more clearly defines the tasks of the Parliament.

In the Saami Act's introductory provisions (Chapter 1 § 1), the Saami Parliament's formal role in Sweden is defined:

*"This law makes provision for a special authority – the Saami Parliament – with the purpose to deal in the future with questions that concern the Saami culture in Sweden."*

Thus, the Saami Parliament's general area of activity is primarily to deal with questions that are connected with the Saami culture in Sweden. It is also clearly stated that the Saami Parliament is a state authority.

The white paper – 1992/93: 32 – indicates that even though this Saami elected body is called a "parliament", it is not to be considered a self-determining body that shall work instead of the national parliament or the municipalities or in competition with these bodies. It is also

presumed that the Saami Parliament shall be a state authoritative body under the government, and that the parliament will mainly be considered as a state administrative body in spite of the fact that its representatives are elected. However, the Saami Act's provision that the decisions of the Saami Parliament, its Board and committees can only be questioned if special regulations exist, is a provision which clearly identifies the Saami Parliament as a sovereign political body.

The tasks of the Saami Parliament as specified in Chapter 2 § 1, nos. 1 and 2 of the Saami Act are formally of an administrative nature. The Saami Parliament shall distribute economic funds granted through the state budget for Saami cultural purposes, and the Parliament shall also distribute the *Saami Fund's* cultural grants. The Saami Parliament has delegated this authority by appointing a *Cultural Delegation* to carry out distribution of funds. The Saami Parliament also has the responsibility to appoint the Board for the Saami schools. Even though these responsibilities may seem to be purely administrative, they actually have very important political dimensions.

The Saami Act also assigns the Saami Parliament the task of leading the Saami *linguistic work*. Maintenance and development of the Saami language is one of the most important challenges for Saami society. The Saami Parliament's defined task to lead the linguistic work is therefore to be considered a central political and administrative responsibility, much of which is delegated by the Saami Parliament to a *Saami Language Council*. The Language Council's main task is to try to strengthen the position of the Saami language in Sweden, while it also concerns itself with various kinds of language-related questions. In its report the Saami Rights Commission in Sweden presented a proposal for a special *Saami Language Act* to provide special legal protection for the Saami language just as in Norway and Finland. This proposal included a proposal to make Saami the official language in certain contexts. However, the proposal did not lead to approval of a Saami Language Act in Sweden.

The Saami Parliament is responsible for *disseminating information* regarding Saami issues in general. This task carries with it a broad political mandate. Within this mandate area, it is natural for the Saami Parliament to continually inform about the present situation for Saami culture in general and about which conditions eventually may prevent the realization of its formulated goal to protect and maintain Saami culture. The Saami Act together with the political and legislative argumentation for establishing the Saami Parliament has to imply that the term "culture" also includes the *material aspect* of the Saami culture. If the material basis for the Saami culture were not included in the concept of culture, then it would be an illusion to define the Parliament's goal as protection and development of the Saami culture.

The aspect of the Saami Parliament's mandate that is formulated in Chapter 2 § 1, no. 4 is also a very central aspect of its mandate. It states that the Saami Parliament shall contribute to society planning and ensure that sufficient consideration is taken of Saami needs, including the interests of reindeer husbandry regarding the use of land and water. This must imply that the legislators here require other public bodies to give the Saami Parliament the opportunity to issue opinions before making decisions in cases within the Saami Parliament's area of activities. This requirement must also be understood to include all questions that concern or can concern the Saami. It must also imply that here the Saami Parliament, as a political body, is given a mandate to raise issues that it finds to be of interest for the Saami, issues that in some form or other concern or can concern the Saami. It must also be presumed that the Saami Parliament, on its own initiative, can raise questions and issue statements regarding all questions within its area of activity.

Even though the white paper and also parts of the Saami Act largely focus on the administrative dimension of the Saami Parliament's mandate, it is apparent that the Saami Parliament in Sweden has a relatively comprehensive political mandate. If this were not the case, it would not be very compatible with the fact that the Saami Parliament is an elected body, where representatives are elected on the basis of their political programmes. The Saami Parliament's mandate is not considered defined once and for all. For example, the Constitution Committee's discussion<sup>32</sup> of the law proposition states:

*"The Saami Parliament's status ought to be strengthened by continually extending its area of competence and responsibility."*

The Saami Parliament shall according to the Saami Act's § 4 elect an executive committee of up to seven members from among its representatives. The Executive Committee shall be led by a politically elected chairman, who is also the only member of the Saami Parliament who receives a full-time salary. The Executive Committee shall carry out the tasks delegated to it and execute the decisions passed by the Saami Parliament in plenary. In addition, the Executive Committee is responsible for managing the Saami Parliament's economy.

Besides the tasks named above, the Saami Act gives the Saami Parliament responsibility for appointing an election committee for the Saami parliamentary election. The Saami Parliament shall also establish and appoint the committees that are necessary in connection with the execution of its tasks. The Saami Parliament also has responsibility from 1 January 1996 for payment of the state predator compensation, which consists of funds to cover losses to reindeer husbandry caused by predators within the reindeer grazing area.

The Saami Parliament has, as a direct consequence of Swedish membership of the European Union (EU) since 1 January 1995, also been given extensive tasks in relation to the different EU programmes. The Saami Parliament in Sweden is responsible for part of the so-called "Goal-6 Programme", namely one on Saami development, which has as its goal to create sustained livelihood and cultural development in the Saami areas. Such development is considered important for the maintenance of Saami habitation and competence within the area of Saami habitation. The Saami language and its development are also defined as part of the Programme's goals. In addition, the Saami Parliament participates in formulation of the EU Programme for Village Development, the so-called "LEADER II programme". Together with the Saami Parliaments in Finland and Norway, the Saami Parliament in Sweden also participates in a trans-national Saami development programme within the framework of the so-called "Interreg. II Programme". Work with these EU programmes falls naturally within the Saami Parliament's political mandate. This work is of great actual political significance and at the same time strengthens the Saami Parliament's actual political position, both in Sweden and in relation to Nordic co-operation. It is worth noting that the Saami Parliament in Sweden has a far more central and decisive position in EU work than the Saami Parliament in Finland. The Saami Parliament in Finland, for example, does not have any such programme responsibility as the Saami Parliament in Sweden has in the "Goal-6 programme".

As mentioned in the beginning of this section, the Saami Parliament in Sweden has 31 elected representatives, elected on the basis of a separate national census.<sup>33</sup> Registration in the census is based on active enrolment by the individual eligible voter. As in the case of the other Saami Parliaments, all registered voters in Sweden did not vote in the first Saami parliamentary election in 1993. There were a total of 3,798 valid votes out of 5,385 registered voters.<sup>34</sup>

In contrast with the National Parliaments in Finland and Norway, the Swedish Parliament rejected a proposal for separate Constitutional protection for the Saami. The Saami Rights Commission recommended that the Saami's special position as an indigenous people ought to be underlined by an addition to the Swedish Constitution that required the state to make provisions for protection and development of Saami society. This recommendation was not endorsed by the National Parliament, because it was argued that the Constitution already gives the Saami the necessary Constitutional protection. Reference was made in this connection to the Chapter 1 § 2 of the Constitution, where it is stated that ethnic, linguistic and religious minorities' opportunities to maintain and develop their own societies ought to be supported.

The Saami Parliament in Sweden, as an elected Saami body and a state authority, represents a central element in the development of the indigenous-people dimension of the Swedish democracy. The Saami Parliament's most important political task is to take the initiative in issues that concern the Saami, for the purpose of strengthening Saami society. Saami culture, language and livelihood are in this respect central elements. At the time of writing this report, the Saami Parliament has only been in existence for two years, and it is therefore too early to draw any final conclusions about the Parliament's actual political position in Sweden. The relatively strong political position that the Saami Parliament in Norway has gradually won for itself, and the position that the Saami Parliament in Finland now has, are essentially a direct result of the work carried out by the Parliaments since they were established. On the basis of experience from these two countries, it must be foreseen that the political position of the Saami Parliament in Sweden will probably be strengthened considerably in the course of the years to come as a result of its own work and political dialogue with the central State authorities. The Saami Parliament's future political position will to a great extent depend on whether the Swedish authorities exhibit the same degree of political will for development as has been witnessed in Finland and Norway. The Saami Parliament in Sweden has, however, a formal administrative position that is stronger than in Finland and Norway. In Sweden, the Saami Act states expressly that the Saami Parliament is a State authority, and at the same time, the Act gives the Saami Parliament administrative authority in several areas. Such administrative authority, based clearly on the Act, places the Saami Parliament in a stronger position compared with an administrative or departmental delegation of administrative authority.

#### 2.3.4 The Saami Parliaments' political mandate – given by the people

The political mandate given to the Saami Parliaments through formal and legal legislation is only part of the Parliaments' total political mandate. The political mandate given by the Saami people is at least just as important for the Saami Parliaments as the mandate given via the respective Saami Acts.

The Saami Parliaments are comprised of elected representatives who are all elected to the Saami Parliament on the basis of their own political programmes. The elected representatives of the Saami Parliaments therefore have a strong political and moral obligation to their voters to fulfil the political position entrusted to them in accordance with their political programmes. The representatives are obligated to

work in accordance with the political framework that their political programmes represent.

The political mandate that an elected body is given by the voters through free and democratic elections is the absolute heart of any elected body, and in this regard, the Saami Parliaments are no exception.

The limits of the Saami Parliaments' political mandate and competence can sometimes come to debate, as can the question of whether the political decisions and work of the parliaments transgress these limits. Such questions are difficult to discuss in general, because the limits for the Saami Parliaments' political mandate must necessarily be evaluated concretely in each particular case. Such an evaluation must weigh and differentiate between the mandate given through the Saami Acts and other formal state legislation and the Saami Parliaments' political and moral obligation to the voters.

## Notes

<sup>1</sup> A second Sami organization has been established in Russia after this report was finalized in 1996.

<sup>2</sup> Two Saami organizations have been established in Finland after this report was finalized in 1996.

<sup>3</sup> Now called Saami Council. "Nordic" was removed from the name of the organization after the Russian Saami, represented by the Kola Saami Association, in 1992 became full-fledged members of the organization that until then had been called "Nordic Saami Council".

<sup>4</sup> As of October 1998, the Saami Parliament in Finland is no longer a member of the Saami Council. The Saami in Finland are now represented by a national Saami Association.

<sup>5</sup> NGO = Non-Governmental Organization (i.e. private or non-governmental organization).

<sup>6</sup> "Forordning om delegation för sameäranden" – 824/73.

<sup>7</sup> Kommittébeträskande – KB 1973:46.

<sup>8</sup> The Saami homeland in Finland comprises the municipalities of Enontekiö, Enare and Utsjoki plus the reindeer grazing area "Lapin Paliskunta" in Sodankylä municipality.

<sup>9</sup> Nr. 974 – Sametingslag, passed on 17 July 1995.

<sup>10</sup> Nr. 973 – Lag om ändring av Regjeringsformen för Finland, passed on 17 July 1995.

<sup>11</sup> "Regeringens proposition till Riksdagen med förslag om att stadganden om kulturell autonomi för samerna skall tas in i Regjeringsformen för Finland och i annen lagstiftning" – 1994 rd – RP 248.

<sup>12</sup> Lov om sametinget og andre samiske rettsforhold (sameloven) – 12 June Nr. 56, 1987.

<sup>13</sup> Sametingslag – passed on 17 December 1992.

<sup>14</sup> NOU 1984: 18 = Norges Offentlig Utredninger nr. 18 1984, on the legal position of the Saami.

<sup>15</sup> Lov om sameting og andre samiske rettsforhold (sameloven) 12 June Nr. 56 1987.

<sup>16</sup> The Constitution's § 110a was added to the Norwegian Constitution by grlbest. 27 May 1988 Nr. 432.

