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Human Development of Indigenous Sámi People in the
Arctic Region

A Human Rights Based Approach

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Humanity has the ability to make development sustainable to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs. (Gro Harlem Brundtland, 1987)

*The moral fascination and revolutionary power of human rights have shaped and changed international relations more than any other philosophical idea.
(Nowak/Januszewski/Hofstätter, 2012: 20)*

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Preface

During my studies I focused on the rights of indigenous peoples around the world. The first time I came into touch with indigenous peoples of the Arctic region, was when I did my Erasmus exchange year in Rovaniemi in Finland in 2009/2010. I participated in the Arctic Studies Program of the University of Lapland, which gave a broad overview of the Arctic region, the social, economic and cultural as well as environmental and climate change issues. I further went on a field trip, organized within the same program, to the Kola Peninsula in North East Russia. There we met with Sámi and discussed different topics with them. It was really interesting to get some personal insights in their lives and daily economic and political experiences. Also the differences regarding the recognition and the paid attention to indigenous peoples' rights in Russia and the European states became evident: One people, four nation states, and four different legislations.

Coming back from Finland and continuing my studies of international development, I realized that within the discourses of human development, indigenous peoples' rights, and human rights in general, the Arctic as a region is often left out or underrepresented within the discourse. Therefore I will focus on indigenous peoples rights and development of the Sámi living in the Arctic region of northern Europe (Norway, Sweden, Finland, and Russia), so to make a contribution to the global discourse of human development and indigenous peoples.

I especially want to thank my supervisor Univ.- Prof. Dr. René Kuppe for his support and his worthwhile assistance and contribution to this topic all over the years. Since I started being interested in the topic, a lot of things have changed in regards to the rights of indigenous peoples; the United Nations Declaration on the Rights of Indigenous Peoples got adopted in 2007, national laws have been revised or new ones established, etc. It is definitely a field where the term 'change' has its justified place. This becomes even more evident when looking into the Arctic region, where climate change indicates economic, political, and social consequences.

Acronyms

AAA	American Anthropological Association
AHDR	Arctic Human Development Report
AMAP	Arctic Monitoring and Assessment Program
EU	European Union
FPIC	Free, Prior and Informed Consent
HDI	Human Development Index
HDR	Human Development Report
HRBA	Human Rights Based Approach
HRC	Human Rights Committee
HREOC	Human Rights and Equal Opportunity Commission
ICESCR	International Covenant on Economic, Social, and Cultural Rights
ICC	Inuit Circumpolar Council
ICCPR	International Covenant on Civil and Political Rights
IWGIA	International Work Group for Indigenous Affairs
ILO	International Labor Organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
RAIPON	Russian Association of Numerically Small Indigenous Peoples of the North, Siberia and the Far East
RTD	Right to Development
SDWG	Sustainable Development Working Group – Arctic Council
TTNU	Territories of Traditional Nature Use
UN	United Nations
UNDP	United Nations Development Program

UNDRIP	United Nations Declarations on the Rights of Indigenous Peoples
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
UNHR	United Nation Human Rights, Office of the High Commissioner for Human Rights
WCIP	World Council of Indigenous Peoples

1. Introduction

“The right to development is the right to a development where all rights can be progressively realized. Both the process of development and the outcomes of the process can be regarded as human rights claimed by the people of a country for the benefit of all individuals. The right is exercised collectively but enjoyed individually.” (Sengupta, 2004: 179) The related obligation of an appropriate development policy lies within the nation state, the co-operation between them and international institutions. The international community that recognizes this right has to support its implementation by building up common operations in trade, debt, finance, technology transfer, and development assistance.

A different perspective of globalized problems and challenges within international relations has come up with the end of the Cold War and certain global developments. This rethinking certainly has its impact on human rights. Over the time, the equal status of all human rights has been recognized not only in theory but also in practice. Economic and social rights came to the fore of the human rights discourse, and (inter-) national policies. The human rights based approach to development can be considered as a part of the debate of the rapprochement of development and human rights. (Hamm, 2001: 1005)

“A human rights approach to development recognizes primarily the legal obligation of members of human rights treaties to development cooperation and development efforts and so goes beyond human rights as the content of development policy.” (Hamm, 2001: 1005)

The aim is to make development work sustainable and to empower the people themselves to participate in the process. The UNDP Human Development Report 2000 can be considered as a path breaking example of this debate.

M. Sepúlveda (et al; 2004: 3) further notes that “human rights are commonly understood as inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being”. These rights, which are considered to be indivisible, thus

apply equally to everyone, and inalienable, meaning that they always apply and cannot be voided or extinguished, include the right to life, property, health, education, free association, among others (Sepúlveda et al; 2004: 3). Human rights are intended to be universal, “(...) without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (...)” (UN General Assembly, 1948, Article 2). As recognized in the Charter of the United Nations and international human rights law, article 1 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007) states that “Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms”. However, Indigenous peoples as subjects of this Declaration still experience unequal access to human rights and systematic ethnic discrimination. Anaya (2004: 16ff) classifies their situation as a form of a dual discrimination. On the one hand, there is denial of access to land, basic resources and services, leading to difficulties in sustaining traditional ways of life; and on the other hand side there is a systematic discrimination that arises especially when indigenous peoples attempt to participate in the dominant society. The Indigenous peoples’ contest to reach respect for their human rights started with the demand for the ‘right to have rights’, and has led to the drafting and endorsement of several international conventions and agreements that were conceived to guarantee the access of indigenous peoples to human rights and, in succession, self-determined human development. (Hanna/Vanclay, 2013: 148)

Human development is a cultural process. All human beings are defined in terms of their cultural participation. Humans are prepared by both, their cultural and biological heritage, to use language and other cultural tools and to learn from each other. Using such means, they can collectively remember events that they may have not personally experienced but which involve them in other people’s experience over generations. Being human involves constraints and possibilities originating from a long history of human practices. At the same time, each generation continues to revise and adapt its human cultural and biological heritage under current circumstances. (Rogoff, 2003: 3)

To measure human development, the United Nations Development Program has devised and made good use of the Human Development Index (HDI) which integrates three determinative factors: “(1) a long and healthy life measured in terms of life expectancy at birth, (2) education treated as a combination of adult literacy and school enrolments, and (3) a decent standard of living construed as GDP per capita.” (AHDR, 2004: 16) Considering the Arctic, it becomes obvious that the level of development is not so easily measurable by the HDI. Some factors cannot be used applicatively for the Arctic region whereas other useful ones are not covered by the HDI. In general, it is difficult to use indicators like GDP per capita to measure the health of (partly) subsistence systems. “Many Arctic residents –especially those who are indigenous to the region or long-term residents – associate a good life with the maintenance of traditional hunting, gathering, and herding practices.” (AHDR, 2004: 16) Similar concerns arise in the area of education. Many “have a highly sophisticated grasp of matters important to their well-being. But their knowledge often does not translate into high scores in terms of adult literacy and gross school enrollments.” (AHDR, 2004: 16) Even the measure of life expectancy can be discussed controversially. A long life is desirable, but what if one were offered a choice between a shorter life deeply rooted in traditional values and cultural practices or a longer life spent trying to adjust to the loss of a highly-valued lifestyle? (AHDR, 2004: 16f)

As discussed here, one can see that there different aspects of human development in the Arctic region arise, which have to be considered, when talking about the quality of life. I want to examine how sustainable human development could be achieved for and by the Sámi people themselves. New approaches of the interpretation of human rights and development, including the Human Rights Based Approach, could lead to a more fruitful cooperation between indigenous peoples, states, international organizations, and other stakeholders, involved in indigenous peoples’ issues and concerning their territories and livelihood.

For the practical part, I decided to focus on the Sámi people in Northern Europe and East Russia because of my personal interest and experiences there as well as simple containment reasons. Considering all indigenous populations within the Arctic region

would go beyond the scope of this thesis. Following, I want to give a short introduction of the Sápmi region and the indigenous population living there.

The territory known as Sápmi expands over the northern parts of Sweden, Norway, Finland, and the Russian Kola Peninsula. It has been traditionally inhabited by the Sámi people since thousands of years. Although the Sámi are divided by national borders of the four nation states, they continue to exist as one people, united by cultural and linguistic commonalities and a shared identity. Until today, they have kept nine language groups alive, divided across the national borders of the four countries. The Sámi population is estimated between 70.000 and 100.000, wherefrom the biggest part, numbered 40.000-60.000, are inhabited in Norway, 15.000-20.000 in Sweden, 9.000 in Finland and 2.000 in Russia. (Anaya, 2011: 4) “Sami people constitute a numerical minority in most of the Sápmi region, except in the interior of Finnmark County in Norway and in the Utsjoki municipality in Finland.” (Anaya, 2011: 4) The Sámi people have traditionally relied on hunting, fishing, gathering and trapping. This has come along with a deep knowledge of the northern region, its surface, surrounding and climate. Since centuries, this knowledge has been handed over from generation to generation. The culture of reindeer herding is of central importance all over the Sápmi region. Historically, many Sámi communities practiced a semi-nomadic lifestyle, moving reindeer herds between the mountain and coastal areas. Other groups practiced reindeer herding in forested areas.

Traditionally, the Sámi have formed and structured their organization around the *siida*, which is a local organization that plays an important role in the distribution of lands, water and natural resources. Within the *siida*, members have individual rights to land and resources. Nevertheless, they have helped each other with the management of reindeer herds as well as in the areas of hunting and fishing. Based on these structures, the Sámi developed sophisticated systems for land distribution, inheritance and dispute resolution. Despite historical developments that have weakened the traditional patterns of association, the *siida* system continues to be an important part of the Sámi society. (Anaya, 2011: 5)

The borders of the national states as they exist today were drawn over a 100-year period. The migration of new settlers within the region has changed the composition of the population and reduced the Sámi to a numerical minority in their homeland. The drawn borders simply cut through linguistic and cultural communities and reindeer-herding activities. Above all, the governments followed over a long period of time, from 1800 onwards until the Second World War, policies that were primarily aimed at assimilating the Sámi into the majority societies. (Anaya, 2011: 5)

In regard to the ongoing debate of Sámi rights and development, an Expert Group, representing the governments of Norway, Sweden, and Finland, and the Sámi parliaments of these three countries, has agreed upon a draft text of a Nordic Sámi Convention in 2005. Main parts of the Convention deal with the recognition of Sámi land and resource rights. More recently, in 2011, the three governments have started negotiations to move from the draft text towards a final Convention that further seeks its adoption and ratification by the three countries. The negotiations should find a successful outcome within five years. (Bankes/Koivurova, 2013)

The main research objective of the thesis is the content of a Human Rights Based Approach (HRBA) to development for indigenous Sámi people in the Arctic region. In doing so, I want to examine the key-factors for indigenous peoples' human development in the Arctic region, considering the Sámi people. The Draft of the Nordic Sámi Convention and its evaluation give us an idea of the current status quo regarding the rights of Sámi people as well as in regard to their future development in Finland, Sweden and Norway.

The thesis is structured in two main parts. First, I would like to examine the methodological approach as well as the theoretical framework including explanatory chapters to human rights and development, the human rights based approach, introducing remarks to indigenous peoples and their development as well as the role of culture to (indigenous peoples') development with a special focus on the Arctic region. The second part will focus on a concrete example of human development of indigenous peoples in the Arctic region: the Sámi people. Historical implications, current political and economic status, the role of the right to self-determination as well as indicators of

human development are objects of investigation in regard to the Sámi people in the Arctic. Further, I will give some general ideas of what the Draft of the Nordic Sámi Convention, which is currently under evaluation of the three Nordic States Finland, Sweden, and Norway, is all about, and what its adoption would imply for international law and the indigenous world outside these three countries. The followed chapters will deal with the current situation in Russia, which in comparison with its European neighbors has still a far way to go, and some case law of the UN Human Rights Committee in regard to the Sámi people. The conclusion should bring together all the former chapters and give a clear picture of the complex theme, answer the research questions and verify/falsify the headed hypotheses.

2. Methodological Approach

This thesis lies within the scientific field of development studies, whereat the focus lies on human rights issues in special regard to indigenous peoples' rights and development.

The methodological approach I chose is hermeneutics. Thereafter, I study the relevant literature and other sources, while trying to generate a certain understanding and meaning out of it. Hermeneutics is the art of interpreting and achieving an understanding of texts, utterances, and so on. Even though it has its roots in a legal and theological methodology, governing the application of civil law, canon law, and the interpretation of scripture, it developed into a general theory of human understanding. The comprehension of any written text - from a literary to a law text - requires hermeneutics. Hermeneutics recognizes the historical part of human understanding. Ideas are nested in historical, linguistic, and cultural horizons of meaning. Taking history into consideration, hermeneutics seeks to understand the particular way a problem engages the present. (Nohlen/Schultze, 2005: 337-340)

Following the view of Jürgen Habermas (1968), natural sciences are characterized by the use of the hypothetico-deductive method, and stand thereby in contrast to the humanities, which use the hermeneutic method, and the social sciences, which use what Habermas calls the 'critical' method. However, it seems that hermeneutics shares the two defining features of the hypothetico-deductive method: (1) setting forth interpretational hypotheses and (2) checking whether they together with our beliefs imply consequences that clash with our material. As a result, Dagfinn Follesdal regards hermeneutics as the hypothetico-deductive method applied to meaningful material in order to bring out its meaning. (Follesdal, 2001: 375)

The Hermeneutic Circle describes the process in which we go back and forth between the hypotheses and the material until we achieve a 'reflective equilibrium' (Rawls, 1971: 20). We may find hypotheses that fit in with a certain part of the material/text, but which have to be revised because they do not fit in with other parts. A good hypothesis must fit the whole material. To do so it has to be modified until we find an interpretation that fits all the parts. Moreover the hermeneutic circle includes not only the text itself, but also

the context in which a text has to be understood. The setting helps us to understand the text; whereas the text, on the other hand, may help us to see the setting in a new light, which in turn may change our interpretation of the text. Finally, there is a question-answer circle: we approach a text with certain questions and with our whole horizon of beliefs and attitudes that may come to change as we get a better understanding of the text. These new questions, in turn, may change our interpretation of the text. (Follesdal, 2001: 376)

Following my methodological approach, I want to examine my leading research questions, which will be worked on throughout the thesis and finally concluded in the last chapter.

- What would be the content of a human rights based approach (HRBA) to development for indigenous Sámi people?
- What are the key-factors for indigenous peoples' human development in the Arctic region, especially considering the Sámi people?
- To what extent would the Nordic Sámi Convention contribute to the future development of the Sámi people?

To analyze these questions and build up a framework for understanding, I first want to answer some general questions on: What is human development? What are human rights and what contains a human rights based approach to development? And finally, which rights does the term “indigenous” imply?

Considering my leading research question, I came up with the following hypotheses, trying to get a certain meaning and understanding out of it, and finally examine them in the conclusion:

- Even though the Sámi play a pioneering task in fighting their indigenous rights, the Arctic region is often left behind within the international discourse of human development.
- A human rights based approach (HRBA) is a gainful approach for the development of the Sámi people.

- The possessions, or at least, the rights of disposal, of land and resources as well as the cultural and political autonomy regarding indigenous affairs, are a necessary precondition for the discretionary development of Sámi people in the North.
- The Nordic Sámi Convention, even though not yet completed and implemented, can be considered as an important step towards the recognition of European indigenous peoples, namely the Sámi people. Beyond that, it would be desirable that also Russia would join the discourse over the settlement of critical contestations between the Duma government and its indigenous peoples.

3. Human Rights and Development

Within the last 200 years, human rights have developed from a Western concept of civil and political rights to the only universally recognized value system of our times. Today they encompass also economic, social, cultural, and collective rights. Besides being enshrined in national constitutions, they are subjects of an ever growing number of universal, international and regional treaties, which have been adopted by regional, sub-regional and international organizations and voluntarily accepted as legally binding by governments. Despite the enormous development of universal human rights standards and their recognition by states as well as non-state actors, the reality of the 21st century seems to be far away from the values they enshrine. (Nowak/Januszewski/Hofstätter, 2012: 20)

Manfred Nowak (2012: 269f) mentions three generations of rights on the way to the indivisibility of human rights. First, the bourgeois revolutions of the late 18th and 19th centuries in Europe and North America brought up civil and political rights. The second generation of economic, social and cultural rights was the result of socialist revolutions in the 20th century, thus constituted the socialist concept of human rights, containing state obligations to ensure the full enjoyment of these rights. Finally, the recognition of collective rights of peoples to self-determination and development, led to a third generation of collective and solidarity rights that put human rights into the light of decolonization and the development of the South. With the end of the Cold War and its ideological human rights disputes a common understanding of all human rights for all emerged. Universality, equality, indivisibility, and interdependence of all human rights were defined in Article 5 of the Vienna Declaration and Program in 1993. The three types of state obligations to respect, protect and fulfil human rights gained recognition for each and every human right.

“Human rights can be the consensual frame for development policy because the moral commitment to human rights is universal, the majority of states have ratified major human rights treaties, and some core rights are universally valid because of customary law.” (Hamm, 2001: 1013) Necessary preconditions of the realization of human rights

are adequate political and socio-economic conditions, which imply the relationship between human rights and development. “Thus the universality of human rights not only refers to their universal applicability but also demands universal conditions under which human rights can be realized”. (Hamm, 2001: 1008)

The United Nations add to development and human rights a third constitutive pillar named *security*. Former UN Secretary General, Kofi Annan emphasized that “(...) we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights”. (UN doc. A/59/2005, para. 17) His statement supports an increased awareness about the need to close the gap between the ‘human rights based approach’ to development and the ‘development approach’ to human rights. This has to be reached not only by scholars and activists, but also within the UN structures charged with the implementation of the Millennium Development Goals (MDG) and next year’s Post-2015 Agenda, other internationally agreed development goals and the support of human rights. (Domínguez, 2009: 30)

3.1. Human Rights from an Anthropological Perspective

Before the Universal Declaration of Human Rights was ready to be ratified in 1948, UNESCO called different stakeholders to submit comments or statements in order to contribute to the drafting process. The Executive Board of the American Anthropological Association (AAA) published its statement in 1947 emphasizing two major points to be considered: First, “the respect for the personality of the individual as such, and his right to its fullest development as a member of his society”, and secondly, that the “respect for the cultures of differing human groups is equally important”. (AAA, 1947: 539) In this regard, they address the question to UN of “how [...] the proposed Declaration [can] be applicable to all human beings, and not be a statement of rights conceived only in terms of the values prevalent in the countries of Western Europe and America?” (AAA, 1947: 539)

The statement further puts the individualistic conception of human rights into a broader perspective by claiming that “the individual realizes his personality through his culture, hence respect for individual differences entails a respect for cultural differences”. (AAA, 1947: 541) This would encompass an extension of the protection of fundamental rights to identity groups and the fact that human rights cannot be circumscribed by the standards of any single – meant Western - culture.

Unfortunately, the statement had very little influence outside the discipline itself and was not considered by the UN Commission on Human Rights at that time. The following decades, anthropologist wanted to keep a neutral distance to the debates on human rights as far as they were seen to be formed by states organized within the United Nations system. Instead, starting from their knowledge of people they studied, anthropologist used applied anthropology and economic action approaches to fight oppression and inequalities. They supported the growing indigenous activism and helped them building up national organizations and international networks in order to open up the way for indigenous peoples to participate within the United Nations system. (Kuppe, 2012: 40f)

Skeptically that states and are the main responsible actors for the implementations of human rights, and that the earlier human rights framework was not culturally neutral – instead characterized by Western notions of progress and development - the discipline of anthropology, as the science of cultures, contributed not only to a culturally sensitive way in the definition of human rights, but also in their implementation. It further has led to a better understanding of economic, social, and cultural rights and contributed to the expansion of a human rights concept. (Messer, 1993 cit. Kuppe, 2012: 41)

In contrast to the leading thinking of the second half of the 20th century that culture is a static system of rules and values, modern anthropology has developed a more complex understanding of human cultures shifting from values, beliefs and structures to habits and practices. René Kuppe (2012: 42f) sees the probably most important contribution of anthropology to modern human rights thinking in a way that it shows that

“human rights policy should not be seen as a struggle against ancient cultures (or cultural traditions); rather than inducing States to impose abstract human rights rules from “above”, human rights programmes should be built on specific local

traditions and institutions from “below”, that could advance gender equality, social justice and respect for cultural differences.”

3.2. The Right to Development

With the adoption of the Declaration on the Right to Development by the United Nations in 1986, the right to development was formally recognized as an international human right. Decades before, the international community had debated extensively existing ideas and discourses. Different political positions of opposing countries and various conceptual differences reflected the tensions of the cold war period. Some rights were referred to the First World of already developed countries, others to the socialist Second World, and again others, including the right to development, to the Third World developing countries. (Sengupta, 2004: 179)

The right to development (RTD) has received international recognition as an inalienable right of all human beings and peoples. In its Declaration on the Right to Development the UN defines:

1. “The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.”
2. “The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.” (Art. 1, UN Declaration on the Right to Development, 1986)

The General Assembly of the UN adopted the Declaration on the Right to Development after “a long process of international deliberation on human rights which were perceived from the very beginning as an integrated whole of civil, political, social, and cultural rights.” (Sengupta, 1999: para 9) Main cornerstones of the right to development were set

in the Philadelphia Declaration of the International Labor Conference (1944), the Charter of the United Nations (1945), and finally the Universal Declaration of Human Rights (1948).

