

Barents Eamialbmogiid Lávdegoddi

Arbeidsgruppen for urfolk i Barentsregionen

Рабочая Группа по Коренным Народам Баренцева региона

The **W**orking **G**roup of **I**ndigenous **P**eoples in BEAR



Resolution from the 2nd Barents Indigenous Peoples' Congress 2012

Adopted by Consensus by the 2nd Barents Indigenous Peoples' Congress

Kirkenes, 9-10 February 2012

Guided by the purposes and principles of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the UN General Assembly in 2007, in good faith in the fulfilment of and in accordance with obligations assumed by States under the Charter of United Nations,

Recalling especially the following provisions in the UNDRIP;

Indigenous peoples have the right to self-determination, and by virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development.

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired,

Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions.

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Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources.

States have the duty to consult and cooperate in good faith with the indigenous peoples concerned through their representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploration of mineral, water or other resources,

Recognizing that the establishment of the Barents Euro-Arctic Council (BEAC) in 1993, where the indigenous peoples in the region were invited to participate in an innovative way is an important milestone in the acknowledgement of the rights of indigenous peoples,

Noting with appreciation that indigenous peoples lately have been invited to participate at all levels in BEAC cooperation and also partly provided financial means to do so,

Welcoming the commitment expressed in the Joint Communiqué of the XIII Session of the BEAC, Kiruna, 12 October 2011, underlining that BEAC continues to pay special attention to the challenges, opportunities, and traditional knowledge of the Barents indigenous peoples and their involvement in cooperation in the fields of education, youth cooperation, public health, culture, sports, traditional activities and economic activity in general, environmental protection and infrastructure improvement in the spirit of the UN Declaration on the Rights of Indigenous Peoples. The BEAC stresses the importance of cooperation and dialogue with, and between, indigenous peoples and emphasizes the importance of safeguarding the cultural heritage of these groups,

Noting with appreciation that the priorities of the Norwegian Chairmanship in the Barents Euro-Arctic Council 2011-2013 clearly articulate continued support to the BEAC Working Group of Indigenous Peoples and towards the efforts to strengthen its cooperation with others actor in the region,

Welcoming the announcement by Australia, Canada, New Zealand and the United States of America to support the United Nations Declaration on the Rights of Indigenous Peoples,

Noting the United Nations Human Rights Council endorsement, July 2011 of the Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework a new set of Guiding Principles for Business and Human Right, designed to provide -for the first time- a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity,

Welcoming the creation of the new UN body - Working Group on the issue of human rights and transnational corporations and other business enterprises and their framework to promote

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the effective and comprehensive dissemination and implementation of the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework and identify, exchange and promote good practices and lessons learned on the implementation of the Guiding Principles

Welcoming update of the OECD Guidelines for Multinational Enterprises Guidelines adopted at the 2011 50th Anniversary Ministerial Meeting, May 2011. The OECD Guidelines for Multinational Enterprises are far reaching recommendations, for responsible business conduct that 43 adhering governments – representing all regions of the world and accounting for 85% of foreign direct investment – encourage their enterprises to observe wherever they operate. For instance, enterprises should respect the human rights of individuals belonging to specific groups or populations that require particular attention, where they may have adverse human rights impacts on them. In this connection it is referred to United Nations instruments concerning the rights of indigenous peoples; persons belonging to national or ethnic, religious and linguistic minorities; women; children; persons with disabilities; and migrant workers and their families.

Noting with appreciation the announcement made by the UN Special Rapporteur on the rights of indigenous peoples, Professor James Anaya, at the 18th session of the Human Rights Council, during his presentation of his annual report to the Council, that he will be working towards the operationalization of the rights of indigenous peoples and related institutional guarantees in the context of natural resource extraction and development projects affecting indigenous territories, with the aim of presenting to the Council a set of specific guidelines or principles in 2013.

