



SÀMI CONVENTION AND SÁMI RIGHTS TODAY

An interview with Kirsti Strøm Bull
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Interviewer: Sámi rights have created a lot of discussion ever since the Sámi Parliament has been organized and recognized as an independent power-wielding organization within the already existing Norwegian Parliament. What is the biggest difference between this organization and the ordinary generally practiced Norwegian property law, like for example the reindeer herding law?

Strøm Bull: The Law for reindeer herding which we have in Norway is by name a law that regulates the relationship between individuals which own reindeer, but I would say that it is primarily a law which also regulates the relationship to different uses of property. Really the law could be called a law for the protection of agriculture against reindeer herding.

Interviewer: You worked with many lawyers on a draft of the Nordic Sámi Convention, which was created in cooperation with Norway, Sweden and Finland.

Strøm Bull: The Sámi are a nation that lives in four countries. Culturally and linguistically they are one people. And they are one nation in relation to International Law in Russia, Finland, Sweden and Norway.

After the Second World War the Sámi organized and asserted themselves more strongly. Their credo is that the Sámi are one people and that state borders shall not be allowed to separate their people from each other. Since the beginning of the 80's, the Sámi have been



busy trying to create a Nordic Sámi Convention, but this has not been met with enthusiasm in the separate countries concerned. After some time they have gained recognition for the fact that something has to be done, and consequently a group of representatives from Norway, Sweden and Finland and the Sámi Parliament was established. The three countries considered in the mid 90's whether such a convention should be worked on, and came to an agreement.

I was the main secretary for the group I worked in. The group was appointed by the governments of Finland, Norway, Sweden and Denmark. The Sámi representatives served as equals to other representatives within the group.

Interviewer: Why didn't Russia take part in this process?

Strøm Bull: Russia did not want to participate in this group, but we have had contact with some Sámi in Russia. Our hope is that if the draft of this convention is accepted by the three countries, then it will also have a positive effect for Sámi in Russia.

Interviewer: The rights of aboriginals are not particularly protected. Do you think this cooperation between Norway, Sweden and Finland can influence changes in respecting the rights of aboriginals?

Strøm Bull: I believe we were very conscious of and focused on challenges particular to this area of the North, but we kept in mind that this might be of interest for other original peoples/aboriginies as well. Also for peoples that live divided by state borders. This is why we are currently translating the draft to English. In Geneva there is work in process on an aboriginals' declaration, and the work we have done will without any doubt have a positive effect. Everyone who has worked with this theme for a while understands this because the work is long-term. There are two main elements in this work, specifically the basic rights of aboriginals and minorities, and the coordination of legal boundaries.

Interviewer: How current is it within the Sámi convention to raise the question of oil rights in Northern Norway? This is certainly a difficult subject, particularly for the Norwegian government since this could mean that they could loose control over oil resources. This theme has kept a low profile during the work on the convention.



S trøm Bull: This is a difficult topic. To put it this way, it is a topic we did expect to get questions about. Oil rights is just a theme for Norway. For Sweden and Finland this question is not relevant. We have mentioned oil in the proposal, but we did not address this question, but I do see this as a theme that most certainly will come up sooner or later. I can tell you what I think about that question.

When we look at the Coastal-Sámis' use of nearby coastal areas in Finmark and farther South towards Tromsø, looking at Norway purely geographically, it is very strange that they only have rights to fresh water and no rights to salt water. There is just a little strip of land that separates them. One does not need to dig very much into Norwegian legislation to find out that the population that lived along the fjords before had local rights. In principle it could be such rights we are talking about. We have not examined the matter further, but we are open for the fact that if oil and gas are found then this would be a natural question to ask.

Interviewer: In the draft of the Nordic Sámi Convention one of the points is about the Sámi peoples' right to self-determination. Do you think that the self-determination also implies that the Sámi have the right to self-determination and to organize themselves outside of the Norwegian State?

S trøm Bull: We were especially asked to look at the point of self-determination. There was agreement in the group of experts that the Sámi have self-determination. There is a larger report supporting this. What is important to mention here is what one means by self-determination, and within international law there has been a development of the term self-determination. When Sámi rights "woke up", in a manner of speaking, some 25 years ago, Sámi self-determination was rejected because it was at the time understood as separation. Ever since then, especially at the end of the 90's, one has especially in relation to minorities and aboriginals which live in different states, talked about self-determination. As an aboriginal one can have within a national state a right to self-determination – internal self-determination. In the UN convention about civil, political, social and economical rights there are two self-determinations in article 1 that are both now understood today as internal self-determination. We say that the Sámi have the right to have self-determination.



Interviewer: But the fact that this question is not raised now does not mean that the question of oil will not be raised at a later time?

