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LEARNING FROM THE NORDIC SAMI MODEL

BY JOSEPH QUESNEL



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The Sami flag was inaugurated during the Sami Conference in Åre, Sweden, on 15 August 1986. (Source: flaginstitute.org)

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INTRODUCTION

In February 2018, the Liberal government in Canada announced it would be releasing in the future a new legislative framework for recognizing Indigenous rights and title, with a heavy emphasis on Indigenous self-governance.¹

“We need to get to a place where Indigenous peoples in Canada are in control of their own destiny, making their own decisions about their future,” the Prime Minister said during the announcement. It was believed that the end goal of self-determination would be the tackling of entrenched social and economic problems.²

However, is the Liberal government putting the cart before the horse or making a premature and mistake inference or conclusion about the causal chain? In the 1970s, courts began to recognize Aboriginal title, and the emphasis switched to Indigenous self-government. Additionally, with the repatriated Constitution and its inclusion of Aboriginal and treaty rights, separate rights and benefits were also emphasized. Economic independence was not placed at the centre but was assumed to come with political independence.

But what has the focus on self-government, separate political rights, and separate territories brought to Indigenous peoples in Canada? They continue to seriously lag behind other Canadians, especially if they live on reserves far from the mainstream. Indigenous people have made marginal gains, but they still have lower GDP per capita incomes and life expectancy. They lead in suicide, addiction rates, and health problems. While political autonomy is a laudable goal and would deliver benefits, in theory, it is not clear that the Liberals’ continuing this same path in a much larger way would not lead to worse results.

Canadian politicians and policy makers—including Indigenous leaders—need to look at models of Indigenous-state policy beyond North America. Canada and the United States follow a roughly similar policy trajectory of treaties, a formalized fiduciary relationship between the federal government and Indigenous groups, and protected reserves/reservations held in a trust status. But, looking around the world, one can see that there are different approaches to Indigenous peoples, some of which are working better than the North American context.

The Sami peoples are an Indigenous northern people of Scandinavia who occupy large parts of Norway and Sweden, the northern parts of Finland, and parts of Russia, largely in the more isolated parts of the northern areas of these countries. However, their standard of living in general is closer to the mainstream populations.³ In comparison with other Indigenous people around the world, the health and living conditions of the Sami are exceptionally good. For instance, there are no evidences of low-life expectancy, of significantly elevated incidences of common diseases, or of increased prevalence of alcohol and substance abuse that are serious health problems among other Indigenous populations.⁴

The Sami people have a different policy trajectory and relationship with the states they inhabit. This study will look at those differences and will determine what insights and approaches can help Canada.

A CLOSER LOOK AT THE SAMI PEOPLES

According to one Swedish Sami source, there is no census for the Sami, but the population is estimated at between 80,000 and 100,000 people, spread over four countries with 20,000–40,000 in Sweden, 50,000–65,000 in Norway, 8,000 in Finland and 2,000 in Russia.⁵

At one point, the Sami were known in English as Lapps or Laplanders. That term is seen as derogatory now, so it will not be used in this study, with preference given to the Sami names of the countries studied.

The Sami have been associated with traditional activities such as fishing, fur trapping, and sheep herding. However, they are most known for their reindeer herding. Their ancestral lands are not as well defined and are the subject of controversy in their home countries. The people speak Sami languages that are Indigenous to their country.

The Sami languages are Finno-Ugric languages, which means they are related to Finnish, Hungarian and Estonian. Sami is divided into three main languages: Eastern Sami, Central Sami and Southern Sami. These languages are further divided into nine distinct variants.

Originally a semi-nomadic people, the Sami now live in modern housing and only use temporary accommodations during reindeer migratory times. Only 10 percent of Sami are engaged in the reindeer industry, but many are employed in tourism, fishing, crafts and other trades. The Sami—despite their regional differences and dialects within the countries they inhabit—also have a pan-Sami identity that transcends borders. For example, there is a Sami flag (it is shown at the top of the paper) and there is a national Sami song. Despite their integration into the three Nordic states featured in this study they have a strong sense of identity and fierce sense of themselves as separate from the mainstream populations.

THE SAMI PATH

Like Indigenous peoples elsewhere in the world including Canada, the Sami faced official policies of assimilation and forced relocation in the past. Within the last few decades, these countries all ended that policy in favour of respecting cultural difference and autonomy. However, all these states still de-emphasized rights to land and encouraged integration with other citizens, while encouraging remaining in their traditional communities.

