

Industrial impacts and Indigenous representation: Some fallacies in the Sámi quest for autonomy

Impacts industriels et représentation autochtone: Quelques sophismes concernant la quête d'autonomie des Sámi

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Résumé de l'article

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Abstract: Industrial impacts and Indigenous representation: Some fallacies in the Sámi quest for autonomy

While Indigenous communities in all circumpolar regions today face increasing pressure from mining companies, their influence in decision-making processes varies substantially. In Norway, the pasturelands of the reindeer-herding Sámi have huge mineral potential and new mining projects are in development. Such projects imply a domino effect, since they tend to generate infrastructures like roads, power lines, and so on. Norway enjoys a high profile as a country strongly committed to Indigenous rights; the Sámi also have their own parliamentary system. Yet to date the Sámi Parliament has been unable to halt these encroachments, a situation in part due to its composition. Because of the electoral rules and the general political position of the reindeer-herding Sámi in Norway, most of the Sámi members of parliament represent interests that run partially counter to the activities of the herders. While Indigenous political participation is territorially defined in Canada and Greenland, this is not the case in Norway.

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Introduction

Mining exploration is today one of the main challenges facing Indigenous peoples in all circumpolar regions. Given the different degrees of Indigenous participation in the decision-making processes, the scale and impacts of such interventions vary greatly between countries. At one end of the spectrum is Russia, where the input of Indigenous people or organisations in decisions affecting their territories is scant.¹ At the other end are Canada and Greenland. In Canada, legislative arrangements give people in the Northwest Territories and Nunavut (where Indigenous populations account for respectively half and most of the inhabitants) extensive control over territorial mineral resources.² In Greenland, an almost autonomous nation through its Self-Government Act, the nearly 90% Inuit population has full control over any mineral resources the country may possess.³

These regions appear to share a growing acceptance of mining. In Nunavut, a large and increasing proportion of the economy is represented by the mining industry. The government of Nunavut has recently agreed to “sustainable” uranium mining in the Baker Lake area after years of internal discussions and persistent courting by international mining companies (Bernauer 2012). Between 1999 and 2005, the mining, oil, and gas sector in the Northwest Territories grew by 207% (Angell and Parkins 2011: 67), an increase made possible in part by the Mackenzie Valley Pipeline (Berger 1988). In Greenland, parliament has introduced a new law making it easier for Chinese companies to mine for iron ore—a resource increasingly available as the warming climate causes the icecap to shrink. In Alaska, oil production began in the 1970s after a long legal battle over Indigenous rights, with extensive compensations paid out to local residents.

Norway is a country where Indigenous rights enjoy a high profile, yet where Indigenous autonomy in managing the mineral resources is non-existent. With the establishment of an Indigenous parliamentary institution (the Sámi Parliament), together with constitutional protections and ratified international rights, the Sámi have acquired a relatively strong voice in general public debate (Henriksen 2008). Although they only account for 1% of the total population of five million, the State is officially committed to safeguarding their interests.

Reindeer husbandry, the only occupation specific to the Sámi people, has long been an iconic way of life, largely serving to identify the Sámi as an Indigenous people to the outside world—an international stereotype so to speak. It is also a Sámi reality,

¹ RAIPON, the pan-Indigenous organisation in Russia, was declared illegal by the national authorities in November 2012.

² In Nunavut, 2% of the area—including mineral rights—is owned exclusively by the Inuit as a result of the Nunavut Land Claims Agreement of 1993 (van Dam 2008: 19).

³ Autonomy in Greenland excludes defence and foreign affairs, which are administered jointly with Denmark.

being not only an important Sámi occupation in Norway, but also the only one whose access is determined by ethnicity—in legal terms you have to be a Sámi to participate.⁴

Today, new developments are taking place in the Norwegian North. Until recently, rural areas depended economically to a large degree on fisheries of various sorts along with other kinds of primary occupations (including reindeer husbandry). Northern Norway has for centuries been seen as a “frontier”—an area whose native Sámi population has been competing for natural resources with growing numbers of Norwegian and Finnish immigrants from the 19th century onward. This situation has changed dramatically over the last couple of decades. Today, new technologies, increased prospecting, and booming international markets have brought about an escalating interest in oil, gas, and mineral resources. The Barents Sea has one of the world’s most promising oil and gas deposits, and an onshore processing plant has accordingly been built, with others potentially in the works. The Norwegian government is encouraging development of this kind under an ongoing large-scale industrialisation policy known as *Nordområdesatsing* (‘Northern Area Priority’) (Skagestad 2010).