Strøm Bull: Yes, clearly. This is a very important question for the Sámi in all three countries. And they say that they have self-determination. We did not work out completely the question of oil, but the question of self-determination is something we really worked on in detail in the convention. We maintain that the Sámi have self-determination as a people within the borders of the respective countries. When one hears discussions and reads literature on this theme, it is not very easy to find practical solutions for how to handle this form for self-determination. One thing is how people live limited to a certain territory, as for example Indians do, but the Sámi people do not live like that in Norway. It is true that many Sámi live in inner Finnmark, but if you go outside that area Norwegians and Sámi live together, and the question becomes here how can you create self-determination in this kind of environment. People have to cooperate. What needs to be discussed here is how to define self-determination – in these areas this becomes a question of cooperation. One never lives alone and we must always adapt to our neighbours.

Interviewer: One can take as an example the event from last year regarding permission to carry the Sámi flag in the 17th of May parade in Oslo. Do you think that it would help to change attitudes towards the Sámi, both those of the authorities and those of average Norwegians, that this example clearly illustrates, if the convention is accepted by the government?

Strøm Bull: Of course. The example you mentioned and the following discussion already has changed attitudes in Oslo. I was present at the Sámi national day at City Hall on the 6th of February, and the in Mayor's speech he said that on the next 17th of May Sámi children will be able to carry the flag they choose.

Interviewer: Do you think that acceptance of the Nordic Sámi Convention can be problematic in relationship to the Norwegian juridical system? Does this require a large amount of work to incorporate the Nordic Sámi Convention?



S trøm Bull: No, this will not be a problem in Norway.

Interviewer: What about in the other two countries; Sweden and Finland?

Strøm Bull: I believe this will take a longer time in Sweden and Finland. Norway has made the biggest progress in this work. This is also a well known fact in circles that work with Sámi law. Also the government at the time made statements about changes to the constitution. In the constitutional changes made in 1987, giving the right to self-determination, it was documented that the largest Sámi population of all the four countries lives in Norway. Because we have the largest Sámi population we also have the greatest obligation to arrange for the practice of their rights. If the Sámi culture cannot survive in Norway, then it would be even more difficult for it to survive other places where their numbers are significantly fewer. I must say that working all these years with this question I can see now that politicians have become more positive and that this question has gained much more attention. Further, I think that things proposed in the Nordic Sámi Convention really are actually already carried out in Norway, but I believe that we have become much clearer about certain issues. Things get in a way concretized and that empowers how one deals with the question on a daily basis. But it will be interesting to see how they will receive the convention in Sweden and Finland.

Another thing that I would like to mention here is that saying that the Sámi have self-determination leads to some things in and of itself. How is one to implement this self-determination? As I mentioned earlier, FN is working now in Geneva on a declaration on the rights of aboriginals where Norway is included together with Sweden, Finland and Denmark. They have decided to declare that aboriginals have self-determination. I think that if Sweden and Finland agree to this in Geneva, then they cannot deny implementing the same in their own country. Both countries have recognized the Sámi as aboriginals.

I nterviewer: Do you think that the Norwegian authorities will find some points that will be problematic to accept?



Strøm Bull: Yes, I think so, and especially in relation to rights in fjord and coastal areas, and also that we give the Sámi Parliament a clear signal in relation to a larger degree of co-determination and the right to veto.

When we suggest this we do it by referring to the conventions that Norway already follows and are already obliged to internationally, such as the FN Convention, IL Convention and the Human Rights Convention. It is essential that when we read conventions apropos aboriginals in other countries, we think that this also goes for aboriginals in Norway. It is not always about people who live far away.

What we did here is ‘implanting’ the Sámi in the place of the other people mentioned in the FN or ILO Conventions.

Interviewer: But do you think that the attitude of the majority towards the aboriginals is a bigger problem? In my opinion this is a big problem in general and not only in Norway. We can see world wide that aboriginals stand usually lower on social scales. How do you think this attitude against aboriginals has influenced their rights?

Strøm Bull: I think that the attitude is actually changing. Since I started working with this question, I have noticed that people have become more interested. But what is most interesting is still aboriginals in Australia and South-America and not aboriginals in our own country. I think that many people do not even think about the Sámi as aboriginals. I was almost 40 years old when I first learned about the Sámi. What shocked me was that I never learned anything about them at school. In my opinion it is only by way of knowledge, knowledge and knowledge that we can win over such attitudes.

One does not need to go far back in time to find the same attitudes in Norway that one finds elsewhere in the world today. If you look up in a Norwegian lexicon 50-100 years back, there is very little on the existence of the Sámi.

Interviewer: But, that does not exactly place Norway in a favourable position.

Strøm Bull: I think that here in Norway many try to avoid these questions. Or to put it another way, Norwegians are working with questions of aboriginals and minorities in other countries because it touches on a point of discomfort. The Norwegian discomfort. I think that we are raised and taught in schools, that we have never done anything wrong to



anyone. Quite on the contrary, we were colonized by Danmark and Sweden, we were occupied by Germans but we never did anything wrong to anyone since the Viking Age.

Interviewer: This is exactly the dynamic; Norway appears to be, in their own eyes, a peaceful nation, a nation that preserves all rights, but is suddenly reminded of the uncomfortable wrongs committed in the past.

