

Human Rights Council Expert Mechanism on the Rights of Indigenous Peoples,  
3<sup>rd</sup> session, Geneva, 13<sup>th</sup> July 2010.

Presentation by the Sami Parliament of Norway  
by Senior Adviser Leif Dunfjeld

Mr. Chairman,

*First of all, let me congratulate with your election as chair for this important body, and secondly congratulate the Expert Mechanism for its progress report.*

*Mr. President,*

*Allow me to refer to our own experience as a background when commenting on your report.*

*The Sami Parliament, or "Samediggi", was established by the Sami Act in 1987 as a special elected body for the Sami to become the representative legitimate voice of the Sami population living in Norway. The act does not decide in length on the decision-making authority of the Sami parliament, but constitutes that "the Sami Parliament has the power of decision when this follows from other provisions in the Act or is otherwise said down". The Norwegian national parliament agreed with the Government that authority of the Sami Parliament should develop in accordance with the will of the Sami Parliament and the Norwegian society as a whole.*

*The first Sami Parliament was opened in 1989.*

*The ILO General Conference had in June the same year adopted the ILO-convention 169 on the Rights of Indigenous and Tribal Peoples in independent countries. Norway ratified this convention as the first state on June 20<sup>th</sup> 1990 and thereby engaged itself in legal principles directly relevant to the Sami peoples' rights to participate in the decision-making processes .*

*As mentioned by The Expert mechanism in its interim report the ILO-convention is still the only international legally binding instrument with direct relevance to indigenous peoples rights and the corresponding state obligations. There has, however, been no revision in the Sami Act which includes in particular the consultation obligations nor the obligation to interact with Sami expressed priorities.*

*The current consultation arrangement was established in 2005 after the Norwegian Parliament had accepted the obligation to consult with the Sami Parliament before concluding and adopting the land-rights legislation in the northernmost county Finnmark. The agreement refers to the obligations the Norwegian state have according to, in particular, the ILO-convention 169.*

*The consultation agreement have, indeed, had positive influence of the Sami Parliaments role in the decision-making related to Sami interests and in most cases resulted in agreement. There have, however, been some difficulties when dealing with politicians or bureaucrats that does not always pay the necessary respect to the agreed procedures. In that respect we are waiting for more imperative consultation procedures to be decided by law.*

*It should also be observed that we experience more difficulties to obtain agreement in matters where major national or international economic interests are involved. This means in most cases matters where the national authorities are engaged in legislation or administrative decisions related to developments like oil- and gas, minerals or energy-production and where, there are argued that national interests are involved. These development projects are at the same time often creating very negative impacts on the Sami peoples' daily life and interests because these developments almost always represent loss of lands and changes in the way of life and in the social and cultural life in the affected area.*

*In this aspect and with reference to para. 24 - 40 and 87 and 88 of the interim report, we should like to respond on one of the issues raised by the member of the Expertmechanism, Mr. John Henriksen, when commenting on the issue of free, prior and informed consent. We fully agree that there are, or at least should be, a requirement for a qualified consent before acting on issues where the indigenous interests amount to be of vital meaning and constitutes the very bases for their way of life and their culture. A requirement for consent would establish stronger efforts to meet the indigenous peoples needs in the actual developments.*

*In this context, we are fully aware of current learning related to the consultation arrangements under the ILO-convention 169, saying that the right to be consulted, does not mean a right to veto on issues where agreement can not be reached. A requirement for consent could avoid too early conclusions in the most demanding issues, specially in situations where a development project would have an impact on the future indigenous usage of parts of their territory and where the realization of the planned developments would in fact result in the loss of land and consequently forced removal from ancestral lands.*

*We strongly recommend the Expert Mechanism to continue to elaborate on these questions.*

*Thank You Mister Chairman*