Seen as a whole, these developments represent an unprecedented encroachment on the interests of the Sámi reindeer-herders in the North. Earlier land-use conflicts due to hydroelectric projects in the 1970s and 1980s were restricted to certain rivers and lakes (Bjørklund and Brantenberg 1981).⁵ Current projects, like power lines, roads, mines and other kinds of industrial infrastructure, affect much larger areas—which are partly necessary for the viability of reindeer herding. Moreover, such projects, being in line with government policy, have high official priority. The government has recently invested \$18 million US dollars in a mineral prospecting program and is encouraging large-scale industrial development in the North.

In this article, we shall more closely examine how Indigenous interests are managed within the Norwegian government system and why the Sámi quest for autonomy has led to an Indigenous parliamentary system that does not fully defend the interests of the reindeer herders. Such a context favours business opportunities for mining companies and other industrial ventures in northern Norway.

Reindeer husbandry and the domino effect

Current mining plans illustrate the types of problems reindeer husbandry faces today. Domesticated reindeer are widely distributed in Norway. Three-quarters of the reindeer population is in Finnmark, making it the key area for Sámi husbandry.

⁴ This despite the fact that the category *Sámi* has never been defined in legal terms.

⁵ Similar hydroelectric projects, though on a much larger scale, were undertaken in northern Russia and northern Canada at the same time. In Canada, this situation led to the James Bay Agreement, the first important land claim settlement between Inuit, Cree, and the Canadian state. In Russia, the projects led to extensive relocation of Indigenous groups with no compensation for their loss of land.

However, Finnmark's grazing lands are considered to have enormous mining potential; as a result, widespread prospecting is going on there. Rising prices on the international market have also led to the planned opening of two copper mines. One is on the coast, amidst the summer pastures of the *Fiettarhasat* reindeer herders and the other is in the *Abborašša* reindeer-herding district, southwest of the latter (Figures 1 and 2).