The declaration was adopted by the majority of the UN member states, with eight abstentions and one dissenting vote from the USA. Yet, questions about the international recognition of the human right to development continued to be raised. Finally, the full international consensus affirming the right to development as a human right has been reached at the Vienna Second UN World Conference on Human Rights in 1993. (Sengupta, 2004: 179)

Reasons for the ever since ongoing debate, not only among governments but also among human rights activists and researchers, are the unclear remaining content of this right and the negation of its justiciability. The right to development is perceived as a synthesis of all human rights. In this regard, the declaration of 1986 gives a rather general concept of development, based on development optimism and the perception of development as a global linear progress. It does not include any limitations on development that may arise from the need for sustainability or other constitutive factors. (Hamm, 2001: 1009)

Sengupta (1999, para. 46 and 67) points out that the right to development has been a ‘vector’ of human rights, meaning that the development process must realize all human rights in an integrated and interdependent manner. All human rights are related to each other. As a matter of fact, Meredith Gibbs (2005: 1366) records that the violation of any right which is related to the right to development, like the rights specified in the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), would violate the right to development. Following, she concludes that “the right to development (...) *concerns* the process of development as much as the *outcomes* of development”. (Gibbs, 2005: 1366)

Nowadays, the attention given to the application of the right to development to indigenous peoples within the international community differs from actor to actor, depending on their respective interests. Much of the right to development discourse has

focused on improving the access to rights by individuals and peoples. (Gibbs, 2005: 1365)

The primary responsibility for the implementation of the right to development rests with the nation state (UN, 1986: Art 3). Through the formulation of appropriate policies, national governments are obliged to create the conditions for realizing the right. The implementation involves

“the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free, and meaningful participation in development and in the fair distribution of the benefits resulting there from” (UN, 1986: Art 2).

Moreover it ensures “equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment, and the fair distribution of income” which should be reached through “appropriate economic and social reforms” with the focus on “eradicating all social injustices” (UN, 1986: Art 8).

Sengupta (1999, para. 53) argues that with its focus on equity and justice, the right to development proposes “a qualitatively different approach” to the traditional focus of development on economic growth and material wealth. Sen (2000: 2030) sees development required by the right to development as the expansion of the enjoyment of substantive freedoms and of capabilities of individuals to live the kind of lives they value. Therefore, the UN’s Second Working Group on the Right to Development recommended that

“States should take measures to ensure that poor and vulnerable groups, including (...) indigenous people (...) have access to productive assets such as land, credit, and means for self-employment.” (Sengupta, 1999, para. 15)

When it comes to indigenous peoples, the debate about the application of human rights to groups arises. Although Art. 2/1 of the Right to Development refers to “the human person” as “the central subject of development” it also stresses out in Art. 1/2 that “the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in (...).”

For indigenous peoples, who have been dispossessed of their lands and resources, the recognition of their rights to traditional lands and resources, as a collective rather than as individuals, is essential to the achievement of their development as an indigenous people. (Gibbs, 2005: 1367)

Arjun Sengupta (1999, para. 40) interprets the RTD as an individual and collective human right by virtue of which all human beings, both individually and collectively, have a right to participate in a process of development in accordance with human rights, while the outcome of that process would encompass the full realization of each human right and all of the human rights together.

The future of the right to development will mainly depend on the extent to which national governments are willing to address the political and practical obstacles to its implementation. The responsibility lies in those governments that take the RTD seriously to shift the discourse away from posturing and towards specific programs and mechanisms that will assist them in meeting their obligations in this area. The main obstacle of implementing the RTD is the practical one, because of the lack of incentives to modify the formal policies of the international agencies and national governments and to incorporate meaningful approaches to this right in the practice of development. (Marks, 2004: 167)

Stephen Marks addresses three sets of obstacles to realizing the right to development. The first relates to the politics of the right to development, that is, the unavoidable yet quite unproductive tensions that arise as governments seek to use RTD to advance conflicting perceptions of national interests. The second contains the epistemology of RTD, specifically, the theoretical and empirical basis on which one can speak knowledgeably about RTD. The third focuses on what changes in national and international policy would need to occur before RTD would be taken seriously in practice. (Marks, 2003: 1)

In regard to a HRBA, Sengupta (2004: 181) argues that “a rights-based process of development is not the same as the right to development. Any process of development, or for that matter any activity, can be rights-based if it is carried out in a manner

consistent with human rights standards.” If this process is claimed as a right, it can be the object of the right to development.

3.3. The Human Development Report

“Human Development is a development paradigm that is about much more than the rise or fall of national incomes. It is about creating an environment in which people can develop their full potential and lead productive, creative lives in accord with their needs and interests. People are the real wealth of nations. Development is thus about expanding the choices people have to lead lives that they value. And it is thus about much more than economic growth, which is only a means —if a very important one —of enlarging people’s choices.” (UNDP, see <http://hdr.undp.org/en/humandev/>)

The first HDR from 1990 (p.10) mentions “additional choices, [that are] “highly valued by many people, [which] range from political, economic and social freedom to opportunities for being creative and productive, and enjoying personal self-respect and guaranteed human rights.” Human development has two sides: on the one hand, the formation of human capabilities such as improved health, knowledge and skills, and on the other hand side, the use, people make of their acquired capabilities, for leisure, productive purposes or being active in cultural, social and political affairs. The key for human development is a balance between both sides. According to this concept, income constitutes only one measurement of human development. (HDR, 1990: 10)

3.3.1. Human Development Index – Value and Outage

The HDI – human development index – is a summary composite index that measures a country's average achievements in three basic aspects of human development: health, knowledge, and a decent standard of living. Health is measured by life expectancy at birth; knowledge is measured by a combination of the adult literacy rate and the combined primary, secondary, and tertiary gross enrolment ratio; and standard of living by GDP per capita (PPP US\$). (UNDP, HDI)

The first Human Development Report recognizes that “development is much more than just the expansion of income and wealth” and therefore defines human development as “the process of enlarging people’s choices” (UNDP, 1990: 10). This report also stresses out that, “in principle, [the] choices [available to people] can be infinite and change over time. But at all levels of development, the three essential ones are for people to lead a long and healthy life, to acquire knowledge and have access to resources for a decent standard of living” (UNDP, 1990: 10).

These three dimensions are derived from the notion of human capabilities as proposed by Amartya Sen and are regarded as essential requirements for enhancing these capabilities (Desai, 1993). Therefore, the process of (economic) human development can be seen as a process of expanding the capabilities of people. (Sen, 1984: 497). While some scientists argue that there are other dimensions, such as law and order, peace, security and freedom which could be equally regarded as essential, it has been decided within the international community that the components of the HDI together seem to provide the least common denominator of indicators of the level of living at an aggregate level (Dasgupta/Weale, 1992).

3.3.2. Critical Review on the HDI

The first Human Development Report (HDR), released in 1990, was an important document because it reopened the debate on human development and its measurement. It brought various concepts that had been raised in earlier discourses into a unified concept of human development. One can say that it provides a handy, if preliminary, framework for measuring performance on the dimensions of human development. The following reports constitute an important basis of knowledge for the whole discourse on human development and general international policy discussions. Furthermore, individual reports, also about specific regions, have led to a debate on selected topics like gender, poverty, participation, etc. But one thing I realized while watching through all the Human Development Reports: the Arctic, as an area to focus on, is missing. As a matter of fact, the Arctic Council has initiated the generation of a distinct Arctic Human

Development Report. Indigenous peoples are more often represented in Human Development Report. Rodolfo Stavenhagen, for example, contributed to the HDR 2004, with background paper on ‘Indigenous Peoples in Comparative Perspective – Problems and Policies’. (UNDP, 2004)

In general, the HDRs have pushed the boundaries of the development debate beyond a traditional economic perspective, therefore it can be considered as a first and important step toward incorporating broad notions of sustainability into measures of development. (Adil/Sagara, 1998: 249f)

Pedro Garcia (1995: 270) criticizes the discourse of development led by the western cultural mainstream because it misses solidarity, reciprocity, proper treatment of nature, labor satisfaction, self-development, cultural identity, sustainability, human development, equality, and mutual respect. These are exactly the issues which are deficient within the cultural mainstream but have become obligatory topics when evaluating support for indigenous peoples.

“Everything which Western economies have not been able to integrate and, as a consequence, discarded in order for them to develop, have subsequently become the dominant paradigms when evaluating indigenous development (...).” (Garcia, 1995: 270f)

3.3.3. Alternative Concepts on Human Development

As an alternative concept Garcia mentions self-development. This concept can be defined as the process which involves indigenous peoples themselves “in attaining an improvement in quality of life in order to guarantee trans-generational self-sufficiency and maintenance of control over territories and resources, without losing or damaging the cultural base which lays the foundation for the people.” (Garcia, 1995: 272) But self-development will never come as long as some degree of self-determination for indigenous peoples is not attained. Therefore lands, as a demand which keeps alive the possibilities of being a people, and self-determination, as an ultimate struggle which allows these peoples to specify their possibilities and contributions to the rest of

humanity, are the foundations of indigenous demands for their sustainable development. (Garcia, 1995: 275) What is missing but mentioned by other authors (see below) is the explicit mentioned concept of culture as one of the most important factors of indigenous human development.

Ronald Inglehart and Christian Welzel (2005) argue that there are three components helping to develop a society's human potential, which is understood as people's ability to shape their lives on the basis of their autonomous choice. The three components are: socioeconomic development, self-expression values, and democratic institutions. According to these dimensions reflects human development.

From their point of view, each of the three components of human development is a distinct manifestation of a common underlying theme: autonomous human choice. Socioeconomic development increases people's resources and gives them the objective means that enable them to make autonomous choices. With values of self-expressions, people give priority to act according to their autonomous choices. Democracy as a third component provides civil and political liberties, granting people the rights to act according to their autonomous choices. (Inglehart/Wenzel, 2005: 286f)

They present a version of modernization theory that views the growth of human choice as the underlying theme of socioeconomic development, rising self-expression values, and the strengthening of democratic institutions. They build their theory on the concept of Sen (1999), Anand and Sen (2000), who argue that the expansion of human choice is the essence of societal development. Additionally to the Sen's concept, they include culture, which provides the essential link between economic development and democratic freedom. For them, choice is not only a question of objective factors, like resources and rights; it furthermore involves people's values. "A society conducive to choice requires a culture that emphasizes human autonomy and self-expression values." (Inglehart/Wenzel, 2005: 287)

In addition to the concept of Inglehart and Wenzel, Adrew Grey works on three categories for indigenous human sustainable development, which include territory, culture and organisation. The problems which arise referring to indigenous peoples'

territories and resources as well as culture are discussed below. Self-presentation and the recognition of indigenous peoples' own institutions are extremely important for the implementation of the organizational right of free association. (Gray, 1995: 299) The following table shows the three subject areas, shows their problems and violence and gives recommendation for the implementation of the strategic process.

Subject area	Problem (violation of right)	Strategic Process (implementation of right)
Territory	Invasion causes poverty	▪ Demarcation ▪ Subsistence ▪ Commercialisation
Culture	Disrespect causes discrimination	▪ Cultural revival ▪ Dialogue on needs ▪ Plan into action
Organisation	No recognition causes oppression	▪ Strengthen organisations ▪ Train for development ▪ Work together

Source: Gray, 1995: 300

The right of self-determination, which is discussed below, sums up the three problem areas (rights to territories and resources, cultural freedom and organisation) which are mentioned above. Self-determination is an open concept and refers to the right of indigenous peoples to determine their own destinies. Following this assumption, self-development by indigenous peoples is self-determination in practice carried out over time. (Henriksen, 1989)

3.4. Arctic Human Development Report

The UNDP describes the Arctic Human Development Report (AHDR, 2004) as “the first comprehensive assessment of human well-being covering the entire Arctic region”. It was the Arctic Council which called for the production of an Arctic Human Development Report. Finland initiated in 2002 the process of developing a comprehensive knowledge base for the Arctic Council’s Sustainable Development Programme. Starting with discussions in the Standing Committee of Parliamentarians of the Arctic Region and evolving in meetings of the parliamentarians in Rovaniemi, Finland in 2000 and in Tromsø, Norway in 2002, the proposal to produce an AHDR met with a positive reception in the Arctic Council. (AHDR, 2004: 15)

The report is divided into four parts and contains eleven substantive chapters: (1) an introduction part covering the orientation in the Arctic region; (2) core systems in the Arctic (Societies and Cultures, Economic Systems, Political Systems and Legal Systems); (3) crosscutting themes related to human development in the Arctic like human health, education and gender issues, etc. and (4) finally a conclusion which contains a human development agenda for the Arctic.

The Arctic Human Development Report describes itself as “an integral part of the evolution of regional cooperation in the Arctic. The idea of carrying out an assessment of the state of human development in the Arctic viewed as a distinct region arose in large part from difficulties experienced in devising a coherent agenda for the Arctic Council’s Sustainable Development Programme.” (AHDR, 2004: 4)

The report itself articulates a number of policy relevant themes and conclusions, at the same time point out success stories relating to human development in the Arctic region, but also identifies gaps in knowledge needing attention in the future. The, from the Arctic Council, launched Sustainable Development Working Group (SDWG) should revisit many of the topics addressed in the AHDR at regular intervals. The results would provide the basis for tracking trends for human development in the region and evaluating the performance of policies designed for issues of human development from a regional perspective. (AHDR, 2004: 5)

In my opinion, the report reached its aims and managed to discuss the topics in a critical valuable way. Considering the regular re-evaluation of the report and the contained themes and current developments, I found following graphic, showing briefly the achievements and milestones since the work began in 2002 (Larsen, 2011: 4):

1. AHDR (2002-2004). Report published in 2004 (240 pages)
2. ASI-I (follow-up to AHDR) – 2006-2009. Report published (170 pages)
3. ASI-II (follow-up to AHDR) – 2009-2011. Report published (expected 200 pages)
4. AHDR Volume II – proposed 2011-2014. Report forthcoming (expected 250 pages)



It is further interesting to look up the initiators of the Arctic Human Development Report - project and its financing. It becomes clear that the desire and the inducement in making the report lie within the Arctic itself. So were the AHDR 2004, the follow-ups, as well as the forthcoming AHRD II will be, published by the Stefansson Arctic Institute in Iceland and financed by the Arctic Council, both main institution when it comes to coordinate policies in the Arctic region. Where is the interests and the responsibility of the international community, most notably of the UN (UNDP and its development work, HDR, HDI) when dealing with human development of the peoples living in the Circumpolar North?

The aim of the forthcoming AHDR II, with the proposed title “Arctic Human Development Report II: Regional Processes and Global Linkages”, in 2014/15, “is to move the study of human development in the Arctic beyond the AHDR (2004) baseline, to provide the second assessment and synthesis report on the state of human development in the Arctic. The AHDR-II will contribute to our increased knowledge and understanding of the consequences and interplay of physical and social global change processes for human living conditions and adaptability in the Arctic.” (Larsen, 2011: 3)

It further seeks to:

- provide a comprehensive overview of human development in the Arctic in a time of rapid global change processes;
- provide an instrument that can be used in assessing progress towards sustainable human development;
- be a tool to educate the public and provide valuable material for educational instruction;
- be a handbook for policy makers engaged in international cooperation in the Arctic;
- provide a circumpolar assessment of human development and quality of life in the Arctic that the Sustainable Development Working Group (SDWG) can use to identify priorities, and that the Arctic Council can use to assist in identifying major issues relating to sustainable human development in the Arctic and in providing a basis for the development of policies and actions to address these issues. (Larsen, 2011: 3)

3.5. Sustainable Human Development

For many decades economic growth has been considered as the predominant condition to development. Both growth induced by industrialization and investment in the centers of developing countries were thought to trickle down to the poor population and lead to sustainable human development. Considered nowadays as such, development addresses the human being in relation with participation and resource management. As a matter of fact, economic growth has to serve human development. (Hamm, 2001: 1010) UNDP defines “human development as the process of enlarging the range of people’s choices—increasing their opportunities for education, health care, income and employment, and covering the full range of human choices from a sound physical environment to economic and political freedoms.” (UNDP, HDR, 1992: 2) The Human Development Report 2000 goes further and combines the enhancement of capabilities with the concept of basic freedoms. (UNDP, HRD, 2000: 19)

This view coincides with the understanding of sustainable human development of UNICEF, which embraces the economic, political, social, environmental, and cultural dimensions of development. (Hamm, 2001: 1010)

Sustainability describes a concept of cooperation for development and mutual respect of human, nature, and economy. In 1987, Gro Harlem Brundtland, chair of the World Commission in Environment and Development, defined sustainable development as our all's obligation "to ensure that [development] meets the needs of the present without compromising the ability of future generations to meet their own needs." (Brundtland, 1987: 16) The Agenda 21 which has been adopted by the United Nations in Rio de Janeiro in 1992 provides another more practically oriented call for sustainable development. It comprises actions that better incorporate social elements into economy, take respect on human rights, conserve the resources of the environment, an strengthen the role of social minority or marginalized groups such as indigenous peoples, women or children. (Mader, 2009: 13)

While organizations and perspectives have a different focus on how a goal should be reached, sustainable human development is agreed upon following common factors:

- Reference to and starting from human rights treaties;
- Non-discrimination, special focus on disadvantaged groups, explicitly;
- Participation and empowerment;
- Good governance. (Hamm, 2001: 1011)

4. Human Rights Based Approach

While the HRBA was generally neglected until the end of the 1990s, it has received an astonishing amount of attention from UN agencies, international civil society organizations and donor agencies. Growing criticism and the obviously becoming failure of ‘conventional’ development strategies have led to a stronger support and discourse within this approach. The above mentioned UNDP Human Development Report of 2000 illustrates the general consensus over the interdependence of human development and human rights approaches. Human development and human rights share the common vision of human freedom. They are mutually reinforcing in the way that they help to promote and maintain the well-being and dignity of all people, building self-respect and the respect of others. (Banik, 2010: 36)

4.1. Definition of a HRBA

Development and human rights are interdependent. “A human rights based approach to development recognizes primarily the legal obligation of members of human rights treaties to development cooperation and development efforts and therefore goes beyond human rights as the content of development policy.” (Hamm, 2001: 1005) It demands further the inclusion of these obligations into the human rights monitoring system of the United Nations.

The Office of the United Nations High Commissioner for Human Rights (OHCHR) defines HRBA as

“a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress.” (OHCHR, 2006: 15)

Thus, a human rights-based approach integrates international human rights standards and principles in development activities. Corresponding policies and processes of development are embedded in a system of rights and obligations established by international law. The aim is to promote the sustainability of development work and to empower the people themselves to participate in policy building. (OHCHR, 2006: 15)

Although so far there is no generally agreed definition of a human rights-based approach, UN agencies have summed up several essential commonalities:

- The main purpose of development policies and programs “should be to fulfill human rights”.
- A HRBA “identifies rights holders and their entitlements and corresponding duty-bearers and their obligations”, with the aim “to [strengthen] the capacities of rights-holders to make their claims and of duty-bearers to meet their obligations.” (OHCHR, 2006: 15)

Usually, the human rights-based approach is seen as the bridging tool between the human rights discourse on the one hand, and the development and poverty reduction discourse on the other hand. As a result of the adoption of the concept of *human development* by UNDP in the 1980s, human rights became increasingly important to the definition of the aims and objectives of development as well as for the implementation of development programs. As a result, the development discourse moves from the charity idea to the consideration and implementation of human rights and obligations. Moreover, development cooperation turns into a method of assisting states in meeting their international obligations to respect, protect, and fulfill human rights. (Nowak, 2012: 277)

The HRBA approach further contains the principle of equality and non-discrimination which requires that actors involved in the development process need to pay particular attention to the most discriminated, disadvantaged and vulnerable groups in the respective society. By involving the poor and most vulnerable people in the design, implementation and evaluation of development projects, participation constitutes an important tool for empowerment. Finally, the HRBA requires accountability which

contains clear targets and benchmarks defined by international law to be measured by relevant human rights indicators. (Nowak, 2012: 277f)

4.2. The Practical Value of a HRBA to Development

A human rights-based approach seeks to build upon and learn from the lessons of good development practice. Empirical evidence and practice show the vital importance of many human rights to development.

Whose rights? The main focus of a human rights-based approach lies with the advocacy of the rights of excluded and marginalized populations, whose rights are at risk of being violated. A HRBA assumes that “a country cannot achieve sustained progress without recognizing human rights principles (...) as core principles of its governance.” (OHCHR, 2006: 16) Universality of human rights premises that all people are subject to human rights.

Holistic view. Development programs that are built upon a human rights-based approach include a holistic view of its environment, taking the family, the community, the civil society as well as local and national authorities into consideration. “It considers the social, political and legal framework that determines the relationship between those institutions, and the resulting claims, duties and accountabilities.” (OHCHR, 2006: 17)

Participatory approach. Participatory processes guarantee accountabilities for achieving certain sustainable results. They are determined by development policies and national planning, and reflect the consensus between the marginalized populations whose rights are violated on the one side and those with a duty to act on the other side. “A human rights-based approach [assists] in the participatory formulation of the needed policy and [ensures] that participatory and democratic processes are institutionalized locally and nationally.” (OHCHR, 2006: 17) The approach is reached through capacity-building among communities and the civil society to participate constructively in relevant (trans-) national advocacy networks.