- <sup>17</sup> Stortingsmelding (St.meld.) nr. 52 (1992-93) – Om norsk samepolitikk.
- <sup>18</sup> International Covenant on Civil and Political Rights, 16 December 1966, effective 23 March 1976.
- <sup>19</sup> St.meld. nr. 52, page 9.
- <sup>20</sup> In 1997: 6.222 valid votes.
- <sup>21</sup> In 1997 8.667 eligible voters registered.
- <sup>22</sup> The Saami Council for Education is in the process of being transferred from the Ministry of Education to the Saami Parliament.
- <sup>23</sup> Proposisjon 1976/77: 80 – om tiltak for samene.
- <sup>24</sup> Statens Offentliga Utredningar.
- <sup>25</sup> Proposisjon 1976/77: 80, Kulturutskottets Betänkande 1976/77: KU43, page 4.
- <sup>26</sup> SOU 1986: 36.
- <sup>27</sup> SOU 1989: 41.
- <sup>28</sup> SOU 1990: 91.
- <sup>29</sup> Proposisjon 1992/93: 32 – Bilaga 1.
- <sup>30</sup> Sametingslag 1992: 1433, approved 17 December 1992, effective from 1 January 1993.
- <sup>31</sup> Betänkande 1992/93: KU17, rskr. 1992/93: 114.
- <sup>32</sup> Motion 1994/95: K508 – Björklund and Åbjörnsson.
- <sup>33</sup> "Sameröstlängden"
- <sup>34</sup> In 1997 there were a total of 3.803 valid votes out of 5.990 registered voters.

### 3.1 The international development in general

For many countries, there is a sensitive two-way connection between national and international politics. In general, most states seek a national policy that is in agreement with approved international standards for the respective questions. The development of international instruments that are both politically and legally binding and their respective control systems are therefore important elements in the international community's work for basic universal principles and rights of various kinds. It is difficult to separate national and international development into two independent levels. International development often defines the premises for national development to just as great extent as the other way around. This interaction is of such character that it is difficult to determine which level is the leading one.

In this regard, the increasing recognition of indigenous peoples' rights and development of their basic living conditions are no exception. This progress is occurring in the continual interaction between national and international policy processes. The Saami's political and legal position as an indigenous people is also to a great extent the result of this interaction. Much of the positive development that has occurred on the national and Nordic level can in many ways be related to the premises created by international developments. The Saami political developments in the Nordic countries has likewise created decisive premises for the international policy processes.

The question of indigenous peoples' rights and living conditions did not really find a place on the international agenda until the beginning of the 1980s. This occurred mostly because the world's indigenous peoples had become better organized; for example, they had been able to establish their own networks and co-operation of various kinds. Earlier, indigenous peoples were considered, also internationally, to be primitive people who ought to be lifted up to a level that was considered better and higher than their own traditional sets of values and ways of living. Also internationally, the formulated goal was generally to assimilate indigenous peoples. ILO Convention no. 107<sup>1</sup> from 1957 is a formal and official witness in this regard and is still binding for the states that have ratified it. The Convention's formulated goal is to

integrate indigenous peoples and other peoples who live completely or partly in traditional ways. None of the Nordic states have ratified this Convention.

The UN report on indigenous peoples mentioned earlier, the so-called Cobo Report, is one of the most important single factors in relation to the work to change the organized international view and treatment of indigenous peoples. The subsequent progress within the UN system that has benefited indigenous peoples can largely be credited to this work, primarily because through this report the indigenous peoples were formally placed on the international political agenda in a new perspective.

The fact that international legal instruments that recognize and protect indigenous peoples' rights are lacking today is the greatest problem internationally. There is at present no universal legal instrument that specifically deals with indigenous peoples' rights. ILO Convention 169<sup>2</sup> concerning Indigenous and Tribal Peoples in Independent States is the only legally binding instrument that distinctly concerns itself with indigenous peoples' rights. This convention has its limitations because as of now it is only ratified by eight states.<sup>3</sup> Of the Nordic states, only Norway has ratified the convention, while Denmark, Finland and Sweden, each with different degrees of intensity, are considering ratification. The Danish Parliament has also stated, in its discussion of the convention, that it is ready to ratify, and work is in progress to prepare final ratification.<sup>4</sup>

In addition, the UN Covenant on Civil and Political Rights of 1966 has an article 27 that is relevant for indigenous peoples, regarding for example linguistic and cultural rights. This Convention is ratified by all the Nordic states.

Other international instruments relevant to indigenous peoples are the UN Declarations regarding (1) the Right to Development<sup>5</sup> and (2) on Minority Rights;<sup>6</sup> also, the UN Convention on (3) Elimination of all Forms of Discrimination<sup>7</sup> and (4) Children's Rights.<sup>8</sup>

To solve the problem of the lack of universal protection of indigenous peoples' rights, the UN Working Group<sup>9</sup> on Indigenous Populations has been working for several years on a draft UN Declaration on Indigenous Peoples' Rights. This Working Group presented its final draft declaration in 1994. The Draft has reached the UN Commission on Human Rights for discussion, which is estimated to take a couple of years. The goal is that this declaration shall be a universal declaration regarding indigenous peoples' rights. But such a declaration will primarily be morally and politically binding and not legally binding as in the case of a convention.

### 3.2 The UN Covenant on Civil and Political Rights of 1966<sup>10</sup>

The UN Covenant on Civil and Political Rights of 1966 is part of the UN's total effort to protect and promote human rights. This Covenant together with the UN Declaration of Human Rights<sup>11</sup> and the Covenant on Economic, Social and Cultural Rights<sup>12</sup> are the most central UN instruments for human rights. These three instruments together are often referred to as the International Bill of Human Rights.

In relation to the Saami question, the Covenant on Civil and Political Rights, article 27, is especially relevant. Here, it is stated that ethnic, religious or linguistic minorities have the right to cultivate their culture, acknowledge and practice their religion, and use their language.

*“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”*

This article defines the individual rights for persons that belong to an ethnic, religious or linguistic minority, while the minority collectively also has the same rights. This is implicit in the formulation that “persons belonging to such minorities ...in community with other members of their group...” have the named rights in relation to culture, religion and language.

In the interpretation of the term “minorities”, international law operates with an objective criterion, i.e., the group is a numerical minority in the country while being numerically large enough to survive as a minority. It is also presumed that this group must have lived in the country for a certain length of time, but there is no concrete definition of the time perspective set here as a condition. This lies implicit in the text of the article that states, “In those States in which ... minorities exist...”. This formulation aims to avoid including minorities that have settled in the country in recent times or will eventually do so at some time in the future. Therefore, the Saami clearly fulfil the criteria defined by article 27.

The Saami thus fulfil two of the alternative criteria that refer to the minority category, since they are both an ethnic minority and a linguistic minority. The size of the Saami population within the respective state borders satisfies the stated numerical criterion. The fact that the Saami are an indigenous people implies that the criterion in relation to the length of time of habitation is fulfilled.

I will not go into a more detailed discussion here of which rights are specified in article 27, but only briefly mention some central factors. In

this context are included parts of the evaluation that the Saami Rights Commission in Norway used in its elaboration of this question.<sup>13</sup> In its differentiation between the question of whether (1) all should be treated equally in a formal sense (prohibition of negative discrimination) or (2) some groups should have the right to extra protection (demand for positive discrimination), the Saami Rights Commission (its expert working group) came to the following conclusion:

*“There is absolutely no doubt that art. 27 demands positive discrimination. It is the point of this regulation. It gives special protection to the groups included in this decision. A state with an ethnic minority, therefore, does not fulfil its obligations according to art. 27 by only ensuring equal legal treatment of its citizens (prohibition of negative discrimination). How far the state must go in the direction of positive discrimination according to art. 27 will depend on the actual conditions in the individual state.”*

The Saami Rights Commission’s reference<sup>14</sup> to the UN report on peoples’ right to self-determination should also be included in this context. Here, it is presumed that “culture” should be understood in its broadest sense, also including a culture’s material basis.

The demand for positive discrimination has also important economic implications, since it is reasonable to interpret article 27 as also including a demand for economic state support for the benefit of cultural, religious and linguistic rights. Without such support these rights could be illusory. The obligation of economic support can however not be quantified more specifically. The Saami Rights Commission in Norway states:<sup>15</sup>

*“Our conclusion in this evaluation is that art. 27 probably should be understood to place an obligation on the states to provide the economic means that actually make it possible for minority groups to cultivate their language, their culture etc.... In our opinion, it should be understood that the obligation requires the states to effectuate a reasonable degree of equality of results for the minority’s cultural expression in relation to the rest of society. This is a consequence of the very purpose of minority protection.”*

### **3.3 ILO Convention No. 169<sup>16</sup>**

ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries is now ratified by eight states.<sup>17</sup> Norway ratified the Convention as the first state in 1990. It became effective<sup>18</sup> one year after the second ratification, when Mexico ratified it about two months later.

This convention is more in accord with indigenous peoples' own aspirations about tolerance and respect, equality among peoples and the right to maintain and develop their own specific ethnicity and culture than ILO's first convention (no. 107) on indigenous peoples that had integration as its goal.

The International Labour Organisation (ILO) normally concerns itself with labour standards and is therefore organized with governments, employers and employees as the primary actors. All three of these groups participate in the development of ILO's instruments and in the subsequent reporting processes. However, indigenous peoples as such do not have any special formal position within ILO. Indigenous peoples have therefore no formal access to the reporting process in relation to Convention 169, even though it exclusively concerns the rights of indigenous peoples. On this background, the Saami Parliament in Norway is working actively to ensure that the Saami view on the effectiveness of the Convention also finds its way to the relevant ILO bodies. In the fall of 1994, the Saami Parliament made an agreement with the Norwegian Government on reporting co-operation, whereby the Government is obligated to include the Saami Parliament's report on the Norwegian implementation of the Convention as an independent annex to the Government's reports regarding its implementation of Convention No. 169.

Many States today seem to be waiting for ILO's review of the reports from the Norwegian Government concerning its practice in regard to the Convention. There is especially interest in ILO's interpretation of article 14 of the Convention, which states that indigenous peoples' rights of ownership and possession of the land areas where they traditionally live shall be recognized. The Saami Parliament and the Norwegian Government have contradictory interpretations of article 14. The Saami Parliament claims that this Article cannot be considered to be complied with before the Saami's ownership right is recognized, and that "ownership" and "possession" must be viewed as cumulative rights. The Government is of the opinion that the Article is complied with by protecting the Saami's right to use these areas. ILO's Committee of Experts, in its consideration of Norway's last report, does not give any clear answer to the question of how to interpret Article 14. The Committee of Experts states<sup>19</sup> that the right of ownership must not necessarily always be recognized in order to comply with the Convention. At the same time, it states that all cases of such recognition will always be in accordance with the Convention. It will probably still take some years before ILO's final position on this question is formulated. However, it is the International Court of Justice which has the competence to give the final interpretation of the provisions of the Convention.

In relation to the question of Saami co-operation across state borders, the Convention's article 32 is of special interest. Here, it states that Governments shall take initiatives, for example, through international agreements, to ease contact and co-operation between indigenous peoples across state borders. The article expressly refers to the economic, social, cultural and environmental areas. When the article speaks of "contacts and co-operation between indigenous peoples", it also means contacts and co-operation between different indigenous peoples, i.e. also between indigenous peoples in different states that are not necessarily one people. In relation to indigenous peoples who are regarded as one people living in several states, this provision must naturally apply with extra weight.

The Convention's article 6 has also a certain relevance to the Saami co-operation across state borders, but it has greatest significance on the national level. The government is here required to consult indigenous peoples' representative institutions when new legislation or administrative initiatives that can concern indigenous peoples are under consideration. It should be noted here that the Finnish Government refers to this provision in its argument that the authorities have the obligation to negotiate with the Saami Parliament in questions that can concern the Saami.

### **3.4 Other international instruments**

This section discusses several other relevant international instruments, but these will only be presented briefly.