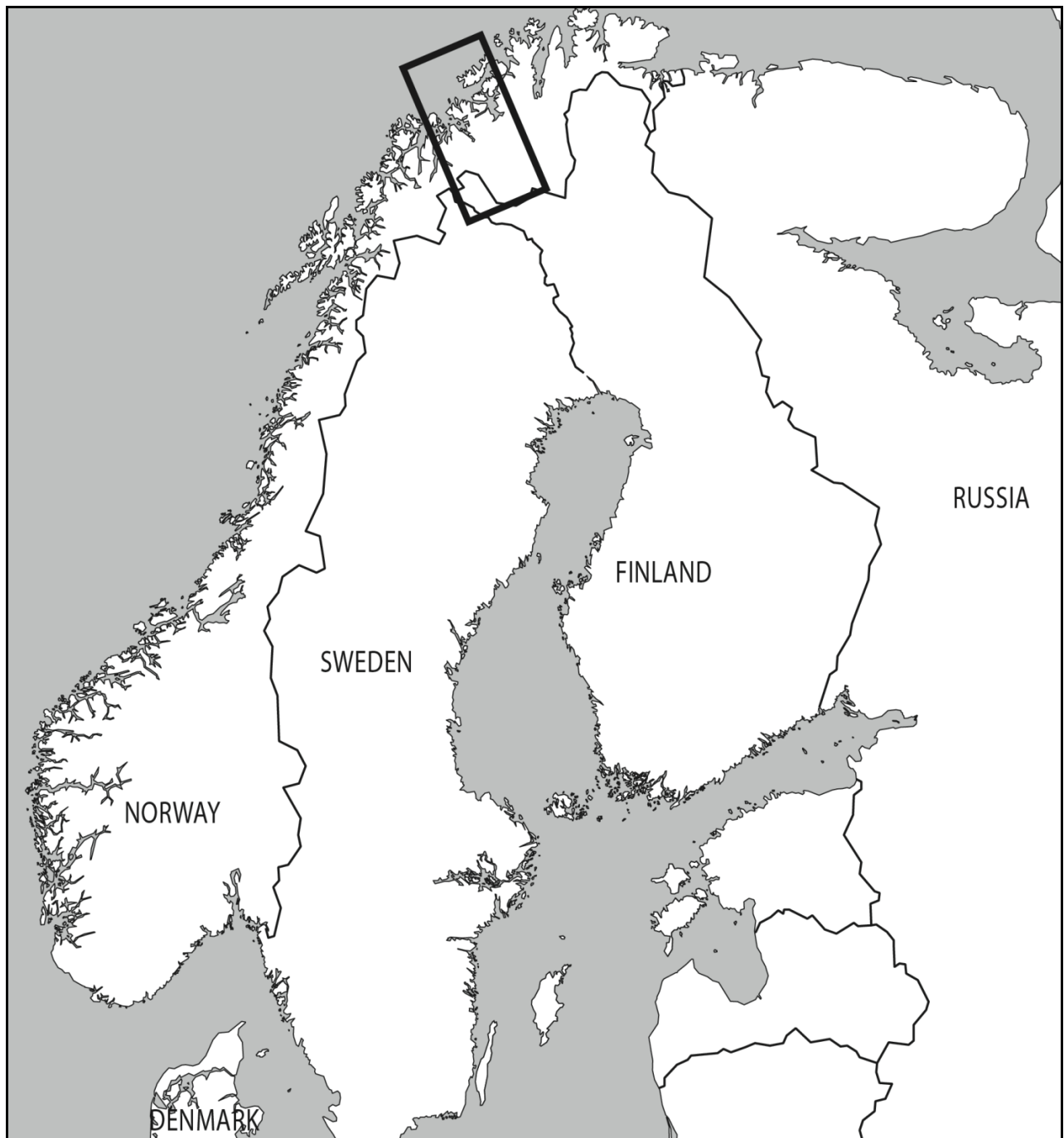


Figure 1. Location of areas mentioned in the text. Source: Tromsø University Museum.

