

The relevance of EU policies on indigenous peoples in EC cooperation with Greenland and the Arctic, by Mrs. Tove Søvndahl Pedersen, Head of Greenland Representation in Copenhagen.

The Arctic is the home of approximately 500.000¹ people who are indigenous. These are the people and the peoples who lived in the Arctic, before the colonizers arrived and over time established the 8 Arctic states, as we know them today. Most of these peoples, today, find themselves as not only subjects of a state that they did not participate in building, let alone participate in the governance of. In many parts of the Arctic, they also find themselves outnumbered by migrants from the South who arrived to fill the many posts and occupations created by large resources development plants. The story of indigenous peoples of the Arctic is a story of marginalisation and of discrimination. Despite the little or no control of the developments taken place in their own lands, they have in some places, managed to maintain some elements of their traditional livelihoods as hunters, fishermen and reindeer herders. Others have migrated to larger settlements or towns in the Arctic or to the South where they hold regular jobs or pursue an education – but still among those who seem to have integrated successfully into a modern and westernized life, the social statistics and other indicators for human well-being is not at the same high level as the non-indigenous population. These are the people and peoples that are the subject of this presentation.

¹ (250.000 alone in the Russian Federation – 150.000 Inuit and Yupik speaking in Greenland, Canada, Alaska and Russia – 120.000 Saami in Norway, Sweden, Finland and the Russia, 50.000 Arctic athabascan peoples in Canada and Alaska)

Principles underpinning the evolution of EU policies on Indigenous Peoples.

The EU as a major player in international cooperation and norms and policy setting has been a front-runner when it comes to establishing policies on the rights of indigenous peoples. The call for these policies have their roots in external and internal demands and norms vis á vis human rights under which the now widely accepted and recognised norms for the rights of indigenous peoples have developed.

Looking at the internal aspects, the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law are inherent to the European integration process. As it is further stated, in the Treaty of the EU, adherence to these principles constitutes the prerequisite for peace, development and security in any society.

According to the same treaty, the EU fosters the universality and indivisibility of all human rights – civil, political, economic, social and cultural – as stipulated in the Universal Declaration of Human Rights and reaffirmed by the World Conference on Human Rights (Vienna, 1993).

Looking at the external aspect, the Treaty on European Union (article 11) defines that one of the objectives of the EU's Common Foreign and Security Policy is the development and consolidation of democracy, and the rule of law, and respect for human rights and fundamental freedoms. The EU has made human rights a central aspect of its external relations: in the political dialogues it

holds with third countries; through its development policy and assistance; or through its action in multilateral fora such as the United Nations.

I think that we all appreciate, that the underlying philosophy of basing international cooperation on fundamental values or principles pertaining to liberty, democracy and human rights and the rule of law, is that it imposes a symmetrical power relation between nations whose possession of power and wealth resources otherwise would be highly asymmetrical. We can all imagine how the absence of rule of law easily could be abused, resulting in a world that is marred by oppression and anarchy. This is very important to keep in mind when it comes to cooperation with indigenous peoples. The norms and standards pertaining to indigenous peoples' rights – make way for some sort of level playing field in the cooperation between powerful nations and small indigenous peoples.

The Evolution of EU policies on Indigenous Peoples

Then what are these norms and standards pertaining to indigenous peoples and their rights?

The mother of EU policies specifically addressing indigenous peoples is the “European Commission Working Document on Support for Indigenous Peoples in Development Cooperation” which was issued in May, 1998. This Commission document was inspired by and pushed by developments within multilateral cooperation, where, in particular the World Summit on Environment and Development held in Rio in 1992 was successful in bringing the plight of

indigenous peoples to the attention of the world community. Or maybe it would be more correct to speak about “popular attention”. Just like “climate change” and “emissions of carbon dioxide” have become part of the everyday vocabulary in almost every household and child nursery all over the world – vocabulary related to “rainforest”, “Amazon Indians”, yanomami” where words of common reference in the early 1990-ies. By the same time the UN, had had a working group on indigenous peoples under the auspices of the Commission on Human Rights (that is the predecessor of what today is the UN Human Rights Council) that had worked for nearly 10 years on drafting a draft universal declaration on the rights of indigenous peoples. The ILO had in 1989 adopted the ILO convention no. 169 on Indigenous and Tribal Peoples that gave indigenous and tribal peoples the right to “free and informed” consent in the context of the relocation of indigenous peoples. And EC by then had collected plenty of lessons learned in EC development cooperation, including the development cooperation pertaining to the protection of the environment that all members states had vowed to support in Rio. One of the two conventions that came out of Rio was the Convention on Biological Diversity where experiences and situations of small indigenous peoples, in particular, of the rainforests translated into norms such as the free, informed consent of indigenous peoples and in the recognition of indigenous peoples’ traditional knowledge in the conservation and sustainable use of natural resources.