International instruments. Universal human rights instruments, conventions and other internationally agreed goals, norms or standards are the basis for the results of a human rights-based development work. “A human rights-based approach assists countries in translating such goals and standards into time-bound and achievable national results.” (OHCHR, 2006: 17)

Transparency and accountability. A HRBA facilitates the creation of policies, legislation, regulations and budgets. It further ensures the availability of needed capacities or resources to fill up existing gaps. The approach is aimed to facilitate transparent policy formulations and to empower “communities to hold the stakeholders who have a duty to act accountable, and [ensures] effective remedies where their rights are violated.” (OHCHR, 2006: 17)

Monitoring. Following a human rights-based approach, state commitments and obligations are monitored through recommendations of existing human rights provisions, as well as through public and independent assessments of state policies. (OHCHR, 2006: 18)

Sustainability. A HRBA assures sustainable results of development and further leads to greater returns on investments by:

- Building the capacity of the stakeholders to enter actively the dialogue, and meet their responsibilities;
- Strengthening social cohesion and consensus through participatory processes, and assist and marginalized people;
- Fostering inter-actors consensus to build up laws, policies and programs, under the provisions of international law standards; and
- Secure human rights entitlements within the framework of (inter-)national laws and institutions and democratic processes. (OHCHR, 2006: 18)

Finally, Brigitte Hamm (2001: 1030) concludes that both human rights and development gain with the human rights-based approach. Development on the one side gains, because countries and international organizations, due to international treaties, have the legal obligation to build up development policies in accordance with human rights. States are

therefore accountable for their development policy. In addition, UNDP underlines that a human rights-based approach turns from a structural perspective of development to the inclusion of actors. This contains concrete situations of individual persons as the human rights holder. Human rights, on the other side, gain because such a development approach strengthens them through their implementation and realization as well as by using them as referring framework for development policy. “The use of human rights as the common language in [the] development [field] increases the universal acceptance of human rights.” (Hamm 2001: 1030)

Celestine Nyamu-Musembi and Andrea Cornwall (2004: 47) additionally argue that a human rights based approach loses its aim if it is not directed towards the achievement of a positive transformation of power relations among development actors. Independent of the agency’s vision for a human rights-based approach, “it must be interrogated for the extent to which it enables those whose lives are affected the most to articulate their priorities and claim genuine accountability” from those with the duty to respond, mainly national states.

5. Indigenous Peoples

5.1. Definition of the Term 'Indigenous Peoples'

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which will be examined in the following chapter, itself, does not include a definition of the term 'indigenous peoples'. Indigenous peoples as the main initiators of the Declaration themselves had often argued against the inclusion of a definition, for principled as well as strategic reasons. (Kuppe, 2012: 470)

There are different claims for a definition from different viewpoints as from International Organizations, Academicians and Indigenous Peoples themselves. In a way it seems that the question is best answered by indigenous communities themselves, therefore self-identification policies for indigenous nations have become an increasingly accepted international legal practice. (Corntassel, 2003: 75)

Most common is the definition that indigenous peoples are those peoples who were marginalized when the modern national states were created and identify themselves as indigenous people. They are tacked to specific territories to which they trace their histories. Main characteristics are:

- They speak a language that is different from that of the dominant group(s).
- They are being discriminated in the political and legal system.
- Their cultures diverge from that of the remaining society.
- They often diverge from the mainstream society in their resource use by being hunters and gatherers, nomads, pastoralists or farmers.
- They are considered from outside and consider themselves as different from the rest of the population. (AHDR, 2004: 46)

The International Labor Organization Convention 169 on Indigenous and Tribal peoples (ILO 1989), which Norway has ratified with 17 other countries worldwide, defines indigenous peoples as

“(…) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.” (ILO Convention, 1989, Art. 1/1b)

In addition, many authors make a distinction to ethnic groups defines as

“(…) cultural units whose distinctiveness is marked by contextually defined features such as language, food, clothing, religion, and sense of identity and bolstered by an ideology of common decent which places emotional significance on real and fictive kin ties.” (Ross, 2001: 236)

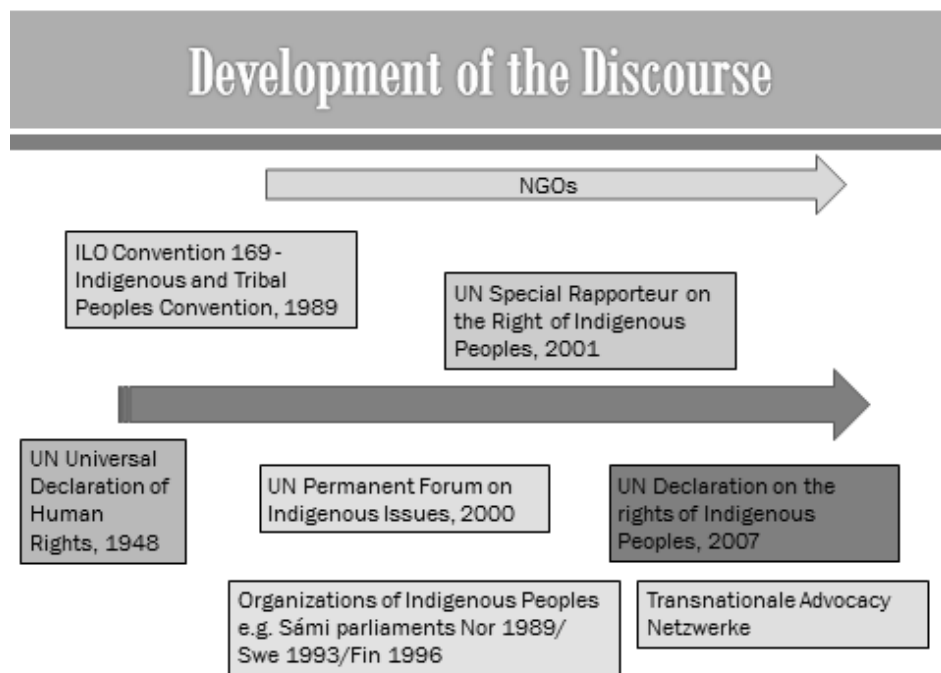
The ethnic community separates insiders and outsiders. In many cases, they are formally organized as political units – such as states or autonomous regions – within collective decisions are made. Further, ethnic categories vary over time and context, reinforcing the changing character of ethnicity and the possibilities for manipulating identity for political purposes. While cultural features distinguish different groups, political dynamics are often central in forming the importance of particular cultural features in any time and place. Political processes often play an essential role in shaping how and when cultural differences are emphasized. Ethnicity is not always the crucial marker of social position, and the assurance political rights and privileges, but where it is significant it provides a culturally based framework to explain the motives and actions of the others. (Ross, 2001: 236f)

5.2. Human Rights of Indigenous Peoples

5.2.1. Development of the Discourse

The development of the discourse of human rights and the rights of indigenous peoples as part of it goes far back into the past. One of the central cornerstones of the ongoing process was the adoption of the UN Universal Declaration on Human Rights in 1948.

The following graphic should give a chronological overview of the discourse over the establishment of international human rights standards and is specially focused on the rights of indigenous peoples.



Once seen as simply contained within the larger umbrella of minority rights, indigenous rights have developed in a different direction than minority rights within the United Nations. Sarah Sargent (2012: 123f) explains transnational networks and the pressure they can built up on the international level as key variables of the differences in the strength and effectiveness of minority and indigenous rights structures at the UN. This point will be further examined as indigenous internationalism in the Arctic region in chapter 6.5.

One of the earliest instruments concerning the protection of indigenous peoples' rights is the Convention No. 169 of the International Labor Organization from 1989. Even though the Convention does not explicitly refer to the right of self-determination of indigenous peoples, it includes similar rights as put forward through the United Nations Declaration of Indigenous Peoples (UNDRIP), such as political participation, self-government, land and resource rights and social and economic rights. (Kuppe, 2012: 470)

In the year 1993, the UN initiated the decade of indigenous peoples, within the Permanent Forum on Indigenous Issues was founded in 2000. The guiding idea was the search for a new form of an active collaboration and partnerships with indigenous peoples. The increased partnership with indigenous peoples should lead to new approaches within six specified areas of concern, named: human rights, environment, development, health, culture and education. (Rathgeber, 2004)

Further, throughout the decades, (inter-)national NGOs were founded which intensively dealt with the establishment, monitoring, and adherence of international human rights standards. A broadly spun transnational network started to exist. Besides that, indigenous institutions were built up nationally and internationally, like the Sámi parliaments – as discussed in later chapters – in Norway (1989), Sweden (1993), and Finland (1996) with the purpose of the implementation of cultural self-determination for the Sámi population. (Rathgeber, 2004)

The discourse of the establishment, the monitoring and adherence of indigenous peoples rights was accelerated with the adoption of the UNDRIP in 2007, which puts the focus on culture, identity, language, labor, health, and education. Subsequently, the United Nations created the mandate of the Special Rapporteurs on the Right of Indigenous Peoples in 2001, which is currently taken by James Anaya (since 2008- onwards).

The adoption of the UNDRIP by the General Assembly in 2007 has been the result of more than twenty years of negotiation within the UN system between states and indigenous peoples' representatives. It supports and empowers indigenous peoples with new arguments to oppose discriminating state and corporate policies. The challenge now is to implement an effective change to the current social, economic, and political

conditions of indigenous peoples in the national frameworks. Therefore international law needs to be translated into domestic law and policy so to overcome simple symbolic assertions. (Bellier/Préaud, 2012: 474)

5.2.2. United Nations Declaration on the Rights of Indigenous Peoples

The recognition of indigenous peoples is accelerated by the international adoption of UNDRIP which acknowledges their human individual and collective rights. But the Declaration does not give a definition of the term *peoples*. Further, states retain their sovereignty and territorial integrity, which legitimates them as political subjects in the international sphere. Anyway, indigenous peoples grew up as political actors within the last decades, building up the capacity to influence governance processes and structures in matters that affect them. (Bellier/Préaud, 2012: 475)

UNDRIP Preamble (2007) engages this dynamic process when “affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such.”

The negotiations of the Declaration were based on the principle that indigenous peoples are peoples, collectively pursuing to live according to their own institutions and cultures, rather than ‘minor citizens’ within a majority’s state structure and culture. At a global level they articulated the perception that their cultures, languages, forms of governance, systems of law and justice, and so on, constitute an integral part of their identification and further demonstrate the differentiation, not as ethnic groups seeking the implementation of minority policies, but as subjects of law capable of participating in policy making on a national and international level as well as generating alternative modes of development. (Bellier/Préaud, 2012: 475)

To look a bit deeper in Indigenous peoples’ rights concerning their development in addition of their right of the exercise of their culture it is useful to take the United Nations Declaration on the Rights of Indigenous Peoples into consideration. In general

the Convention shows how much importance is actually given to culture as fundamental to indigenous peoples' development. In the following, I concentrate on articles which are central to their human development (UNDRIP, 2007):

Article 3

“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.”

As shown here, with the freedom of indigenous peoples' own political, economic, social and cultural development goes the concept of self-determination. One can see it as inalienable precondition for (indigenous) human development.

Article 4

“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.”

Article 5

“Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.”

Article 4 and 5 refer to self-government as a mean to self-determination with the necessity to build up own institutions in order to autonomously decide on their political, legal, economic, social, and cultural affairs

Article 8

1. “Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.”
2. “States shall provide effective mechanisms for prevention of, and redress for:
 - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources; (...)

(c) Any form of forced assimilation or integration; (...)”

Article 10

“Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.”

I think that the Convention really hits the most important points for indigenous peoples’ development. Article 8 and 10 carve out the importance of culture, land and resources in drawing a connection to the maintenance and self-determined choice of their way of life.

Article 11

“Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.”

“States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples (...)”

Article 11 refers strongly to the practice of culture in form of lived traditions and customs. It also stresses out the importance of trans-generational traditional knowledge and its transmission. One more thing I see as notably successful in the Convention is that it gives clearer guidelines of how states are supposed deal with indigenous peoples’ issues.

The UNDRIP affirms that the recognition, respect and protection of indigenous peoples’ human rights, focusing on the rights to self-determination, the rights to language and culture, sovereignty over their land and resources and their right to development, is a major condition for sustainable development. However, this vision is constrained by a number of factors, including political relationships and economic imbalance, over which indigenous peoples have limited influence on the national as well as international level. Nevertheless, with the adoption of the Declaration by 149 UN-member states, the paradigm has significantly shifted from a struggle for the recognition of indigenous

peoples' human to one for the concrete exercise and implementation of those rights entrenched in international law. (Bellier/Préaud, 2012: 484)

5.3. Indicators of Indigenous Development

Why I mention the following terms and concepts of the right to self-determination, indigenous rights to language, education and culture, rights for land and resources, has a reason. It does not make a lot of sense to discuss human development of indigenous peoples without outlining their current legal status in international public law as well as examining the indicators for their development. The aim is not to discuss the concepts and terms itself but to draw a connection between them and human development in the North.

The human right to self-determination has its basis in various international treaties and conventions. In order to enable indigenous peoples' self-determination, it is necessary to provide them opportunities to participate in decision-making and project development. The obligation for governments and companies to engage impacted communities is grounded in international law treaties, declarations and conventions. During the last years they especially refer to the principle of 'Free, Prior and Informed Consent' (FPIC), which is outlined in the United Nations Declaration on the Rights of Indigenous Peoples and in the International Labor Organization Convention 169. The encounter between human rights, Indigenous peoples and extractive industries has become more frequently and is therefore subject of ongoing research, policy papers, recommendations, etc. on the national and international level. Companies should perceive their social responsibility and fully endorse and respect these internationally recognized human rights, including self-determination, even where they are not required by national or local legislation. The terms self-determination, ethno-development¹ and FPIC are nowadays embedded into

¹ Ethno-development implies that development should be defined according to a given cultural context, giving the right to communities to decide over their own future and the use of their land

international and national laws and have been incorporated into the discourse of Indigenous peoples when claiming their rights. (Hanna/Vanclay, 2013: 146-150)

Carsten Smith (cit. Broderstad, 2001: 171) concludes:

“One must decide to what extent the democratic principle that majority opinions shall be decisive also for the minority, shall precede the principle of the peoples’ right to self-determination. When determining these priorities, we must stick to a fundamental view, which is recognized in post-war international human rights growth, and which the community of legal scholars always must stand for. A peoples’ right to exercise their culture is one of the fundamental human rights.”

5.3.1. The Right to Self-determination

It is mentioned in international documents of the United Nations that

“the human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.” (UN, 1986: Art 2/1)

Andrew Gray sees the implementation of the right to self-determination as basis for looking at a development method which includes the three concepts of territory, culture and organization in a way which is inter-connected. In regard to the implementation of development projects, self-determination is also related to the notion of control of a program. Indigenous peoples are responsible for their territories and their culture in ensuring to give their traditions and cultural heritage from generation to generation. Indigenous self-development is distinct from other forms of development because it consists of the implementation of rights of indigenous peoples in areas of land and resources, education, culture and political organization. Indigenous development has to

and resources, as guided by their own cultural frameworks, which may differ from the Western notion of (economic) development (Stavenhagen, 1985 cit. Hanna/Vanclay, 2013: 150)

begin from inside the community and from bottom-up on the policy level. (Grey, 1995: 301ff)

Timo Koivurova (2008a: 1) examines three international processes wherein the right to self-determination of indigenous peoples has been taken up: (1) the process whereby the United Nations General Assembly adopted the UN Declaration on the Rights of Indigenous Peoples; (2) the intention to negotiate a Nordic Sámi Convention; and (3) the practice of the Human Rights Committee (HRC) in monitoring the observance of the International Covenant on Civil and Political Rights. All of these processes have enunciated indigenous peoples' right to self-determination. However, any claim to such a right has met with resistance from the nation states.

At the moment, it is not reasonable to expect that indigenous peoples will be regarded as possessing a right to self-determination, neither internal nor external. The international law of states is simply not yet ready for such a big step. Already a right to some kind of autonomy would constitute a great accomplishment, to which the UN Declaration may well contribute in the course of time. (Koivurova, 2008a: 26)

5.3.1. Rights for Land and Resources

Land and natural resources are foundational to indigenous polities and their modern political and economic struggles. Extracting activities, particularly those that concern underground resources, and the violence that they entail for local communities and their environment, have historically been one of the reasons for the emergence of indigenous political movements, as these conflicts highlight indigenous peoples' marginalisation and exclusion from citizenship and political processes. (Bellier/Préaud, 2012: 480)

„An important element of indigenous peoples' collective rights is the control and use of land. Land means much more to indigenous peoples than the mere basis for economic existence. Indigenous peoples' profound relationship to land is not only based on the use of its natural resources, but is also a prerequisite for the spiritual and religious well-being of the group, and thus is central not only to their physical, but also their cultural survival.” (Hahn/Stoll, 2008: 18)

Throughout the world indigenous peoples suffer from the invasion of their territories and the exploitation of their resources. Hence, development is often regarded as a negative concept because it is frequently used as an excuse to deprive indigenous peoples of their livelihood. (Sambo, 1992: 172)

Poverty and hindered living conditions are more and more encountered among indigenous peoples, not through over-population or over-exploitation of their resources, but from social injustices which deprives them of control over their territories. There are several strategies that should guarantee the capacity of indigenous peoples that ensures their human development. The first step consists of strategies for indigenous peoples' sustainable development and of securing their territorial rights. All indigenous peoples have their own territory where they originally belong to and which they recognise. However, the problem is that often governments and members of national society do not recognise these rights. Therefore the recognition of indigenous peoples' rights, especially referred to their land and resources, by the government, preferably constitutionally, is necessary precondition for human development. (Gray, 1995: 295)

The second step towards indigenous sustainable development is to secure a subsistence base for the community, whereas the responsibility for implemented project will mainly rely on particular social organizations of each community.

The third step towards a national and international level covers the needs for indigenous peoples to control the way and the extent in which they relate to market economy. Therefore most indigenous people need access to financial resources. In this way, indigenous access to land and resources, combined with a sustainable and ecologically sensitive subsistence production, completed with a carefully controlled management in relationship with a cash economy, will lead to the establishment of conditions which guarantee human development and reduces indigenous people' poverty. (Gray, 1995: 295f)

5.3.2. Indigenous Rights to Education, Language and Culture

Education, language and culture are core interests of national states and indigenous peoples as both seek to protect their collective specificities as societies. Culturally adapted education is a central factor for sustaining autonomous and self-determining indigenous groups. On the other hand side, education has historically been for national states the privileged mean to shape national communities. As a matter of fact, indigenous rights to education are a necessary although insufficient condition for both self-determination and sustainable development. (Bellier/Préaud, 2012: 477f)

The indigenous experience of colonial and, later state education, has been one of assimilation, sometimes through massive displacement as in Australia and Canada. (HREOC, 1997) Contemporary policies focus on ‘closing the gap’ in educational achievements and seek to bring indigenous people to the same standard as the rest of the national population. Unfortunately they remain assimilationist in purpose and nature as they do not develop from indigenous knowledge, experiences and perspectives. (Canadian Council on Learning, 2009: 4ff)

Indigenous peoples’ capacity to sustain their specific educative institutions, systems of knowledge and languages has strongly depended on the reach and orientation of colonial and later on national states, and nowadays of globalized economic actors. Institutional conditions for implementing indigenous rights to education are linked to indigenous relationships to the state according to different variables: the nature of the relationship to the state (formal/informal); the degree and nature of political integration to the nation-state (national, multicultural, plurinational); the indigenous proportion of the national population; and the state’s capacity of governance (weight of international cooperation and transnational companies). (Bellier/Préaud, 2012: 479)

Indigenous knowledge is not thought as a single criterion based on intellectual capacity. For indigenous peoples, the variety of ideas, hypotheses, theories and practical knowledge creates traditional knowledge or situational social practices where knowledge is embedded not only in intellectual speculation but in the actual activities of daily life and experience. (Hobart, 1993) The main problem for indigenous peoples lies in the

disrespect and ignorance from outsiders relating to their knowledge. Moreover this affects indigenous peoples' rights to freedom of expression.

As with rights for land and resources, one can find several strategies in the cumulative dialectic of indigenous development by implementing the rights which are frequently violated. These strategies can consist of collaborative work with indigenous peoples to secure and revitalize their cultural identity, religion, and spirituality. Throughout the invasion of indigenous peoples' territories and the imposition of values of the national society, indigenous peoples face difficulties in keeping their traditional knowledge alive. However, cultural revival, recuperation and revitalization are preconditions for sustainable human development. Furthermore the cooperation between indigenous peoples and outsiders becomes fruitful when indigenous peoples feel confident that their views of life are respected. These proceedings could lead to the protection and development of indigenous peoples' cultural heritage. (Gray, 1995: 297f)

Broad cultural experience and practice opens the opportunity to discover the extent of cultural processes in everyday human activities and development, which relate to the technologies we use and our institutional and community values and traditions. The practices of a researcher are as cultural as the practices of oral historians or shamans. The understanding of one's own cultural heritage, as well as the one of other cultural communities, requires the perspective of people of contrasting backgrounds. The most difficult cultural processes to examine are the ones that are based on confident and unquestioned assumptions which are inherent to one's own community's practices.

Cultural practices relate to each other and are interconnected. The understanding of cultural processes involves multifaceted relations among many aspects of community functioning; therefore they are not just a collection of variables that operate independently. Rather, they vary together in patterned ways. Within cultural processes you find coherence beyond different elements such as economic resources, family size, modernization, and urbanization. It is impossible to reduce differences between communities to a single or a couple of variables. (Rogoff, 2003:37ff)

To explain this puzzlement Barbara Rogoff says, “In my view, human development is a process in which people transform through their ongoing participation in cultural activities, which in turn contribute to changes in their cultural communities across generations.” (Rogoff, 2004: 39) (...) “I argue against the still common approach of treating individuals as entities separate from cultural processes, existing independently of their cultural communities.” (Rogoff, 2004: 41) Therefore she argues in addition to the understanding of cultural aspects of human development “that people develop as participants in cultural communities. Their development can be understood only in light of the cultural practices and circumstances of their communities— which also change.” (Rogoff, 2004: 3f)

In addition to Barbara Rogoff’s statements one can see, in referring her concept to the development of indigenous peoples, how close culture and human development are connected to each other and how much this is reflected in the heredity within a community from one generation to another. Moreover her approach shows really good, while viewing the human development of indigenous peoples in the North, it is important to identify the individual in relation to its community as subject, and not as often claimed by psychologists, in only researching the individual.