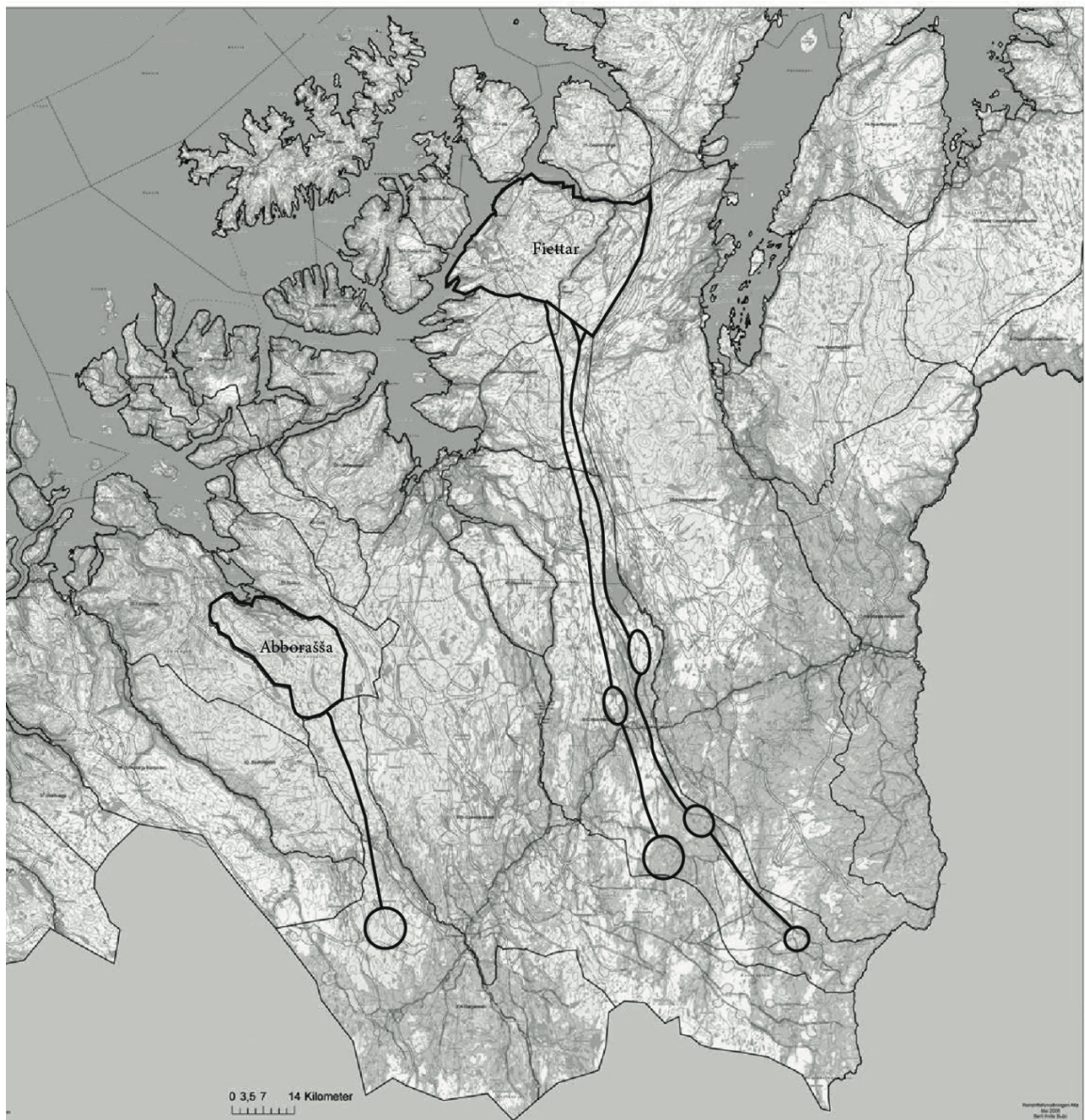


Figure 2. The Fiettar and Abborašša reindeer-herding areas and yearly cycles. Source: Tromsø University Museum.

The Fiettarhasat, a group consisting of 100 individuals and some 7,000 reindeer, today face massive disturbance of their pasturelands and not only due to mining. Discovery of gas resources in the Barents Sea has led to the building of a processing plant in the nearby city of Hammerfest. At the same time, following discovery of copper deposits in their pasturelands, plans for mining have come a few steps closer to reality. With their accompanying need for electric power, the large amount of waste they generate, and the industrial infrastructures they require in grazing areas, both projects will have serious consequences for the herders. Hole cuttings (the waste resulting from gas drilling) are currently dumped in the pasturelands. The planned mining project also calls for dumping non-usable tailings into the sea, a solution that

has met with strong criticism from both environmental groups and the governmental institutions responsible for marine safety. But the alternative, land-based dumping, would be a worse scenario for the reindeer. It has considerable pollution potential and may negatively affect pastureland and reindeer alike (Skei 2010).

A second copper mine is in the planning stages further to the southwest, in the pastureland known as *Abborasša*. The idea is to reopen a mine that had closed in 1978 for economic reasons. The old mining operation was a local source of pollution and had serious effects on Sámi herd management (Bjørklund and Brantenberg 1981: 38-45). Today, some 5,000 reindeer use this area in the spring and fall, and many other herds also pass through during the fall migration from the coast. Not surprisingly, the herders are opposed to any new mining projects in the area, referring to the problems created by the 1970s operation. So far, they have the backing from the Kautokeino county council, which has blocked the mining company's efforts to reopen the mine.⁶

All such projects have a common denominator; they presuppose infrastructure and electricity. To supply electric power, large transmission lines need to be built across important pasturelands. According to the electric power authorities, a much larger supply will be needed in Finnmark to meet expected industrial consumption. Because of the rugged topography, wind power is considered to be viable and, consequently, a large windmill project has been launched. Labelled "green technology," two windmill parks of approximately 100 windmills are planned on the coast in the aforementioned Fiettar area. Furthermore, to introduce power lines, windmills and mines, it will be necessary to build roads and infrastructures. A common experience in Norway is that such roads tend to be permanent, enabling access to recreational areas for urban people in the North. These particular areas, Skaidi and Sennalandet, already have around 1,000 recreational cabins and more are planned.

