

**Human Rights Council 18<sup>th</sup> Session. Item 3:**

**Clustered Interactive dialogue with the SR on the Rights of Indigenous peoples and with EMRIP Statement by Norway, 20 September 2011**

President,

Norway reiterates our appreciation and support for the work of the Special Rapporteur on the Rights of Indigenous Peoples, Professor James Anaya including in particular his active approach in responding to alleged violations of the human rights of indigenous peoples. In his report this year, Professor Anaya identifies *extractive industries operating within or near indigenous territories* as one of the most significant sources of abuse of the rights of indigenous peoples worldwide (A/HRC/18/35 para 82).

Norway is a strong supporter of the work in the UN on issues of human rights and corporations. The *Protect, Respect and Remedy* Framework and the guiding principles for its implementation developed by Professor John Ruggie (A/HRC/17/4) has defined with greater clarity the roles and responsibilities that states and companies have in protecting and respecting human rights.

Professor Anaya, building on the “*Protect, Respect and Remedy* Framework”, provides important grounding for advancing the operationalisation of indigenous peoples’ rights in the context of business operations. The report contributes significantly in this regard by focusing on impacts of business corporation’s activities on indigenous communities, lack of regulatory framework, and lack of consultation and participation. Norway welcomes the efforts in developing specific guidelines and principles, suggested by Professor Anaya to be presented to this Council in 2013. (para 89)

We welcome the final report of the Expert Mechanism on the Rights on Indigenous Peoples (EMRIP), which contributes to the issue of indigenous peoples and the right to participate in decision-making (A/HRC/18/42). The report presents examples of good practice from across the world. Several countries are in the process of formulating practical procedures for consultation processes. Such consultation procedures need to be framed so that consensus can be built. It is often helpful for the indigenous representative institution and the state party to seek agreement on how to organize the consultation process before starting to discuss the matter concerned. Some businesses and government agencies may be of the opinion that formal consultation procedures are an unnecessary and time consuming burden. However, slowing the process down is often helpful, as it gives the various stakeholders time to articulate their interest.

In his report from the visit to the Sami areas of Finland, Sweden and Norway, Professor Anaya identifies the consultation procedures in Norway, from 2005, as an example of good practice (A/HRC/18/35/Add.2, para. 16-17). Still, there are certainly matters where agreement has not yet been reached between the Norwegian government and the Sami.

One such issue, referred to by the Special Rapporteur (para. 57) is the disagreements regarding the new mineral act. In the opinion of the Sami political leadership, the new law is unsatisfactory, in particular because there are no specialized provisions on consultations outside the county of Finnmark. There is also no agreement on benefit-sharing mechanisms, again with emphasis on areas outside of Finnmark. The position of the Government of Norway is that these and other remaining issues should be considered as part of the comprehensive package on Sami land rights currently being considered, while the Sami Parliament, *Samediggi*, want the issues concerning minerals to be resolved more rapidly.

**Against this background we would like to hear the views, both from Professor Anaya and from the EMRIP chair regarding the development of formalized consultation procedures of this kind in other regions, and their potential for being a useful tool, in particular where the economic stakes are high.**

In his conclusions, the Special Rapporteur makes several recommendations to the Government of Norway, regarding the ongoing work on land rights issues, the right to coastal fisheries, predator populations in reindeer herding areas, and measures to protect the Sami languages and culture. We appreciate these inputs, and the recommendations will be given due consideration in the on-going policy-making processes.

We (also) welcome the recommendation from EMRIP on improving the way indigenous peoples' governance bodies participate in the UN (A/HRC/18/43). We think it appropriate that the voices of indigenous peoples, and especially those of democratically elected bodies, are heard in the Council. **There is a need to develop practical procedures in this respect, and we would appreciate both the EMRIP chair and Professor Anaya offering their views on how to proceed on this issue.** Furthermore we hope appropriate time can be allocated during the 21<sup>st</sup> session to discuss in depth the modes for more direct participation of indigenous peoples' own governance bodies and institutions.

Thank you, Mr. President.