5.3.3. Culture as a Human Right

In Anthropology culture has been defined as a “mass of (...) learned and transmitted motor reactions, habits, techniques, ideas, and values – and the behaviour they induce” (Kroeber, 1948: 8, cit. Valsinger, 2000: 50)

The consensual beliefs of previous decades, referring culture as a relatively homogeneous and stable entity, which is shared by all of its members, has been eroded by a number of critical analysis in the social science. (Strauss, 1992, cit. Valsinger, 2000: 50)

Anthropology nowadays uses three major points of view on the concept of culture (D'Andrade, 1984: 115f, cit. Valsinger, 2000: 50):

1. Culture is seen as knowledge: it is the accumulation of information.
2. Culture is seen as consisting of core conceptual structures that provide a basis for an inter-subjectively shared representation of the world. This perspective includes a set of rules that makes it possible for a person to reach shared understandings.
3. Culture is a construction of conceptual structures by activities of persons.

Throughout the history, culture has been treated as an object in international documents, wherefrom results the consequence that cultural rights have been understood as rights of access and consumption in international law. Recently, an alternative conception of culture, and of what cultural rights protect, has emerged, dealing with indigenous peoples' issues. Within international documents culture is treated as an activity rather than a good. This activity is referred to peoples as well as to individuals, and protects the capacity of both, peoples and persons, to engage in culture as a basic component of human dignity, such as freedom of movement, freedom of speech, etc.

It is not an accident that this treatment of culture has emerged from international documents, treating issues of indigenous peoples. Indigenous peoples' cultural rights can be fully understood only against the background of their basic rights to self-determination. However, the value of culture extends beyond the human rights of indigenous peoples.

Cindy Holder (2008: 7) examines an alternative conception of culture in international law, namely, treating culture as an activity rather than a good. "This activity is ascribed to peoples as well as persons, and protecting the capacity of both peoples and persons to engage in culture is taken to be [a] basic (...) component of human dignity (...)." (Holder, 2008: 7) This assumption explains the protective nature of cultural rights and frames the role of cultural communities in regard to the realization of important physical and political issues in the light of human dignity. However, international norms regarding cultural rights which are treating indigenous peoples are a really important

step forwards the acceptance of peoples' rights and their development in general. (Holder, 2008: 7ff)

Cultural Essentialism

Essentialist beliefs conceive identities as something static and essential and not as effects of an ongoing process and performance which obtain their meaning within a differential structure. Thought in an anti-essentialist way, being a Finn, a woman, an indigenous person, is the result of an historic and cultural practice but never an unchangeable and a person's inherent or even natural feature. The term itself has its roots mainly in gender studies where biological argumentative approaches are criticized as essentialist. In that sense anti-essentialist is an important political attribute of critical emancipatory theory and practice. (Institut für Art Education, Züricher Hochschule der Künste, 2013)

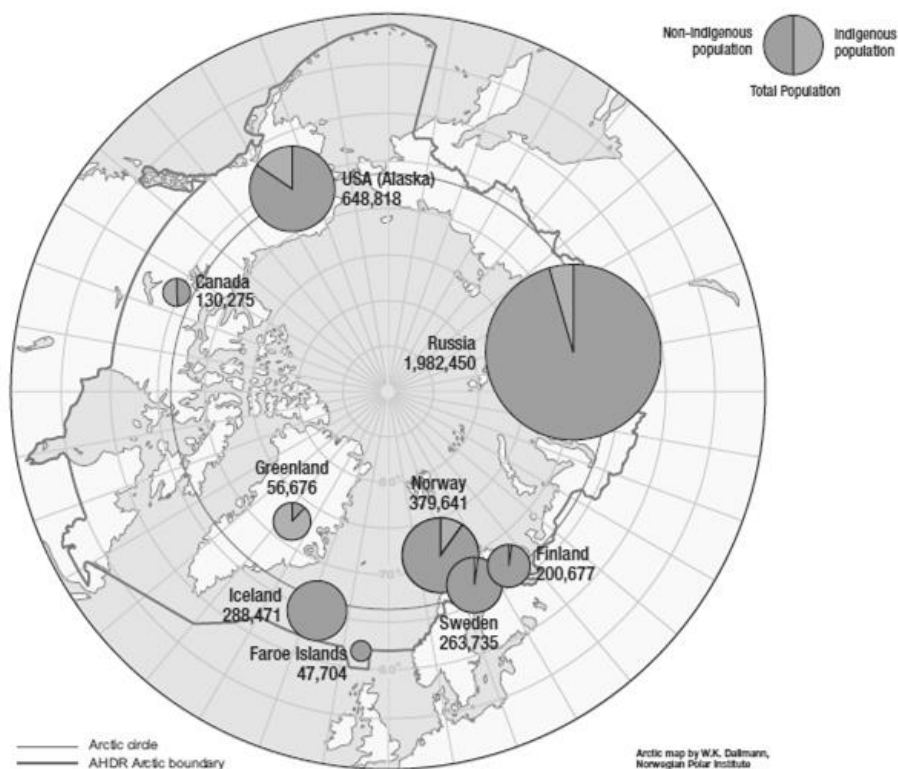
The implications of essentialist beliefs for intergroup relations are debated. The notion of essentialism enables people to make sense of the world around them through a process of categorization, assisting in classifying individuals as members of a given category. Essentializing social categories can have negative consequences, including stereotyping and prejudice. (Fischer, 2011: 769)

6. Indigenous Peoples' Development in the Arctic

6.1. The Arctic Region

After the AHDR the Arctic encompasses an area of over 40 million square kilometres or about 8 % of Earth's surface. The populations in the Arctic area contains approximately four million people, whereas some countries, namely Iceland, Greenland and the Faroe Islands, are completely located in within the region, and others (Russia, Canada, United States – Alaska, Norway, Sweden and Finland) have just a small portion of their overall population residing within their respective Arctic areas. (AMAP, 1997)

C. Keskitalo (2004: 185) examines that a number of scientific writers have questioned the appropriateness of treating the Arctic as a region itself at all. They refer to remarkable differences in the history of the Arctic in comparison to other world regions, and the role the Arctic has played in North America, Fennoscandia, and Russia. Therefore they do not consider the Arctic as a coherent region with its own policy agenda. Within the human residents and most of the researchers dealing with Arctic issues today, this critique is hardly refused.



Graphic: Arctic populations (indigenous – non-indigenous), W.K. Dallmann, Norwegian Polar Institute.

6.2. Arctic Peoples and Culture

'Rapid change' is a common used term when describing contemporary societies of the Arctic followed by mentions of cultural losses and social ills. Indeed, change is quite widespread phenomenon in the high North; however, it does not necessarily lead to cultural extinction. By the beginning of the 21st century, the persistence of identities and the re-creation of traditions show that indigenous peoples are able to adapt their livelihood to the modern world. The AHDR report discusses three major trends in Arctic societies and cultures: (1) The rapid change grounded in the recent colonization of the Arctic and paternalistic policies of welfare states; (2) 'Culture gain' and 'culture creation' have been present as much as 'cultural losses' and Arctic worldviews have also persisted despite processes of change and replacement; and (3) the way, how social reproduction and traditional social relations have been transplanted into new settings with urbanization. (AHDR, 2004: 45)

Culture, defined as set of rules and values shared by a given society, in the Arctic is influenced by southern rules and values. Another factor which influences social and cultural development is the notion of identity. "Identity refers to the ways in which individuals and groups perceive and act upon the social and cultural traditions they inhabit." (AHDR, 2004: 45) Within the diversity of cultural and social traditions in the Circumpolar North, one can distinguish between indigenous peoples, who are inhabited to the area since thousands of years, and peoples from a European background, whose presence is much more recent than the one of indigenous peoples, and who is often closely connected to southern societies. Moreover one can identify two other groups: peoples with mixed ancestries but with distinct identities and cultures and immigrants who were born and educated outside the Arctic. (AHDR, 2004: 45f)

While discussing the term of social and cultural 'change' in the Arctic, one has to mention some driving factors. On the one hand, there is human colonization of indigenous lands by people of a European Cultural tradition more than 500 years ago, and on the other hand, there are internal drivers like technological innovations which brought have offered new possibilities for economic purposes (e.g. intensive reindeer

herding or whale-hunting gear). With the colonization came, beside positive economic effects, also negative ones like unemployment or alcoholism. Moreover, with the new possibilities to build up another livelihood besides the traditional one, the share of traditional activities in the local economies decreased. However, the symbolic value of hunting, fishing, and herding has been maintained or even increased. Subsistence activities are until nowadays a central aspect of indigenous identity in the North.

Most of the social and cultural changes were directed by government agencies of national states which occupied indigenous lands latest after World War II. In all Arctic countries where governments were willing to negotiate land claims and measures of autonomy, indigenous peoples also manage to present their cultures and aspirations throughout coherent demands. This shows that even in the 'darkest years' of colonization, an elite out of indigenous peoples was always able to held up traditional values and make them in a way coherent to new circumstances and influences from outside. All these developments of preserving traditional culture and knowledge took place within the framework of national states and in context of increasing economic dependency and encroaching globalization. With the idea of autonomy and self-determination came the reaffirmation of indigenous identities, cultures and sometimes even languages. (AHDR, 2004: 49f)

Has the spread of information and communication technology given rise to new blends of traditions and elements of 'world culture' in terms of music, art, language, religion, etc.? This coexistence of traditions and modernity is recently observed among many indigenous peoples and the scientific community worldwide. One point of view which arises more and more in the Third and Fourth World² is that peoples all over the world do not see any opposition between tradition and change, indigenous culture and modernity, townsmen and tribesmen. Marshall Sahlins (1999) argues that culture is not disappearing; rather it is modernity that becomes indigenized.

² Third World is nowadays preferable described as less and least developing countries (LDC & LLDC) of the 'Global South' and Fourth World contains indigenous peoples as actors on an international level.

6.3. The Arctic Council

The Arctic Council was formally established by the Ottawa Declaration of 1996. It is a “high level intergovernmental forum [which provides] means for promoting cooperation, coordination and interaction among the Arctic States, with the involvement of the Arctic Indigenous communities and other Arctic inhabitants.” (Arctic Council, 2011b) Common Arctic issues with the special regard on sustainable development and environmental protection are in the focus of the forum. Its member States are Canada, Iceland, Denmark (including Greenland and the Faroe Islands), Finland, Sweden, Norway, the Russian Federation, and the United States of America. In addition, the Arctic Council includes a category of Permanent Participants. (Arctic Council, 2011b)

The Arctic Council has reinvigorated international Arctic Cooperation by adopting a comprehensive approach to complex issues concerning the Arctic region and by creating the partnership with its indigenous peoples who bring traditions and knowledge to make a contribution to the discussions and finding resolutions. It further has contributed to raise awareness and create sensitivity for the needs and concerns of indigenous peoples, and other northern cultural systems and their role in the circumpolar relations. (Simon, 2011:13)

The Council is organized around five program areas, namely: (1) Conservation of Arctic Flora and Fauna (CAFF), Arctic Monitoring and Assessment Program (AMAP), Protection of Arctic Marine Environment (PAME), Environmental Emergency Preparedness (EEPR), and Sustainable Development Working Group (SDWG). Indigenous peoples participate actively through their organizations and assist in setting priorities for work and directing financial and human resources.

Capacity building is another area of activity where indigenous peoples play a key role. The Arctic Council considers capacity building as a necessary element for achieving sustainable development. Efforts in this regard must be oriented within a larger community of local, national, and international institutions and stakeholders. The Arctic Climate Impact Assessment Project, for example, was designed as a regional study of climate change impact scenarios and coupled with policy and operational responses, and

is now extended through capacity building efforts. Indigenous peoples, their communities, and organizations will play an important part of the effort. (Simon, 2011:13)

6.4. Contested Sovereignty in a Changing Arctic

“Climate change is challenging the notions of permanency and stability on which the ideal of the sovereign, territorial state historically has rested. Nowhere is this challenge more pressing than in the Arctic.” (Gerhardt/Steinberg et al; 2010: 992) As states want to expand their sovereignty northward in pursuit of potential opportunities, which in many cases are made possible by climate change, these same states are being confronted with the region’s increasing territorial indeterminacy, which also is exacerbated by climate change. (Gerhardt/Steinberg et al; 2010: 992)

The currently ongoing process of the changing climate and geographical conditions in the Arctic region, with the melting ice and the emergence of big new stocks of natural resources, accommodates a lot tensions and contest over sovereignty of the Arctic region and appearing natural resources. In the forefront are the nation States surrounding the Arctic and national as well as international corporations with economic interests. Indigenous peoples are barely considered within the ongoing debate of sovereignty over Arctic lands and resources.

Hence, alongside the return to questions of sovereignty in the north, has been a subsequent attempt to silence voices such as those within the Arctic Council and other northern organizations, including indigenous ones that add significant complexity to the contest of sovereignty today. An example therefor would be the Inuit Circumpolar Council’s (ICC) Declaration of Sovereignty in the Arctic from April 2009, signed on behalf of a united Inuit whose people span across four Arctic states Canada, Denmark, Russia and the USA. Upon others, they can be regarded as politicized voices which make appeals to larger abstract concepts such as sovereignty, self-governance and human rights, but which often reveal an alternative sense of those terms and concepts, compared to that promulgated by the governments. (Shields/Weber, 2010: 117)

6.5. Indigenous Internationalism in the Arctic

Indigenous internationalism in the Arctic region and indigenous movements around the globe share certain commonalities. Nevertheless, Arctic indigenous residents are mainly engaged in institutions with special regard to the Arctic region. Although indigenous peoples' activities in the Arctic cannot be detached from their national states, they can be considered as an important step in order to advance cultural, social, linguistic, educational, environmental, economic, political, and legal needs. (Loukacheva, 2009: 55)

In order to raise political awareness and status within the international discourse, greater participation of smaller sub-national entities is needed to raise the, whereat it does not necessarily form the basis for effective regional governance. "In other words, it is not always the case that increased political autonomy and an expansion of the legal scope of autonomy to the area of international affairs are necessarily better or suitable for each case. The need for a legal justification of these activities will depend on the circumstances of each situation." (Loukacheva, 2009: 56)

Often, indigenous peoples have succeeded in gaining international recognition and could thereafter participate in building up national policies. The legalization of the representation of indigenous peoples in international bodies is a complicated issue with special regard to the right to self-determination with its various interpretations on different political levels. The right to self-determination "is limited by the principles and divergent concepts of [national, shared, indigenous] sovereignty, statehood, and indigenous peoples' assertion of their right to self-determination that *per se* implies their capacity to engage in foreign relations." (Loukacheva, 2009: 56) It will be very difficult to find a consensus in international law on the legal recognition of indigenous peoples' direct representation in global institutions. To conclude, finding a legal justification of indigenous internationalism rests a continuing challenge in the Arctic region. But, without the recognition, indigenous peoples are further detained from their engagement in international bodies. (Loukacheva, 2009: 56)

Indigenous rights can be seen as a success story of transnational advocacy³ at the United Nations. The importance of their weight at the United Nations for the development of the indigenous rights network should not be underestimated. Yet, the indigenous experience might be an exceptional rather than a regular one within the international sphere and the international human rights development. A key difference between the minority rights and indigenous rights networks and campaigns is the creation of a diffuse principled issue network for indigenous issues, in contrast to the minority rights that were largely concentrated through the efforts of one single NGO, Minority Rights Group International. (Sargent, 2012: 144)

Luis Rodríguez-Piñero Royo (2009: 46f) applies the mentioned concept of transnational advocacy networks to the emergence and the functionality of indigenous networks. In addition he focuses on the influence they have in regard to international norms and extractive industries. He argues that the international indigenous movement has used the newly arisen spheres of political opportunity and has developed to an international advocacy network. Through the participation of indigenous peoples within the institutions of the United Nations and international committees a global indigenous identity has been established. As a result, the consolidation of the international regime in regard to indigenous peoples' rights leads to a successful interaction of advocacy networks, international organizations, and states when building up new rules and procedures of decision in the field of human and indigenous peoples' rights.

There is no chance of an absolute forecast of the future of the rights of minorities or indigenous peoples at international law. It is already unclear whether there has been a shift of the central power base of international law including non-state actors as well as states, or whether recent changes are simply measures that co-opt and limit the power of

³ Transnational Advocacy Networks are characterized by a common *issue* they are working on, *shared values* they share, and a *common discourse* as well as an *intensive exchange* of information and achievements. Further they hold a centralization of shared ideas and values. They do exist on the national as well as on the international level. Through the connections between civil society, international organizations, and states, they open up new channels within international politics; therefore they are helping to transform the praxis of national sovereignty. (Keck/ Sikkink, 1998: 1-8)

non-state actors and preserve the international power of. The answers to those larger questions will have a larger influence on the future of rights of indigenous peoples and minorities. (Sargent, 2012: 143)

7. The Sámi People

The Sámi people are an indigenous people inhabiting northern Norway, Sweden, Finland and the Kola Peninsula in the Russian Federation. Some Sámi communities are to be found along the coast (fishing, coastal or sea Sámi), while others pursue reindeer herding in forest areas (forest Sámi) or migrate with their herds between the mountains and coastal areas (mountain Sámi).

Their cross-border territory, which extends over the above mentioned four nation states, is named *Sápmi*. Like many other indigenous peoples around the world, also the Sámi live to a large part on the acreage they have inhabited over centuries. Their lifestyle is often marked by spiritual as well as cultural values and traditions which have been handed on from generation to generation. For a long period of time, and particularly on the territory



of the Russian Federation, the Sámi have been politically marginalized and have suffered from economic, cultural and religious dispossession. (Stoll/Hahn, 2008: 9)

Traditionally, they had been nomads that lived from hunting and fishing. Reindeer herding, as a central element of their identity and constituent part of their social and cultural livelihood, has developed much later in the 17th century. Today the Sámi can be found in almost every sector of the economy, whereupon only ten percent are still pursuing reindeer herding. In one of their first political program of 1980, they characterized themselves as:

“We, the Sámi, are people whose sense of unity should not be split by frontiers. We have our own history, our own traditions, our own culture and our own language. From our ancestors we have acquired the right to land and water and to our own economic activities. It is our inalienable right to retain and develop our economic activities and our communities in accordance with our conditions of living, and we will preserve together our territories, our nature wealth and our national heritage for the next generations.” (cit. Helander, 1992)

Legally, in neither one of the four nation states, the Sámi own their inhabited territories and do further have the possibility to take direct influence on political decisions, which concern their land and livelihood. Their history is, like the one of so many others indigenous populations, marked by colonial suppression and discrimination. Until today, politics can be found which try to assimilate the Sámi to national norms and values.

But, one can also observe positive developments regarding the admittance and recognition of indigenous peoples' rights and political participation in the European North. In addition, in the last decades, the Sámi movement has become an important political factor and contributes on the international level to further foster the fight for indigenous peoples' rights. The following chapters will give a picture of the political organization of the Sámi people as well as recent developments on the national and international level, like the drafting and development of the Nordic Sámi Convention.

7.1. Political Organization

In accordance with international conventions the Sámi people is an indigenous group belonging to two populations and two overlapping civil societies (multicultural citizenship) within the nation state. This situation not only influences Sámi political interests and activities in general, it also affects the individual Sámi's political orientation and decision making. (Selle/Stromsnes, 2010: 66f)

As already examined in the introduction, the traditional form of organization of Sámi people is built up around the *siida*, which can be described as a local organization with the aim to distribute lands, water and natural resources. The concept of *siida* contains the development of sophisticated systems for land distribution, dispute resolution, and inheritance. While historical processes during the time of colonization have weakened the traditional form of political and structural association, the *siida* system continues to be an important part of today's Sámi societal organization. (Anaya, 2011: 5)

7.1.1. The Sámi Parliaments

In Norway, the Sámi people have since 1988, a specific status in the Norwegian Constitution. In 1989, they built up a separate parliament, the so called Sámediggi, elected by the Sámi population. The Sámi parliaments and its correlative administrative bodies comprise an ethnically based national political organ, and is a completely new entity in democratic governance of Norway (1989), Sweden (1995), and Finland (1996). Its founding can be considered as an expression of recognition and a strengthening of the Sámi people's rights as politically citizens. Main reason for the establishment of the Sámi parliaments was that the Sámi minority traditionally had difficulty making itself heard through ordinary democratic channels. (Bjerkli & Selle, 2004: 366 cit. Selle/Stromsnes, 2010: 67)

Sámi Parliaments have been established so to promote and strengthen Sámi cultural and political rights as well as their self-determined development. The Finnish Sámi Parliament, for example, is composed of 21 representatives, who are elected by the Sámi people, and approved by the national government. These elections are held every fourth year. The Norwegian and the Swedish one have each 39 representatives elected for four years. Speaking the Sámi language is the necessary precondition for being able to put his/her name on the electoral lists. Representatives of Sámi Parliaments attend the Nordic Council meetings as observers. The Sámi Parliaments themselves have limited powers, especially in regard to policy making on the national level. However, they are the representative voice of the indigenous people in public affairs. In Norway, the Sámi Parliament has developed into a central political body. (Fitzmaurice, 2009: 82)

The Sámi parliaments are the principal institutions for the implementation of Sámi self-determination. They further represent an important example of indigenous self-governance and participation within the national polity. And still, there is an “ongoing [demand] to increase the Sámi parliaments’ autonomy and self-governance authority.” (Anaya, 2011: 11)

7.1.2. Sámi Council

The Sámi Council is a voluntary non-governmental organization of Sámi people, with Sámi member organizations in Finland, Russia, Norway and Sweden. Since its foundation in 1956 the Sámi Council has actively dealt with Sámi policy tasks. Therefore it can be regarded as one of the longest existing indigenous peoples' organizations in the world.

