

37. Indigenous Legal Practices and Legal Practices Regarding Indigenous Rights in the Circumpolar North

16254 - Russian Law on Indigenous Hunting Rights: A Quarter-Century Onward

Presentation type: Oral presentation

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Hunting continues to play a vital role for indigenous people of the Russian North. Challenges to hunting for the past several decades have included withdrawal of hunting grounds for industrial activities and insufficient state support, during the Soviet period, to make hunting an attractive profession to which youth aspired. In the post-Soviet period, the transition toward a market economy and the concomitant dismantling of those state institutions that formerly managed hunting markedly complicated its situation. Reforms in post-Soviet Russia have redefined property relations, changing the types and tenures of hunting grounds. At the same time, early in the post-Soviet period, subsistence hunting increased, as a response to increased irregularity of food delivery to remote population centres. Opportunities and threats posed by dramatic changes in property relations stimulated calls for legal regulation of hunting, which included specific articles on indigenous rights. More general laws on property rights for indigenous peoples also address hunting issues. This paper examines the evolution of laws influencing indigenous rights to hunting at the federal and sub-federal level in the Russian Federation (post-Soviet period), through a legal geography lens.

16226 - Russian Sami Parliament as an Instance of Indigenous Self-Government in the Russian North

Presentation type: Oral presentation

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Different organizations and administrative commissions have been designed and tested, by both bottom-up and top-down initiative, as mechanisms for indigenous self-governance in the North of Russia: indigenous representatives at the regional and municipal administrations, civil associations, kinship-based units (obshchiny), etc. with different level of success. Complex legal, administrative, and social mechanisms rule and shape their work and efficiency. This presentation will focus on one such attempt, the Russian Sami Parliament, a relatively new institution created with the ambition to resolve contesting claims for indigenous representation and thus strengthen Sami interests in Murmansk Region. Replicating a model of indigenous co-governance that developed in Fennoscandia, the Sami Parliament is without analogues in Russia nor has any foundation in Russian law or administrative policy. Nevertheless, indigenous politicians elsewhere have expressed interest in using this model to structure indigenous representation and self-governance throughout the country, and it has become significant for the Russian indigenous movement. I will look how the Parliament is building legitimacy on different levels - the indigenous community, state authorities, and internationally. What mechanisms and means are available to the Parliament in order to represent Sami in the management and preservation of natural, political, social and cultural resources? This question will be addressed through different perspectives: 1) what legislative provisions allow for such an institution to play a role in the regulation and management of resources 2) what kinds of actual administrative practices followed by state organizations and clerks contribute to the realization of Sami rights to political representation and self-governance 3) what is the role of other social and symbolic resources in everyday negotiations of the Parliament's establishment and participation in the life of local society.

16022 - A Legal Approach to Inuit Harvesting Rights in Nunatsiavut

Presentation type: Oral presentation

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Traditional subsistence activities, such as hunting, fishing, trapping, and gathering, are vital factors in the maintenance and development of indigenous cultures and their economies. The ILO Convention no. 169 establishes an international obligation to promote these practices. In spite of its small number of signatories, the Convention is widely regarded as the parameter of compliance with obligations relating to indigenous people's rights.

Harvesting practices represent social customs, rituals, festive events and crafts. They also embody a specialized language unique to each culture. Therefore, these practices fall under the category of intangible cultural heritage which, according to the 2003 UNESCO Convention deserve protection.

Compliance with international obligations varies. A diversity of attitudes can be observed, ranging from total omission to detailed policies recognizing varying degrees of autonomy for indigenous people's management of wildlife resources as well as protection of their intangible heritage. Efforts of observance can also be identified in countries that are not parties in the ILO nor the UNESCO Conventions but wish to show commitment with the rights of their indigenous peoples. Within this context, Canada can be seen as a remarkable example of how compliance may be achieved through national and subnational legislation and policies.

In this light, this study will examine the case of Nunatsiavut, the last Canadian Inuit territory to achieve self-government. The milestone of this process was the conclusion of the Labrador Inuit Land Claims Agreement in 2005, between the Inuit and the Canadian federal and provincial Governments. The Agreement represents a comprehensive regulation of traditional subsistence activities, including hunting and fishing rights, subject to multi-level controls arising from the complexity of the Canadian federal system.

In the Agreement and complementary legislation hunting and gathering rights are described under the concept of "Inuit Domestic Harvest". The study will clarify what are the rights included, their scope, entitlement and limitations. It is also necessary to approach international treaties regarding wildlife, such as the CITES, which could eventually limit these rights. The powers of the different authorities involved in nature conservation –national and provincial– are to be considered, too.

The study will then address the emerging intangible cultural heritage policy in Labrador. It will explore how there is room for the protection not only of Inuit languages and craftsmanship but also for the harvesting activities of this traditional hunting people. Finally, the research should conclude if the approach used in Nunatsiavut is suitable to achieve a satisfactory protection of indigenous communities' rights in this matters and what are the points that can be improved.