There is an ongoing "domino" effect. Mines need electricity, which presupposes windmills and thus leads to new power lines and roads. In this way, the Sámi reindeer-owners face multiple types of encroachment all at once, both from private companies and from governmental institutions. However, when it comes to damage assessments, these bodies are only accountable for their own single projects. So far, there have been no efforts to determine the overall consequences for reindeer husbandry in the areas affected.⁷ According to the reindeer-herding Sámi in these areas, it will be impossible to continue herding to the same extent, due to the total effects of all these different projects (Områdestyret for Vest-Finnmark 2011).

It is important to bear in mind that present-day Sámi reindeer-herding is heavily dependent upon modern technology: ATVs, snowmobiles, cellphones, etc. The herders thus likewise have a stake in the general need for electricity or minerals. Moreover, in the challenges they face and the protests they launch, they are limited by their lack of

⁶ According to Norwegian law, any mining operation needs the consent of the local authorities.

⁷ This, despite current legal requirements stating that *all* impacts on reindeer-herding in an area must be reviewed (Anonymous 2009).

influence. The different environmental impact assessments make no references to any existing international human rights that Norway is obliged to follow, and the herders also feel that such assessments fail to present a comprehensive overview of their situation.

Norway and Indigenous rights

How could such a situation have developed in a country that presents itself as a role model for Indigenous rights—one that, moreover, has an Indigenous parliamentary system elected by the Sámi and representing Sámi interests? The answers are many, and some of them inform us about the way Norwegian authorities handle the balance between Indigenous interests and local industrial impacts. Even more interestingly, they also shed light on certain fallacies embedded in the Sámi quest for political influence and autonomy.

Let us first take a closer look at development and management of Sámi rights in Norway. Until a couple of decades ago, the Sámi as a people had no specific legal rights whatsoever (NOU 1984). The only exception was a special law on “reindeer herding” that regulated reindeer management much in the same way as other laws regulated farming or fishing. As for Indigenous rights (a term that did not enter public debate until the 1980s), the governmental position—and the legal reality—was that a) all land was owned by the State and b) the rights of the Sámi (meaning the rights of reindeer owners) were at any time identical to what Norwegian law prescribed. Since reindeer owners only constituted 5% of Norway’s total Sámi population, the remaining 95% had no specific legal protection as Sámi. This situation reflected, of course, a Norwegian policy of assimilation that had been going on for 150 years (Minde 2003). Consequently, the reindeer herders constituted the only segment of the Sámi population visible in both legal and public terms.

In the 1970s, this situation began to change. A couple of court cases led to ratification of certain rights by the reindeer herders to use of the pasturelands, rights that entitled them to compensation for future encroachments.⁸ Then came the Alta-Kautokeino case around 1980, a hydroelectric project that had a seismic impact in ethnopolitical terms. It began as a local environmental debate but soon evolved into an international Indigenous affair (Brantenberg 1985). As one of many similar projects in the North, the project would affect numerous reindeer herders in the area. The debate revealed that Norway had no official policy—nor any legal acceptance—of the Sámi as a people. This rather problematic situation led to the establishment of government commissions to examine the history, culture, and potential rights of the Sámi. From that point on, the category of “Indigenous peoples” was enshrined in Norwegian politics.

The commission reports—there were two of them to begin with—stated that the Sámi had certain rights as an Indigenous people in Norway (NOU 1984,1987).

⁸ E.g., court cases Rt 1968 (Altevaan) and Rt 1974 (Stifjell-Varfjell). See also NOU (2007: 10.3.1.1).

Discussion of these reports in the Norwegian Parliament led to a constitutional amendment declaring the Sámi people to be one of two peoples living in Norway and a law providing linguistic and cultural rights.⁹ Furthermore, in 1989 the Sámi Parliament was established, and in 1990 the Norwegian government ratified international human rights through the International Labour Organization (ILO) Convention No. 169 on “Indigenous and tribal peoples.” The Sámi Parliament is formally an advisory board with limited decision-making powers. However, its mandate—constitutionally embedded in Norwegian law and backed by international human rights conventions—gives the Parliament fairly strong leverage.