The Sami are the subject of this paper because they can provide some insights and possible policy direction suggestions for Canada's First Nation population. The Sami followed different policy directions in each of the Scandinavian states they reside in. The states of those countries adopted different relations with its Indigenous peoples that is distinct from the policy approach followed by Canada's First Nations and Native American Indians. While not all ideas can be imported from Scandinavia to Canada because of different political and constitutional realities, as well as differences in culture and geography, looking at the Sami "model" can certainly provide some insights on how Canada might change its course, if even ever so slightly.

The treaty and reserve system in Canada have emphasized paternalism, separateness and isolation. It has frozen First Nation lands into uneconomic and inefficient uses. Indigenous communities are continually caught in litigation and land claims negotiations. This represents time and resources that could be redirected into building sustainable self-sufficient economies and building healthy communities. We need a better model moving forward.

What appears to be a strength of the Sami approach is the priority and primacy placed on economic and social equality, which is largely achieved through the welfare and educational sectors.⁶ Or as one researcher put it:

One major aim was Sami integration into the economic and social structure of the country to further economic and social equality. On the other hand, another goal

was the consolidation of Sami areas through cultural and administrative efforts to prevent assimilation. The idea was to make it possible for the Sami population in Norway to maintain its integrity as a viable culture.⁷

Rather than focus on land title rights, the states with Sami populations focused on cultural protection rights, specifically language retention and traditional economic rights. In other words, cultural and language rights are placed above political and territorial rights. So, in practical terms, the government should de-emphasize political self-government as a goal and focus completely on advancing First Nations communities to a much higher standard of living. In Canada, it seems that policy makers are too eager to transfer political authority to communities that are wracked in poverty, addiction, and family and societal dysfunctions. This is merely a recipe for poor and dysfunctional Indigenous governments. Under modern treaties, First Nation governments are kept alive with negotiated settlement monies with not much regard for sustainable own source revenues. This does not suggest a healthy approach.

Canada should learn from the Sami approach and bring their Indigenous population to a much closer parity to the mainstream population before transferring political autonomy to these communities. It is like putting the cart before the horse approach. Also, there is no constitutional obligation on the part of the federal government to advance self-government for First Nations. It is often a choice.

Some of these states have also allowed the creation and operation of Sami parliaments that ensure that Sami needs and interests are taken into consideration. The parliaments are primarily consultative and not operating on their own authority, but they do bring Sami interests into government legislation and policy. Canadian First Nation leaders and activists recently criticized a very recent Supreme Court of Canada judgment that ruled that the duty to consult and accommodate First Nations did not include the right for First Nations to be consulted prior to legislation.⁸ Perhaps a sort of First Nation

consultative parliament or assembly could help bring First Nation input into laws and policies that affect them.

Rauna Kuokkanen, a Research Professor of Arctic Indigenous Studies at the University of Lapland in Finland, argued that the Sami became much more integrated into the Scandinavian states when the governments began to integrate the Sami into the dense Scandinavian welfare states.⁹ One chief advantage of this welfare integration was the well-being of the Sami themselves. This made the Sami the envy of Indigenous peoples around the world. Kuokkanen wrote:

In an analysis of the compatibility of welfare ideology and indigenous rights, it has been suggested that the principles of the Nordic welfare system are often in direct contradiction to the notions of indigenous collective rights. The ideology behind the Nordic welfare system is constituted by principles of egalitarianism and social equality on the one hand, and individualism and an orientation toward the whole on the other.¹⁰

Although Kuokkanen argued that this integration into egalitarian and social equality was negative and came at the expense of group Indigenous rights, she missed that equality and individualism are important for any groups.

This study argues that the Sami have achieved something rare among Indigenous peoples – higher socio-economic indicators closer to mainstream populations, while maintaining a strong cultural identity. They also achieved this by largely remaining in their traditional communities, something the Maori people of New Zealand for example do not have. The Sami have also maintained some connections to their traditional reindeer economy, as well as practice other traditional pursuits. They have done this while de-emphasizing the land rights aspect of Indigenous rights and de-emphasized political self-government in place of cultural rights.