#### **3.4.1 UN Declaration on Elimination of Racial Discrimination**

The UN Declaration on the Elimination of Racial Discrimination condemns all forms of discrimination on the grounds of race, colour or ethnic origin. This Declaration together with the UN Convention on Racial Discrimination establish the main international protection against racial discrimination. The Declaration's article 1 states:

*"Discrimination between human beings on the ground of race, colour or ethnic origin is an offence to human dignity and shall be condemned as a denial of the principles of the Charter of the United Nations, as a violation of the human rights and the fundamental freedoms proclaimed in the Universal Declaration of Human Rights, as an obstacle to friendly and peaceful relations among nations and as a fact capable of disturbing peace and security among peoples."*

### 3.4.2 UN Convention on the Rights of the Child

UN's Convention on children's rights of 1989 applies basically to all children, but it also has a separate provision in article 30, where the target group is indigenous peoples. For example, article 30 states:

*"In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language."*

A comparison between Article 27 in the UN Covenant on Civil and Political Rights and Article 30 in the Convention the Rights of the Child shows that the wording in these two provisions are almost identical. But in the Convention on the Rights of the Child, indigenous peoples are also included as a distinct category. Except for the fact that this provision in the Convention on the Rights of the Child has children as its exclusive legal subject, its material content must be considered to be the same as the content of Article 27.

### 3.4.3 UN Declaration on the Right to Development

The Declaration on the Right to Development of 1986 is in general an important instrument for indigenous peoples because indigenous peoples in many countries still do not have access to the same privileges as the rest of the population. Development is often at the expense of indigenous peoples and their way of life. They suffer from the negative effects while the rest of the population benefits to a great extent from the positive effects. Development, as defined by the Declaration, does not include only economic development but also the right to social, cultural and political development. Article 1, of the declaration states that the right to development cannot be denied to either individuals or peoples:

*"The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized."*

### 3.4.4 UN Declaration on Minorities

The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities of 1992 is also relevant for the situation of many indigenous peoples; however, indigenous peoples do not often refer to this Declaration. One reason for this is that indigenous peoples have a special position compared with minorities in general; therefore, it is necessary to have a separate declaration on indigenous peoples' rights. Another important reason given by indigenous peoples is that many of the provisions of the minority declaration are mostly concerned with individual rights, while indigenous peoples seek a greater degree of recognition of their collective rights.

The Minority Rights Declaration's fundamental principle is formulated as follows in article 1:

*"States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, and shall encourage conditions for the promotion of that identity."*

These rights are to day recognized as fundamental universal human rights.

### 3.4.5 The Rio Declaration of 1992<sup>20</sup>

Summer 1992, the UN held the Conference on Environment and Development (UNCED) in Rio de Janeiro. The Declaration and Programme of Action from this Conference are known as "Agenda 21", indicating that this is the international community's declaration and programme of action for environment and development in the twenty-first century.

For indigenous peoples, it is especially Chapters 10 and 26 of the Programme of Action that are of special interest. Chapter 10 is of special significance because it is concerned with planning and management of land and its resources. It recognizes that today's use and management is not sustainable and that the organized use and management must be changed.

Chapter 26 is concerned with recognition and strengthening of indigenous peoples and their societies and their role in the management of nature, also recognition of the fact that their traditional use and management of nature in general is in accordance with the nature-given conditions. In other words, indigenous peoples' traditional knowledge about nature and its management is here formally recognized. On the basis of this recognition, it is proposed that

indigenous peoples should have a greater degree of influence on decision-making processes. Furthermore, indigenous peoples' territories ought to be protected against non-sustainable use and interference and against activities that indigenous peoples themselves find to be in conflict with their social and cultural values.

### 3.4.6 The Vienna Declaration of 1993<sup>21</sup>

The World Conference on Human Rights, held in Vienna in 1993, took a position on some central issues regarding indigenous peoples in its concluding declaration. Among other issues, progress with the work on a declaration on the rights of indigenous peoples was taken up.

The World Conference emphasized to Governments that it is important to ensure indigenous peoples' full participation in all areas of society, especially in questions that concern indigenous peoples. The World Conference states; *inter alia*:

*"The World Conference urges States to ensure the full and free participation of indigenous people in all aspects of society, in particular in matters of concern to them."*

Furthermore, the World Conference urges that the UN, in connection with the International Decade for the World's Indigenous Peoples (1995-2004), should consider the establishment of a permanent forum within the UN system for the treatment of questions concerning indigenous peoples. As a small digression, it should be noted that earlier the former Nordic Saami Council<sup>22</sup> had introduced to the UN the idea of creating such a permanent forum for indigenous peoples.

### 3.4.7 The Draft UN Declaration on the Rights of Indigenous Peoples

Today, the UN's central task concerning indigenous peoples is the formulation of a universal declaration on indigenous peoples' rights. Indigenous peoples have also expressed the need for a future UN convention on indigenous peoples' rights, i.e. a legally binding UN instrument. A declaration, in contrast to a convention, is basically more politically than legally binding. However, within the UN System, the adoption of a declaration is normally the first step towards a legally binding convention.

The UN Working Group on Indigenous Populations was established in 1982.<sup>23</sup> Its mandate includes the task of preparing a proposal for standards for indigenous peoples' rights. The Working Group presented its draft of a declaration<sup>24</sup> in 1994 to the so-called Sub-

Commission,<sup>25</sup> that later the same year recommended it to the Commission on Human Rights. The Commission on Human Rights did discuss the Draft in the plenary but established<sup>26</sup> a new Working Group<sup>27</sup> directly under itself to work further with the draft declaration. The first session of this Working Group<sup>28</sup> was held November-December 1995. During this two-week session, the group held a first general discussion of the draft declaration. It will subsequently work with each of the articles of the declaration in the years to come.

There are many indications that the draft declaration could be somewhat weakened, seen from the point of view of indigenous peoples, during its journey toward final approval in the UN General Assembly. Especially the right of indigenous peoples to self-determination, collective rights and land rights seem to be the difficult questions.

The present draft contains fundamental principles, such as equality and non-discrimination, which affect indigenous peoples both collectively and individually. The draft declaration is a very sweeping document containing 19 introductory provisions and 45 operative provisions. In article 3 on self-determination, the bearing principles are equality and non-discrimination. Not because these rights are special rights for indigenous peoples, but because indigenous peoples, as peoples, also share these rights equally with all other peoples. It is also presumed that these rights can not be taken away from indigenous peoples and that an eventual denial of these rights would therefore be discriminating. Article 3 states as follows:

*“Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”*

The wording of this provision is identical with the introductory provisions of the UN Covenants on (1) Civil and Political Rights, and (2) Economic, Social and Cultural Rights – except that the draft declaration uses the term “indigenous peoples” while the two Covenants use the term “all peoples”.

### **3.5 Other important international relations**

In addition to the international initiatives already discussed in this chapter, the general internationalization process that is taking place should also be mentioned. The Saami as a people must increasingly relate to questions with international dimensions that also have a direct influence on Saami daily life. The Saami political bodies are increasingly becoming involved in international policy processes.

Since 1993, formal international co-operation has been established in the Euro-Barents Region, a geographic area that includes large parts of traditional Saami areas of habitation. In the Euro-Barents co-operation, the Saami do not have the position it would be reasonable for them to demand, considering the fact that this co-operation, in purely geographic terms, includes traditional Saami territory.

In addition, active efforts are being made today to formalize and develop the Inter-Arctic co-operation between the eight arctic states. Among other initiatives, these eight states – Canada, Denmark, Finland, Norway, Iceland, Russia, Sweden and USA – have established Arctic Council in 1996. This is also a process and a fact that the Saami people must now consider seriously, regardless of whether they agree with the goals or form of the co-operation.

As a consequence of the fact that Finland and Sweden have become members of the EU effective 1 January 1995, the Saami people find themselves in a situation today where they are formally more divided – by the European Union’s borders. The Saami, who are both inside and outside EU, must now consider the EU as a central political actor. Finland, Norway and Sweden carried out extensive joint negotiations with EU before their referendums on EU membership in 1994. These included joint negotiations on Saami questions. The results of these negotiations are presented in a separate negotiation protocol on the Saami that is now part of the agreement between EU, Finland and Sweden. This Protocol<sup>29</sup> on the Saami states:

*“THE HONORABLE PARTIES TO THE AGREEMENT,  
WHO ACKNOWLEDGE Finland’s, Norway’s, and Sweden’s obligations toward the Saami according to national and international law,  
WHO ESPECIALLY NOTE that Finland Norway, and Sweden have committed themselves to protect and develop the Saami’s means of livelihood, language, culture and society,  
WHO TAKE INTO CONSIDERATION that the traditional Saami culture and production rest on primary occupations such as reindeer husbandry in the traditional areas of Saami habitation,  
AGREE on the following provisions:*

*Article 1*

*Without consideration of the provisions of the EU agreement, the Saami can be given special rights to reindeer husbandry within the traditional Saami areas.*

*Article 2*

*This protocol can be extended to take into consideration the further development of special Saami rights connected with the Saami’s traditional means of livelihood. The Council can, after receiving a proposal*

*from the Commission and after having consulted with the European Parliament and the Regional Committee, unanimously approve necessary amendments to this protocol."*

As indicated in chapter 3, the Saami people must today, to a much greater extent than only a few years ago, concern themselves with the fundamental legal, economic and political conditions that are created through the interaction between national and international developments. These new political conditions also affect the political daily existence of the Saami elected bodies by continually confronting them with political questions with international dimensions.

## Notes

- <sup>1</sup> ILO Convention 107 – Concerning the Protection and Integration of Indigenous and other Tribal and Semi-Tribal Populations in Independent Countries, of 26 June 1957.
- <sup>2</sup> "ILO Convention 169 – Concerning Indigenous and Tribal Peoples in Independent Countries" of 1989, effective September 1991.
- <sup>3</sup> As of February 1999, 13 countries have ratified ILO Convention no. 169.
- <sup>4</sup> Denmark ratified the Convention in 1997.
- <sup>5</sup> "The Declaration on the Rights to Development" of 1986.
- <sup>6</sup> "The Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities" of December 1992.
- <sup>7</sup> "The International Convention on the Elimination of All Forms of Racial Discrimination" – 1948.
- <sup>8</sup> "The Convention on the Rights of the Child" of 1989.
- <sup>9</sup> United Nations Working Group on Indigenous Populations" – first meeting was held on 9 August 1982.
- <sup>10</sup> "The International Covenant on Civil and Political Rights" of 1966.
- <sup>11</sup> "The Universal Declaration of Human Rights" of 1948.
- <sup>12</sup> "The International Covenant on Economic, Social and Cultural Rights" of 1966.
- <sup>13</sup> NOU 1984: 18 – on the Saami's legal position, page 270.
- <sup>14</sup> NOU 1984: 18, page 273.
- <sup>15</sup> NOU 1984: 18, page 271.
- <sup>16</sup> ILO Convention No. 169 concerning indigenous and tribal peoples in independent countries.
- <sup>17</sup> As of February 1999, countries have ratified the Convention.
- <sup>18</sup> Effective from 5 September 1991.
- <sup>19</sup> Direct request 1995 – Norway, concerning Convention No. 169.
- <sup>20</sup> Agenda 21 – The United Nations Programme of Action for Sustainable Development.
- <sup>21</sup> Vienna Declaration and Programme of Action, of 26 June 1993.
- <sup>22</sup> The present Saami Council.
- <sup>23</sup> ECOSOC resolution no. 34/82.
- <sup>24</sup> UN Doc. E/CN.4/Sub.2/1994/2/Add.1 – Draft Declaration on the Rights of Indigenous Peoples, as agreed upon by the members of the Working Group at its eleventh session.

- <sup>25</sup> Sub-Commission on Prevention of Discrimination and Protection of Minorities.  
<sup>26</sup> CHR res. E/CN.4/1995/L.62.  
<sup>27</sup> Working Group of the Commission on Human Rights.  
<sup>28</sup> The working group agreed to call itself: Working Group established in accordance with Commission on Human Rights resolution 1995/32 of 3 March 1995.  
<sup>29</sup> Protokoll 3 – On the Saami.