Strøm Bull: Take for example Norwegian constitution where it said that Jews did not have legal access to the country. This law was after some time changed. This is not exactly a nice history in relation to minorities. Take for example Gypsies and of course the Sámi. And you can say that a lot of this happened merely because Norway, after becoming independent in 1814 and later after 1905, was building up their nation. As a result, Norway had to cultivate that which was Norwegian and nothing else.

I usually quote a Norwegian historian Yngvar Nielsen who wrote around 1900: “Sámis neighbours were the ones who through the scientific examination defined the Sámis’ position, -their past, their language, their religion, their physique, etc., maybe without the Sámi themselves noticing it. Their vision does not surpass satisfying immediate needs, and they are happy when they get these needs satisfied. Neither do they appear to be brought into the service of higher goals and therefore the judgement must be that they are of a lower race.”

It is also thought provoking that many of these most uncomfortable attitudes came from academics.

Interviewer: Do you expect a struggle with the authorities to get the Nordic Sámi Convention recognized?

Strøm Bull: I think that it would be very strange if Norway were not to accept the convention. I have to say that during our work with the convention we experienced positive reactions from the Norwegian side. I do not believe that Norway will create problems, especially after the Finnmark Law was passed. A lot of the things that happened during our work with the Finnmark Law showed in many ways that reality had caught up with us in relation to the Parliament’s and politicians’ conduct in this context.



Interview: Why was it very important to accept the Finnmark Law first?

S trøm Bull: Realization of the Finnmark Law is about obligations that the government has said has to be addressed as a consequence of the Alta-case. For many in the South of Norway the Alta case was a question about protection and environment, and for the Sámi it was a question of access and use of an area. It was decided and accepted to determine who has rights to land and water. The question of rights to water and land took a very long time and ended up with a law proposal for Finnmark in 2003 from the government. The Sámi felt that their claim to recognition of their rights was not met. They maintained that they used these areas first and that Norwegians had come relatively recently and that the Sámi should have more rights to the area. This proposal was also taken to the Parliament. The Parliament conducted a truly thorough study. They worked on the proposal for two years and travelled around in Finland and Canada to see how things were done there. They obtained an international law proposal and then juridical committee in the Parliament consulted with the Sámi. As a result of this process something very interesting happened. In 2005 the government and the Sámi Parliament made an agreement about consultations on all state levels.

Interviewer: So we can say that state officials are trying to find a solution.

Strøm Bull: In this way the Finnmark Law led to a further development in this field, but the work cannot stop now.

I nterviewer: Is the Finnmark Law an initiator of the process of work with the Nordic Sámi Convention?

Strøm Bull: It is the continuation. In reality the process went more quickly in Norway.

Interviewer: So reality has, we can say, forced a development such that the Sámi will get their rights recognized. Then we really can compliment Norway for having gotten quite far in comparison to other countries.



Strøm Bull: I can't exactly say how it is in other countries. I think that we have come far in certain areas. Other countries have come further in other areas, like for example New Zealand even though I do not know the details. They have an ongoing process of returning the land. New Zealand and Canada have both come further in some areas, but they are behind in other areas. I cannot say that things are sorted out to the point that there is no risk of a fallback. One thing is when a law is passed, but I've experienced many times in these types of questions how it is to get it into practice in daily life. You can do it if you have the right minister in the right place and you have the right leader in the juridical committee. It is never the voters who are the initiators with this kind of work. You don't gain votes by protecting the rights of minorities.

Interviewer: Quite the contrary. How do the Sámi see these questions you discuss, and do they see these developments so far?

Strøm Bull: I can't say. I am completely sure that further along in the process there will be additional wishes. I think so. It would be strange if that did not happen. One always has to have something to negotiate about for the future work, but the reactions I got were very positive.

Interviewer: You mentioned once five points that Carsten Smith claims are the most important for work with the Nordic Sámi Convention.

Strøm Bull: The most important aspect of the Sámi Convention is that the right to self-determination is respected juridically. Secondly, the Sámi Parliament's co-determination and a right to veto have to be clarified. We have to know when it is valid. We cannot leave this to chance. Thirdly, ensure greater access to co-operation amongst the Sámi irrespective of state borders. Fourthly, the Sámi rights in fjords and inshore waters have to be extended much further in relation to what are recognized today. Fifthly, the Sámi rights have to be on a number of points systemically empowered.

The international conventions may not say the same things, but we concretize this to a large degree in our work.



Interviewer: Amongst other things that you work with is the question of whether ethics could be an interesting viewpoint in the work with aboriginal rights. Do you think that everyone who works with aboriginal questions should have the same moral obligations and ethical norms to follow? How big a role do ethics play in the work of researchers and academics within your field?

Strøm Bull: In my opinion ethics is very important in my field. Law is in a way systematized ethics. Law does not solve all ethical questions, but the choices we make are built on ethical persuasions and documented written ethics. So for me this question about the Sámi and minorities is a moral question.