Noting with interest the report and recommendations by the UN Special Rapporteur on the rights of indigenous peoples, on the situation of human rights and fundamental freedoms of indigenous people, and his examination of the situation of indigenous people in the Russian Federation in light of relevant international human rights standards ,

Welcoming the report and recommendation by the UN Special Rapporteur on the rights of indigenous peoples, concerning the situation of the Sami people in the Sápmi region of Norway, Sweden and Finland

Welcoming also the commitment on the part of the Nordic States and the Sami parliaments to recommence negotiations in 2011 toward adoption of the Nordic Sámi Convention,

Welcoming the decision by the UN General Assembly to organize a World Conference on Indigenous Peoples in 2014, and that the issues of modalities and outcome of the Conference shall be subject for open-ended consultations between Members States and Indigenous Peoples’ representatives.

Recognizing that the current United Nations consultative arrangements for non-State entities prevent indigenous peoples ‘ governance bodies, including traditional indigenous entities and

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indigenous parliaments, from participating in decision-making processes at the United Nations,

Welcoming the proposal from the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), at its 4th session, to the UN Human Rights Council, that the Council encourages the UN General Assembly to adopt, as a matter of urgency, appropriate measures to ensure that indigenous governance bodies and institutions, including indigenous parliaments and other governance entities, are able to participate at the United Nations,

Welcoming also the invitation extended to indigenous peoples by the Sámi Parliament of Norway to attend a global indigenous peoples' preparatory meeting for the World Conference on Indigenous Peoples, to be held in Alta, Norway in 2013, with the aim at consolidating indigenous peoples' strategies and inputs for the World Conference in 2014.

Proclaiming agreement on the following:

Additional national legislation is needed to regulate the interaction between industrial and extractive enterprises and indigenous communities in the Barents region, with a special emphasis on the right of indigenous peoples to be effectively consulted about the increasing industrial activities affecting them, and the right to compensation and mitigation measures. The legislature should develop standards and models for consultation mechanisms between indigenous peoples and industrial and extractive industries, in accordance with relevant international standards, and should enact a requirement for ethnographic impact assessments and ensure that ecological resources are shared with a view towards their sustainable long-term usefulness. It is essential to note that indigenous peoples' right to be consulted about decisions that affect them should be protected whenever industrial development affects their communities, even when there is no formally state-recognized territory of traditional nature use or other recognized land use entitlement.

The Governments should establish reliable methods of monitoring the development of industrial projects, such as dams, mining, wind power and offshore oil and gas exploration, to ensure that indigenous people's rights to effective consultation, free, prior and informed consent, compensation and mitigation measures are fully respected. No relocation of indigenous peoples shall take without their free, prior and informed consent and after agreement on just and fair compensation and, where possible, with the option of return. In the event that an indigenous community or people provides its free, prior and informed consent to relocation, it is essential that the Government authorities and the indigenous community or people concerned agree on a relocation site, and that their land and resource rights are legally guaranteed, and that they receive compensation and all necessary financial and technical support for the establishment of their new community in a manner they choose.

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In light of the scope of indigenous peoples' right to self-determination with regard to their economic development, it is necessary to ensure an overall legal and policy regime that is forward looking, taking into account the evolving nature of indigenous cultures, land use patterns and economic relationships. A number of important protections for reindeer herding and other traditional economic activities are in place, and these should be strengthened and effectively implemented. The national and regional Governments should also consider providing encouragement and support for indigenous entrepreneurship in economic activities not necessarily limited to smaller-scale traditional activities, as a way of strengthening communities and enabling self-governance, job creation and self-sufficiency

Encourages the Federal Government of Russia to take the following steps towards recognizing the rights of the indigenous peoples and improving the situation of the indigenous peoples in Russia:

Consider declaring its support for the United Nations Declaration on the Rights of Indigenous Peoples, and to engage in a comprehensive review of the laws and policies of the Russian Federation to ensure their compatibility with the Declaration, and to take further coordinated action to implement the standards of the Declaration within the particular context of indigenous peoples in Russia,

Grant indigenous peoples representation in Russian State institutions at the federal and regional levels. To address this, steps should be taken to strengthen and further develop official mechanisms to ensure that indigenous people receive adequate opportunity for political participation, and legislation should be enacted to ensure that indigenous people are consulted, in accordance with international standards, when legislative, policy or administrative decisions affecting them are undertaken. Federal and regional Governments should provide encouragement and support for the creation of indigenous civil society organizations to improve their participation in all aspects of society.