Naturally, the Commission working document also responded to EC’s own experience with indigenous peoples in development cooperation while reflecting the developments and deliberations in other international fora and arenas. Thus, the Commission working documents recognises the importance of the “free and

informed consent” from all communities involved; the provision of possibilities for long-term, small-scale Involvement (process orientation); high flexibility in budgets and activity plans for development programmes and projects; but also the need for research and pilot-projects to fine-tune development proposals.

The Commission Working Document was followed up by the European Council Resolution (November 1998), which attached an importance for indigenous peoples right to “self-development”. This peculiar term “self-development” which sounds more like the kind of psychological development an individual goes through thanks to self-help books and therapeutic sessions represents a carefully crafted compromise to whether or not indigenous peoples’ are entitled to collective rights.

According to the Council Resolution, self-development could be secured by the effective participation of indigenous peoples at all stages of the project cycle. It further recognised the key role played by indigenous peoples, notably in the conservation and sustainable use of natural resources. The Resolution also recognizes indigenous peoples vulnerability because of discrimination and the risk that development programmes may disadvantage them.

Most importantly, this resolution brought indigenous peoples into the mainstream of the development agenda by acknowledging that cooperation with indigenous peoples is considered essential for the objectives of poverty elimination, sustainable development of natural resources, and that the observance of human rights and the development of democracy; and that indigenous cultures constitute a heritage of diverse knowledge and ideas, which is a potential resource to the entire planet

The Council's recognition of indigenous peoples issues and rights as important human rights concerns came with Council Regulation (EC) No 976/1999 of 29 April 1999 which together with its twin regulation, was the foundation for the European Initiative for Democracy and Human Rights – and thus constituted EU's support to the promotion of human rights and democracy in third countries that were not developing countries. In this legislation there is a specific reference to support for minorities, ethnic groups and indigenous peoples.

The Council Conclusions (2002) on Indigenous Peoples that were made following a stock taking report from the Commission of what had happened since the Council Resolution of 1998. The Council Conclusion of November 2002 focused more on the Commission's internal capacity to deal with the rights of indigenous peoples in its development cooperation and thus called for the following concrete actions:

- Training of EC personnel, especially in Delegations;
- Include an analysis of the political, social, economic and cultural situation of indigenous peoples in Country Strategy Papers;
- Inclusion of indigenous peoples issues in the political dialogue;
- Mainstream indigenous peoples' issues at all stages of the project cycle;
- Report back to Council on progress

Maybe it was the “report back” that impressed the Commission to step up the implementation of its policy on indigenous peoples. Following the Conclusions – a number of new initiatives were taken within the Commission – among these a more focussed attention to indigenous peoples in the EIDHR – the human rights

support from which also Arctic indigenous peoples organisations have benefitted.

As part of the EU exercise in enhancing aid-effectiveness, the Joint Declaration on The European Consensus on Development was issued in 2005.

The Consensus finally gave more meat to the peculiar concept of “Self-development” by stating that the key principle for safeguarding indigenous peoples rights in development cooperation is to ensure their full participation and the free and prior informed consent of the communities concerned.

In the chapter on Social cohesion and Employment of the Consensus, it is stated that the Community aims to prevent social exclusion and to combat discrimination against all groups. It will promote social dialogue and protection, in particular to address gender inequality, the rights of indigenous peoples and to protect children from human trafficking, armed conflict, the worst forms of child labour and discrimination and the condition of disabled people.

The European Consensus also identified indigenous peoples as a crosscutting issue and that crosscutting issues were once objectives in themselves and vital factors in strengthening the impact and sustainability of cooperation.

In 2006, the financing instruments for EIDHR from 1999 expired and was replaced by a financing instrument² for the promotion of democracy and human rights worldwide and again we find that the rights of indigenous peoples and the

² REGULATION (EC) No 1889/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 December 2006

rights of persons belonging to minorities and ethnic groups figure high on issues and groups that should be addressed.

International Developments pertaining to indigenous peoples

The more recent development of EU policies on indigenous peoples has without doubt been fuelled by the international developments such as those within the UN. In 2007, the UN General Assembly adopted the Declaration on the rights of indigenous peoples through a resolution supported by the EU. Even though the declaration is a legally non-binding instrument in a strict sense – it is an important inspirational document for enhancing the rights protection of indigenous peoples while posing moral obligations for UN member states. The most important provision in this declaration is the rights of indigenous peoples to self-determination. Article 3 reads: “Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”.

This is a fundamental principle that indigenous peoples and human rights’ proponents have fought for through many decades – and it does give further impetus to concepts such as the right to free, prior, informed consent and the peculiar term “self-development”.

Likewise, other regional organizations such as OAS, the Organisation of American States and the African Union have also conducted similar deliberations on the promotion and protection of the rights of indigenous peoples. Quick mention should also be given of the only legally binding

international instrument on indigenous peoples, which is the ILO 169 on indigenous and tribal peoples.