The primary aim of the Sámi Council is the promotion of Sámi rights and interests within the territories of the four nation states where the Sámi are inhabited. Moreover, its purpose is to consolidate the cross-border "affinity among the Sámi people, to attain recognition for the Sámi as one nation, and to maintain the economic, social and cultural rights of the Sámi in the legislation of the four states" (...). (Arctic Council, 2011c) Through agreements between these states and the representative Sámi parliaments, resolutions can be reached. The Sámi Council transmits opinions and "makes proposals on questions concerning Saami people's rights, language and culture and especially on issues concerning Saami in different countries." (Arctic Council, 2011c)

Established in 2000, the Sami Parliamentary Council is a consortium of the Sámi parliaments of Sweden Finland, and Norway. It also includes the permanent participation of Sámi inhabited on the Russian territory. The principal mandate of the council is to deal with cross-border issues affecting the Sami people, focusing on education, language, research and economic development. Another important function is the coordination of the Sámi people at the international level, above all at the United Nations. (Anaya, 2011: 5)

As a matter of fact, the most recent cross-border initiative of the Sámi people, in conjunction with the Nordic Governments, has been the drafting of the Nordic Sámi Convention. It has to be considered the "first attempt anywhere to create a regional treaty specifically concerning indigenous peoples". (Anaya, 2011: 5)

7.2. The National Laws of Finland, Norway and Sweden regarding the Sámi People

The following chapter will deal with the domestic regulation of the Sámi people in three Nordic countries, Finland, Sweden and Norway. I will particularly focus on the recent Norwegian 2005 Finnmark Act, which deals with the property rights to land and natural resources in Finnmark, which constitutes the most northern part of the country, where the Sámi live. With this legislation, Norway constitutes an exemption within the three states. Main points of discussion arise with the question: *who is a Sami*? Clearly not every citizen of Lapland and the northern territories is an indigenous Sámi. Besides the citizenship to one of the national states, Sámi identity is based upon the group's particular linguistic, historical and cultural identity-donating features. The maybe most important cultural feature of distinction majority nation, with an economic impact, is reindeer herding. (Fitzmaurice, 2009: 80) Reindeers are regarded as “the basic guardian[s] of their culture, their language, their identity and the flame which keeps their identity alive”. (Beach, 1994: 152) However, reindeer ownership and herding are not determinant indications of who is a Sámi. Reindeers are fundamental to the Sámi way of life as they are a mean of transportation, milk and meat. (Fitzmaurice, 2009: 80)

In Finland and Norway the rights of Sámi are defined in the national Constitutions. Contrarily, in Sweden, the Constitution does not provide a definition of the Sámi minority. There is only a reference to “ethnic, linguistic, and religious minorities” (Article 2/4). The Sámi Act in Norway was passed in 1987 and regulates the Sámi Parliament and the Sámi language. The Finnish Parliament granted the status of indigenous peoples to its Sámi population in 1995. They are further granted language and cultural autonomy within their inhabited area. New Finnish laws are not allowed to hinder the implementation of the Sámi rights into practice. (Fitzmaurice, 2009: 80f)

The Norwegian Finnmark Act, which came into force in 2005, can be considered as an important protection tool for the right to self-determination in special regard to the use over land and natural resources. This Norwegian law sets a significant example of political inclusion of its Sámi people for the other Nordic countries. The act contains the

rights to land and natural resources of long term inhabited Sámi people and other residents, in a given area named Finnmark. Under the act, 95 per cent of the landmass of the whole Finnmark area was given from State ownership to local (mainly indigenous) residents. The Act accommodates a diversity of Sámi and non-Sámi interests within a given territory. Over and above it was supported by the Sámi Parliament. (Anaya, 2011: 12f)

The Swedish Constitution on the other side explicitly recognizes, in its amendment from 2011, the Sámi as a people distinguished from other minority groups in Sweden. “Constitutional recognition as a people, rather than a minority, had been [a constant claim] of the Sámi for many years.” (Anaya, 2011: 7) In the last decade, the Government of Sweden has initiated juridical efforts to Sámi related issues. It was, however, criticized for not enacting the most pressing issues, namely land and resource rights, and for the missing consultation of the Sámi people. (Anaya, 2011: 7)

The Constitution of Finland recognizes the Sámi as an indigenous people and therefore guarantees their right to cultural autonomy, including linguistic and cultural self-government, within their homeland. The Sámi Parliament Act of 1995 defines the Sámi homeland, reaching from Enontekiö, Inari and Utsjoki, until the reindeer owners’ association of Lapland in Sodankylä. It further established the Finnish Sámi Parliament, which was replacing the former one (1972-1995), which itself had been the first elected Sámi institution within the Nordic countries. Until now, Finnish legislation does not acknowledge or grant any special rights to land or traditional livelihoods to its Sámi people. In contrast to Norway and Sweden, Finland opens up the reindeer husbandry not exclusively for Sámi people but rather to any citizen of the European Union. (Anaya, 2011: 8f) “However, the Reindeer Husbandry Act of 1990 requires that State authorities consult with representatives of the reindeer herding cooperatives when planning measures on State land that will have a substantial effect on reindeer herding.” (Anaya, 2011: 8) Like its neighbor countries Norway and Sweden, Finland has ratified all major United Nations human rights treaties.

In regard to language, educational and cultural rights, the three Nordic states are very supportive. In Sweden, for example, Sámi children have the right to be instructed in

their own language. In Finland, the Sámi language has been taught at schools since 1970. Additionally, they passed the Sámi Language Act in 1992, in order to guarantee the official status of the language. It allows the Sámi people the use of their language in official matters such as judicial proceedings. It came into force in 2004, and has led to a further expansion of the official use of the Sámi language. In Sweden does exist a Sámi School Board, which is funded by the states, and which administrates Sámi schools. Their aim is it to ensure that Sámi students have a good understanding of the Sámi cultural heritage and that they read and write the Sámi language. (Fitzmaurice, 2008: 81) “A part of the jurisdiction over the school system has been transferred from the government to the Saami Parliament. However, the Saami education suffers to a certain extent from the lack of funds.” (Fitzmaurice, 2008: 82)

7.3. Legal Practice of the Nation States in the High North

Norway ratified in 1990, as the first European country, the ILO Convention 169, which awards indigenous peoples the right to determine their economic, social and cultural development after own criterions. Once a year, the Norwegian parliament monitors its obligations adverse the Sámi. Besides, the right of the preservation of the Sámi culture is became state law in 1987. As a result, for example, fishing was lowered to a certain limited quota for all. (Andreyeva/Exner/Poelzer, 2010: 7)

The establishment of the Sámi parliament in Norway in 1987 can be considered as an attempt to integrate, the as indigenous people recognized Sámi, into the political process on the nation state level. The aim was to transfer authority to the Sámi parliament and to later on transmit it to the upper national level. (Oskal, 2001: 254)

The *Norwegian Sámi Rights Commission* advised, on the basis of the analysis of historical land usage, that the management of land and natural resources has to be transferred from the federal state to the communities and that the Sámi parliament gets a veto right, in case that Sámi interests are endangered. This was not meant to determine certain land areas, over which the Sámi exercise self-government, rather than enable

political participation within the decision making process of land rights. (Minde, 2001: 107f)

In **Sweden**, certain laws guarantee the preservation of traditional meadows for reindeers, fishing and hunting rights, but not exclusively for Sámi people. All citizens are allowed to fish and hunt in the traditionally inhabited Sámi areas. As a result, the Sámi cannot take legally actions against overfishing and hunting as well as against the damage of sport hunting on reindeer meadows.

In 1998, a conflict escalated around the customary law to let the reindeers graze in wintertime on state and private lands and forests, without having to compensate the forest owners for it. Thereafter the private forest owners doubted this right, arguing that, according to their opinion, the Sámi have not lived long enough in this area to be able to claim the customary law on winter meadow. The Sámi lost in first authority and had to pay the costs of the action. (Andrejeva/Exner/Poelzer, in 2010: 7)

In **Finland**, an official advisory committee, dealing with Sámi affairs, exists alongside the Sámi parliament, which is only heard by the Finnish parliament, but does not have its own representative. Thereafter, the Sámi cannot influence any political decisions regarding certain affairs, not even if they are concerned directly. In 1996, it was anchored constitutionally for the first time that the Sámi have the right, as indigenous people of Finland, to conserve their own culture and language and to develop it regarding their own discretion. Autonomy with regard to their languages and culture was granted officially to the Sámi. However, the Sámi parliament, considered self-determination as not realized. Although they have the right to pensioner's breeding and to freely pursue fishing and hunting traditions, they have no possessory title on the estates themselves. Therefore, the Sámi parliament since 1993 has demanded the self-determination of land, waters and natural resources. However, the Finnish government takes up the land for itself and avoids questions over land rights as far as possible. (Gesellschaft für bedrohte Völker, 2006)

In principle, the Finnish government sticks to its interpretation that the Sámi have voluntarily left their lands over to the government and that they profit from set measures, as for example, road construction. On the other hand side stands the colonial historical

clarification of the Sámi parliament which calls for the right on their traditional living space.

Also, as a result of a merciless forest policy, the fulfilment of their demand on land rights is from big urgency for the Sámi. As an example, one can name the disputes with the forest industry (Nellim) regarding the deforestation of the forests. Although a law exists, with regard to the compatibility of pensioner's breeding and wood economy, which says that the pasture of the reindeers may not be damaged lastingly by the impact of deforestation, contestations before the court are decided mostly in favour of the state in the interest of the wood economy. Finland has not ratified the ILO convention 169, arguing that a ratification would contradict the Finish Constitution which does not grant any owner rights over traditionally areas, and that the discourse over land rights has not yet been clarified. (Gesellschaft für bedrohte Völker, 2006)

7.4. The Right to Self-Determination

Åhrén, Henriksen and Scheinin (2007: 80f) stress the question of the inclusion of land rights and free disposal on natural resources into the scope of the right to self-determination. The Sámi peoples in particular emphasized this issue as fundamental to the exercise of control over their social, political and economic development.

In the international comparison, the laws and policies of Nordic countries with respect to their indigenous people appear relatively advanced. However, like in any other case, there still exist barriers to the full realization of the right to self-determination, on national as well as at the trans-national cross-border level. Article 3 of the UNDRIP as well as article 1 of the ICCPR and the ICESCR from 1966 affirm the indigenous peoples' right to self-determination. All three Nordic countries are parties to the Covenants and the Declaration. (Anaya, 2011: 10)

The Human Rights Committee (HRC) observed in the case of Norway that it should report on the Sámi peoples' right to self-determination in the context of resource administration. Comments in this regard were also made in relation to the states of

Sweden and Finland. In regard to the Swedish State, the HRC addressed the issue of the participation of the Sámi people in the decision-making process in relation to the traditional use of lands and economic activities. It urged Sweden to grant them more influence and autonomy in making decisions affecting their environment and resources. As regards Finland, the HRC observed that Finland had not clearly addressed the rights of the Sámi people under Article 1 of the ICCPR. (Fitzmaurice, 2009: 142f)

Sámi representatives have made clear that their primary goal is not a separate Sámi state but rather the exercise of the right to self-determination as one people across boarder in order to regulate Sámi people concerning affairs. This view would go along with the provisions of the right to self-determination as examined in the UNDRIP, which makes clear through its overall structure and specifically in its article 46, that “self-determination for indigenous peoples is ordinarily to be exercised within the framework of the unity and territorial integrity of the State”. (Anaya, 2011: 10) Nevertheless, the Sámi people have managed quite successfully the establishment of cross border institutions and initiatives in order to exercise their collective self-determination.

It is argued by Mattias Åhrén (et al; 2007: 88) that “the right to internal self-determination of indigenous peoples includes the right to determine their own cultural, social and economic development.” Thus, “ (...) the internal aspects of the right to self-determination in principle should cover all issues of significance for maintaining and developing the cultural, social and economic aspects of the indigenous peoples’ communities”. Such a right should include as well the right to land and natural resources.

Loukacheva argues that the key concept of internal self-determination appears to be autonomy. She further explains that “[i]t should allow direct indigenous participation in international affairs when it concerns their homelands, and include indigenous people involvement in security issues relevant to the development of their lands”. (Loukacheva, 2007: 4) In this context, the Sámi Parliaments can be considered as the existence of autonomy. (Henriksen, 2001: 20)

7.5. Sámi in National Economy and Development Policies

Hereafter I would like to give some national examples which illustrate how Sámi become a subject of national economic and development policies. In Norway, for example, the government gave away concessions to a multinational mining company which led to an exploitation of natural resources of the Sámi territory. Also Russia sold traditional hunting and fishing grounds of the Sámi (above important ones for the salmon catching) to western tourists and investors. Besides power plants, dams, factories and military bases are established in the areas inhabited by Sámi of the Russian federation (Kola peninsula), a matter of fact which I could experience personally when I was visiting the Russian North with a group from the University of Lapland.

In Finland the Sámi are exposed not only to a predatory competition around land and waters, but also the growing tourism economy. For example, the traditional Sámi dresses are carried by students to attract around tourist and to arouse enthusiasm. (Andreyeva/Exner/Poelzer, in 2010: 6ff)

Over decades, the nation states pursued assimilationist policies towards the Sámi, so to build up a common ethnic identity by the consolidation of differences. After the Second World War this attitude changed; language and culture of the Sámi were promoted. From the 1950s onwards, the new self-conception as separate and independent people was created, which contributed, in a further step, to the formation of the world-wide "indigenous peoples" movement. Little by little, it became active and created the so called Fourth World movement, which continues its work with the establishment of the World Council of Indigenous Peoples (WCIP) in 1975. (Semb, 2001: 186ff)

Various standards and conventions of international law, above all, the UN Declaration on the Rights of Indigenous Peoples and the ILO-Convention 169, have an important influence on the genesis of national land and water rights. Another important legal basis would be article 27 of the ICCPR (Internationally Covenant on Civil and Political Rights from 1966). (Minde, 2001: 110f)

During the last decades, the Sámi have learned how to use these international instruments to determine their own development and to call upon their cultural rights. Within the indigenous world community, they carry a pioneering task. Unfortunately, claims for the rights on land and resources in reality, are much difficult to accomplish, because national interests are always in forefront.

7.6. Regionalism on the EU Level

Two of the four nation states, namely Finland and Sweden, in which the Sámi are resident, are members of the European Union since 1995. But, also Norway finances and participates in collective programs of the EU. Sámi activists are conscious of the marginal role they have as a cultural minority in Europe, however, the dream of a relatively independent European nation which would be limited to some policy fields that concern their land and life, is a powerful identity-donating tool. (Toivanen, 2001: 303)

The Sámi political leaders' attitude towards the European Union, before the referenda for the entry to the EU in 1994, was a rather sceptical one. The EU was perceived as a "monster" with the believed danger to exploit the natural resources of Lapland and to speed up European capitalism. This picture has changed after the entry, when the Sámi realized that there existed ways to profit from the EU. Pretty soon, they knew how to make use of their classification as "indigenous people", and carry out international pressure on the nation states. Today the political representatives of the Sámi know how to call upon their rights towards the respective nation state. The political developments can be evaluated as a revitalization of minority movements and an empowerment of trans-national regions. (Toivanen, in 2001: 315f)

In the years 1995-2000, the EU ensured financial flows in regional projects which were perceived as Sámi projects by the Sámi activists. To mention one example upon others, the Barents region, is a political project which is based on a voluntary cooperation of Norway, Sweden, Finland and Russia. Fields of cooperation are environment, economy,

science, technology, regional infrastructure, indigenous people and culture; all areas which have a strong influence on the Sámi way of life. The Barents region accommodates the biggest oilfields and gas in place of Europe; that is why it is of enormous interest for the national governments of the countries in the North. Many Sámi activists have the impression to receive support by projects like this and that they could profit financially, first of all, by the delegation of experts. However, it has to be marked that the Sámi Council is not even a member of the Barents region Committee, because it could contradict economic and political interests of the separate of the national states.

Another project would be "North Calotte", a project which takes place in the most northern part of Norway, Finland and Sweden, and which serves the development and stabilization of the structures in the respective border regions. The project "interactive III" promotes economic structures with the aim of a linguistic and cultural revitalization.

Concluding, one can estimate that through the supply of financial resources, the EU supports Sámi the new identity-donating policies. Nevertheless, many of these EU funds which are aimed to help Sámi people are applied abusively for other local purposes. (Toivanen, in 2001: 317f)

7.7. Extractive Industries

Historically, has the relation between indigenous peoples and (trans-/national) corporations, whose activities are connected, in what form ever, to the traditional inhabited and used lands and natural resources, a difficult one. Individual as well as collective rights have been ignored and violated from both, states and corporations, which have led to negative effects for indigenous peoples' lands and livelihoods. Economic and political inequalities and asymmetries are often the result of privileged concern interests through state policies. States in turn explain their decisions with the national and public interest (of the major society). (PFII, 2011: 3)

Positive developments and activities in between the stakeholders can only be found, where indigenous rights to land and resources are recognized and respected, and the

indigenous peoples themselves have a high level of political and economic self-determination to their disposal. Negative consequences of extractive industry's activities contain the neglecting of indigenous rights to land and resources, forced relocation and displacement, the extraction of their resources and the destruction of nature, ecosystems and sacred sites. (PFII, 2011: 3)

Remaining failings in the collaboration of the different stake holders are still:

- Missings in the international legal frameworks and deficient national legislation;
- The neglect of existing laws and norms;
- The level of information and its exchange between indigenous peoples, states, and corporations;
- The obtaining of simple consultations instead of the 'free, prior, and informed consent' (FPIC);
- And missing rights to participation and (co-) determination of indigenous peoples when building up norms, granting concessions, as well as in regard to the planning and implementations of projects. (PFII, 2011: 16f)

In regard to industrial activities in Sámpi, the 20th Sámi Conference, representing the Sámi Council's member organizations in Finland, Norway, the Russian Federation and Sweden, gathered in Murmansk 2 to 4 May 2013, examined:

1. "Based on the right to self-determination, the Saami people has the right and responsibility to politically manage the Saami traditional land and sea territories, including a right to establish general norms for how industry shall behave when operating in the Saami traditional land and sea territory."
2. "Based e.g. on the right to property, Saami local communities have the right to give or withhold consent to competing industrial and other activities wishing to enter their respective traditional territories." (20th Saami Conference, 2013)

It further stressed out the states' and corporate responsibility to safeguard these rights and examined the risks in regard to the extraction in the Sámi territories.

8. The Nordic Sámi Convention

8.1. Introductory Remarks

The development of the Nordic Sami Convention can be considered as the most important recent cross-border initiative of the Sámi people which has been materialized in collaboration with the governments of Norway, Sweden and Finland. On the global level it is the first designative example of an attempt to create a regional treaty specifically concerning indigenous peoples. (Anaya, 2011: 5)

In 1986 the Sámi Council together with the four countries (Norway, Sweden, Finland, and Russia) where Sámi are inhabited decided that a Sámi Convention should be jointly worked out with the purpose of stressing the Sámi people's rights as an indigenous people and dealing with the issue of national borders. Ten years later, in 1996, Finland, Norway and Sweden, but not Russia, appointed a committee in order to draft the Convention. Soon an expert group, representing the governments of Norway, Sweden and Finland, and the Sámi parliaments of these countries⁴, was formed and assigned to draft the Convention. The draft text of a Nordic Sámi Convention was finally presented in 2005. (Fitzmaurice, 2009: 115f)

Major parts of the text deal with the recognition of Sámi rights to land and resources. More recently, in 2011, the three governments have started negotiations to move from the draft text to a final Convention in order to be adopted and ratified by all three countries. The negotiations should be completed within five years. (Bankes/Koivurova, 2013)

⁴ The Chair of the Group was Professor C. Smith (the former President of the Supreme Court of Norway. The other State-appointed members were: Mr. H. Danelius (a former Judge of the Supreme Court of Sweden) and Mr. M. Niemivuo (the Director of Legislation, Ministry of Justice of Finland) and Professor M. Scheinin (a former Member of the Human Rights Committee and the UN Special Rapporteur on Human Rights and Counterterrorism, who was appointed upon the proposal of the Finnish Sámi Parliament). Professor K. Strøm-Bull acted as Secretary of the Group. (Fitzmaurice, 2009: 116)

Although the Sámi Draft Convention was signed by the governments of Finland, Norway and Sweden in 2005 on the basis of the consensus on the members of the expert group, a cover letter stated that the Finnish government's appointed members of the group only hardly accepted Article 3 (self-determination), Chapter IV (on land rights) and Article 42 (reindeer husbandry, as an exclusive right of the Sámi people). (Fitzmaurice, 2009: 116)

The Draft Sámi Convention can be seen as “the most important event in relation to the development of not only Saami rights but also indigenous rights in general at the international level”. (Fitzmaurice, 2009: 116) The role of the Sámi who are inhabited on the Russian territory was a really complex issue during the drafting process. Arguments for and against their inclusion were collected and evaluated. Many members of the expert group, which is composed by only representatives of the three Nordic countries, argued that the Convention was meant to be exclusively a Nordic one. Nevertheless, the cooperation with the Sámi of Russia was highly appreciated by the other countries. Therefore, any Russian Sámi residing in one of the Nordic states would be covered by the principles of the Convention. One mayor problem was that negotiations with the Russian federal state would be very difficult. It may be noted one more time that Russia abstained from the voting on the Declaration on Indigenous Peoples Rights. “Although the Saami played a fundamental role in the drafting of the Convention, they are not a formal party to this Convention. However, the entering into force and any amendments to the Convention requires the agreement of the Saami Parliaments.” (Fitzmaurice, 2009: 116)

8.2. The 2005 Draft Sámi Convention: The General Framework

Divided by international boundaries, and with the mountain Sámi following the regular seasonal migration of their herds, the Sámi have long been the subject of international law and bilateral treaties between the four states, dealing with the terms on which they can move across the landscape and borders with their herds. One of the most famous

agreements in this regard is the so-called Lapp Codicil of 1751⁵, annexed to the Strömstad Treaty between Denmark (Norway) and Sweden (Finland). (Elbo, 1952: 348)

The proposed draft text of the Nordic Sámi Convention is available in four official languages (Finnish, Norwegian, Swedish and Sámi) as well as in an English translation. Besides a Preamble, the draft text comprises seven chapters or groups of articles:

- Chapter I, the general rights of the Sámi people (including clauses addressing the right of self-determination and non-discrimination, as well as a clause dealing with the recognition of Sámi legal customs)
- Chapter II, Sámi governance
- Chapter III, Sámi language and culture
- Chapter IV, Sámi right to land and water
- Chapter V, Sámi livelihoods (with specific clauses dealing with reindeer husbandry)
- Chapter VI, the implementation and development of the Convention (including clauses dealing with an implementation committee, as well as an article (Article 46) requiring the State Parties to make the provisions of the Convention directly applicable as national law)
- Chapter VII, final provisions (dealing with entry into force; but with two unusual provisions stipulating that the Convention should be submitted to the three Sámi parliaments for approval and that ratification may not occur unless and until the three Sámi parliaments have approved the text). (Bankes/Koivurova, 2013: 2f)

The full text of the Draft Convention can be found in the Annex of Mattias Åhrén and John Henriksen (2007): *The Nordic Sami Convention*, 98-107.