The federal and regional Russian Governments should consider establishing indigenous parliamentary councils or assemblies to represent indigenous peoples and participate in ongoing legal and policy developments, as has already been done at least to some extent in some regions. Traditional leadership structures and customary law, to the extent that they are experiencing a revival and growth, should be effectively recognized in developing mechanisms to ensure indigenous participation and local self-governance,

Supports the efforts of the Sami Assembly of Murmansk region to build partnership with regional government for sustainable development of indigenous peoples in Murmansk region. Recommend the government of Murmansk region to support the activity of Sami Parliament of Murmansk region. Urge the Governments of BEAR to support the activity of indigenous peoples of BEAR to build their self-governance bodies, raise their capacity and exchange the experience in that field,

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Reiterates the recommendation made by the UN Special Rapporteur on the rights of indigenous peoples in relation to the situation of the Sami people in the Sápmi region of Norway, Sweden and Finland, including that the Nordic States continue and enhance their efforts to implement the right of the Sami people to self-determination and to more genuinely influence decision-making in areas of concern to them. This end may to some extent be achieved through more effective consultation arrangements that seek to ensure that decisions directly affecting the Sami are not taken without their free, prior and informed consent. Additionally, in consultation with the Sami parliaments, the States should consider delimiting certain areas within which the Sami parliaments can act as primary or sole decision-makers, particularly in relation to concerns that affect Sami people in particular, including matters relating to their internal and local affairs, including issues related to languages, cultures, lands, traditional resources and livelihoods and.

Invites the Governments of Finland, Norway and Sweden, in cooperation with the Sami Parliaments, to engage in a comprehensive review of the legislation and policies in their respective countries to ensure compatibility with and implementation the UN Declaration on the Rights of Indigenous Peoples, and take further coordinated action to implement the standards of the Declaration within the particular context of the indigenous peoples in these countries,

Recommends the governments in the BEAC to implement the *UN Guiding Principles on Business and Human Rights* and *OECD Guidelines for Multinational Enterprises Guidelines* in order to respect the human rights of individuals belonging to specific groups or indigenous peoples that require particular attention, where they may have adverse human rights impacts on them,

Encourages the UN Special Rapporteur on the rights of indigenous peoples to include in his study on extractive industries a case study on the natural resource extraction and other development projects affecting indigenous territories in the Barents Euro-Arctic Region and in the Arctic, in his work to outline specific guidelines or principles on Business and Indigenous people's rights,

Welcomes the decision of the United Nations General Assembly to organize the World Conference on Indigenous Peoples in 2014, and the initiative of the Sami Parliament in Norway to organize an indigenous preparatory conference for the World Conference, to be held in Alta, Norway in June 2013,

Welcomes further and fully endorses the resolution adopted by the open-ended Indigenous Peoples' Brainstorming Meeting on the World Conference on Indigenous Peoples 2014, held in Copenhagen, Denmark, 13-14 January 2012, and agrees that the requirements set out in the resolution are the minimum terms for the full and effective participation of Indigenous Peoples in the World Conference,

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Calls upon the United Nations General Assembly to adopt a specific resolution on the modalities of the World Conference on Indigenous Peoples, fully taking into account the resolution adopted by the open-ended Indigenous Peoples' Brainstorming Meeting on the World Conference on Indigenous Peoples 2014, held in Copenhagen, Denmark, 13-14 January 2012,

Calls upon the President of the United Nations General Assembly to appoint an indigenous nominated co-facilitator alongside with a State nominated facilitator to work on the modalities of the World Conference and supports the nomination of John Henriksen, the Representative of the Sámi Parliamentarian Council, to be appointed as the indigenous co-facilitator.

Encourages States and other entities to provide funds towards ensuring the full and effective participation of indigenous peoples in the World Conference on Indigenous Peoples, including the preparatory process, and recommends that the United Nations General Assembly expands the mandate of the United Nations Voluntary Fund for Indigenous Populations to cover also the World Conference process.