This kind of model of Indigenous progress should be explored by Canadian policy makers and studied for insights. Canada's policy trajectory on

Indigenous policy has become obsessed with land rights and promoting the politics of difference. First Nations want political autonomy on isolated lands that are far removed from the mainstream economy and want political self-government over economic independence. Overall, this model of Indigenous-state engagement has been very costly (and only expected to grow more with a growing Indigenous population and a retiring workforce). Most importantly, this model of reserves and separate development has not served Indigenous peoples well, especially the politically unconnected, who languish in poverty and dysfunction. The existence of treaties and Aboriginal constitutional rights makes adopting the Sami model completely impossible politically, there are some insights that can be gleaned and transferred. The hope is that Indigenous peoples see the potential in the Sami model and that government policy makers and especially politicians have the courage to abandon a failed model and embrace a better one.

A CROSS-NATIONAL COMPARISON OF THE SAMI PEOPLES

Below follows a comparison of the major policy approaches towards the Sami in the three Scandinavian countries. These policies are derived from the Multiculturalism Policy Index (MPI) from the Queen's University website.¹¹ The MPI is a scholarly research project that monitors the evolution of multiculturalism policies across the Western democracies, and is designed to provide information about multiculturalism policies that aids comparative research and contributes to the understanding of state-minority relations.¹² The comparisons provided below are from the subsection on Indigenous states and under the headings of the three countries.

Different Sami Self-Government and Representation Models

All three Scandinavian countries with Sami populations provide a measure of political autonomy, but in all cases, it is limited to language and culture, as well as protecting traditional Sami practices. All these states also have a consultative parliament for the Sami.

Finland

The Sami of Finland have an elected representative body, the Sami Parliament, which elects 20 representatives every four years.¹³ The parliament, however, is responsible only for Sami language and culture. This parliament is also the "supreme decision-making body" for the Finnish Sami. Although it falls within the Finnish government, it is not part of the administration. The body presents the Sami in national and international contexts, particularly where the language and culture of the Sami is involved.

However, since the parliament is not part of executive governance, it is more an advisory body to the Finnish government.

Sweden

The Sami Parliament of Sweden was officially created in 1993 under the Sami Parliament Act of 1992. The act states that the Sami Parliament's primary purpose is "to monitor issues that relate to Sami culture in Sweden."¹⁴ Even though the Sami Parliament is an elected body, it is still a government agency to the central government according to Swedish law.

The Sami Parliament is controlled by the Swedish Parliament and the government through laws, ordinances and appropriation decisions.¹⁵

Norway

Established in 1987, the Sami Parliament of Norway is an Indigenous electoral body elected by and for the Sami people, and represents the Sami people in all matters concerning them. The Sami Parliament is only an advisory body to the Norwegian legislature and does not constitute an order of government with jurisdiction over Sami traditional territories.¹⁶ Overall, the Norwegian government is responsible for all policy concerning the Sami.

Different Attitudes Towards Land Title

All Nordic States

In the late 19th century, all the Nordic nation-states confiscated Sami territories.

The Nordic countries maintain to this day that it is "beyond doubt that the Saami people's nomadic land use has not given rise to legal rights to land and that the Saami traditional lands, water, and natural resources belong to the [Swedish] state."¹⁷ In 1998, the Government of Sweden formally apologized to the Sami for the injustice and discrimination that they were met with by the Swedish state, including forced dislocation from their traditional lands.¹⁸

Recognition of Cultural Rights

All Nordic States

All of the states under study here have explicit legislation protecting the Sami language. Many also have Acts that protect traditional cultural practices, including gathering and reindeer herding.

All of the Nordic Sami parliaments are also responsible for protecting and enhancing the Sami language, which all of them do.

Constitutional Distinctiveness

Finland

Section 17 of the Constitution Act of Finland (2000) states that the Sami are an Indigenous people as does numerous sections of the Sami Parliament Act.¹⁹

The draft Nordic Sami Convention will recognize the status of the Sami people as the only Indigenous people of Finland, as well as Norway and Sweden.²⁰

Sweden

The Swedish government recognizes the Sami as Indigenous people and as a recognized minority group. The new Swedish constitution seeks to recognize them as a full-fledged people, not just one other minority group.

Norway

The Norway Sami received constitutional recognition in 1988 when the National Parliament of Norway amended the Norwegian Constitution. Article 110 (a) of the Constitution of the Kingdom of Norway recognizes the Sami, stating that: "It is the responsibility of the authorities of the State to create conditions enabling the Sami to preserve and develop its language, culture and way of life."²¹

Language and Cultural Retention

Based on current research, it has been argued that roughly half of the Sami people speak one of the Sami languages.²² Modern language protections will help ensure the language endures for quite a while, although to what extent depends on where the Sami live and the strength of their communities.