PART II

FUTURE CO-OPERATION BETWEEN  
THE SAAMI PARLIAMENTS

## CO-ORDINATED SAAMI POLICY AS A GOAL

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### 4.1 The National States' goal of co-ordinated Saami policy

The four States in which the Saami live have all expressed the need for co-operation in Saami affairs. Russia is the least interested in formalizing such a co-operation, in contrast with Finland, Norway and Sweden, which to a far greater extent actively seek to co-operate in Saami questions. Such co-operation between these three States is a natural part of the generally well developed Nordic co-operation. The general Nordic political tradition is so different from the Russian that it is probably easier to work on the Nordic level for the time being. The somewhat lacking Russian initiative regarding such a co-operation is probably due to a large extent to the relatively great internal problems in Russia, with a strained economy and unstable and tense political conditions.

The work being carried out in the Nordic States to develop a joint Nordic Saami policy was formerly blocked somewhat by the fact that Sweden did not have a representative Saami body. In this regard, the establishment of the Saami Parliament in Sweden has considerably changed the fundamental political conditions, and it should therefore be somewhat easier today to develop a joint Nordic Saami policy. It is essential for the development of the Saami society that the State authorities co-ordinate and seek to adopt a joint Saami policy across state borders. Finland and Sweden, as members of EU, must in any case seek to co-ordinate their Saami policies more or less independently of whether Norway will participate in such a co-operation.

Nordic co-operation in relation to Saami questions has already existed for some time. For specific areas, this co-operation is formalized, while for others, it has a looser structure. Questions relating to reindeer husbandry have the longest tradition for Nordic co-operation. But since today conditions of Saami life are considered in a broader perspective and not only limited to reindeer husbandry, other questions are also gradually being placed on the agenda. Issues concerning language, culture and education are also being given equal priority with reindeer husbandry.

Co-operation on the Nordic level on Saami questions is for example carried out within the framework of the *Nordic Council of Ministers*. In addition, there is a special Nordic co-operative body for Saami questions:

the so-called *Nordic co-operative body for Saami and reindeer husbandry questions*. Furthermore, there is also the *Nordic body for reindeer husbandry research*, which is a professional co-operative body for reindeer husbandry research in which Denmark also participates.

*The Nordic body for reindeer husbandry research* has representatives for the State authorities, reindeer husbandry authorities and reindeer owners. This body is concerned exclusively with reindeer husbandry questions of a professional nature, such as co-operation with research institutions, arrangement of meetings for researchers, information and guidance about reindeer research for the respective national research councils.

*The Nordic co-operative body for Saami and reindeer husbandry questions*, on the other hand, is concerned with various kinds of Saami questions. In addition to questions about reindeer husbandry, this body is also concerned with questions concerning the Saami language, culture and education. This body was established in 1964 on the recommendation<sup>1</sup> of the Nordic Council, and has been re-organized several times. Today, it is purely a State body for co-operation between Finland, Norway and Sweden. Previously, the Saami organizations were represented by Saami representatives in the national delegations. Today, although this is a state co-operative body, the Saami are regularly consulted, mainly through the Saami Council.

This co-operative body, according to its statutes, functions as a contact group for the Governments of Finland, Norway and Sweden. Its goal is to function as a forum for information and discussion of Saami questions in general. The States consider this body to be an important instrument for strengthening Nordic co-operation in Saami questions. It is seen as essential for such co-operation, the goal of which is to seek joint Nordic solutions, that it should be closely linked to the decision-making processes in the Nordic Council of Ministers. The Norwegian Government, until now the most active in relation to development of the Nordic co-operation in Saami questions, formulates the need and will for co-operation in the following way in its Parliamentary Announcement no. 52:<sup>2</sup>

*“It is the Government’s opinion that the tasks and organization of the Nordic co-operative body for Saami and reindeer husbandry questions should be evaluated regularly to follow Saami political development. The Saami Parliament should play an active role in the development of the Nordic Saami political co-operation. With the establishment of a Saami Parliament in Sweden, the conditions for organization of the Saami political co-operation between the Saami in the Nordic countries are also changed. These are elements that will also be significant for development of state co-operation on Saami questions.*

*The Norwegian authorities are positive about the development of a formalized co-operation between the Nordic Saami Parliaments. Thus, Nordic efforts can take joint Saami viewpoints into consideration."*

The signals from the Norwegian Government with regard to future Saami political co-operation must be interpreted as recognition of the necessity to formalize and institutionalize co-operation between the three Saami Parliaments. This should now be able to be realized as a consequence of the fact that Sweden also has a Saami Parliament. Also, the co-operative body for Saami and reindeer husbandry questions and its activities must be evaluated regularly and such evaluation must take place in close co-operation with the Saami Parliaments.

In the Parliamentary Announcement no. 52,<sup>3</sup> the Norwegian Government argues for the need for a Nordic Saami convention by referring to the Norwegian Saami cultural committee's statement<sup>4</sup> in NOU 1997: 34:

*"That Finland, Norway, and Sweden, through article 27 in the convention on civil and political rights, have a special responsibility to ensure the Saami the opportunity to practice their culture, speaks strongly for a commitment by these countries to co-ordinate their Saami policies."*

The Norwegian Government also refers to a joint report of 1988 from the Saami Rights Commissions in Finland, Norway and Sweden to the Nordic Council of Ministers. The report is concerned with questions concerning co-operation between the Saami Rights Commissions in the three States. This report states that the still valid Lapp Codicil of 2 October 1751 should be amended to suit present needs and should formulate more precisely clear legal obligations through a Saami Convention. Formalized and institutionalized co-operation on Saami questions ought to naturally fall within such a Nordic Saami convention.

Furthermore, the Norwegian Government, in Parliamentary Announcement no. 52,<sup>5</sup> states as follows on Nordic co-operation:

*"It is the Government's opinion that the authorities in Finland, Norway and Sweden have a joint responsibility to ensure that the Saami culture shall be given the best possible conditions. Initiatives for the Saami in the three countries are very different in some areas. This prevents to some degree a fruitful co-operation across country borders. With re-organization of the Nordic co-operative body for Saami and reindeer husbandry questions, it is hoped that development towards a harmonization and co-ordination of the different national arrangements, legislation and initiatives can be improved. Establishment of the Swedish Saami Parliament is also*

*part of such a harmonization. This should mean that the co-operative climate in relation to Saami questions will be better, which will in turn create a basis for discussing the question of a Nordic Saami convention.*

*The Nordic democracies should be able to stand forth as an example for the international community in questions regarding indigenous peoples. Norway wishes to support the Saami's own work for a convention, and contribute to concrete joint Nordic solutions. The question of a Nordic Saami Convention will be taken up with the Finnish and Swedish authorities."*

The Norwegian Government also expresses its support for efforts to draw the Saami in Russia into a closer co-operation with the Saami in the Nordic countries. But it is primarily the Euro-Barents co-operation that the government wishes to use as a means to seek a better situation for the Saami in Russia.

The Norwegian Government also recognizes that the Saami representation in the *Nordkalott Co-operation* is too weak, and that Saami political considerations in general must be seen to be lacking in this co-operation. On the basis of this recognition, the Government states:

*"Appropriate forms of co-operation between the Nordkalott Co-operation and the Euro-Barents Co-operation should also be sought. It is the Government's opinion that in the future emphasis ought to be placed on clarifying the role, function and lines of connection between the Nordic Saami co-operation. Focus must be concentrated on a positive development for both the Saami and the rest of the population in the Arctic region."*

In the Swedish Government's proposition<sup>6</sup> to the National Parliament, the need is also expressed for a Nordic co-operation in Saami questions. It states:

*"A co-operation between the Saami Parliaments in Finland, Norway and Sweden within the cultural area should also be established through my proposal and could mean a broader base for various cultural activities, thereby creating good opportunities for an efficient use of resources."*

The focus here is on saving resources and on the gains of co-ordination, but the basic principle is still that the Nordic Saami political co-operation should be strengthened.

There seems to be a great degree of agreement between Finland, Norway and Sweden that a need exists to strengthen the Nordic co-

operation on Saami political questions. The Nordic States have thus all recognized to a certain extent that it is necessary for the State authorities to use new means to promote joint Saami development across country borders. Agreement also seems to exist that the Saami Parliaments' active role in this co-operation is of decisive significance, and that the Saami Parliaments jointly must be the central actor in future development of Saami society across the Nordic borders.

#### **4.2 Strengthened Nordic co-operation – also the goal of the Saami Parliaments**

Co-operation across state borders is natural for the Saami, since the formal borders between States mostly represent only an official line of separation between them. The borders do, however, create important problems for the traditional Saami way of life and have sometimes been a threat to the Saami's existence as one people. Therefore, it has been natural that the Saami not only seek to maintain but also to strengthen co-operation across state borders. Saami efforts have been directed toward co-operation between Saami as well as co-operation between the States. Probably the most important reason for establishment of the Nordic Saami Council in 1956 was just this need for co-operation and the will to carry it out. The Saami considered it of decisive significance to establish such a formalized co-operation.

The Saami institutions and organizations all seem to recognize that the need for co-operation across State borders is now greater than ever. This is because the general political conditions of life in today's societies increasingly take place at the international level.

As a consequence, the Saami Parliaments have recently worked hard to try to formalize co-operation between the Saami elected bodies. Such a co-operation is considered not only natural but also as absolutely decisive for any joint Saami political development across State borders. The Saami Parliaments express the need for a permanent co-operation between the Saami elected bodies in order to co-ordinate questions that affect Saami in more than one country and questions that concern Saami as one people.

The first joint meeting between the Saami Parliaments<sup>7</sup> was held in Enontekiö on 27 November 1993, where the question of co-operation between the Saami Parliaments was one point on the agenda. On this point, the meeting declared:

*“On the basis of the fact that the Saami are one people, the Saami Parliament in Finland, the Saami Parliament in Norway and the Saami Parliament in Sweden will work for a still closer co-operation between*

*these three elected bodies. Co-operation shall have as its goal to co-ordinate the discussion of individual questions in issues concerning the Saami in more than one country or the Saami as one people; to develop practical forms of co-operation between the Saami's elected bodies in all areas where this is natural; and to ensure promotion of joint Saami views and joint Saami representation in Nordic and international bodies. To carry out these tasks, appropriate co-operative bodies can be established."*

The decision and goals regarding development of a closer co-operation between the Saami's elected bodies have also been politically approved in the respective Saami Parliaments' plenaries.

A certain degree of formal co-operation among the Saami Parliaments already exists, since the elected political leaders<sup>8</sup> of the Saami Parliaments have met regularly for consultation and co-ordination meetings, where they among others have discussed questions of Pan-Saami interest and tried to co-ordinate the Saami political work across State borders. This co-ordination group has also worked further with the question of establishing a permanent co-operation between the Saami's elected bodies.

#### 4.2.1 The Saami political argument

The decision of the Saami Parliaments' joint meeting of 1993 rests on the Saami political principle that the Saami are one people and that State borders must not divide the Saami community. The decision is in this regard in accordance with the Saami Political Programme<sup>9</sup> approved earlier, which states: "*We, the Saami, are one people, and State borders shall not divide our people's community.*"

Both the Saami Parliaments' decision to co-operate across State borders and the Saami Political Programme are expressions of the Saami wish and will to exist as one people. This will is based on the conditions that this report attempts to describe in Part I – The General Basic Material, i.e., that the Saami are one people living in several countries with joint history, traditions, culture, language and livelihood. The Saami maintain that the Saami themselves shall protect and develop the Saami society on their own premises and common conditions. In this connection, the Saami have always emphasized consideration of coming generations – they too have the right to grow up and work in a living Saami community without the obstacles of State borders.

Until now, the Saami Parliaments' political work has mainly been directed toward the respective Nation States. It has been less possible to work on the trans-national level, partly because a formal Saami

parliamentary structure across State borders has been lacking, and partly due to a lack of economic resources.

Since the establishment of State borders, the Saami have increasingly felt the pressure of the conflicting interests between the nation States. This fact obligates the Saami Parliaments to do what they can to develop the basic conditions necessary to create a better foundation for the Saami community across state borders, and thus contribute to formulation of a joint Nordic Saami policy.

The future of the Saami people is of course just as closely connected to the basic trans-national political conditions as it is to the national ones. The Saami, however, are working for greater recognition of the fact that the Saami society across state borders is a unity rather than several separate national Saami societies. It is decisive for such recognition that Saami questions are to a greater extent treated in a trans-national perspective, both by the Nation States and by the Saami themselves.