In its preamble, the Convention examines that the Sámi in the three Nordic States constitute “one people residing across national borders” and “want that the Sámi shall live as one people within the three states”, on the land they call themselves Sápmi. As a matter of fact, the Draft Sámi Convention does not address the Sámi people in the three States separately but as one people, glued together by similar aspirations and a common

⁵ English translation of the Codicil is available on the website of the Arctic Centre, <http://www.arcticcentre.org/loader.aspx?id=50138dda-3009-4189-9b76-4b9df3f5dcde>. (Access: 13/08/2013)

culture. It further acknowledges the Sámi's right to self-determination with the reference to past injustices. The three Sámi Parliaments claim that national borders should not break the togetherness of the Sámi, and stress the importance of the right to self-determination as one people. The preamble paragraphs also state that the Sámi have rights to the land, water and natural resources in areas which constitute their historical homeland. (Fitzmaurice, 2009: 117)

It has to be mentioned here the provision the Convention has on the scope of State responsibility. Thereafter, the Convention contains not only State authorities but also the Sámi Parliaments under the concept of a State with all obligations being involved (Art. 5/2). States in cooperation with the Sámi Parliaments should "strive to ensure continued harmonization of legislation and other regulation of significance for Sámi activities across national borders" (Art. 10) The Draft Convention puts also important weight on cultural rights, including educational and language rights (Chapter III). Article 23, for example, states that "the Sámi shall have the right to use, develop and pass on to future generations its language and its traditions and have the right to make efforts to ensure that knowledge of the Saami language is also disseminated to Saami persons with little or no command of this language." (Fitzmaurice, 2009: 118f)

Chapter IV of the Convention deals with traditional use of land, water and natural resources, which, is one of the most unresolved and contentious issues not only for the Sámi people but for indigenous peoples in general. Already during the meetings of the Expert Group, the relevant articles of the draft Convention were revised numerous times. The first draft had adopted identical formulations to the ILO Convention 169. Sámi members of the Expert Group disagreed with certain part of ILO Convention. The compromise was that Articles 34–40 of the Convention had been drawn from the ILO Convention but had adjusted the provisions to the particular position of the Sámi people. (Åhrén, 2007: 27)

Chapter V refers to Sámi livelihoods. Following article 41, Sámi livelihoods and the use of natural resources "shall enjoy special protection by means of legal or economic measures to the extent that they constitute an important fundament for the Sámi culture", as they are an essential part of the maintenance and development of the shared Sámi

culture. It goes further in article 42/1 where the reindeer is acknowledged as a traditional livelihood and fundamental cultural marker of the Sámi people. It fosters that law shall specifically protect their to reindeer husbandry. (Fitzmaurice, 2009: 122) Mattias Åhrén examines that that reindeer husbandry should not be understood as the only traditional livelihood or the sole means of the identification of the Sámi. It serves rather more of a symbolic role for non-Sámi people in order to distinguish the Sámi as a distinct ethnic and cultural people. Therefore the Convention has adopted rules which particularly protect reindeer husbandry as a cultural foundation. In Norway and Sweden, reindeer husbandry is an exclusive Sámi right; in Finland non-Sámi share the same right. But, Finland will have to promulgate the same legislation having acknowledged Protocol No. 3 of its Affiliation Agreement with the European Union concerning the Sámi as an indigenous people. (Åhrén, et al. 2007: 31) Regarding the Finnish legislation, this article is one of the more problematic provisions.

Article 43 further regulates contentious reindeer husbandry across national frontiers. It is argued that the right of the Sámi to reindeer grazing across national borders is based on custom or cultural traditions. Until now, there is no agreement between Norway and Finland on cross-border herding activities. However, “if agreements exist between Saami villages (samebyar, siidas) or reindeer grazing communities (renbeteslag) concerning the right to reindeer grazing across national borders, they shall prevail”. (Fitzmaurice, 2009: 123)

8.3. The Sámi Convention and the Indigenous Peoples Declaration

In the following chapter I want to examine some of the common features of the Sámi Draft Convention and the UN Declaration on the Rights of Indigenous Peoples. In general, the main provisions are similar, including the prohibition of discrimination as a basic principle of both documents. However, there are also differences which can be tracked back to the special character of the Sámi Convention with the focus on one particular people rather than an aggregation of universal standards, so are there no

general provisions on crosscutting issues for example. Yet, article 46 of the Convention stipulates that in the exercise of the rights contained in the UN Declaration, the “human rights and fundamental freedoms of all shall be respected” (Åhrén, 2007: 34)

The same Article gets also to the territorial integrity of States, even though it has not been a particular focus of the Expert Group and was hardly discussed. Article 46/1 is formulated rather succinctly, concluding that the Sámi people’s right to self-determination neither includes the right to secede from existing Nation States nor is the a right based on general international norms. This view in combination with article 3 of the Convention stipulates that the right to self-determination is to be implemented to international law. (Fitzmaurice, 2009: 124f)

The Sámi Draft Convention has no provisions directly addressing collective rights. The issue of the collective rights had a rather controversial one during the drafting of the Declaration. Indigenous peoples argued for the recognition of the collective character of rights of indigenous people stating that collective rights are human rights, and that they play a more fundamental role in relation to indigenous peoples than individual human rights. The indigenous perspective was contested by some States, which denied the existence of such rights. The language used in articles 1 and 2 of the Declaration can be seen as a compromise between these two approaches. (Åhrén, 2007: 34f)

Åhrén (2007: 19) concludes further that some provisions of the Sámi Convention are less far reaching as their equivalents in the UN Indigenous Peoples Declaration. An example would be article 9 of the Sámi Convention, addressing Sámi people’s customary norms and legal beliefs, examining that “the contracting states shall demonstrate due respect for the Sámi people’s legal thinking, judicial traditions and customary norms”.

The UN Declaration addresses indigenous customary law in a more adequate manner in article 5, which implies the indigenous people’s right to retain and strengthen their legal system, and in article 34, underlining the right to develop and maintain their juridical systems and customs. (Fitzmaurice, 2009: 126)

8.4. Concluding Remarks

Taking the mainstream view of international law into mind, it seems almost miraculous how the indigenous peoples' movement could induce the UN General Assembly to adopt, firstly, the UN Declaration on the Rights of Indigenous Peoples and has been able to persuade further the Expert Committee to produce a draft of a Nordic Sámi Convention, both of which instruments contain far-reaching provisions on the right to self-determination of indigenous peoples and the Sámi, respectively. (Koivurova, 2008a: 25)

The process of how the Draft Convention is already an indication for a positive attempt to establish an equal relation between the Nordic states on the one side, and the Sámi on the other. The Sámi first took up the idea of drafting a Sámi Convention. As examined above, the Draft Convention was produced by an Expert Group which can be regarded as Sámi-friendly. As a result, the Convention can be considered as successfully in advancing the status and rights of the Sámi as a people within the complex institutional framework in which they are presently located. (Koivurova, 2008b: 291) Symbolically important is the fact that the Nordic states express in the preamble that "in determining the legal status of the Saami people, particular regard shall be paid to the fact that during the course of history the Saami have not been treated as a people of equal value, and have thus been subjected to injustice." (Draft Convention, see Åhrén, 2007: 98)

Gudmundur Alfredsson, in contrast to other authors, sees the Draft Nordic Sámi Convention from a more critical point of view. He supports the argument that concerning certain clauses the text does not go far enough; for example, article 34 of the draft convention deals with land rights, providing for individual and group rights, looks like it may fall below the standard set in article 14 of ILO Convention No. 169 that extends land rights to the groups only so as to prevent the splitting up of indigenous lands which in turn would harm the pursuit of the peoples of identity and culture. Further, certain provisions in the Draft Convention have raised similar questions to those that caused the delay in the adoption of the UN Declaration on the Rights of Indigenous Peoples, namely clauses that may advance beyond what international law currently allows for.

One example therefore would be the clause about self-determination, which have undoubtedly played a role in blocking the adoption of the Convention, together with general governmental reluctance on indigenous rights. Article 3 would guarantee the Sámi the right to self-determination as a people in accordance with both international law and the provisions of the Convention, so that they could decide to a significant degree on their economic, social and cultural development and possess the control over their natural resources. While article 3 and subsequent articles refer to internal self-determination, the references to international law as well as the wording in the explanatory notes seem to leave the door open to varying interpretations and therefore uncertainty. (Alfredsson, 2009: 241)

The Sámi Draft Convention can be considered as a pioneering international law instrument regarding the regulation of indigenous peoples. (Koivurova, 2008b: 291) “From the international law point of view, it implements the very controversial provisions of Articles 14 and 15 of the ILO 169 Convention and (mostly) is in conformity with the UN Declaration on Rights of Indigenous Peoples, as regards indigenous peoples’ livelihoods and the relationship with the land and natural resources.” (Fitzmaurice, 2009: 126)

Finland, Norway and Sweden are among the richest and most developed countries in the world, and the percentage of indigenous Sámi people is relatively small. “Hence, these countries should be able to cater for the Saami people’s rights without major harm to their economies or otherwise to their societies.” (Åhrén, 2007: 36) If not these countries manage to accept a document like the Sámi Draft Convention, “which does nothing more than proclaims that international human rights shall apply to indigenous population and that the Saami people should be allowed to preserve and develop its society across national borders, how can they expect other governments to accept the rights of their indigenous peoples and minorities?” (Åhrén, 2007: 36)

James Anaya, the UN Special Rapporteur on Indigenous Peoples Issues, notes that “the Draft Nordic Sami Convention provides the principal framework for defining the common objectives of the Sami people and is an important component of the effort to advance Sami self-determination as one people (its clear shortcoming in this regard

being that it does not apply to the Sami people residing in the Russian Federation).” (Anaya, 2011: 10) Nonetheless, he expressed in his report the concern regarding the delayed progress towards adoption of the Nordic Sami Convention.

It remains to be seen whether the Draft Convention is too much ahead of its time. At least in Finland the Draft Convention has experienced problems in regard of the implementation of the provisions, considering the Finish Constitution and existing national laws. Following the published Summary Report, it becomes clear that in Finland many obstacles exist in regard to the signing and the ratification of the Draft Convention as it presently stands. (Koivurova, 2008b: 292)

“The Saami Convention – louder than any person, institution or text before it – poses a question to Finland, Norway and Sweden; will they allow the Saami issues to be continuously politicised, or will they finally adopt a Saami policy based on the principle of non-discrimination, respect for human rights and the rule of law?” (Koivurova, 2008a: 18)

The Draft Convention has been from the beginning on a joint process between the three Nordic states and its Sámi populations. It will be important example for the future status of transnational indigenous peoples, as it was drafted by representatives from both sides, the Sámi Parliaments and the three Nordic States. Moreover, it provides very innovative regulatory arrangements and demonstrates the mutual willingness of the states and the Sámi to jointly regulate their legal relationship. One of the members of the Expert Group has argued that the Draft Convention can aptly be seen as a “social contract” rather than a regular international treaty, between the three states and the Sámi people sharing the same region, pertaining also very much to the way their constitutions are understood and developed. (Scheinin, 2006 cit. Koivurova, 2008b: 292f) To conclude, Timo Koivurova records that the Convention “truly represents the possibility to grow beyond the state-centred paradigm, testing the boundaries of international law but in a realistic manner”. (Koivurova, 2008b: 293)

9. Sámi in Russia

The number of so-called “nationalities” within the Russian Federation is estimated to be nearly 200, whereupon approximately 130 claim to be “indigenous” in the way they traditionally inhabited certain parts of the state territory. However, within this group, only 41 peoples, with a population of maximum 50,000 members, are officially recognized by the Russian government as “indigenous small-numbered peoples of the Russian Federation”⁶. This political status assures the rights, privileges, and support the state has provided for its indigenous peoples. (Donahoe/Habeck, 2008: 993)

Unfortunately, indigenous peoples in Russia still have limited possibilities of political participation. The Sámi belonging to the Russian national territory do not have, in contrast to their European relatives, their own parliament or any other form of political institution, which could present them on the regional or federal level and therefore contribute to the process of the development in society as a whole. Much more, they are exposed to the despotism of the federal and regional government. This is, for example, expressed by diverse relocations of Sámi people from their natural settlement areas to urban areas, so to pursue the further establishment of industrial sites or military bases. As accomplishments on the other side, one can mention the existence and work of radio, and to a much smaller extend, TV stations in Sámi language.

The “small-numbered indigenous peoples” are protected by Article 69 of the Russian Constitution and three further federal laws⁷ that contain the cultural, territorial and

⁶ The Russian law defines *korennye malochislennye narody Rossiiskoi Federatsii* (“indigenous small-numbered peoples of the Russian Federation”), as “peoples living in the territories of traditional settlement of their ancestors, preserving a traditional way of life and a traditional economic system and economic activities, numbering within the Russian Federation fewer than 50,000 persons, and recognizing themselves as independent ethnic communities.” (Art. 1/6, of the federal law, *Ob osnovakh gosudarstvennogo regulirovaniia sotsial’no-ekonomicheskogo razvitiia Severa Rossiiskoi Federatsii* of June 19, 1996 cit. Donahoe/Habeck, 2008: 994)

⁷ “The three framework laws are: (1) On the guarantees of the rights of the indigenous small-numbered peoples of the Russian Federation (1999); (2) On general principles of the organisation of communities of the indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation; and (3) On Territories of Traditional Nature Use of the indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation (2001).” (IWGIA, 2013: 36)

political rights of indigenous peoples and their communities. The ongoing changes to natural resource legislation and government decisions on natural resource hinder the implementation of the mentioned indigenous peoples' rights. (IWGIA, 2013: 26)

9.1. Historical Development

To capture Russian policy regarding its indigenous populations one has to understand the appellative change from *malye narodnosti* ("small nationalities") to *malochislennye narody* ("small-numbered peoples") in Russian politics. Both, the Russian Empire and the Soviet Union have a long history of state-instigated construction of ethnic categories. This attitude was built up after the first encounters between "Russians" and indigenous inhabitants in Siberia in the late sixteenth and early seventeenth century. The primer intentions of this categorization were administrative purposes which had little to do with creating ethnic identities. In this regard, the term *malye* ("small") referred more to qualitative characteristics like geographic remoteness or social backwardness, rather than to a quantity of the group. (Donahoe/Habeck, 2008: 995) The roots of the indication *malye narodnosti* can be found in a mandate of 1924 which had defined nationality and determined rational criteria for classifying the population. (Hirsch, 1997: 251) In 1926, a statute that designated 26 peoples as beneficiary of a special status under Russian law followed the former mandate. To identify these groups, ethnic identification marks like religion, language, traditional economic activities, and a nomadic way of life, were appointed. Later on, Stalin insisted on the creation of the so-called *tripartite* evolutionary paradigm for ethnic communities: *plemia* ("tribe"), *narodnost'* ("nationality" or "people"), and *natsiia* ("nation"). (Donahoe/Habeck, 2008: 995f) In a further step, the Soviet state further refined its policy by creating distinct categories in order to manage ethnic diversity. Thereafter, all citizens had to decide on a single ethnic identity from a state list of officially recognized identities. For administrative reasons, the chosen identity was then recorded in the respective passports, a practice which had lasted until 1997. (Tishkov, 2005, 99–103 cit. Donahoe/Habeck, 2008: 1008). To claim

certain entitlements and privileges, the identification as a member of a recognized “small” group was necessary.

The interaction of various historical developments, first and foremost the collapse of the USSR in 1991 and the following ethnic unrest, as well as the emergence of international human rights and indigenous peoples discourses, which was marked by the UN International Year of Indigenous Peoples 1993 and followed by the first and second International Decade of Indigenous Peoples 1994–2003, 2004–13, created a difficult situation for the political leaders of the young Russian Federation. In order to be accepted as a democratic nation by the outer world, they wanted to formulate their policies in coherence with international standards of recognition and treatment of indigenous peoples. (Donahoe/Habeck, 2008: 1008)

Russian indigenous peoples’ got their first representative institution in March 1990, when the the Assotsiatsiia Korennykh Malochislennykh Narodov Severa (Russian Association of the Indigenous Peoples of the North) which is also known as RAIPON, was established. The name of this organization marks the change from the term *malye narodnosti* to *malochislennye narody*. “The change in legal documents from *narodnost*’, with its negative connotations, to *narody* (“peoples”) can be attributed in part to the rise in prominence and political visibility of the international movement of indigenous peoples in the 1990s as exemplified in several major international legal documents, most notably the International Labour Organisation’s “Indigenous and Tribal Peoples Convention” (ILO Convention 169) and the UN Draft Declaration on the Rights of Indigenous Peoples.” (Donahoe/Habeck, 2008: 997) The change from the qualitative, negatively connoted term *malye* to the explicitly quantitative *malochislennye* led to a more neutral thinking in regard to indigenous peoples. Additionally, a new word was introduced: *Korennyye* stems from the Russian word “root” and communicates the idea of rootedness or autochthony; therefore most often translated into English as “indigenous”. (Donahoe/Habeck, 2008: 997)

9.2. Indigenous Rights to Land, Fishing, and Hunting

In the year 2001, Russia adopted the law “On Territories of Traditional Nature Use of Indigenous, Small-Numbered Peoples of the North, Siberia and the Far East of the Russian Federation” which defines the creation of so-named “Territories of Traditional Nature Use” (TTNU). “It constitutes the only serious attempt by the Russian Federation to establish a federal-level system guaranteeing indigenous peoples those land-use rights on which they depend for their subsistence. More than a decade after the law’s adoption, not a single federal TTNU has been established.” (IWGIA, 2013: 28)

The situation for indigenous peoples has changed negatively from 2001 onwards, when “clauses safeguarding indigenous peoples’ use rights have been (...) removed from those federal acts that govern access to and tenure of waters, forests and lands.” (IWGIA, 2013: 29) Recently, Russia has advertised the development of legislation in order to permit indigenous residents to carry out traditional fishing for personal consumption without any quantitative restrictions. However, an amendment (“o zhivotnom mire”) to the federal law “On fauna” from 2008, removed the provision of priority access to fishing grounds for indigenous communities. As a matter of fact, more and more communities lost their admission to fishing grounds. As a result, traditional fishing has become almost impossible because of the private ownership of major fishing grounds. To add insult to injury, these stakeholders have now the legal right to deny third parties the right to fish in their lease area. Further, the proposed legislation stipulates that indigenous peoples only have the right to fish for personal needs which means that indigenous cooperatives, so-called *obshchinas* are excluded from traditional fishery, a fact that poses especially a problem since *obshchinas* are often the only form of employment on indigenous territories. An adoption of the proposed legislation would intensify this tendency, “as the only remaining way for *obshchinas* to obtain fishing rights would be through commercial auctions, and these require financial and logistical resources that are typically beyond their capacity”. (IWGIA, 2013: 29)

The practice of reindeer herding in the Russian North (especially in the region around Lovozero) in the everyday life of most of the people is very limited, due to economic

problems and social concerns. It has a clearly marginal position in the economic realm of the community. As an essential part of Sami subsistence economy, reindeer herding had lasted approximately till the early twentieth century. However, it rests as a central symbol of their culture and can be a “valuable sources of pride, originality, authenticity, skill, and autonomy.” (Vladimirova, 2011: 109)

