

ARCTIC REGIONAL WORKSHOP ON  
INDIGENOUS PEOPLES'  
TERRITORIES, LANDS AND NATURAL  
RESOURCES

Copenhagen, 26 – 27 March 2007

REPORT

## **Introduction**

The Arctic Workshop on Indigenous Peoples' Territories, Lands and Natural Resources was held as part of the Arctic regional preparatory process for the discussions at the sixth session of the United Nations Permanent Forum on Indigenous Issues under its thematic agenda item on indigenous territories, lands and natural resources, to be held 14 – 27 May 2007 in New York. The Workshop was organized by the regional indigenous parliaments and organizations, in cooperation with the Nordic States.

The Workshop was attended by representatives of national governments, indigenous parliaments, indigenous peoples' organizations, non-governmental organizations, members of the Permanent Forum, UN Special Rapporteur on the Human Rights of Indigenous Peoples, and individual experts.

The aim of the Workshop was to bring together representatives of governments, indigenous governments and parliaments, indigenous peoples' organizations, members of the Permanent Forum, and other experts to discuss matters related to indigenous territories, lands and resources.

The Workshop provided an opportunity to identify current and future challenges concerning recognition, legal protection and implementation of indigenous peoples' rights to territories, lands and resources, as well as an opportunity to share experiences and good practices in the respective countries.

The Workshop identified a number of challenges and problems faced by the indigenous peoples of the Arctic region. The Workshop elaborated a number of conclusions and recommendations concerning indigenous peoples' rights to territories, lands and resources.

## **Participation**

The following governments were represented: Denmark, Norway and Sweden.

The following parliaments were represented: Greenland Parliament, and the Sami Parliaments in Finland, Norway and Sweden.

The following indigenous peoples' organizations were represented: The Inuit Circumpolar Council, and the Saami Council.

The following United Nations bodies and institutions were represented: United Nations Permanent Forum on Indigenous Issues, and the United Nations Special Rapporteur on Indigenous Human Peoples Rights, Rodolfo Stavenhagen.

The following individual experts participated: Aqqaluk Lyngé, Carsten Smith, Ida Nicholaisen, James Anaya, John B. Henriksen, and Martin Scheinin.

The following other organizations and institutions were represented by observers: Greenland Home Rule Government, International Work Group for Indigenous Affairs, Gáldu - Resource Centre for the Rights of Indigenous Peoples, the Indigenous Peoples Secretariat, NORAD, and Grontmij-Carlbo.

## **Organization of work**

The Workshop was opened by Kati Eriksen, the Saami Council. Carsten Smith was appointed as the facilitator, whereas John B. Henriksen was appointed as the Rapporteur.

The two members of the United Nations Permanent Forum on Indigenous Issues, Ida Nicholaisen, and Aqqaluk Lyngé, were invited to make opening remarks. They informed about the mandate and the work of the Permanent Forum. They both emphasized that the recognition and implementation of indigenous peoples' rights to territories, lands and resources are of crucial importance for the survival

of indigenous peoples. They urged the Workshop to reach conclusions and recommendations that are as concrete and specific as possible.

## **Programme**

The Workshop adopted the following substantive programme:

Theme 1: International law on indigenous peoples' rights to lands, waters and natural resources

Theme 2: Indigenous peoples' rights to lands, waters and natural resources – specifically on ownership rights to lands

Theme 3: Indigenous peoples' rights to lands, waters and natural resources – specifically as to what rights indigenous peoples have to non-traditional natural resources, such as sub-surface resources.

Theme 4: Indigenous peoples' rights to lands, waters and natural resources - specifically as prerequisite for preserving and developing indigenous peoples' cultures.

Theme 5: Indigenous peoples' right to the management and co-management of territories, lands and resources

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## CONCLUSIONS AND RECOMMENDATIONS

The Workshop reached the following conclusions and recommendations, which were elaborated in the spirit of pursuing partnership and dialogue between States and indigenous peoples, and bearing in mind the United Nations Declaration on the Rights of Indigenous Peoples now before the 61 session of the General Assembly, and other relevant international instruments such as the ILO Convention No. 169 and the draft Nordic Saami Convention. The conclusions and recommendations reflect some of the main priorities of the Inuit and the Saami peoples.

Territories, lands and natural resources, including fish, whales and other marine resources in the ocean, are the most fundamental concerns for the Inuit and Saami peoples. Land rights and access to land, and control over it and its resources, are central for indigenous peoples throughout the world. Indigenous peoples depend on it for their material and cultural survival. In order to survive as distinct peoples, indigenous peoples and their communities need to be able to own, use, conserve and manage their lands and resources. This is also the case for the indigenous peoples in the Arctic region.

Arctic indigenous peoples' economies, in particular economies which are largely based on subsistence activities, such as hunting, fishing, reindeer herding, farming and gathering, suffer disproportionately from the negative ecological consequences of industrial infrastructure projects in their areas.

These and other traditional or typical means of livelihood constitute "culture". Interference in such activities or the natural resources that form their basis are allowed only when both the effective participation of the indigenous group and the economic, social and cultural sustainability of the indigenous culture are secured.