Comprehensive and rapid international developments strengthen the need for a representative Saami trans-national organization in order to meet present and future political challenges. Recent changes in basic conditions, such as Swedish and Finnish EU membership, can easily precipitate further changes in the negotiation patterns among the Saami.

For several years, the Saami political milieu has expressed the need for establishment of a Pan-Saami elected body to improve and co-ordinate Saami politics across State borders. In this connection reference has been made to a 1992 NSR<sup>10</sup> resolution:

*“In the work for a Saami Convention among the Nation States of Finland, Norway, Russia and Sweden, establishment of a Pan-Saami elected body – representing the Saami nation – must be included. This body should in principle be elected directly by all the Saami people. Such a body will be able to co-ordinate the work with Saami questions and give the Saami people equal rights to land, education, cultural expression etc.”*

In 1992, the Saami conference also expressed<sup>11</sup> the need for a joint Saami body in its discussion of the principle questions involved in the issue of a Saami Convention:

*“The contracting States have a joint obligation to ensure that a joint body can be established for the Saami people, including the obligation to ensure such a body the necessary financial basis.”*

70 : The Saami Parliaments, as elected bodies, have a great responsibility  
: toward the Saami people. On behalf of the Saami, they have the respon-  
: sibility to protect and develop Saami interests, both nationally and  
: internationally. This means that the Saami Parliaments must also

work on the international level. As mentioned earlier, the national and the international work cannot be divided into two separate and independent levels. There exists a mutual interdependence between these levels. The international processes determine the premises for the national development just as often as the opposite is the case.

It is argued that the work of protecting Saami interests depends on the existence of representative Saami political bodies at the national level that can in turn serve as the basis for a joint Saami representative body on the international level. Since Sweden now has a Saami elected body, the prerequisites and general basic conditions have changed enough to create far better conditions for the establishment of a representative Pan-Saami political body. Whether or not this happens will largely depend on the political will to do so in the respective States. Seen from a Pan-Saami perspective, it is now much more important than ever, because of international developments, to create a stronger Saami political harmonization between States. Work toward joint Saami policy and greater influence on their own situation is much more important for the Saami than earlier, when the situation and the basic conditions were far more static.

The basic budgetary conditions today set stringent limits on the work of the Saami Parliaments, especially in relation to the political work at the international level. The budgetary situation varies for the three Saami Parliaments; Finland is weakest in this respect. This means that the Saami Parliaments cannot give this area as high priority as they wish. The amount of economic and human resources available thus varies from parliament to parliament.

Today, when the individual Saami Parliament takes part in such international work, the effort is largely focused on national conditions. The everyday aspects of questions within the respective State borders easily overshadow the Pan-Saami perspective. Recently, however, a conscious change has been brought about that favours a Pan-Saami perspective. Continued developments in this direction are very important, since otherwise a situation can easily result in which the political usefulness of international developments and gains will not benefit the Saami equally.

A formal organization of the Saami across State borders would largely result in equal distribution of resources, since such an approach could better ensure attention to the interests of the total Saami population, regardless of which state they live in formally. For the individual Saami Parliament, such a structure would also have an economic advantage, because its participation in this work would no longer depend on its own strained budgetary limits.

A joint Saami body would therefore have a positive effect on resource use, in that it would be possible to build up a expertise in

relation to specific issues and also avoid situations where all three Saami Parliaments would have to use relatively large resources to achieve the same level of competence.

Saami arguments for a permanent co-operation between the Saami Parliaments seem to be: basic Saami political principles; practical political and administrative conditions; and economic considerations. However, the Saami principle that State borders must not divide the community of the Saami people is the Saami's fundamental argument in this context.

## Notes

<sup>1</sup> Nordisk råds rek. Nr. 13/1962.

<sup>2</sup> St.meld. nr. 52, page 68.

<sup>3</sup> St.meld. nr. 52, page 69.

<sup>4</sup> NOU 1987: 34 – on Saami culture and education.

<sup>5</sup> St.meld. nr. 52, page 70.

<sup>6</sup> Prop. 1992/93: 32 attachment 1, page 41 (Department chief's addition).

<sup>7</sup> The Saami Parliaments were represented by the respective politically elected leadership bodies; the Saami Parliament in Finland by the Working Committee (Arbeidsutvalget), the Saami Parliament in Sweden by the Executive Committee (Styret) and the Saami Parliament in Norway by the Saami Parliamentary Council (Sametingsrådet).

<sup>8</sup> The President of the Saami parliament in Norway, and the Chairmen of the Saami parliaments in Finland and Sweden.

<sup>9</sup> The Saami Political Programme of the Saami Council's approved at the Saami Conference.

<sup>10</sup> Norske Samers Rigsforbund (Norwegian Saami National Association).

<sup>11</sup> Document: "Forslag til samekonvensjon – prinsipielle problemstillinger".



PART III

SAAMI PARLIAMENTARY CO-OPERATION

## CHAPTER 5

# DIRECT ELECTION VERSUS SAAMI PARLIAMENT APPOINTMENT OF A JOINT BODY

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*A directly elected Pan-Saami Parliament* elected by the Saami people has been set forth by some as a fundamental political position on the question of how official Saami political co-operation across State borders should be organized. It should involve not only the Saami in the Nordic countries but also the Saami in Russia. This political standpoint rests on recognition of the Saami as one people, and of the Saami political declaration that State borders shall not divide the community of the Saami people. The demand for such a directly elected Saami Parliament was raised, as mentioned earlier, in the resolution from NSR<sup>1</sup> (in 1992):

*“In the work for a Saami convention between the national states of Norway, Sweden, Finland and Russia, establishment of an Pan-Saami elected body – a national Saami body – must be included. This body should in principle be elected directly by the whole Saami people. Such a body will be able to co-ordinate work with Saami questions and give the Saami population equal rights to land, education, cultural expression etc.”*

A closer study of this resolution quickly raises problems of interpretation. For example, in relation to the exact meaning of the formulation: *“This body should in principle be elected directly by the whole Saami people.”* The basic starting point seems to be that a Saami body should be elected by and among the Saami in Finland, Norway, Russia and Sweden, and that this should be enshrined in a future Saami Convention. However, this demand seems to be the object of modification, in that this body should be elected by the whole Saami people *in principle*. In other words, the implication is that there is a subsidiary demand, the content of which seems to be that a body should exist that can represent the Saami people with a greater degree of legitimacy, and that this could possibly be accomplished without holding direct Pan-Saami elections. This resolution may also be interpreted as recognition by NSR, a member organization of the Saami Council, that the Saami Council no longer can, with the same degree of legitimacy, claim to be a representative body for the Saami in the four states. As a consequence, a body must be established that better represents the Pan-

Saami viewpoint, and this body must be elected in one way or another by the people.

Positions and standpoints of this kind seem to be dominant in Saami political circles. In these positions, fundamental Saami political standpoints are modified on the background of the actual basic political conditions. One reason that fundamental standpoints seem to be accommodated somewhat is that it does not seem realistic today to expect the Russian Federation to participate in this co-operation. In addition, a certain caution seems to exist in connection with creating new Saami institutions that could reduce the position of the Saami Parliaments. There also seems to be much concern that the work to develop formal co-operation between the Saami Parliaments could be significantly delayed if at the same time efforts were made to establish such a directly elected body. Every delay in the work to establish official co-operation between the Saami Parliaments would have to be considered unfortunate for the Pan-Saami interests in the various on-going political processes. Therefore, a directly elected Pan-Saami body, or a directly elected Nordic Saami Parliament, does not seem to be realistic at the present point in time.

In distinguishing between the alternatives of a *directly elected Saami Parliament* and a *joint body appointed by the Saami Parliaments*, the lines of connection between the existing Saami Parliaments and a new joint body are important. The goal of co-ordinated Saami policy across State borders would be very difficult to accomplish without these lines of connection. The direct political bonds between the national Saami Parliaments and a joint Saami body are central elements in distinguishing between these two alternatives. This then strongly supports a joint body that has its origins in the existing Saami Parliaments.

The immediate problem with a joint body based on the three existing Saami Parliaments is that the Saami in the Russia Federation will not be represented. But it is anticipated that such a joint Nordic Saami Parliamentary body could also represent the interests of the Saami in Russia to a certain extent, even though they might not be equally represented compared with the Saami in the Nordic countries. One possibility is to give the Saami in Russia a special observer status in such a joint body.

There is thus much that supports the idea that an official Saami political co-operation across State borders should be organized through the Saami Parliaments, i.e., that these three elected bodies establish a joint co-operative body. The Saami Parliaments today have important political positions within their respective Constitutions, even though their formal constitutional roles are somewhat different, often rather ambiguous and unclear. However, the Saami Parliaments are the only bodies that can be said to represent the Saami in Finland, Norway and

Sweden. A Saami political co-operation should therefore be established and carried out under the auspices of these three elected bodies. Establishment of a co-operative body independent of and without direct connection to these three elected bodies would undermine their political position, something that would have a very negative effect on the work to develop joint Saami policy across state borders. It also seems to be reasonable to establish this co-operation as a Nordic co-operation, but in such a way that the Saami in Russia can be included in a somewhat looser form.

## Note

- <sup>1</sup> Norske Samers Riksforbund (Norwegian Saami National Association)

## INCORPORATION OF THE SAAMI IN THE RUSSIAN FEDERATION IN THE CO-OPERATION BETWEEN THE NORDIC SAAMI PARLIAMENTS

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The Saami in Russia without doubt find themselves in a much worse situation than the Saami in the three Nordic countries. This applies to most areas of their lives: economy, political position, education, traditional livelihood, protection of natural resources in their own areas, ordinary employment, culture, language, health and social conditions etc. The Saami in the Nordic States as well as the Nordic countries in general thus have a special responsibility to do what they can to contribute to improving the situation for the Saami in the Russian Federation.

As mentioned earlier, the Saami population in Russia is about 2,000 persons, most of whom live on the Kola Peninsula. It is well known today that the Saami in Russia have great problems, especially within the social area. Most of these problems originated with the enormous changes that took place under the earlier Soviet regime, when the Saami's traditional livelihood and habitation patterns were the object of dramatic transformation. The Saami were forced to give up their way of life and to migrate from their traditional areas in order to take part in the new state production units. But the present difficult situation is also due to the general and structural social and political problems now facing Russia. The indigenous peoples outside the large cities seem to be in the worst situation, one reason being that they receive minimal support from the State authorities.

The Saami in Russia rejoined the rest of the Saami people almost immediately after the collapse of the former Soviet Union. Since 1992, they have been members of the Saami Council, represented by the Kola Saami Association. This co-operation has undoubtedly had great significance and provided good support for the Saami in Russia. In addition to the political and practical benefits, contact with the other Saami has also had emotional significance that cannot be quantified. Contact with the Saami and other peoples outside Russia has undoubtedly meant a great deal after four decades without any contact with peoples in neighbouring countries.

The Saami in Russia have also been involved somewhat in the political co-operation across State borders under the auspices of the on-going Euro-Barents co-operation. This co-operation will lead to some concrete projects and initiatives that can benefit the Saami in Russia, and it is hoped that this co-operation will be able, in combination with their own efforts, to contribute to protection and development of Saami culture in Russia.

Some aspects of the Nordic Saami political co-operation between the Saami Parliaments in Finland, Norway and Sweden weigh heavily in the argument against the participation of the Saami in Russia. The geographical dimension indicates that this co-operation should exclusively include the Saami areas in the Nordic countries. Also, the idea has been to establish a formal co-operation between the three Saami elected bodies. Such a body does not exist in Russia. The Saami in Russia are mainly organized through membership in the Kola Saami Association, which is a private and voluntary Saami organization. It is not customary to establish co-operation between three elected bodies and a voluntary organization. From a purely economic and practical point of view, problems would arise from the fact that the co-operation would be more expensive and would also entail more work.

