The Rights of Indigenous Peoples – A Brief Introduction in the Context of the Sámi

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1. Introduction

The question of rights of indigenous peoples has risen from small avant-garde thematic issues among indigenous peoples themselves, dedicated NGOs, legal scholars and a few friendly States in the end of 1970s to a main stream human rights matter in the 21st century. The footprints of this process are also evident in the European context. The Sámi – the only indigenous peoples in Europe – are now recognised as distinct indigenous peoples in their own territory. This recognition is reiterated in the new European Covenant. The development of European Union policy on Indigenous Peoples is relatively recent. The Agenda of the Development Cooperation Group of the Council, held on 18 March 1997, mentioned for the very first time the issue ‘Indigenous Peoples’. Furthermore, the European Union Second Northern Dimension Action Plan, 2004–2006 adopted in 2003 by the relevant bodies in the European Union emphasises the need of recognition of the inherent rights to self-determination of indigenous peoples.

This positive development from an indigenous perspective has been criticised by certain commentators. One of the voices is that of Richard Falk, professor of international law at Princeton University, USA. In his critical essay in the magazine Foreign Policy Falk claims that the traditional concept of human rights is eroding in the post-colonial era. In the editorial part of the magazine Falk’s essay is interpreted as a clash of cultures in the spirit of Samuel P. Huntington’s book from 1996. The Clash of Civilisations and Remaking the World Order. According to Falk the “[p]roblem is, these days human rights come in more flavours than coffee . . . Would you like the Asian, Islamic, indigenous.” As an example of this trend Falk refers to the great prominence of representatives of indigenous people’s rights. Falk continues; “[t]heir sense of difference is so strong that, operating under the U.N. auspices, a worldwide network of indigenous representatives is now developing its own

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framework for human rights, known as the Declaration on the rights of Indigenous
Peoples.”

Still, this evolution of new standards and policies concerning indigenous peoples
has of course been controversial, but acceptance is now growing. Even considering
this positive development in this human right discourse and the fact that the major-
ity of Sámi peoples live in countries in Europe that have solid human rights records
since the Second World War the future of the Sámi people is still threatened in some
of the Nordic countries.

The question of rights of indigenous peoples or more precisely the effective partic-
ipation of national minorities in public life has in a European context been addressed
in the framework of the Organisation for Security and Cooperation in Europe
(OSCE). Since the beginning of the OSCE process the issue of indigenous peoples
has been addressed, mainly in the context of minorities. The Lund Recommendations
of the OSCE High Commissioner of National Minorities adopted in 1999 concern-
ing the effective participation of national minorities in public life addresses many
essential issues also covering the rights and daily life of indigenous peoples in
Europe and elsewhere. The process in the OSCE concerning the promotion of the
rights of minorities has obviously influenced the policymaking related to the Sámi
people in the traditional Sámi territories in Finland, Norway, Sweden and Russia.

Before commenting on the situation concerning the Sámi people in Finland,
Norway, Sweden and Russia allow me first to start with an overview of the state of
the indigenous peoples in the world, which will be followed by a brief introduction
to the processes in the United Nations and finally an elaboration on the principles of
the right of self-determination and indigenous land rights, especially related to the
situation in Sweden.

2. State of the World

According to the ‘State of the World’ report for 1993 from the World Watch Institute
there are some 4000–5000 indigenous cultures in the world with 190–635 million
individuals belonging to these cultures. The UN General Secretary Mr Buotros
Boutros-Ghali stated during the inauguration of 1993 as the International Year for
the World’s Indigenous Peoples that indigenous peoples comprise over three hundred
million individuals across the globe. The figures depend on the definition of the con-
cept of indigenous people. With reference to the indigenous peoples of the Arctic
countries, including Sweden there are not many difficulties with definition. About

<ref>R. Ekéus, Towards a Europe for All, Address of Mr. Rolf Ekéus OSCE High Commissioner on
National Minorities to the Programme Roundtable Conference organised by Netherlands Helsinki
31 May 2005.</ref>
<ref>The Organisation for Security and Cooperation in Europe (OSCE), Lund Recomendations 1999,