The Sámi Parliament and reindeer husbandry

One important outcome was the legal, public, and numerical expansion of the category “Sámi.” The term now included *all* Sámi, who were defined as a people in their own right and not merely as “Sámi-speaking Norwegians,” as in the old bureaucratic phrase (e.g., Government of Norway 1979-80: 41). After 150 years of assimilation, the question now arose: Who are the Sámi? Who is to be represented by the Sámi Parliament? One answer was to be found in the Sámi Parliament’s rules on who would be eligible to vote; namely, every self-declared Sámi who either speaks Sámi or has had a parent, grandparent, or great-grandparent who spoke Sámi. Given the ethnic scenario and processes in Northern Norway over the last four generations, this definition clearly created a potentially huge number of eligible Sámi voters.

The Sámi reindeer-owners, however, were somewhat sceptical of this electoral arrangement. The Sámi Reindeer Herders’ Association (NRL) wanted a separate constituency for reindeer owners, arguing that reindeer husbandry put them in a unique position in terms of both economic interests and Sámi political representation. They thus put forward a proposal for special protection within the Sámi parliamentary system. This proposal was rejected by the other Sámi and by the Norwegian ministries involved in the design of the parliamentary model. As a result, the NRL consequently decided to refrain from active participation in any parliamentary work as a group. They feared that the majority of the Sámi members of parliament—not being from reindeer-herding communities—would act against reindeer-husbandry interests (NRL 1985). This concern appeared to overshadow the fact that Norway had now defined the Sámi Parliament as the representative political institution for *all* Sámi in the country.

To understand this position, two important dimensions must be remembered. First, land use had for centuries been a source of conflict between coastal farmers and reindeer owners seeking summer pasture for their animals. Many of these coastal settlements were in fact inhabited by Sámi farmers and fishermen who had been targeted by Norwegian assimilation policy for a century and a half. It is among this group of people we today find the largest constituency of potential Sámi voters.

⁹ See the Act on the Sámi Parliament and other Sámi legal matters in FAD (1987).

Second, reindeer husbandry in Norway has always been under the auspices of the Department of Agriculture, and the reindeer owners wanted things to continue that way. They reasoned that their interests would be better safeguarded if reindeer husbandry were managed as an economic activity by the government rather than as an ethno-political concern by the Sámi Parliament. One important dimension here is a subsidy that, implemented by the Department of Agriculture in 1976, supplemented the reindeer owners' income. There is increasing discussion as to whether the Sámi Parliament should manage reindeer husbandry, and so far both the government and the majority of reindeer owners seem to be opposed.

Over the years, international human rights have been a key thread running through the discussions between the Sámi Parliament and Norwegian authorities. The Sámi Parliament has continuously made references to United Nations declarations, ILO Convention No. 169, and the aforementioned amendment to the Norwegian Constitution (110a). These official obligations have been invoked whenever the Sámi Parliament has sought to position itself on key issues, but to date not explicitly invoked on the particular cases and impacts described above. This situation must be understood within the context of the new Mineral Act passed in 2009. With reference to ILO Convention No. 169, the Sámi Parliament argued for a right to veto and to economic compensation in order to safeguard Sámi interests. This position met with heavy resistance from both regional and national authorities and was unanimously rejected by the Norwegian government. For the Sámi Parliament, perpetually trying to legitimise its existence within Norwegian society, this political defeat was fairly serious. Political legitimacy was further lost with another defeat during the same period over Sámi fishing rights. Since then, the Sámi Parliament has opted for individual deals with mining companies, hoping to ensure that their activities fall within international human rights law—as understood by the parliament. No such result has yet materialised, since no mining operations have started. Such an approach can be seen as an *institutional* agenda, a strategy to strengthen the parliament's legitimacy and economic jurisdiction (Bjørklund 2013).

Given the political realities in the Sámi Parliament today, most representatives are probably unwilling to halt encroachments on reindeer-herding areas or define the totality of environmental impacts as a violation of international human rights. The largest group of MPs represent areas outside the reindeer-herding stronghold of inner Finnmark. Just as importantly, they also represent the Norwegian Labour Party—which currently holds the political reins in Norway and is the driving force behind the current industrialisation policy in the North.