It is beyond doubt that for the Saami in Russia it would mean a great deal to participate in a closer co-operation with the Saami Parliaments. Such co-operation would contribute to a better situation for this segment of the Saami people – for one reason, because a future joint body for the Saami Parliaments could represent them in the Euro-Barents co-operation. One of the main goals of the Euro-Barents co-operation is to contribute to political, economic and environmental stability in the northern areas of Russia. The situation and future of the Saami in this context are of extreme importance to the Saami in Russia, of course. An important factor in the Euro-Barents co-operation is the close co-operation between the Saami in Russia and the Saami Parliaments. In addition, it can be presumed that such relations of co-operation would generally have considerable value.

In other words, formal problems of geographic, functional and institutional character would exist if the decision were made to incorporate the Saami in Russia in the co-operation between the Saami Parliaments. However, these problems ought not to be greater than they can be solved by deciding that the Saami in Russia should also be included in the co-operation. In addition, the Saami Parliaments already seem to have opened the way for participation by the Saami in Russia. The decision of the Saami Parliaments at the joint meeting in 1993 cannot be understood in any other way, since it is stated here that the co-operation has as its goal to co-ordinate questions concerning Saami in more than one country or the Saami as one people. On the

basis of the actual conditions and a purely semantic understanding, it is difficult to interpret "the Saami as one people" as only referring to the Saami in the Nordic countries. While the formulation "the Saami as one people" must of course also include the Saami in Russia, it is necessary to add that the joint decision expressly states that the co-operation shall take place under the auspices of the elected bodies. However, a future co-operative body for the Saami Parliaments can hardly co-ordinate questions affecting "the Saami as one people" if there is not at least a minimal representation from the Saami in Russia.

The Saami in Russia, however, will hardly be represented in the same way or to the same degree as the Saami in Finland, Norway and Sweden, because the latter will be represented by a parliamentary co-operation between Saami elected bodies, i.e. elected public bodies with a certain constitutional role in their respective countries. This co-operation, in other words, will be a co-operation between the Saami Parliaments, but the joint body should be able to give the Saami in Russia an observer status. Observer status normally carries with it the right to speak but not the right to vote. Observers are usually not represented in the executive bodies. In international co-operative bodies, it is customary to give observer status to parties that for natural reasons are or can be affected by the co-operation and to those with genuine interest in participating in the co-operation.

## OBJECTIVES FOR THE CO-OPERATION BETWEEN THE SAAMI PARLIAMENTS

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The Saami Parliaments' joint decision to establish and develop a formal co-operation between the elected Saami bodies contains the following statement of objectives:

*"The goal of the co-operation shall be to co-ordinate the consideration of questions that affect the Saami in more than one country or the Saami as one people, to develop practical forms of co-operation between Saami elected bodies in all areas where this is natural, and to create conditions that will enable promotion of common Saami viewpoints and joint Saami representation in Nordic and international bodies."*

The Saami Parliaments here formulate an objective in several parts and categories: First, the political will and goal to co-ordinate the consideration of political issues across State borders; then, the goal of a more practical institutional character, to develop practical forms of co-operation and to create conditions that will enable promotion of common Saami viewpoints. The Saami Parliaments' final goal of joint Saami representation in Nordic and international bodies expresses an aim that is based on the fundamental political position that the Saami are one people, while practical considerations concerning co-ordination are also important.

*To co-ordinate consideration of issues that affect the Saami in more than one country or the Saami as one people* is expressed as part of the aim of the co-operation. *To co-ordinate* political consideration of such issues represents the core aspect of the objectives. The other elements are more to be seen as the means or tools to carry out political decisions and to follow up on them. The Saami Parliaments' objective of co-ordination corresponds to the Nordic States' expressed goal to co-ordinate Saami political questions.

The Saami Parliaments' aim to co-ordinate political consideration of issues affecting the Saami is not defined more precisely, except that it should take place in *all areas where this is natural*, i.e. in all questions that have or can have an effect on Saami daily life. Although it is not stated clearly, this formulation seems to refer to such questions as Saami

language, culture and livelihood. Various livelihood questions are understood to be important elements in the goals of the co-operation between the Saami Parliaments. Also questions concerning education, health and social conditions are central. Since religious questions and other issues related to people's convictions have always been of concern to the Saami, it is therefore presumed that also such questions will be included in the co-operation. General information on Saami conditions, environmental questions and legal position are also presumed to be areas which the Saami Parliaments will seek to include in the framework of the planned co-operation. It is reasonable to suppose that what the Saami Parliaments mean by *co-ordinated consideration* is *co-ordinated political consideration*, and not only *administrative consideration*.

The Saami Parliaments also aim to create conditions that will enable *joint Saami representation in Nordic and international bodies*. For the Saami Parliaments, joint representation is an aspect of the objectives for their co-operation, but this goal is not defined or formulated more precisely except to specify representation in Nordic bodies. That the Saami Parliaments name "Nordic bodies" indicates that the established Co-operation between the Nordic States should be given priority. The "other international bodies" include all relevant non-Nordic bodies, including the Euro-Barents Co-operation, the Inter-Arctic Co-operation, the European Union (EU), the United Nations (UN), international environmental processes, arctic research, international processes regarding distribution of resources etc. It can almost assuredly be presumed that a joint Saami representation could relatively easily be accomplished in all these international bodies except for the UN. It can almost assuredly be presumed that a joint Saami representation could relatively easily be accomplished in all these international bodies except for the UN.

Within the UN system, formal problems stand in the way of the goal of joint representation, with the exception of work in the UN Working Group on Indigenous Populations, which is open for all interested parties. The problem within the UN system arises because a joint Saami parliamentary body would fall between two categories: It can neither claim NGO status nor observer status. Since the UN is a relatively conservative inter-governmental organization, it does not now recognize bodies of this kind. Within the UN in the short term, it would therefore be necessary to work as part of a national delegation, so that each Saami Parliament would seek to participate in the state delegation. In the long run, however, it should be possible in principle to amend the UN system so that a joint Saami representation could also exist here to work within a reasonably defined area. This could be carried out by changing the regulations for

observer status in the UN. There are some indications that the time is ripe for a thorough review of the regulations. It is difficult to find good reasons why a co-operative body formed by elected assemblies should have a weaker status within the UN than voluntary or private organizations (NGOs). It would be natural for the UN to continuously evaluate such questions, also in the light of the increasing recognition of indigenous peoples' rights, particularly in its consideration of a possible establishment of a permanent forum for indigenous peoples within the UN.

If the Saami Parliaments' formulation of their objectives in regard to joint Saami representation in Nordic and other international bodies should be analysed further, it must be from a material point of view – in other words, try to find the objective material core in these goals. In addition to work to contribute to the development of international standards within the area of international law, it is reasonable to presume that there also exists a wish to participate in international political processes in general – for example, to work for a co-ordinated Nordic and Arctic policy that sufficiently considers the Saami as an indigenous people. In other words, to work for initiatives that aim to develop and improve the basic conditions and general premises for the Saami's and other indigenous peoples in the Arctic Region, with special focus on the States' responsibility for indigenous peoples' economic, social, cultural conditions and for the environmental situation in indigenous peoples' traditional areas. Furthermore, it is reasonable to assume that the Saami Parliaments also aim to try to achieve acceptable utilization of natural resources in the Saami areas and work for resource utilization that is in better accord with the Saami's own premises. The work of contributing to the establishment and development of reasonable forms of co-operation between States and indigenous peoples must be seen as a central task for a future joint Saami Parliamentary body.

The co-operation's objective seems to be an active effort to ensure sufficient consideration for Saami interests in all questions concerning the Saami, and that the Saami's interests are considered in international negotiations in all areas that concern or can concern Saami society.

The Saami Parliaments' formulated aim to create conditions to promote *common Saami viewpoints* indicates an expression of the goal and will to *arrive at common standpoints*. Saami political positions are not as homogenous as is perhaps expected. The variety of Saami political standpoints represents a broad spectrum of political declarations and priorities. It is therefore not obvious that it is always possible to arrive at *common standpoints*. When the Saami speak of „common standpoints“ it seems to indicate a will to establish, carry out and institutionalize co-operation with *consensus* as the governing principle. In other

words, a basis for agreement and common standpoints will be sought through negotiation, instead of voting with the aim of identifying a majority.

This attempt to analyse the objectives of the co-operation between the Saami Parliaments is essentially based on the concrete formulation of their joint declaration. Evaluations are also largely based on the positions and evaluations that have formerly been expressed by the Saami Parliaments. However, such an analysis must also be largely based on subjective judgements and assumptions that subsequently can prove to be incorrect.

## THE MANDATE OF THE JOINT BODY

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### 8.1 The political mandate

Formally, the functions and tasks of the three Saami Parliaments are not completely identical. Yet, their mandates do share the provision that they freely and on their own initiative can raise issues and make declarations within each parliament's areas of activity. The Saami Parliaments' joint political area of activity includes all questions that can, according to their understanding, concern the Saami, and all questions that the Saami Parliaments themselves consider of special interest. The Saami Parliaments' mandates establish a great degree of freedom within the political sphere, while there are clearly more limitations within the administrative sphere.

The Finnish Saami Act provides the following general mandate for the Saami Parliament in Finland:

*"To the Saami Parliament belong the areas that relate to the Saami's language and culture and their position as indigenous people.*

*In the areas that belong to the Saami Parliament, it can take initiatives, make proposals and issue statements to the authorities. In relation to these issues, the Saami Parliament also has the right to make decisions provided for in this or any other law."*

Moreover, the Saami Act's provisions for Saami cultural autonomy in Finland and the authorities' obligation to negotiate represent a significant extension and clarification of the Saami Parliament's mandate.

The Saami Act in Norway gives the following mandate to the Saami Parliament:

*"The Saami Parliament's area of activity includes all questions that the Parliament considers to relate to the Saami.*

*The Saami Parliament can on its own initiative raise and issue statements on all questions within its area of activity. It can on its own initiative also raise questions before public authorities and private institutions etc.*

*The Saami Parliament has the authority to make decisions when this follows from other provisions in the Act or is decided in another way."*

The Swedish Saami Act defines the mandate of the Saami Parliament in Sweden as follows:

*“The Saami Parliament shall work for a living Saami culture and thereby take initiative to activities and propose measures that promote this culture.*

*The Saami Parliament’s tasks especially include:*

- 1. Making decisions about the distribution of allocated State funds and funds from the Saami Fund to Saami culture and Saami organizations and of other funds that are placed at the collective disposal of the Saami;*
- 2. appointing the Board for the Saami schools as provided in chap. 8 § 6 of the School Act (1985: 1100)*
- 3. leading the Saami linguistic work;*
- 4. contributing to society planning and monitoring that Saami needs are taken into consideration, among others the interests of reindeer husbandry in connection with the use of land and water; and*
- 5. disseminating information on Saami matters.”*

Thus, it is clear that the mandates of the Saami Parliaments are not identical; there are obvious similarities but also great differences. In this context, however, it is the similarities that are of most interest because a co-operation between the Saami Parliaments should of course be established within the areas that the mandates have in common. It is not politically possible to establish a co-operative body for the Saami Parliaments that has a mandate that goes beyond the limits represented by the common elements of the respective mandates. In other words, it is difficult to imagine a joint body with a mandate that goes further than common aspects of the political mandates of the respective Saami Parliaments. The definition and development of a political mandate for a joint body will have to be irrevocably connected to the existing mandates for the Saami Parliaments and possible future development processes on the national level. Thus, developments on the national level will also be an absolute limitation for the development process for the joint parliamentary body.

The most important common element in the Saami Parliaments’ political mandates is that they shall work for the benefit of the Saami language, culture and society. They shall, so far as possible, take necessary initiatives and make political decisions within the framework of their mandates. This is formulated somewhat differently in the three respective Saami Acts, but even though the wording of the Saami Acts is somewhat different, the essential content must be interpreted as identical. The Swedish Saami Act formulates this aspect of the Saami

Parliament's political mandate in the following way: *"The Saami Parliament shall work for a living Saami culture and thereby take initiative to activities and propose measures that promote this culture"*. The Saami Act in Norway uses another formulation: *"The Saami Parliament can on its own initiative raise and issue statements on all questions within its area of activity. It can on its own initiative also raise questions before public authorities and private institutions etc."*. The Saami Act in Finland states: *"In the areas that belong to the Saami Parliament, it can take initiatives, make proposals and issue statements to the authorities"*.