Although, there has been progress in some of the Arctic countries, as far as recognition of indigenous land rights are concerned, there are still many unsolved matters which require urgent attention. There has also been some progress in this regard at the regional level. For instance, the governments of Finland, Norway and Sweden, together with the Sami Parliaments in these three countries, appointed an expert group to formulate a draft Nordic Saami convention. In November 2005, the group of experts submitted its proposal to the governments concerned and the three Sami parliaments. Among other provisions, the draft convention contains a number of provisions on Saami land and resource rights. References were also made to the ongoing negotiation between Greenland and Denmark within a Joint Commission on Self-governance aimed at expanding Greenland's self-government.

The Inuit and the Saami peoples are entitled to the rights acknowledged under international law on indigenous peoples, including rights pertaining to territories, lands and natural resources.

The Inuit and the Saami peoples have the right to self-determination under international law, including the resource aspects of this right.

The Inuit and the Saami peoples' right to self-determination pertaining to their territories, lands and resources will sometimes have to be exercised through co-management arrangements with the States concerned. States shall establish procedures, in cooperation with the Inuit and the Saami peoples respectively, through which they can effectively exercise their co-management, including environmental management.

Indigenous peoples' rights to territories, lands and resources, and their right to own the land they occupy and use in accordance with their own traditions, laws, and customs are protected under international law, including the International Covenant on Civil and Political Rights, the ILO Convention No. 169 concerning

Indigenous and Tribal Peoples, the Convention on the Elimination of all forms of Racial Discrimination, and the United Nations Declaration on the Rights of Indigenous Peoples.

The protection of indigenous land and resource usage rights must never be conditioned by consenting to extinguishment of claims to land title.

States have the obligation, in cooperation with indigenous peoples, to identify the lands indigenous peoples traditionally use and occupy, and to provide specific legal protection for the rights of ownership over those lands in accordance with indigenous customs and laws.

Many disturbances to the Inuit and Saami traditional livelihoods are today caused by industrial activities such as mining and forestry. The industry is not always sensitive to the Inuit's and Saami's culture based activities. States are obliged to take legislative and administrative measures to ensure that third parties - including the private sector - respect indigenous peoples' rights to territories, lands and natural resources.

The concept of free, prior and informed consent is of fundamental importance in relation to measures and activities affecting indigenous peoples' territories, lands or resources. Any interference must be preceded by the assessment of the economic, social and cultural impact of the planned measures. Adequate time and financial resources must be allocated for the impact assessment so that it can be performed in good faith.

States shall recognize and respect indigenous peoples' customary law pertaining to territories, lands and natural resources.

Under international law, indigenous peoples also hold rights to the natural resources located in their territories. These rights are recognized, e.g., by the ILO

Convention No. 169 and the UN Declaration on the Rights of Indigenous Peoples, and are also enshrined in the draft Nordic Saami Convention. These rights are also reflected in state practice in the Arctic and Western regions. In relation to the natural resources within their territories which they have not traditionally used, such as subsurface resources in many cases, the rights of indigenous peoples include, at a minimum: 1) the right to be effectively consulted through their representative institutions, 2) the right to a share in profits, and 3) the right to mitigation for harm caused to their lands or environments. States have a positive obligation to realize these rights.

Rights to share in profits from utilization of non-traditional resources can serve as an important tool for the realization of Inuit and Saami peoples' right to self-determination, including the possibility to construct their own societal infrastructure on their own premises.

States shall establish transparent procedures, in cooperation with indigenous peoples, through which the State and the indigenous peoples can negotiate fair and equitable benefit sharing arrangements with regard to the utilization of non-traditional natural resources located in indigenous territories, including subsurface resources.

The degradation of the environment in Inuit and Saami traditional territories caused by e.g. pollution, non-sustainable natural resource extraction and climate change constitute a great threat to their traditional lifestyles and culture. Climate change impacts on the environment in Inuit and Saami territories, e.g. changing the fundamentals for their traditional livelihoods in a paramount way.

The Workshop acknowledged the importance of the International Polar Year (2007-2008) with respect to follow-up on the Arctic Climate Impact Assessment, commissioned by the Arctic Council, and the recommendations for measures to counteract global warming.

The Workshop also acknowledged the importance of the findings of the United Nations Inter-Governmental Panel on Climate Change, and the decision to hold the United Nations Conference on Climate Change in Copenhagen, Denmark in 2009. The Workshop strongly urges the United Nations Permanent Forum on Indigenous Issues to follow closely the preparations for this important event.

Dialogue, partnership and negotiations between States and indigenous peoples concerning land and resource rights are of vital importance for the resolution of problems related to the implementation of such rights. The United Nations Declaration on the Rights of Indigenous Peoples provides important guidance for how such dialogue and partnership could be developed and maintained.

The workshop calls on the speediest possible adoption of the United Nations Declaration on the Rights of Indigenous Peoples, the draft Nordic Saami Convention, as well as of the ratification of the ILO Convention No. 169 by those states in the Arctic region that have not already ratified the Convention.