IDEAS FOR CANADA MOVING FORWARD

With the distinct constitutional status and the treaty relationship, Canada's First Nations cannot follow the Sami example too closely. It is also very unlikely enough political will from the federal government and the provinces could be mustered to change this reality through the formal constitutional amendment process.

However, First Nations and the federal government could learn from the emphasis the Sami peoples place on various aspects of their relationship with the states they occupy. Perhaps Indigenous communities could be more focused on cultural and economic rights rather than land title claims and asserting separate rights and further entrenching parallelism. Also, the welfare state integration of Sami communities in the four Nordic states is something that First Nations in Canada could aspire to. This would take a serious dent out of First Nation poverty and bring Indigenous and non-Indigenous Canadians together. Too much emphasis is placed on what divides us than what brings us all together.

The idea of Indigenous parliaments or assemblies is worth exploring, if it is done right. It is fraught with potential problems and should not be used to formalize the separatism and parallelism we are trying to move away from in Canada (and the United States, for that matter). Indigenous parliament(s) or assemblies should be consultative and within the constitutional order and replace layers of unnecessary Indigenous representation organization (e.g. tribal councils, the multitude of regional First Nations organizations, the Assembly of First Nations itself could be eliminated in place of a single parliament). Establishing an Indigenous parliament means giving Indigenous people nationally or provincially one voice to represent and articulate Indigenous concerns that are already mandated to be heard in the Constitution.

Following the Sami model would represent a middle ground approach as First Nations would continue to have constitutionally entrenched rights, just like the Sami do, but would have local jurisdiction over First Nations lands. First Nations would continue to aspire to repeal or replace the Indian Act and work for transferring lands back to First Nations, thereby working against the reserve system. Perhaps with the establishment of an Indigenous parliament or assembly, First Nations can develop a pan-Indigenous identity and be less focused on local squabbles and power struggles.

CONCLUSION

The Sami peoples of the Nordic states offer some important insights to Canada's First Nations in terms of Indigenous well-being. Canada and the provinces should promote the socio-economic equality of First Nation communities, mainly by bringing them into the confines of the provincial and territorial welfare state. However, because Canada does not have such an extensive and generous welfare state as the Nordic states, perhaps it can provide a more beefed up system to Indigenous communities to bring average people on reserves into closer parity with other Canadians. In general, the federal government should place social and economic equality of Indigenous peoples ahead of all other goals because it is the most important one.

The national government should de-emphasize land claims, self-government and other political and territorial goals. To a certain extent, due to the constitutional and legal context of Canada, land claims will still have to be met, however, the Sami situation as compared to Canada's and that of the United States shows us that economic integration and much more focus on protecting Indigenous language and culture is a much better approach to improving Indigenous communities here. However, this new approach would be most opposed most likely by First Nation leaders, organizations, and

scholars who have vested interests in more First Nation governments, spending, and bureaucracies. It seems more likely average First Nations would be more on board with this new approach, especially if it starts to yield results quickly.

There are other significant challenges. The idea of an Indigenous parliament or assembly would require a significant shift in thinking among mainstream Canadians who rightfully hold special rights and privileges for certain groups in suspicion. While Canadians are very supportive of First Nations peoples generally and feel sympathy regarding past mistreatment of Indigenous peoples in Canada's history, they are skeptical that more special treatment is the answer. Policy makers and politicians would have to show the public that this idea is not about entrenching special treatment but is about shifting how First Nation priorities and interests are represented and reflected back to the government. They should also be told immediately that these bodies are consultative and do not represent a separate class of representation for First Nations. It would also come with the elimination of lobby groups and representative organizations that purport to represent First Nations. The hope would be for the end of duplication and redundancy that is so pervasive in Aboriginal politics in general. It is also hoped this would help create a pan-Indigenous identity, as it has been done in Sami politics.

POLICY RECOMMENDATIONS

- 1) Re-orient federal policy towards economic and social equality for First Nations, as opposed to political and territorial rights, through integration of First Nations into provincial and territorial welfare state regimes.
- 2) Non-Indigenous governments should see their role chiefly as protectors of Indigenous language and culture, especially endangered ones, rather than focusing on transferring political powers to Indigenous communities that are not ready for such powers.
- 3) Establish an Indigenous parliament or assembly at the national or provincial levels as a strictly advisory and consultative body to ensure the protection of Indigenous cultures, languages, and traditional economic activities.
- 4) Upon the establishment of Indigenous bodies, eliminate national, provincial, and regional Indigenous lobby groups and representative organizations.

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