Within the framework of the given mandate, the Saami Parliaments each represent the centre for the Saami political debate on the national level. Each stands as the most important Saami national political actor in its respective country in relation to the state, regional and local authorities and society in general. This is also the goal of the future co-operative body for the Saami Parliaments, but in addition, the aim is to be the central Saami political actor in relation to Nordic and other international political organizations and institutions.

In addition to the formal mandate given to the Saami Parliaments via the respective Saami Acts, they are also given a mandate by the Saami electorate. The political mandate that the Saami Parliaments have received from the voters is absolutely the most important aspect of the parliaments' political mandate and legitimacy. The Saami Parliaments' representatives not only have the right, but also the moral and political obligation to carry out their political work in accordance with the respective political programmes.

It is, as already stated, natural to establish co-operation between the Saami Parliaments for the aspects that are common to their national political mandates, and to combine these elements. In other words, the co-operative body's political area of activity or mandate should cover all questions that, according to the co-operative body's own understanding, concern or can concern the Saami in more than one country or the Saami as one people. Further, the body can on its own initiative raise questions, issue statements and present questions for the national authorities and international bodies on all questions within its area of activity. A political body with such a mandate would be sovereign in deciding which concrete questions or issues are of special interest and significance to the Saami people. It would also be sovereign in deciding how these questions should be treated.

## 8.2 The administrative mandate

It is sometimes difficult to draw a clear line between administrative and political questions. But in order to evaluate which mandate a future

joint body for the Saami Parliaments should have, it is important to differentiate between the political and administrative dimensions.

It seems reasonable that such a joint body should clearly give higher priority to its political role than to a possible administrative role. It is difficult to imagine that a co-operative body of this kind should have a prominent administrative role, since this is apparently not the goal of the Saami Parliaments. In the formulation of their objectives, the Parliaments focus on the political dimension alone. At the present point in time, it is not realistic either, politically, legally or practically, to imagine that such a joint body could possibly be an international administrative authority. In other words, the purely administrative aspect of the Saami Parliaments' mandate can hardly be included in the mandate for co-operation. Also in the future, the administrative aspects should be the responsibility of the national Saami Parliaments alone.

In addition to both the practical and political circumstances supporting establishment of a co-operation that does not include administrative functions, considerable legal problems would also be involved, for example, in relation to the administrative legislation in the respective states if administrative functions were to be included. Even though Nordic administrative legislation is harmonized to a certain extent, the respective laws, unwritten administrative principles and ordinary administrative practices are still sufficiently different to cause problems in effectuating a joint Nordic Saami administrative authority. The possibility exists, of course, to treat administrative questions according to the administrative laws of one of the three states. This would, however, create the problem that Saami in the two other countries would find themselves in a difficult situation, because they would have to relate to unfamiliar administrative laws. In other words, conflicts would arise in relation to purely technical legal problems as well as problems relating to individuals' legal security, that are of such character that they could not be solved within the framework of the kind of co-operation that is being discussed here.

Due to these circumstances, it seems reasonable to establish and develop the co-operation as a political co-operation, i.e. in such a way that the joint body would have a minimum of purely administrative functions. Giving such priority to the purely political dimension also seems to be the major goal of the Saami Parliaments.

However, it does seem natural to assign the joint body some tasks of an administrative character. For example, the administration of the Nordic Council of Ministers' economic support to the Saami in the form of a yearly frame grant, could be the responsibility of the joint body for the Saami Parliaments. Administration of these funds should not cause difficulties of the kind referred to above.

## ORGANIZATION OF THE CO-OPERATION

**9.1 Political organization**

Several alternatives seem to exist in regard to how the political co-operation between the Saami Parliaments should be organized and institutionalized: (1) a formal co-operation *under the auspices of the respective executive bodies*<sup>1</sup> or (2) a formalized *co-operation exclusively between the Saami Parliaments' plenaries*. A third alternative could lie between these two by formalizing the co-operation so that (3) it is *established between both the plenary and the executive bodies within the framework of the same co-operation*.

It would not be appropriate to limit the co-operation to only *the executive political bodies*, in spite of the fact that it would have obvious advantages. The costs would be lower, while it would also be possible for a smaller body to work more efficiently. The great disadvantage would be that the Saami Parliaments' political representation on the national level would not be reflected in such a body, and this would be most unfortunate in relation to the requirements of democracy and representation.

The second alternative, *a co-operation that is exclusively based on a co-operation between the Saami Parliaments' plenaries*, is a possibility, and such a form of organization would fulfil the basic requirements of representation. An unfortunate effect would be that such a body could easily be very large and expensive. The greatest negative effect of this form of organization, however, would probably be the lack of direct connection to the respective Saami Parliaments' executive bodies. Without such a direct line of connection, achievement of the most important aim of the co-operation would be in imminent danger, that of efficient and co-ordinated consideration of political questions and co-ordinated follow-up and effectuation of political decisions. On the national level, the Saami Parliaments' executive bodies have the daily responsibility to act on behalf of the Saami Parliaments. It therefore seems mandatory that a direct political line of connection should exist between the executive bodies of the Saami Parliaments and the new co-operative body, and in such a way that the respective leaders together comprise the political leadership of the new co-operative body.

As stated earlier, it would be most appropriate to establish *co-operation between the Saami Parliaments in a way that ensures representation of both the Saami Parliaments' plenaries and their executive bodies*. And in such a way that the composition of the leadership of the new co-operative body originates directly from the respective Saami Parliaments' executive bodies, while at the same time these leading representatives also belong to the co-operative body's plenary. In this way, the existing political balance between the respective plenary and the executive bodies will be taken into account in the establishment of the co-operative body and ensure that this balance is transferred and maintained in the new co-operative body.

This implies that the most appropriate solution would be to organize the political co-operation on two levels, but within the same framework. This can be carried out in practice if the respective Saami Parliaments in plenary appoint the majority of their own representatives to the co-operative body's plenary. At the same time, the Saami Parliaments' executive bodies appoint the rest of the representatives, i.e. representatives that shall participate as part of the co-operative body's plenary, while they also participate in the political leadership of this body. It would be natural for the respective Saami Parliaments themselves to determine the rules of procedure for appointing their representatives within the framework for the co-operation. The general organization of the political level could therefore be as follows:

- *Co-operative body in plenary*
- *Co-operative body's political leadership - the executive body*

In addition to these bodies, it might be necessary to establish other bodies or organs of a subordinate nature to work with specific questions.

### 9.1.1 The Plenary

The plenary (referred to hereafter as the *Saami Parliamentary Assembly*<sup>2</sup>) should of course be the co-operation's highest authority. The Saami Parliamentary Assembly should be sovereign in carrying out its political work within the framework of its mandate. The Assembly in plenary would also have to define its own rules of procedure and regulate the political leadership's tasks and activities and eventually that of subordinate bodies.

The total number of representatives must be set at a reasonable level in order to fulfil the condition that the Assembly must reflect the political and geographic composition of the co-operating Saami Parlia-

ments. However, since economic aspects must also be taken into consideration, the number of representatives should be as low as possible.

The question of *representation* is a central aspect in considering how the Saami Parliamentary Assembly should be constituted. Representation should be considered in regard to both its geographic and political aspects. *Geographic representation* in this context means that there should be the same number of representatives from each Saami Parliament, and each Parliament should try to ensure that its own delegation reflects the geographic distribution of Saami habitation within the country concerned. *Political representation* here implies that the political minority in the respective Parliaments should also be represented in their joint body. Factors such as political representation and representation in a form that reflects the purely geographic aspect of Saami habitation in the three countries must be considered by each Saami Parliament in choosing its delegation. Each Saami Parliament must be considered sovereign in relation to these two factors. This is a consequence of the fact that the composition of the national delegations would be difficult to control in any other way than by specifying in the co-operation agreement that each Parliament shall choose a specific number of representatives and of these a specific number shall be chosen from the Saami Parliaments' executive bodies.

It would be natural and reasonable that such a co-operative body should have an equal number of representatives from each Saami Parliament. Representation should not be determined on the basis of the number of votes in the respective parliamentary elections or the estimated number of Saami in each country. There is a real danger that a system with unequal representation from the three Saami Parliaments would create a climate that would not be conducive to constructive co-operation. Equal representation from each Saami Parliament, on the other hand, would confirm that this is a co-operation between equal parties.

On the basis of a concrete evaluation that seeks to take the above-mentioned factors into consideration, it would be reasonable to set the total number of representatives at 21. Thus, each Saami Parliament would elect seven representatives to the Saami Parliamentary Assembly: Plenary would elect five of the total number of representatives in each national delegation, since the remaining two representatives should be the respective Saami Parliament's elected political leaders and deputy leaders.

.....  
9.1.2 Presidium – the executive body

.....  
90 : The task of the Presidium should be to lead the work of the Saami  
Parliamentary Assembly. The Presidium should participate in ple-

nary, as mentioned above, while also constituting the political leadership of the assembly between plenary sessions. The Presidium would consist of the political leaders<sup>3</sup> and deputy leaders<sup>4</sup> in the respective Saami Parliaments, so that the Presidium would have a total of six representatives. This would create a small problem, since the Finnish Saami Act states that the Saami Parliament in Finland should have two deputy leaders, but this should be able to be solved by the Saami Parliament in Finland choosing between these two.

It would also be natural for one of the three political leaders of the respective Saami Parliaments to be chosen as *President* of the Saami Parliamentary Assembly and thus leader of the Presidium. The remaining two should both be chosen as *Vice-Presidents*. It would also be reasonable to establish a system of rotation for the post of president so that the three political leaders each served as President for 16 consecutive months of the total mandate period of four years.

## 9.2 Administrative organization

### 9.2.1 The Secretariat

To ensure a responsible management of the Saami Parliamentary Assembly, it is necessary to have a permanent secretariat. The secretariat should carry out preparations for the meetings of the Saami Parliamentary Assembly, the Presidium and any subordinate bodies. The secretariat should be led by a General Secretary or Director, depending on the role assigned.

As mentioned earlier, the Saami Parliaments have indicated that the co-operation should give highest priority to the purely political dimension. Focus would be on political co-ordination of questions affecting the Saami in more than one state or the Saami as one people. This implies that questions of administrative character would not be given priority and that the secretariat of the Saami Parliamentary Assembly would function to a much greater extent than the national Saami parliamentary secretariat as a political secretariat. The political aspect would dominate the function of the secretariat, and therefore the administrative aspect would be very small in practice.

### 9.2.2 Location of the Secretariat

It may seem premature to discuss this question now; however, some questions of a principle and practical nature are involved

that should be introduced already at this stage: for example (1) whether the secretariat should be physically connected to one of the existing Saami Parliaments' secretariats, and (2) a preliminary evaluation of the basic conditions that a geographic location should fulfil in order to be considered a reasonable host-location for the secretariat.

#### 9.2.2.1 Should the secretariat for the Saami Parliamentary Assembly be physically connected to one of the existing Saami Parliaments' secretariats?

It would probably be economical to establish the secretariat of the Saami Parliamentary Assembly in physical connection to one of the existing Saami Parliaments' secretariats. Establishment and management costs would be somewhat lower. The existing secretariats already have established and functioning office facilities, archive systems, and computers and established communication systems. Each secretariat also comprises a significant national centre of competence in relation to Saami political questions. Viewed in isolation, there are many practical advantages connected with establishing the administration in physical connection to one of the existing Saami Parliaments' secretariats.

On the other hand, such a location could easily cause the Saami Parliamentary Assembly's secretariat to be absorbed by the secretariat to which it was connected. This unfortunate result would especially apply in the beginning phase when the joint secretariat would be extremely small in relation to the already existing secretariat. Also later, there would be several negative aspects of such a physical connection. There would be a danger that the joint secretariat would be influenced too much by the environment and way of working of the secretariat to which it was connected and would therefore not be in a position to develop as freely as wished. Those employed by the joint secretariat would probably also be influenced by the national Saami political questions that would constantly be raised within the connecting secretariat. This influence could cause the employees to unconsciously move from a Pan-Saami standpoint toward thinking that was focused too much on Saami conditions in the actual host State. This would be a natural and not very favourable consequence of a possible establishment of the Assembly's Secretariat in physical connection to one of the existing Saami Parliaments' secretariats. Even though it would be possible to save economic resources by establishing the secretariat in connection with one of the existing secretariats, it could have very unfortunate consequences in the long run.