The Arctic

Thus it is clear that the EU through its own policies and through its international commitments to international instruments have a strong obligation to take due account of the rights of indigenous peoples – also in its Arctic cooperation as these are highly relevant for Arctic peoples.

But then, what do we mean exactly or precisely with the word “relevant”? Relevant is such a nice non-committing word – according to the dictionary-“relevant” indicate pertinent to a matter, but may not be essential.

EU Cooperation with Greenland and the Arctic

I will start by looking briefly at the specific Greenland cooperation experience with the EU before I direct my focus to the Arctic in general.

Greenland’s direct cooperation with the EU takes places under the OCT-regime and the Partnership agreement. These cover three main areas: a preferential treatment in regards to customs, the fisheries agreement and the Greenland education programme. In these areas of direct cooperation, except for the few reservations and questions raised by Premier Kleist in his speech, we are to a very large extent satisfied with the cooperation. It is a cooperation that is very much in line with the principles underpinning EU policies on indigenous peoples.

But subjects for cooperation are also EU policy and legislative initiatives of a more global and multilateral nature and sometimes of a more internal EU nature but which have a direct impact on the lives and livelihood for us in Greenland. Here, EU stances and decisions in the International Whaling Commission, on the banning of import of seal products, energy safety and emissions levels of various environmental toxics and CO2 etc. are such examples. It is also these areas that are the subjects of the “Communication on the European Union and the Arctic Region”.

In the following, I will argue that the content and intent of the Communication can become more comprehensive and coherent if more attention is given to the EU policies of indigenous peoples:

An important principle is that indigenous peoples are a crosscutting issue for EC cooperation – as the European Consensus states “they are once objectives in themselves and vital factors in strengthening the impact and sustainability of cooperation”. The logical consequence of this is that indigenous peoples should not be compartmentalised into a single subsection of the Communication.

An indirect result of compartmentalising of the indigenous peoples – is that it gives a somewhat overall impression that the Arctic is a human and legal void. The repercussions of which is, that it prevents the EU from addressing cooperation with the Arctic from within a sustainable development discourse.

Sustainable development as we all know has three pillars – apart from the environment – it also has the pillars of economic and social development – three pillars that are mutually interdependent.

If the concept of sustainable development is applied more consequently it could serve as an impetus for the EU to develop actions and tools to assist in mitigating the negative impacts that transboundary pollutants have on the human health of Arctic peoples. By saying that, let me remind you that as of today strict dietary restrictions and breast-feeding regimes are being imposed on indigenous mothers in order to avoid toxic pollutants to be transmitted to their babies.

Another example is the chapter related to research, monitoring and assessment. The title “Protecting and Preserving the Arctic in unison with its population” would come to life and result in actions that would include indigenous and local populations in research, in the building of research, monitoring and assessment capacity and infrastructure in the Arctic. It would also open up for support to the social sciences that are so vital in understanding sustainable development and in the design of adaptive capacities of Arctic communities and would also guarantee the traditional knowledge of Arctic peoples.

By an enhanced attention to building the capacity in modern knowledge and technology in the Arctic and with the Arctic peoples, the Arctic could become an even strong strategic partner for the EU:

As you all know, the Arctic as a region has enormous potentials for renewable energy resources (water, wind, sun, tidal powers, fluctuations in ocean temperature etc). With known technologies and with minimum investment, much of that energy could be much better utilized for local Arctic energy consumption. Through more research and testing in sophisticated technologies, such as using

hydroelectric power to generate and store hydrogen, the Arctic as a whole has the potential of becoming a net-exporter of renewable energy.

The strategic importance of a partnership with the Arctic becomes evident when it comes to the potentials for hydrocarbons. Tapping these resources, that primarily are located on the traditional territories of indigenous peoples, while applying all the good practices and guidelines for the participation and inclusion of indigenous peoples, would give a much better guarantee for the application of best environmental safeguard standards. After all, indigenous peoples have a vital interest in the sustainable utilization of the resources of their Arctic homelands.

Other strategic resources that would make sense to exploit in cooperation with indigenous peoples are the rare minerals (only found in the Arctic) as well as rare genetic resources that are crucial for “cutting edge” technological innovations and developments.

Arctic indigenous peoples also have important cultural and intellectual resources. Their traditional knowledge and traditional Cultural Expressions and Folklore combined with contemporary forms of cultural and intellectual creativity of Arctic peoples can benefit sustainable development in the Arctic and more globally e.g. in the tourism industry as well as through international barter and trade.

In concluding, I hope that I by now have managed to demonstrate the relevance of the EU policies on indigenous peoples in EU cooperation with Greenland and the Arctic. But I also hope, that I have successfully demonstrated that

mainstreaming the rights and issues of indigenous peoples in EU's cooperation with the Arctic is not only relevant, but also essential for a genuine and sustainable partnership –fortified by a symmetrical relation between Europe and the Arctic.