9.3. Extractive Industries

“Various human rights bodies have called on Russia to ensure that third-party activities such as extractive industries operations affecting indigenous peoples, their territories and their livelihoods are subject to cooperation and good-faith consultation in order to obtain the affected peoples’ free, prior and informed consent [FPIC]”. (IWGIA, 2013: 30) Unfortunately, so far there are no signs that any measures in this regard are being taken. To mention an example where indigenous used and inhabited territories are being negatively affected by the industry is Norilsk Nickel, one of Russia’s biggest industrial conglomerates. Due to the enormous extend of affecting pollution, the Association of Indigenous Peoples of Taimyr district published an open letter, in 2012, examining the devastating effect of Nickel’s operations over the last 80 years on the traditional territories of the Nenets, Enets and Dolgan indigenous peoples, many of whom engage in nomadic reindeer herding. Not only wide stretches of reindeer pasture but also many sacred sites have been irretrievably destroyed. Norilsk Nickel’s contribution to the socio-economic development of the indigenous population can be considered as non-existent. While Russian federal legislation entitles its indigenous peoples’ communities to compensation for the negatively affected and damaged territories, so far, there has been no single compensatory payment made by Norilsk Nickel. (IWGIA, 2013: 30)

9.4. RAIPON

The, in 1990 established, national umbrella organization, so called the Russian Association of Numerically Small Indigenous Peoples of the North, Siberia and the Far East (RAIPON), represents 41 indigenous peoples of the North, Siberia and the Far East. The primer aim is to protect indigenous peoples' rights at the national and international level. To describe and understand the location of Russian within the international law context one has to mention that Russian has not ratified the ILO Convention 169 and further abstained from voting in the UN General Assembly on the adoption of the UN Declaration on the Rights of Indigenous Peoples. Nevertheless, some important policy measures have been adopted in recent years, including the action plan for the implementation of the Concept paper (2009-2011) on sustainable development of the indigenous small-numbered peoples of the North. However, large gaps in a number of key areas including land rights, the rights to self-determination, food, education, health and work can be found until today. (IWGIA, 2013: 26ff)

The main aim of RAIPON is to protect indigenous peoples' human rights, foster their right to self-governance, defend their legal interests, and to assist in solving environmental, social, economic, cultural and educational issues. It seeks the cooperation with the State Duma in regard to the establishment of indigenous peoples' related legislation. The highest operating body of the organization, which meets every four years, is the Congress of all indigenous peoples of the North, Siberia and Far East of Russia. RAIPON participates actively in international structures such as the Arctic Council, the United Nations Economic and Social Council with a special consultative status and the Governing Council/Global Ministerial Environment Forum of the United Nations Environment Program in an observing position. "Members of RAIPON's presidium are now members in the Public Chamber of the Russian Federation, United Nations Permanent Forum on Indigenous Issues, UN Expert Mechanism on indigenous rights, and the UN Working Group on the issue of human rights and transnational corporations and other business enterprises." (Arctic Council, 2011a)

In 2012, the Russian government adopted a legislation which designates non-profit organizations that accepted foreign funding and engaged in political activities as “foreign agents”. Following this law, “indigenous peoples’ organizations [are now] (...) forced to either register as “foreign agents” and comply with a multitude of additional reporting obligations or decline further funding from international donors.” (IWGIA, 2013: 32) The legislation came into force on 1st November 2012 and is to be considered as clear violation of the principle enshrined in Art. 9 of the UN Declaration on the Rights of Indigenous Peoples, to which Russia is not part of, and according to which indigenous peoples have the right “to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.” (IWGIA, 2013: 32)

As a consequence of a dispute between RAIPON and the Russian Federal Ministry of Justice regarding their logo and a demanded list of regional representations, the ministry took effect from 1 November 2012 legislation and justified the suspension of RAIPON’s activities by the shortcomings found in their bylaws. This suspension drew widespread criticism from Russian regional indigenous organizations, the governments of other Arctic states and international (indigenous) organizations. Nevertheless, RAIPON had to amend its statutes, in accordance with the demands from the Ministry. On 13th March 2013, the Ministry of Justice finally announced the re-registration of RAIPON as an all-Russian civic organization. RAIPON’s ability to work and uphold indigenous peoples’ rights is vital to the ability of Russia’s indigenous peoples to participate in decision-making, as established in Art. 18 of the UNDRIP. (IWGIA, 2013: 33f)

Donahoe and Habeck (2008: 1008) merge that granting rights and concessions to all peoples who could be considered under the “indigenous status”, as defined by the international mainstream, would raise two major economic and political scenarios for Russia:

- (1) “it would threaten the state’s control over large regions with economically critical natural resources and

(2) it could lead to further political upheaval in Russia if the larger indigenous groups were to push for “self-determination” as stipulated in various international conventions.”

The State Duma was already heavily confronted with indigenous claims (e.g. Chechens and Tatars) to greater degrees of autonomy and independence. Donahoe and Habeck (2008: 1008) conclude that “[g]iven these realities, Russian officials have had to walk a fine line between acknowledging indigenous populations and limiting the potential economic and political costs of recognizing all peoples with a claim to indigenous status.”

10. Case Law of the UN Human Rights Committee relevant to Sámi People in the Arctic

In this chapter I want to examine some case law studies from the Arctic region, concerning Sámi individuals and to a further extend their communities, which were dealt with by the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) of 1966. The complainants referred their claims mainly to article 1 and article 27 of the Covenant, read as followed (UNHR, 1966):

Article 1

1. “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”
2. “All peoples may, for their own ends, freely dispose of their natural wealth and resources (...).”

Article 27

“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”

10.1. Claims under Art. 1 of the Covenant on Civil and Political Rights

Article 1 concerns the right to self-determination and the right to freely dispose of natural wealth and resources. The first decision concerning a violation of article 1 of the Covenant was met in the case of *Ivan Kitok v. Sweden*. Ivan Kitok, an ethnic Sámi, claimed to be a victim of both articles (1, 27), because he had been denied the membership in the (reindeer breeding) Sámi community. Born as Sámi, he had lived in Sámi territory in Sweden since birth, where his family has been since generations

actively engaged in reindeer breeding. He himself had decided to work for a number of years for the Swedish railroad system. Following the Reindeer Husbandry Act of 1971, a Sámi lost his membership in the community if he abandoned the traditional Sámi way of life for more than three years. The State had further delegated to the Sámi community the power to determine, whether an excluded ethnic Sámi can re-enter the community or not. Only in exceptional circumstances the State can reverse a negative decision of the Sámi community. After inheriting a herd of reindeer, Ivan Kitok wanted to return to the traditional way of life, but his application to re-enter was refused by the community as well as his appeal to administrative authorities remained unsuccessfully. Although he was tolerated, against the payment of a fee, as reindeer breeder, he did not have the indigenous Sámi rights to land, water, fishing, and hunting. (Möller, 2011: 34)

In regard to article 1, the Committee decided that he as an individual could not claim to be a victim of a violation of the right to self-determination because it deals with rights conferred upon peoples as such. By contrast, his claim under article 27 was declared admissible (see the next chapter). (Möller, 2011: 29)

10.2. Claims under Art. 27 of the Covenant on Civil and Political Rights

It was asserted that the arisen dispute was not between Ivan Kitok and the State, but rather between him and the Sámi community itself. The Reindeer Husbandry Act had been enacted for the purpose of improving the living conditions of Sámi with reindeer husbandry as their primary source of income, to safeguard it for their future and to preserve the Sámi culture as a whole. However, regarding article 27 of the Covenant, the Committee concluded that he had made a reasonable effort substantiate his allegation claiming being a victim of a violation of his right to enjoy the same rights as enjoyed by other Sámi, and the scope of protection under article 27 should therefore be examined on the merits. Nevertheless, the Committee viewed no violation of article 27 by the State party, but still it noted that Kitok was permitted, albeit not as of right, to husband reindeer, to hunt and fish freely. However, one can gain the conclusion that an economic

activity comes within the protection of article 27, if the activity is an essential element in the culture of a minority. (Möller, 2011: 34f)

Another claim under article 27 would be the one of Messers. O. Sara, J. Näkkäläjärvi, Ms. A. Äärelä and others, all reindeer breeders of Sámi ethnic origin and leaders of two of the biggest herdsman's committees in Finnish Lapland. Their complaint was due to planned logging and road construction in their grazing area which is regulated by the Wilderness Act from 1990 as well as road construction outside the wilderness. They submitted that the Act would jeopardize the future of reindeer herding in general and therefore their livelihood. It would authorize logging in areas used for reindeer husbandry. Hence, it constitutes a serious interference with their rights under article 27, particularly with their right to enjoy their own culture. The State party maintained that the Wilderness Act had been enacted after consultations with the indigenous peoples of Finland in order to safeguard their livelihood. In its decision on admissibility in 1991, the Committee made the distinction between the fears of the claimants about future activities in the by the Wilderness Act controlled areas and the road construction outside the areas. However, the Committee declared their claim that the ongoing road construction outside the Wilderness are affected their rights under article 27 as admissible. Hereon the State party requested a review of the decision, arguing that the authors have not exhausted the available domestic remedies. The Committee concluded that an administrative action challenging the ongoing road construction constitute a remedy that had to be exhausted before, set aside its earlier decision, and declared the communication inadmissible. (Möller, 2011: 38f)

The first of three related communications was submitted by Ilmari Länsman and 47 other reindeer breeders. They claimed that quarrying of stones on 10 hectares of their land and the transportation of the extracted stones through their herding territory would violate their right to freely enjoy their culture under article 27 of the Convention, considering that reindeer herding has traditionally been an essential element to their culture. The State party answered that the stone quarrying would have little or no impact on their traditional way of living. The contract with the private company stipulated quarrying in an area not more than 10 hectares, whereas the indigenous inhabited area

covered more than 2500 square kilometres. Moreover, the transportation of the stones was argued as negligible. After building the case, the Committee concluded, that article 27 does not only protect “traditional” means of livelihood, thus adapted methods of reindeer herding (with the help of modern technologies) does not prevent them from invoking article 27. Also, the State may understandably encourage economic development and therewith connected activities. However, the scope of its freedom to do so has to take into account the obligations it has undertaken by article 27. The Committee finally concluded that reindeer herding in the concerned area did not appear to be adversely affected; therefore the claimants had not been denied the right to enjoy their culture under article 27. At the same time, it advised the State party that, however, a significant increase in mining activities might violate their rights. (Möller, 2011: 39f)

The cited cases show that the use of land and the extraction of natural resources on indigenous inhabited and used territories have been, and are recently more than ever, burning issues on the national and international battleground. The Human Rights Committee recognizes, in this regard, that States may have a legitimate interest in encouraging and promoting economic activities, also in areas which are traditionally used by indigenous peoples. But, it further states that these activities should be planned in close, effective, and precedent consultations with the concerned minority, in order to guarantee the continuity of traditional livelihoods. (Möller, 2011: 55) The international community goes even further in demanding the ‘free, prior, and informed consent’, so that concerned groups are not passed over and confronted with accomplished facts or even irreparable destruction. However, the Committee concludes that activities with limited impact on indigenous life and lands would generally not lead to a violation of article 27 as well as authors cannot claim a violation in respect of activities that still have not taken place.

11. Conclusion

As a matter of fact, national states, as subjects of international law, have the obligation to provide the necessary conditions, in respect to international treaties and universal human rights, within their state territory, for all of their population, including indigenous peoples, to actively participate in development process and to further share its benefits equally. That would mean that indigenous peoples have the right to participate in the development debate as individuals relying on their citizenship rights. But it has to be also acknowledged that as a community they must be able to develop as a collective in accordance with their indigenous traditions. Meredith Gibbs (2005: 1375) concludes in this regard that following the right to development all nation states have the legal and moral obligation to provide the conditions under which this may occur.

In order to participate into the development discourse, indigenous peoples seek to exert their right to self-determination, through defining their own criteria of what constitutes sustainable development, in order to integrate their point of view on social and cultural objectives, economic equality, and environmental sustainability. As a result, this raises questions about the conditions for the realization of the principle of ‘free, prior and informed consent’. While consultation of its indigenous peoples has long been a manner of governance of national states, they now tend to seek to exercise the right to negotiation and self-determination over their territories and natural resources. Nevertheless, their political and economic fragility often constrains their capacity to oppose major development initiatives. (Bellier/Préaud, 2012: 483) Even though there is still a far way to go, extractive industries have given growing attention to these issues within in the last decade. But their willingness could be also interpreted to buy off the social peace through their affirmed ‘social responsibility (inter-)national recognition.

To understand human development, not only in the North but anywhere else, it is essential to understand the development of cultural institutions and practices, through which indigenous people can participate the development debate. As Rogoff (2003: 327) concretizes, it requires a more long-term view of cultural changes than most people attain through personal experience.

As shown above, Arctic peoples and cultures are diverse and this diversity has also to be considered when dealing with human development in the North. Cecilia Wainryb (2004: 131) writes: “The emphasis on the study of diversity, a growing area of research in developmental psychology, reflects an increasing awareness of the need to recognize the value of the differences among people.”

The reason why I was interested in the topic and why I finally researched on it was the fact, that the Arctic as a region itself is underrepresented in international discourse of human development. Indigenous peoples inhabited to the Arctic are subordinated under one of the eight national states, whereas their culture is undermined throughout the one of the dominant society. While looking through the diverse Human Development Reports throughout the years, I realized that Arctic Indigenous Peoples and Cultures are not mentioned explicitly at all, a fact that made me quite wonder, is Arctic livelihood nowadays often characterized through poverty, climate change and other problematical issues. Although the Arctic Human Development Report finds a remedy to this problem, the diversity of indigenous people, especially in the Arctic, rests undermined.

I argued that culture is a central concept when considering indigenous sustainable human development in the Arctic region. While outlining alternatives concepts to measure human development beside the currently used Human Development Index it also became clear that culture is one of the most important corner stones when dealing with indigenous human development. To enable indigenous human development through unlimited possibilities of exercising and living their culture the circumstances of self-determination, of own land and resources, has to be given. Throughout the UN Convention on the Rights of Indigenous Peoples, culture and related fields hold a major part of the text. On the international level it is definitely recognized as a central element of indigenous peoples' development.

The fight for cultural rights of indigenous peoples has long been at the forefront in national and international discourses. A lot of rights to education and the use of indigenous languages have already been reached. But, the focus of the discourse, in the last decades, has moved to self-determination with special regard to land rights and rights over natural resources. Reasons for this shift are that in most of indigenous

societies, land and resources are the basis and a necessity to exercise freely and uphold their culture and traditional livelihood. Moreover, land and resources are always an economic factor, for indigenous peoples as well as for states and (international) corporations. Different interests of different stakeholders meet on former remote indigenous inhabited areas. This becomes even more interesting when looking at the Arctic region, where climate change and the changing environment opens up new economic opportunities.

It can be concluded that a human rights based approach (HRBA) is definitely a gainful approach for the development of the Sámi people in the Arctic. The possessions, or at least, the rights of disposal, of land and resources as well as the cultural and political autonomy regarding indigenous affairs, are a necessary precondition for the discretionary development of Sámi people in the North.

The (Draft of the) Nordic Sámi Convention stands out as a unique international instrument and a multi-national project regarding the rights of indigenous peoples. Under the light of colonization, exiting problems and fields of divergent opinions, it can be regarded as a successful instrument within the local, (trans-) national and international context. It can be considered as an important development within the 21st century that indigenous people and the colonial ruler try to agree upon a new basis for their common future relationship, that would not only serve the Sámi people but also the national majorities in the Northern States. (Åhrén, 2007: 37) Moreover, it would illustrate an important example and inspiration for other countries with indigenous populations.

It would be highly desirable that also Russia would join the discourse over the settlement of critical contestations regarding the rights of its indigenous peoples. Now it is only the question what the final outcome of the Draft Convention is going to be and how the agreed provisions are going to be implemented in national policies regarding indigenous peoples and arising issues in relation to the dominant society? Another interesting point will be the effect the Convention would have not only on Russia but also on the indigenous world around.

Gudmundur Alfredsson (2009: 243) is one of the more critical voices in regard to indigenous peoples' rights in the North and the Draft Nordic Sámi Convention. He expresses the need and the hope that the rich and democratic countries of the North:

- will be willing and able to undertake significant human rights improvements of living conditions for their indigenous peoples;
- will be more generous in relation to land and resources rights and self-governance; and
- will engage in increased cross-border cooperation and coordination, leading to greater consistency of policies across the Arctic.

The legal basis which should guarantee the free development of indigenous peoples is already well established, but the problem lies usually in the implementation of international law rules and conventions within the responsibility, the legislation of national states. Sweden, Finland, and especially Norway, which grant already a broad legal support to its indigenous people, can be regarded as positive examples within the international community in safeguarding certain (political, economic, cultural, etc.) rights to its indigenous populations. The examined case laws have showed that there are different issues, between indigenous peoples themselves, and between states and its indigenous people, which challenge international law in general as well as in relation to national legislations.

There is a profound basis in international public law to guarantee human sustainable development in the Arctic and still, lots of work and research has to be done to include the Arctic region and its inhabitants to the international discussion about human development.

“Step by step we are gaining official recognition today. ... But new challenges appear even before we have grasped the old problem with a firm hand.”

Ole Henrik Magga
(cit. Broderstad, 2001: 163)

Sources

Literature

Adil, Najam/Sagara, Ambuj D. (1998): The human development index: a critical review. In: *Ecological Economics* 25 (1998) 249–264.

Åhrén, Mattias/Henriksen, John B./Scheinin, Martin (2007): The Nordic Sami Convention: International Human Rights, Self-Determination and other Central Provisions. In: *Gáldu Čála – Journal of Indigenous Peoples Rights* No. 3.

Åhrén, Mattias (2004): Indigenous Peoples' Culture, Customs, and Traditions and Customary Law—The Saami People's Perspective. In: *Arizona Journal of International & Comparative Law* 63, 65–66.

Alfredsson, Gudmundur (2009): Human Rights and the Arctic. In: Alfredsson, Gudmundur/Koivurova, Timo (eds.): *The Yearbook of Polar Law*. Leiden/Boston: Martinus Nijhoff Publishers.

American Anthropological Association (AAA) Executive Board (1947): Statement on Human Rights. In: *American Anthropologist, New Series*, Vol. 49/4, 539-543.

Anaya James (2004): International human rights and Indigenous peoples: the move toward the multicultural state. In: *Arizona Journal of International & Comparative Law*. Vol 21/1, 13–61.

Andreyeva, Tamara/Poelzer, Greg/Exner, Heather (2010): Module 1: Self-Determination as a Contemporary Characteristic. University of the Arctic. Bachelor of Circumpolar Studies 322.

Arctic Human Development Report - AHDR (2004) edited by Stefansson Arctic Institute, Iceland.

Banik, Dan (2010): Support for human rights-based development: reflections on the Malawian experience. In: *The International Journal of Human Rights*. Vol. 14/1, 34–50.

Bankes, Nigel/Koivurova, Timo (eds.) (2013): *The Proposed Nordic Saami Convention National and International Dimensions of Indigenous Property Rights*. Oxford: Hart Publishing.

- Beach, H.** (1994): The Saami of Lapland. In: Minority Rights Group (ed.), *Polar Peoples: Self-Determination and Development*, 147–205.
- Bellier, Irène/Préaud, Martin** (2012): Emerging issues in indigenous rights: transformative effects of the recognition of indigenous peoples. In: *The International Journal of Human Rights*, Vol. 16/3, 474–488.
- Bjerkli, B./Selle, P.** (2004): Den nye samiske offentligheten. In: *Norsk Statsvitenskapelig Tidsskrift*, 20/4, 365-390.
- Broderstad, Else Grete** (2001): Political Autonomy and Integration of Authority: The Understanding of Saami Self-Determination. In: *International Journal on Minority and Group Rights* 8: 151-175.
- Corntassel, Jeff J.** (2003): Who is Indigenous? ‘Peoplehood’ and Ethnonationalist Approaches to Rearticulating Indigenous Identity. In: *Nationalism and Ethnic Politics*. Vol. 9/1, 75-100.
- Dasgupta, P./Weale, M.** (1992): On measuring the quality of life. In: *World Development* 20(1).
- Desai, M.** (1993): Income and alternative measures of well-being. In Westendorff/Ghai: *Monitoring Social Progress in the 1990s*. Avebury: UNRISD.
- Domínguez Redondo, Elvira** (2009): The Millennium Development Goals and the human rights based approach: reflecting on structural chasms with the United Nations system. In: *The International Journal of Human Rights*. Vol. 13/1, 29–43.
- Donahoe, Brian/Habeck, Joachim Otto/Halemba, Agnieszka** (a.o.) (2008): Size and Place in the Construction of Indigeneity in the Russian Federation. In: *Current Anthropology*. Vol. 49/6, 993-1020.
- Elbo, J.G.** (1952): Lapp reindeer movements across the frontiers of northern Scandinavia. In: *Polar Record*. Vol. 6/43, 348-358.
- Fischer, Ronald** (2011): Cross-cultural training effects on cultural essentialism beliefs and cultural intelligence. In: *International Journal of Intercultural Relations* 35, 767-775.
- Fitzmaurice, Malgosia** (2009): The New Developments Regarding the Saami Peoples of the North. In: *International Journal on Minority and Group Rights* 16/1, 67–156.
- Folledal, Dagfinn** (2001): Hermeneutics. In: *International Journal of Psycho-Analysis*, 82, 375-379.

Garcia Hierro, Pedro (1995): Reflections on Indigenous Self-development. In: Büchi, Silvia/Erni, Christian a.o. (1997): Indigenous Peoples, Environment and Development. International Work Group for Indigenous Affairs and Department of Social Anthropology, University of Zürich, IWGIA Document No. 85, Copenhagen.

Gerhardt, Hannes/Steinberg, Philip/Tasch, Jeremy (et al.) (2010): Contested Sovereignty in a Changing Arctic. In: Annals of the Association of American Geographers, Vol. 100/4, 992-1002.

Gibbs, Meredith (2005): The right to development and indigenous peoples: Lessons from New Zealand. In: World Development, Volume 33, Issue 8, Massey University: New Zealand, 1365-1378.