*The higher cost* of establishing the secretariat physically and geographically *separated* from the national Saami Parliaments' secretariats would most probably not be so significant as to outweigh the negative aspects of such a form of establishment. In this question, more weight should be placed on consideration for the Pan-Saami political principles than on the more or less marginal economic savings that could result from connection with a national secretariat.

### 9.2.2.2 Geographic locality

Geographic locality is often one of the most difficult questions, since many of those in a position to influence and make the decision wish to place the actual institution in their own area or district. Often, this actually happens, and without sufficiently taking into consideration other possible arguments of a more rational character during the decision-making phase.

It would be too early and also somewhat unfortunate to start a discussion of locality by already naming specific host communities. However, it should be presumed at this point that the secretariat should be established within the Saami territory and in a community with a solid Saami identity. The community should also have attraction for Saami from all countries and regions, since otherwise it could be difficult to recruit qualified personnel for the future positions. This would be most unfortunate for the joint body, since it could result in a staff based on local recruitment and thus lacking geographic balance. This situation could easily arise if the secretariat was in a Saami community that could *not* offer the employees the necessary basic social conditions and would therefore not be very attractive for persons with the necessary education and experience.

## 9.3 Organization during the establishment phase

As already discussed, the Saami Parliaments today have a certain form of formal co-operation. The three political leaders meet regularly for consultations in order to co-ordinate the political consideration of certain questions and share the responsibility of representation in contexts where it is natural to have joint representation. To a certain extent, they utilize the national Saami Parliaments' secretariats for administrative support in this co-operation. Their political mandate for this co-operation is formulated in the Saami Parliaments' joint declaration of 1993.

This form of co-operation, which in practice is carried out by the political leaders just meeting according to need, is hardly satisfac-

tory in the long run. However, this is probably the only alternative in the initiation phase, due to both economic and practical circumstances. Regard for an efficient establishment of the co-operation on the basis of the need for Saami political co-ordination has until now been the central argument for starting this co-operation, even though this practice today only includes the political leadership.

Due to the lack of economic means, this co-operation will have to continue for a time, since it can not be expanded within the framework of the present budget. The present form and level of co-operation already places an additional burden on both economic and administrative resources. The next necessary initiative in this co-operation would therefore be to ensure special funds for *establishment of a small secretariat* to service the existing political co-operation. In this way, the political co-operation can be continued and developed without burdening the national Saami Parliaments excessively. But it would still be necessary to maintain the political aspect of the co-operation at a minimal level and instead give priority to establishment of a joint secretariat.

Such a *start-phase* appears necessary, because it is not plausible that a fully qualified political and administrative capacity could be achieved immediately. It is much more realistic to work for establishment on a small scale but with the goal of gradually developing both the political and administrative levels. The aim of such a start-phase would be the same as the Saami Parliaments' formulated goal for the co-operation: to try to co-ordinate the actual Saami political questions across state borders and ensure joint Saami representation where this is natural. In addition, the work to develop the co-operation would of course continue to be one of the most important tasks, i.e., to fulfil the goal of a lasting and fully qualified co-operation between the Saami Parliaments.

It seems necessary to formulate the intentions of the co-operation in a separate agreement between the Saami Parliaments so that the co-operation can be continued on this basis. In the long run, it would be reasonable for the respective States to enter into an agreement in which they acknowledge the Saami Parliamentary Assembly and obligate themselves to provide the economic resources necessary for its function. Such an agreement between the States could be part of a more comprehensive Saami Convention.

It is presumed that the Saami Parliaments can establish the Saami Parliamentary Assembly on the basis of an agreement between the Saami Parliaments. It would probably not be necessary to have a separate act or convention. Establishment does not represent any encroachment of existing rights, since the co-operation only has the goal of formalizing political co-operation between the Saami Parliaments. In other words, it is presumed that the Saami Parliaments have the nec-

essary organizational freedom and authority to enter into such an agreement without consulting the national Governments or legal authorities.

## Notes

- <sup>1</sup> Saami Parliamentary Council in Norway and the Saami Parliaments' Executive Committees in Finland and Sweden.
- <sup>2</sup> Alternative names could be: Saami Joint Parliament, Saami Parliament, Joint Saami Parliament, Nordic Saami Parliament.
- <sup>3</sup> President of the Saami Parliament in Norway and Chairmen of the Saami Parliament Executive Committees in Finland and Sweden.
- <sup>4</sup> Vice-President of Saami Parliament in Norway and Vice-Chairmen of the Saami Parliament Executive Committees in Finland and Sweden.

## CHAPTER 10

# EXPENSES AND FINANCING

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### 10.1 Expenses

It is difficult at the present time to stipulate the costs of the political activities of the Saami Parliamentary Assembly, since expenses will depend on the level of political activities that are planned. It will therefore be necessary to return to this question later.

### 10.2 Financing

It would be reasonable to finance the costs of the activities of the Saami Parliamentary Assembly through various sources. Some of the costs would be covered by the Saami Parliaments' own budgets, while others must be presumed to be covered by State or Nordic financial sources.

It would be most appropriate to divide financing of the political activities of the Saami Parliamentary Assembly (in plenary), so that part is covered by the Saami Parliaments' own budgets, while the rest is financed via the Assembly's budget. It would be natural for the Saami Parliaments' budgets to cover costs connected with the MP's travel, accommodations and allowances. Costs for the practical arrangement of meetings in plenary could be covered by the Assembly's budget. It would also be natural for the work of the Presidium and other political representation to be covered by the Assembly's budget. Costs connected with the work of the secretariat should also be covered by the budgetary funds provided for the Assembly.

Co-operation in the Saami Parliamentary Assembly will of course incur increased expenses for the Saami Parliaments that preferably should be covered by increased funding from State budgets. Other realistic possibilities for financing do not exist, since the Saami Parliaments do not seem to have possibilities within the existing budgets that could cover increased expenses of this size.

The financing of the costs for the Saami Parliamentary Assembly could be covered through special economic grants from the respective States and grants from the Nordic Council of Ministers. Also here, it will be difficult to find financing alternatives other than possible partial financing through the Euro-Barents Co-operation and the European Union.

## DRAFT AGREEMENT FOR THE CO-OPERATION BETWEEN THE SAAMI PARLIAMENTS IN FINLAND, NORWAY AND SWEDEN

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This is a draft agreement for co-operation within the framework of the Saami Parliamentary Assembly based on the findings of this report. The co-operation takes its point of departure mainly in an agreement between the Saami Parliaments, but with time it could additionally be based on other elements, such as an agreement between the States in the form of a legally binding convention between the States concerned.

### **Agreement for the Co-operation between the Saami Parliaments through the Saami Parliamentary Assembly**

*The contracting parties, the Saami Parliaments in Finland, Norway and Sweden,*

ascertain that the Saami are one people sharing common history, culture, language and traditions; the parties also

ascertain that parts of the nation states of Finland, Norway, Russia and Sweden are established on territories belonging to the Saami people and that, before the founding of these states, these territories have been inhabited by the Saami people, and that the Saami thus are an indigenous people in Finland, Norway, Russia and Sweden; the parties

ascertain that the Saami, through their organizations, have repeatedly declared their will to act as one people in spite of state borders and have shown the ability and will to co-operate regarding common questions; the parties

ascertain that a special need exists for co-operation between the Saami Parliaments in issues that concern the Saami in several countries or the Saami as one people, just as it is ascertained that this need for co-operation also applies in relation to the national states; the parties

acknowledge on this background the necessity to establish and institutionalize a lasting co-operation between the Saami Parliaments in relation to legal, economic, social, cultural, civil and political and other questions; and the parties

acknowledge the necessity to invite the Saami in Russia to participate in this co-operation as observers; the contracting parties

declare hereby that they agree to the following:

#### Article 1

The purpose of the agreement is to create a lasting institutionalized co-operation between the Saami Parliaments in issues concerning the Saami in several countries or the Saami as one people.

The purpose is also to ensure that the Saami will be able to protect and develop their language, their culture and their society within each country and that the Saami as one people in several states will be able to protect and develop these conditions in spite of state borders.

#### Article 2

In order to create a lasting co-operation between the Saami Parliaments, the Saami Parliamentary Assembly shall be established. As a co-operative body for the Saami Parliaments, the Saami Parliamentary Assembly shall be appointed by the Saami Parliaments by election of representatives to the Assembly.

#### Article 3

Saami, Finnish, Norwegian and Swedish shall have equal status as the languages of the Saami Parliamentary Assembly.

#### Article 4

The Saami Parliamentary Assembly shall contribute to the co-ordination of the political processing of questions that concern or can concern the Saami in several states or the Saami as one people.

The Assembly shall also contribute to development of other practical forms of co-operation between the Saami Parliaments.

The Assembly shall represent the Saami in Finland, Norway and Sweden in Nordic and other international contexts and also in all contexts where such joint representation is considered necessary.

#### Article 5

The area of activity of the Saami Parliamentary Assembly embraces all questions that, according to the Assembly, concern or can concern the Saami in several States or the Saami as one people.

The Saami Parliamentary Assembly can, on its own initiative, raise questions and issue statements concerning all issues within its area of activity.

The Saami Parliamentary Assembly can, on its own initiative, raise questions, issue statements, proposals and recommendations before the Saami Parliaments, public authorities in Finland, Norway and Sweden, other countries, and international authorities and organizations.

## Article 6

The Saami Parliamentary Assembly shall comprise twenty-one (21) Saami Members of Parliament elected by the Saami Parliaments in Finland, Norway and Sweden from among the representatives elected to each of them by the Saami people.

## Article 7

Each Saami Parliament shall elect seven (7) representatives to the Saami Parliamentary Assembly for a mandate period of four (4) years. At all times, two (2) of these representatives shall be the political leaders and deputy leaders chosen by each Saami Parliament.

The seven (7) representatives comprise the delegation of each Saami Parliament to the Saami Parliamentary Assembly. Each delegation shall be led by the elected political leader of the respective Saami Parliament.

## Article 8

Each Saami Parliament shall approve the rules for election of its representatives to the Saami Parliamentary Assembly in accordance with articles 6 and 7.

## Article 9

The Saami Parliamentary Assembly shall elect the Saami President in Norway and the Chairmen of the Saami Parliaments in Finland and Sweden as leader and deputy leaders for the Assembly in plenary and for the Presidium. The post as President shall rotate among these three leaders so that each of them will have the post for a period of 16 consecutive months during the course of the Assembly's mandate period of four years.

## Article 10

The Saami Parliamentary Assembly shall have a Presidium comprising six (6) representatives who shall also be members of the Assembly in plenary of twenty-one (21) representatives.

The Presidium shall consist of the political leaders and deputy leaders of the national Saami Parliaments and will be led by a President and Vice-President in accordance with the provisions in article 9.

## Article 11

The Assembly's decisions shall be approved by a majority of each of the delegations.

## Article 12

The Presidium shall decide the agenda for the Assembly's plenary meetings and convene plenary in accordance with the rules of procedure approved by the Assembly.

**Article 13**

The Presidium is directly under the Assembly in plenary and is responsible for leading and managing the activities of the Saami Parliamentary Assembly.

**Article 14**

The Saami Parliamentary Assembly itself shall decide its further rules of procedures.

**Article 15**

The Saami Parliamentary Assembly shall have its own secretariat under the leadership of a General-Secretary appointed by the Assembly in plenary. The remaining administrative staff shall be appointed by the Presidium.

**Article 16**

The parties shall decide, according to further agreement, when and how the co-operation shall be initiated and how it shall be developed and expanded in the future.

**Article 17**

This agreement can be terminated with two (2) years notice by each of the parties. Termination of the agreement requires a majority of both the delegation wishing to terminate the agreement and its respective Parliament.