This lack of support is further exacerbated by public opinion, which today sees reindeer husbandry as a threat to the natural environment. Backed by biologists, Norwegian authorities have long argued that the number of reindeer exceeds the carrying capacity of the pastures. While this point is debatable, it is today part of conventional wisdom among environmentally minded people in Norway. Consequently, the Norwegian authorities have been seeking to reduce the number of

animals, thereby weakening the herders economically, undermining their herd-management strategies, and generating much internal conflict (Bjørklund 2004).

In summary, Sámi reindeer-owners appear to face a difficult political context:

- They are not represented as a group in the Sámi Parliament.
- Their interests are managed by the Department of Agriculture.
- Sámi Parliament electoral rules grant political influence to groups outside inner Finnmark, which is home to the majority of Norway's reindeer owners.
- Reindeer husbandry is considered an environmental problem.

In Norway, resource development is treated like any other economic activity. When projects are assessed, there is coordination among the various governmental institutions. For instance, plans for mineral extraction or processing plants are viewed and examined in terms of power supply lines, roads, environmental impacts, and so on. There is no such coordination, however, in assessing the total impact on Indigenous interests. The assessments make no references to Indigenous rights or to international human rights conventions, other than the possible impacts on access to reindeer pastureland, which is presented in biological and geographical terms (Nussir ASA 2011).

Ethnic revitalisation: Partial identities

Such a situation raises some questions. How do Norwegian authorities understand their responsibilities for Indigenous issues in general? Perhaps just as importantly, how do the Sámi view Indigenous representation and the processes of assimilation and ethnic revitalisation in Norway? Since the early 1970s, Sámi ethnopolitical activity has focused on revitalising ethnic identity. Organisational activity and strong cultural creativity have together established a public image of an Indigenous people “becoming visible” (Brantenberg et al. 1995). In particular, these efforts, prominent among young people along the coast and in the cities, have aimed to generate a new Sámi self-understanding (Eidheim 1997; Hovland 1996). Accordingly, the Sámi wanted to include more people in their category—and not fewer.

This was in many ways a deliberate strategy, as expressed in the above-mentioned criteria for Sámi voter list. Such a strategy is, for instance, contrary to the ethnopolitical situation in Finland, where the Sámi Parliament is arguing for a narrower definition than the one currently employed by Finnish government institutions and some Sámi groups. The latter groups have a rather constructivist view, arguing on behalf of a presumably large group of persons who over generations have lost their Sámi culture due to Finnish assimilation policies (Sarivaara 2012). Basically it is an essentialist debate; what kind and amount of cultural competencies are needed to qualify as a Sámi? Norway is probably different because it has already ratified ILO Convention No. 169; consequently its Sámi Parliament has a vested interest in expanding its constituency to increase its clout. Finland, however, has not ratified the convention; its

Sámi Parliament might therefore fear a constituency that does not conform to the ILO definition of Indigenous peoples—i.e. lacking the specified cultural characteristics (ILO Convention No. 169, art. a) and b).¹⁰

In Norway, the opposite process of ethnic assimilation has not been under the same scrutiny as revitalisation. It is a fact that 38% of the population over 18 years of age in Norway's northernmost region (Finnmark) was categorised as Sámi in government censuses four generations ago (SSB 1875).¹¹ According to current rules for registering on the Sámi voter list, such a demographic should be a huge potential constituency for the Sámi Parliament. However, today only 12.9% of the population over 18 years of age in Finnmark (7,432 persons) has been registered on the voter list.¹² Although the last figure only indicates the political relevance of the Sámi Parliament and not the actual numbers of Sámi persons, it still indicates the magnitude of assimilation—or “Norwegianisation,” as it is called locally.

Sámi individuals, families, and communities have over the last century been assimilated into Norwegian society—they are gradually identifying with and presenting themselves as Norwegians in terms of both culture and identity (Eidheim 1971). One outcome is that the Sámi language is far less used today and is mostly restricted to the inner parts of Finnmark. Furthermore, with the exception of the reindeer-herding Sámi, who mostly live in the same area of inner Finnmark, few economic activities distinguish Sámi from Norwegians. Meanwhile, ethnic revitalisation has eliminated the political stigma of Sámi identity and has, in fact, made it an asset in the public sphere. As analysed by Olsen (2010), ethnic processes of “complementarization and dichotomization,” as described by Eidheim (1971: 79) in the 1960s, have produced the current outcome. Sámi identity today is still an individual affair along the coast, despite efforts by the Sámi ethnopolitical movement to develop a collective and imperative pan-Sámi self-understanding. Contrary to the situation a generation ago, there is no overarching identity to structure social interaction. In the coastal settlements, it has now become a partial identity, activated only in certain culturally constructed public spheres (Olsen 2010: 190-196).

