Legal Protection of Coastal Sámi Culture and Livelihood in Norway

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1. Introduction

The indigenous Sámi have their traditional lands in the northern and middle parts of Norway and Sweden, Northern Finland, and the Kola Peninsula in Russia. They consist of 50,000–80,000 peoples earning their livelihood from both marine and terrestrial industries such as reindeer husbandry, agriculture and coastal fishing.1 This presentation deals with the protection of the Marine or Coastal Sámi substantive culture and livelihood, i.e. their rights for fishery and other marine resources. Apart from some mainly abandoned sites on the coastline of Kola Peninsula in Russia, the Coastal Sámi culture survives mainly in Norway.

The issue to be addressed in this review is the legal situation of the Coastal Sámi in Norway, concentrating on the last decade’s debate and development, which demands considerable attention. The legal situation of the coastal Sámi will be elaborated by comparing it to current legal protection of the Sámi cultures that base their livelihood on terrestrial industries. The question is then whether the Norwegian State complies with its commitment to protect the Coastal Sámi culture in an adequate way. In addition, it can be questioned whether the Coastal Sámi culture enjoys the same level of legal protection as the terrestrial Sámi cultures do, for example the Sámi reindeer husbandry.

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The findings and draft law of the Coastal Fishing Committee (CFC) published in 2008 is significant for the review. Although one might powerfully argue that the coastal Sámi fishing takes place far south of the Finnmark coastline, the mandate of the CFC was limited to frame the seawaters outside Finnmark. It is therefore natural to choose such a geographical frame for this presentation. The present-days coastal fishing is, as in earlier days, characterized by the fact that it takes place in the fjords, along the coastline and on the coastal banks, as opposed to bank and ocean fishing, where vessels have gears and supplies for staying out for long periods.

Focusing on Sámi Coastal fishing, it is currently impossible to make a distinct ethnic division in the way coastal fishing is exercised between Sámi and non-Sámi. In the report of the CFC, it is pointed out that the divisions between cultures are seldom sharp in a community that share significant common features:

It may therefore be difficult to delineate cultures. The Sámi culture has a number of similarities with other cultures developed in the coastal areas and fjords. In such areas do the sea, or the ocean, both makes the livelihoods and jobs for many and is also a central arena for experience both with nature and natural resources...This forms the knowledge, values, self-understandings and perceptions of “the others” and what is right and wrong.3

In other words, the CFC states that fisheries and other activities related to the sea significantly contribute to form the cultures of the peoples of these areas. Consequently, the Committee concludes that one cannot separate the rights on ethnic basis, and draw instead upon geographical boundaries.4

Indigenous Sámi rights to coastal fishing were a part of “the package of rights” among “the natural basis for Sámi culture” which the Sámi Rights Committee was mandated to investigate back in the 1980s.5 Through introduction of a new fishing regulation in 1990, the coastal Sámi population lost much of their rights

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3 Ibid., at 184 (the translation of quotations here and below is done by the author).

4 Ibid., at 14. The boundaries are as mentioned seawaters outside Finnmark County.

5 NOU 4 (1997): sec. 5.6 (Naturgrunnlaget for samiskkultur) [The Natural basis for Sámi Culture] The Sámi Rights Committee was established by a Royal decree of 10 October 1980, and got a mandate of four points, see NOU 18 (1984): Om samenesrettsstilling [The Sámi legal position]. The first two points of the mandate were to examine (1) “the question about the Sámi people’s legal position in relation to land and water”, and (2) to evaluate and suggest “how to secure the Sámi population opportunities to utilize natural resources in their areas of habitation, while also recognizing the non-Sámi population’s interests”. The third point was to investigate the need for a constitutional protection of Sámi language, culture and way of life, while the fourth was connected to the economical consequences of the proposals.