Grey, Andrew (1995): Development Practice and Indigenous Peoples. In: Büchi, Silvia/Erni, Christian (eds.) (1997): Indigenous Peoples, Environment and Development. International Work Group for Indigenous Affairs and Department of Social Anthropology, University of Zürich, IWGIA Document No. 85, Copenhagen.

Habermas, Jürgen (1968): Erkenntnis und Interesse. Frankfurt: Suhrkamp.

Hahn, Anja von/Stoll, Peter-Tobias (2008): Indigenous Peoples, Indigenous Knowledge and Indigenous Resources in International Law. In: Lewinski, S. (ed.): Indigenous Heritage and Intellectual Property. Netherlands: Kluwer Law International BV, 7-58.

Hamm, Brigitte I. (2001): A Human Rights Approach to Development. In: Human Rights Quarterly, Vol. 23/4, 1005-1031.

Hanna, Philippe/Vanclay, Frank (2013): Human rights, Indigenous peoples and the concept of Free, Prior and Informed Consent. In: Impact Assessment and Project Appraisal. Vol. 31/2, 146-157.

Henriksen, G. (1989): Introduction to Indigenous Self-Development in the Americas. IWGIA Document 68. Copenhagen: 13-18.

Henriksen, J. (2001): Implementation of the Right to Self-Determination of Indigenous Peoples. In: Indigenous Affairs 3. 6–21.

Hirsch, Francine (1997): The Soviet Union as a work-in-progress: Ethnographers and the category nationality in the 1926, 1937, and 1939 censuses. In: Slavic Review 56: 257–78.

Hobart, M. (1993): *An Anthropological Critique of Development: The Growth of Ignorance*. Routledge.

Holder, Cindy (2008): *Culture as an Activity and Human Right: An Important Advance for Indigenous Peoples and International Law*. In: *Alternatives* 33, 7-28. University of Victoria, Canada.

IWGIA - The International Work Group for Indigenous Affairs (2013); Mikkelsen, Cæcilie (ed.): *The Indigenous World 2013*. Copenhagen: Eks-Skolens Trykkeri.

Inglehart, Ronald/Welzel, Christian (2005): *Modernization, Cultural Change, and Democracy. The Human Development Sequence*. Cambridge: Cambridge University Press.

Keck Margaret E. / Sikkink Kathryn (1998): *Activists Beyond Borders: Advocacy Networks in International Politics*. New York: Connell University Press.

Keskitalo, C. (2004): *Negotiating the Arctic: The Construction of an International Region*. London: Routledge.

Koivurova, Timo (2008a): *From High Hopes to Disillusionment: Indigenous Peoples' Struggle to (re)gain their Right to Self-Determination*. In: *International Journal of Minority and Group Rights*, Issue 15, 1-26.

Koivurova, Timo (2008b): *The Draft Nordic Saami Convention: Nations Working Together*. In: *International Community Law Review* 10, 279–293.

Kuppe, René (2012): *Human Rights from an Anthropological Perspective*. In: Nowak, Manfred/Januszewski, Karolina/Hofstätter, Tina (eds.): *All Human Rights for All. Vienna Manual on Human Rights*. Vienna/Graz: Neuer Wissenschaftlicher Verlag, 39-43.

Kuppe, René (2012): *Human Rights of Indigenous Peoples*. In: Nowak, Manfred/Januszewski, Karolina/Hofstätter, Tina (eds.): *All Human Rights for All. Vienna Manual on Human Rights*. Vienna/Graz: Neuer Wissenschaftlicher Verlag, 467-471.

Loukacheva, Natalia (2007): *The Arctic Promise: Legal and Political Autonomy of Greenland and Nunavut*. Toronto/Buffalo/London: University of Toronto Press.

Loukacheva, Natalia (2009): *Arctic indigenous peoples' internationalism: in search of a legal justification*. In: *Polar Record* Vol. 45 (232), 51–58.

- Mader, Clemens** (2009): Principles for Integrative Development Processes towards Sustainability in Regions. Cases from Egypt, Sweden and the USA. Doctoral Thesis. University of Graz.
- Marks, Stephen** (2003): Obstacles to the Right to Development. Harvard University.
- Marks, Stephen** (2004): The Human Right to Development: Between Rhetoric and Reality. In: Harvard Human Rights Journal. Vol. 17, 137-168.
- Messer, Ellen** (1993): Anthropology and Human Rights. In: Annual Review of Anthropology. Vol. 22, 221-249.
- Minde, Henry** (2001): Sami Land Rights in Norway: A Test Case for Indigenous Peoples. In: International Journal on Minority and Group Rights 8. Netherlands: Kluwer Law International, 107-125.
- Möller, Jakob T.** (2011): Case Law of the UN Human Rights Committee relevant to Members of Minorities and Peoples in the Arctic Region. In: Alfredsson, Gudmundur/ Koivurova, Timo/ Hossain, Kamrul (ed.): The Yearbook of Polar Law Volume 3. Brill, Nijhoff, 27-56.
- Nowak, Manfred** (2012): Introduction to Human Rights Theory. In: Nowak, Manfred/Januszewski, Karolina/Hofstätter, Tina (eds.): All Human Rights for All. Vienna Manual on Human Rights. Vienna/Graz: Neuer Wissenschaftlicher Verlag, 269-278.
- Nowak, Manfred/Januszewski, Karolina/Hofstätter, Tina** (eds.) (2012): All Human Rights for All. Vienna Manual on Human Rights. Vienna/Graz: Neuer Wissenschaftlicher Verlag.
- Oskal, Nils** (2001): Political Inclusion of the Saami as Indigenous Peoples in Norway. In: International Journal on Minority and Group Rights 8. Netherlands: Kluwer Law International, 235-261.
- Rawls, J.** (1971): A Theory of Justice. Cambridge: Harvard Univ. Press.
- Rogoff, Barbara** (2003): The Cultural Nature of Human Development. Cary, NC: Oxford University Press.
- Ross, Marc Howard** (2001): The Relevance of Culture for the Study of Political Psychology and Ethnic Conflict. In: Chew, Pat K.: The Conflict and Culture Reader. New York/London: New York University Press, 236-240.

- Sargent, Sarah** (2012): Transnational networks and United Nations human rights structural change: the future of indigenous and minority rights. In: *The International Journal of Human Rights*. Vol. 16/1, 123–151.
- Schicho, Walter** (2012): Human Rights and Development: A Rights-Based Approach. In: Nowak, Manfred/Januszewski, Karolina/Hofstätter, Tina (eds.): *All Human Rights for All. Vienna Manual on Human Rights*. Vienna/Graz: Neuer Wissenschaftlicher Verlag, 558-562.
- Sahlins, Marshall** (1999): What is anthropological enlightenment? Some lessons from the twentieth century. In: *Annual Review of Anthropology*, 28.
- Sambo, D.** (1992): The Emerging Indigenous Human Rights to Development. IWGIA Yearbook 1992, Copenhagen: IWGIA, 167-189.
- Saami Council** (2013): The 20th Saami Conference. 2nd to 4th May 2013, Murmansk, Russia. The Kuellnegk Neark Declaration.
- Scheinin, Martin** (2006): Ihmisen ja Kansan oikeudet – kohti Pohjoismaista saamelaissopimusta. In: *Lakimies* 1, 27–41.
- Selle, Per/Stromsnes, Kristin** (2010): Sa´mi Citizenship: Marginalisation or Integration? In: *Acta Borealia*, Vol. 27/1, 66-90.
- Semb, Anne Julie** (2001): How Norms Affect Policy – The Case of Sami Policy in Norway. In: *International Journal on Minority and Group Rights* 8. Netherlands: Kluwer Law International, 177-222.
- Sen, Amartya** (1984): *Resources, Values and Development*. Oxford: Basil Blackwell.
- Sen, Amartya** (1999): *Development as freedom. Human capability and human need*, New York: Knopf.
- Sen, Amartya/Anand, Sudhir** (2000): Human Development and Economic Sustainability. In: *World Development*. Vol. 28/12, 2029-2049.
- Sengupta, Arjun** (1999): Study on the current state of progress in the implementation of the right to development. UNESCO doc E/CN.4/1999/WG.18/2 (27/07/99).
- Sengupta, Arjun** (2004): The Human Right to Development. In: *Oxford Development Studies*. Vol. 32/2, 170-203.
- Sepúlveda M./Van Banning T./Gudmundsdóttir G.** (et al.) (2004): *Human rights reference handbook*. Ciudad Colon: University for Peace.

- Shields, Rob/ Weber, Barret** (2010): The virtual north: on the boundaries of sovereignty. In: *Ethnic and Racial Studies*, 34/1, 103-120.
- Simon, Mary** (2011): The Arctic Council: Tackling sustainable development in the Circumpolar region. In: *Biodiversity*, 3/3, 13.
- Stavenhagen R.** (1985): Etnodesenvolvimento: uma dimensao ignorada no pensamento desenvolvimentista. In: *Ethnodevelopment: an ignored dimension on developmentalist thinking*. *Anu Antropol.* 84, 13–56.
- Tishkov, V. A.** (2005): *Etnologiya i politika*. Moscow: Nauka.
- Toivanen, Reetta** (2001): Saami in the European Union. In: *International Journal on Minority and Group Rights* 8. Netherlands: Kluwer Law International, 303-323.
- Valsinger, Jaan** (2000): *Culture and Human Development*. London: SAGE Publications. Ltd.
- Vladimirova, Vladislava K.** (2011): “We are Reindeer People, We Come from Reindeer.” Reindeer Herding in Representations of the Sami in Russia. In: *Acta Borealia*. Vol. 28/1, 89-113.
- Wainryb, C.** (edt.) (2004): The Study of Diversity in Human Development: Culture, Urgencies, and Perils. In: *Human Development*, 47, 131-137.

Internet Sources

Anaya, James (2011): Report of the Special Rapporteur on the Rights of Indigenous Peoples. The situation of the Sami people in the Sápmi region of Norway, Sweden and Finland. UN Human Rights Council. Eighteenth session. A/HRC/18/35/Add.2. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/138/87/PDF/G1113887.pdf?OpenElement>. (Access: 23/06/2013)

Arctic Council (2011a): Russian Association of Indigenous Peoples of the North (RAIPON). <http://www.arctic-council.org/index.php/en/about-us/permanent-participants/russian-association-of-indigenous-peoples-of-the-north-raipon>. (Access: 21/01/2014)

Arctic Council (2011b): About the Arctic Council. <http://www.arctic-council.org/index.php/en/about-us/arctic-council/about-arctic-council>. (Access: 21/01/2014)

Arctic Council (2011c): Saami Council. <http://www.arctic-council.org/index.php/en/about-us/permanent-participants/saami-council>. (Access: 21/01/2014)

Arctic Monitoring and Assessment Programme (AMAP) (1997): Arctic Pollution Issues: A State of the Arctic Environment Report. Oslo. <http://www.amap.no/documents/doc/arctic-pollution-issues-a-state-of-the-arctic-environment-report/67>. (Access: 12/08/2013)

Brundtland, Gro Harlem (1987): Report of the World Commission on Environment and Development: Our Common Future. <http://www.un-documents.net/our-common-future.pdf>. (Access: 06/08/2013)

Canadian Council on Learning (2009): The State of Aboriginal Learning in Canada: A Holistic Approach to Measuring Success, Ottawa, http://www.ccl-cca.ca/pdfs/StateAboriginalLearning/SAL-FINALReport_EN.PDF. (Access: 09/12/2013)

Gesellschaft für bedrohte Völker (2006): Finnland: Sámi fordern Schutz vor Urwaldzerstörung, Landrechte und Respekt vor ihrer Kultur. <http://www.gfbv.de/inhaltsDok.php?id=679&PHPSESSID=1d93bac1fff909d6b29aafca187cc740>. (Access: 23/05/2011)

Helander, Elina (1992). Die Samen in Norwegen. http://www.norwegen-service.de/Kultur/Die_Samen/hauptteil_die_samen.htm. (Access: 05/05/2011)

Human Rights and Equal Opportunity Commission (1997): Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, Canberra: HREOC.
http://www.humanrights.gov.au/sites/default/files/content/pdf/social_justice/bringing_them_home_report.pdf. (Access: 09/01/2014)

International Labor Organization (ILO) (1989): Indigenous and Tribal Peoples Convention, No. 169.
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_COD:C169. (Access: 13/01/2014)

International Work Group for Indigenous Affairs (IWGIA) (no date): What is self-determination? <http://www.iwgia.org/iwgia>. (Access: 13/08/2013)

Institut für Art Education, Züricher Hochschule der Künste, Department Kulturanalyse und Vermittlung, <http://iae.zhdk.ch/iae/deutsch/glossar/anti-essentialistisch/>. (Access: 01/08/2013)

Lapp Codicil (1751): Available on the website of the Arctic Centre, <http://www.arcticcentre.org/loader.aspx?id=50138dda-3009-4189-9b76-4b9df3f5dcde>. (Access: 13/08/2013)

Larsen, Joan Nymand (2011): Arctic Human Development Report II Regional Processes and Global Linkages. Steffanson Arctic Institute Iceland. Arctic Council.
<http://www.arctic-council.org/index.php/en/document-archive/category/126-50-human-development>. (Access: 20/01/2014)

Nyamu-Musembi, Celestine/Cornwall, Andrea (2004): What is the “Rights Based Approach” all about? Perspectives from the International Development Agencies. IDS Working Paper 234. <http://www.ids.ac.uk/files/dmfile/Wp234.pdf>. (Access: 05/12/2013)

Office of the United Nations High Commissioner for Human Rights (OHCHR) (2006): Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation. New York/Geneva. HR/PUB/06/8.
<http://www.ohchr.org/Documents/Publications/FAQen.pdf>. (Access: 05/08/2013)

Permanent Forum on Indigenous Issues (2011): Study on indigenous Peoples and corporations to examine existing mechanisms and policies related to corporations and indigenous peoples and to identify good practices. UN Doc. E/C.19/2011/12. New York.
<http://www.refworld.org/docid/4dbfb2b32.html>. (Access: 02/01/2013)

Rathgeber, Theodor (2004): Ein gut gehütetes Geheimnis. UN-Dekade der indigenen Völker - Eine Dekade der Rhetorik? Gesellschaft für bedrohte Völker.
<http://www.gfbv.de/inhaltsDok.php?id=156>. (Access: 15/01/2013)

Rodríguez-Piñero Royo Luis (2009): Las agresiones del desarrollo: Pueblos indígenas, normas internacionales e industrias extractivas. In: Relaciones Internacionales 11, 43-78.
www.relacionesinternacionales.info. (Access: 02.01.2013)

United Nations (2005): In larger freedom: towards development, security and human rights for all Report of the Secretary-General. UN doc. A/59/2005. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/270/78/PDF/N0527078.pdf?OpenElement>. (Access: 06/11/2013)

United Nations Declaration on the Right to Development (1986). General Assembly. A/RES/41/128. <http://www.un.org/documents/ga/res/41/a41r128.htm>. (Access: 06/08/2013)

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007). <http://undesadspd.org/IndigenousPeoples/DeclarationontheRightsofIndigenousPeoples.aspx>. (Access: 12/08/2013)

United Nation Development Program (UNDP): <http://hdr.undp.org/en/humandev/>. (Access: 07/04/2010)

United Nation Development Program (UNDP): Human Development Index (HDI). <http://hdr.undp.org/en/statistics/hdi/>. (Access: 12/08/2013)

United Nation Development Program (UNDP) (2004): Stavenhagen, Rodolfo: Indigenous Peoples in Comparative Perspective – Problems and Policies. Background paper for HDR 2004. Human Development Report Office.
http://hdr.undp.org/sites/default/files/hdr2004_rodolfo_stavenhagen.pdf. (Access: 15/01/2014)

United Nation Development Program (UNDP) (1990): Human Development Report. Concept and Measurement of Human Development. New York: Oxford University Press. <http://hdr.undp.org/en/reports/global/hdr1990/>. (Access: 12/08/2013)

United Nation Development Program (UNDP) (1992): Human Development Report. Concept and Measurement of Human Development. New York: Oxford University Press. <http://hdr.undp.org/en/reports/global/hdr1990/>. (Access: 12/01/2013)

United Nations Development Program (UNDP) (2000): Human Development Report. Human Rights and Human Development. New York: Oxford University Press.

http://hdr.undp.org/sites/default/files/reports/261/hdr_2000_en.pdf. (Access: 10/12/2013)

United Nations General Assembly (1948): Universal Declaration of Human Rights. A/RES/3/217 A. <http://www.un-documents.net/a3r217a.htm>. (Access: 22/01/2014)

United Nation Human Rights, Office of the High Commissioner for Human Rights (UNHR) (1966): International Covenant on Civil and Political Rights. <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>. (Access: 12/01/2014)

Graphics

Graphic 1 (p. 33): Subject area of human development. Source: Grey, Andrew (1995): Development Practice and Indigenous Peoples. In: Büchi, Silvia/Erni, Christian (eds.) (1997): Indigenous Peoples, Environment and Development. International Work Group for Indigenous Affairs and Department of Social Anthropology, University of Zürich, IWGIA Document No. 85, Copenhagen, 300.

Graphic 2 (p. 35): Achievements and Milestone of the Drafting of the Arctic Human Development Report. Source: Larsen, Joan Nymand (2011): Arctic Human Development Report II Regional Processes and Global Linkages. Steffanson Arctic Institute Iceland. Arctic Council. <http://www.arctic-council.org/index.php/en/document-archive/category/126-50-human-development>. (Access: 20/01/2014)

Graphic 3 (p. 45): Development of the discourse over the establishment of international human rights standards with special focus on the right of indigenous peoples. Source: Jessner, Melanie (2013)

Graphic 4 (p. 59): Arctic populations (indigenous – non-indigenous). Source: W.K. Dallmann, Norwegian Polar Institute.

Graphic 5 (p. 67): Map of Sápmi:
<http://www.scandinavianadventures.nl/info/sami.html>. (Access: 12/05/2011)

Appendix

Abstract

Purpose

The aim is to analyze currently on-going political debates regarding Sámi people rights within the national as well as international context in the light of a human rights based approach (as a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights). My greater research questions are:

- What would be the content of a human rights based approach (HRBA) to development for indigenous Sámi people?
- What are the key-factors for indigenous peoples' human development in the Arctic region, especially considering the Sámi people?
- To what extent would the Nordic Sámi Convention contribute to the future development of the Sámi people?

Methodology

This thesis lies within the scientific field of development studies, whereat the focus lies on human rights issues in special regard to indigenous peoples' rights and development. The methodological approach I chose is hermeneutics.

Practical Implications

I chose the example of indigenous Sámi people because of a personal interest and experience, studying in Rovaniemi in Finland. The practical example of Sámi people researched under the light of a HRBA should contribute to on-going development discourses and give a clear picture of the (political, cultural, legal, etc.) development process of one indigenous people.

Originality/Value

Within the international discourse of human development, especially regarding the Human Development Report, which has been annually published by the United Nations Development Program since 1990, indigenous peoples resident in the Arctic Region are permanently underrepresented. With my work I want to contribute to the currently on-going discourse on human rights and indigenous peoples with the special focus on Sámi people living in the Arctic.

Abstract - Deutsch

Ziel

Das Ziel dieser Arbeit ist es, laufende politische Diskurse über die Rechte der Sámi, sowohl innerhalb des nationalen als auch des internationalen Kontextes, unter Berücksichtigung des Menschenrechtsansatzes (HRBA – Human Rights Based Approach), der die Herangehensweise an konkrete Probleme oder Situationen unter dem Gesichtspunkt der Menschenrechte beschreibt, zu analysieren. Meine Hauptforschungsfragen sind:

- Was ist der Inhalt eines auf Menschenrechte begründeten Entwicklungsansatzes (HRBA) für die indigene Sámi-Bevölkerung?
- Was sind die Schlüsselfaktoren für menschliche Entwicklung indigenen Völker in der Arktis, unter besonderer Berücksichtigung des Sámi Volkes?
- Welche Auswirkung hätte die Unterzeichnung der Nordischen Sámi Konvention auf die zukünftige Entwicklung der Sámi in den drei Nordischen Staaten Finnland, Schweden und Norwegen?

Methodik

Diese Arbeit lässt sich innerhalb des wissenschaftlichen Feldes der Entwicklungsstudien verorten, wohingegen das Hauptaugenmerk auf den Menschenrechten, mit speziellem Fokus auf die Rechte indigener Völker und deren Entwicklung, liegt. Der gewählte methodologische Ansatz ist Hermeneutik.

Praktische Anwendungen

Ich habe das Thema rund um das indigene Sámi Volk wegen meines persönlichen Interesses und des, während meines Studienaufenthaltes in Rovaniemi in Finnland, gesammelten Erfahrung, gewählt. Das praktische Beispiel des Sámi Volkes, im Lichte des HRBA, soll zu den laufenden Entwicklungsdiskursen beitragen und ein klares Bild über den (politischen, kulturellen, rechtlichen, etc.) Entwicklungsprozess eines indigenen Volkes geben.

Wissenschaftlicher Wert

Innerhalb der internationalen Debatte über menschliche Entwicklung, und unter Berücksichtigung der Human Development Reporte, die seit 1990 jährlich vom Entwicklungsprogramm von Vereinten Nationen herausgegeben werden, sind die indigenen Völker der Arktis permanent unterrepräsentiert. Mit meiner Arbeit will ich zum laufenden Diskurs über Menschenrechten und indigene Völkern, mit dem speziellen Fokus auf das, im hohen Norden beheimatete Sámi Volk, beitragen.

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