One of these spheres is the Sámi Parliament. Bearing the voting rules in mind, this institution potentially provides what is likely a majority of people in the Finnmark region with an alternative political opportunity to voice their opinions and launch different agendas. Yet, in line with a growing critique of its policies, it seems to accord decreasing importance to Sámi national interests and increasing importance to Norwegian political parties, common local needs, or even private businesses. Today,

¹⁰ E.g., Joona (2012) argues in her doctoral dissertation that Finland does not qualify as a country that can ratify ILO Convention No. 169.

¹¹ The census of 1875 reported 13,779 persons over 18 years of age, 38% of whom were categorised as Sámi, i.e. had one or two Sámi parents (SSB 1875).

¹² The total number registered in Norway is 13,890 (2009) (Todal et al. 2010: Table 3.4). According to 2012 statistics, 57,167 persons over 18 years of age live in Finnmark (SSB 2012).

most of the MPs represent sub-groups of mainstream Norwegian political parties and, in addition, do not speak any of the Sámi languages. In fact, one of these parties (FrP) wishes to close down the Sámi Parliament and reduce economic support for Sámi concerns. To what extent has this Sámi political institution become an arena for rival Norwegian political ideologies and strategies?

It is within such a context that the actions—or rather non-actions—of the Sámi Parliament must also be seen. Coastal industrial development may largely account for the lack of initiatives on behalf of the reindeer-herding Sámi in the particular area described in this article.¹³ This is probably also why the boards of Fiettar and Abborášša districts have now taken their case to the Sámi Council—the pan-Sámi cooperative agency for Norway, Sweden, Finland, and Russia—thus bypassing the Norwegian Sámi Parliament. Referring to international human rights (ILO Convention No. 169), they have together asked the international investment banks J.P. Morgan and Morgan Stanley not to invest in planned mining activity in their area (NRK 2012) The outcome of this action remains to be seen.

Conclusion

There is a lesson to be learned from the way Indigenous interests are managed in Norway compared to other circumpolar countries. The situations in Greenland and Canada (Northwest Territories and Nunavut) reflect the existence of an Indigenous majority whose identity and political participation are to a large extent defined by the government, by territorial borders and, consequently, by a fairly transparent political landscape. Institutions like the Nunavut Impact Review Board or the Greenland Landsting (Parliament) are in charge of environmental impact assessment and licensing of mining activity. The Canadian North is also a scene of conflict between traditional land-based activities and mining companies, as revealed by environmental impact review in Nunavut of the proposed Mary River iron mine and the Kiggavik uranium mine (Bernauer 2012). However, tools like the Inuit Impact and Benefit Agreement (IIBA) give Indigenous communities a share in mining profits. Such arrangements reflect a growing expectation that mining should contribute to the local community as well (Prno and Slocombe 2012).

In Norway however, due to voting criteria, political participation is not territorially defined, nor does the Sámi Parliament have decision-making powers over mineral matters. Scattered within the Norwegian majority population, the Sámi have failed to form an ethnically defined region either legally or politically. The only exceptions are the handful of municipalities that receive funding for language preservation and economic ventures. For the reindeer herders, dependent as they are on access to pasturelands, this situation presents a far more muddled political context. They have no right to veto industrial projects of the kind mentioned above; instead, they must depend

¹³ The only reaction so far was a general hearing statement in 2012 on mining and reindeer-herding interests, with no references to international law.

solely on review processes that are designed for Norwegian society in general and managed by government institutions. Nonetheless, and contrary to other circumpolar countries, international human rights have been ratified and integrated into Norwegian law and thus offer far greater relevance to the Sámi. The challenge, then, is to get the very same government agencies to act on these commitments.

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