

ILO CONVENTION NO. 169, IN A NORDIC CONTEXT WITH COMPARATIVE ANALYSIS: AN INTERDISCIPLINARY APPROACH. Tanja Joona. 2012. Rovaniemi: Lapland University Press. 345 p, softcover. ISBN 978-952-484-517-5. 30€

ILO Convention 169 is the only legally binding instrument open to ratification that specifically targets the protection of indigenous rights in international law. Adopted in 1989, the treaty recognises indigenous cultural specificities and calls on states to take specific measures in order to ensure the protection of their distinctive livelihoods. Today, the document has been ratified by 22 countries, mainly in Latin America. In Finland, the possibility to endorse the ILO Convention has been discussed for a long time and the government has declared that it intends to ratify the document as soon as its legislation meets its standards.

Against this background, the doctoral research conducted by Tanja Joona analyses the contribution of the ILO Convention for the development of indigenous peoples' rights and the difficulties raised by the ratification process of the convention in the Finnish context. A well-advised reader should be informed that Joona's dissertation is not a monograph and this can complicate the reading and interpretation of the dissertation. The first and the second part of the book constitute a synthesis of her research and include the theoretical framework, the conclusion and main recommendations of the author in relation to her thesis. Part three is composed of four scientific articles published by Joona during the time of her doctoral research. One of them has been translated into Norwegian and is therefore accessible for both English and Norwegian readers while another is solely written in Finnish and is consequently for Finnish readers only. To conduct her research, Joona makes an analysis of the Nordic countries in respect to the ILO Convention while looking comparatively at states that have ratified it, including Norway and Denmark. Her methodology is based on international relations and international law. This choice is justified by the purpose of her doctoral dissertation: 'to analyse the effects of the ratification of ILO Convention on domestic legal and political practices' and 'compare the situation in Finland to that in other country [ies]' (page 19). Thus, the fundamental question Joona seeks to answer is how to better accommodate Sami rights in Finland. While using the ILO Convention as a reference for the protection of indigenous peoples, she identifies two main problems concerned with their rights: the issue of land rights and the question of the beneficiary of those rights. Framed around the analysis of both themes, the thesis provides significant clarifications on the scope and content of the ILO Convention 169. In particular, her examination of Article 1 and Article 13–19 provides useful insights to understand the implication of the convention for the question of Sami rights to land in Finland.

In Norway, Finland and Sweden, where the Sami people live, relevant progress in matters of indigenous peoples' rights has been reported and this development has already influenced each of their respective political and legal systems. However, the interpretation and implementation of indigenous rights to land remain a major challenge. Tensions that have emerged with the recognition of indigenous peoples' rights are mainly due to conflicting interests related to the use of land and natural

resources in the northern most part of the region. Making reference to the ILO Convention for interpreting and implementing indigenous rights at the local level is a valid and helpful basis for any state facing difficulties with indigenous claims. The document provides a framework that especially targets the recognition and implementation of indigenous peoples' rights to lands and natural resources as well as their rights to participation and consultation. With its supervisory bodies, the convention offers specific guidelines for governments on how to comply with indigenous peoples rights and enforce their rights at the domestic level. Ratification of the convention is therefore supported by the author in her work. In this context, the best contribution of Joona's dissertation resides in her capacity to depict the internationalisation of the norms promoted by the ILO Convention into domestic systems of ratifying states. While referring to the work of Risse and Ropp (1999), she accurately describes the impact of indigenous peoples' rights on the legislation and political systems of the states that occurred with the adoption of the ILO Convention. However, she is also careful to underline the limitations of the ILO mechanisms to meet indigenous claims to self-determination and fully accommodate their rights to land and natural resources. Despite the action of the ILO supervisory body, resistance is still encountered at the local level for enforcing indigenous peoples' rights in a manner that satisfies the scope and substance of the convention. To tackle those issues in the Finnish setting, she therefore recommends the government to identify the lands to which the Sami hold rights while considering historical development that has occurred in Lapland.

The second issue examined by Joona in her doctoral dissertation relates to the identity of the benefit holders of the ILO Convention. For the author, it is 'important to define indigenous in a manner that provides these peoples and persons with the possibility to enjoy their inherent rights' (page 35). In the Nordic context, disparities exist as to who can be considered Sami and the view has been taken in Finland to define Sami persons on the basis of their registration on the electoral roll of the Sami parliament. Joona's presumption is however that 'there are more existing Sami than merely the ones marked by Sweden, Norway, and, Finland's Sami Parliament "electoral rolls"' (page 58). Her analysis from the historical and legal background of Sami land rights in Finland intends to confirm her hypothesis and to demonstrate that the Sami definition in Finland is not in conformity with Article 1 of the ILO Convention. In this regard, she recommends the organisation of a census so as to identify who belongs to the Sami community as a whole, beyond the Finnish Sami Parliament's electoral register. Besides, she also argues that a Sami person should be identified on the basis of his affiliation with an area's original inhabitants or on account of his practice of traditional Sami livelihoods. In her view, this would reconcile indigenous peoples' rights as protected within the ambit of the ILO Convention with the legislation in Finland. Although this is beyond the scope of the review to assess the author's conclusion on this particular question, it must nevertheless be acknowledged that the definition of who can be considered as a Sami in Finland is an issue severely debated in the country. The interpretation of the subject of the ILO Convention given by Joona in her dissertation as well as her definition of the Sami cannot therefore be taken at face value.

The doctoral thesis of Tanja Joona originally targets a better accommodation of Sami rights within the state centred system

of Finland and the ratification of the ILO Convention No 169. In account of this objective, her research successfully manages to describe the specific areas of tension that have been issued with the development of indigenous peoples' rights, particularly within the governance of lands and natural resources. Despite major controversies surrounding her interpretation of the benefit holders of the ILO Convention, her thesis upheld the importance of the treaty for the development of indigenous peoples' rights at the international level and also underlines the difficulties raised at the local level for accommodating indigenous rights within the current state-centred paradigm

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