Introduction

The indigenous population accounts for 5% of the global one. Despite its ephemeral population, indigenous communities manage 25% of the land and help preserve 80% of biodiversity and 40% of protected reserves. In Central America, this figure reaches up to 90%[1].

The management of natural resources, living and non-living, contributes to the conservation of ecosystems and the maintenance of local customs and traditions. Inadequate application of environmental policies causes the loss of cultural diversity and Traditional Knowledge (TK). Right of access to information, participation, and justice are the three pillars of Environmental Justice[2]**.** Environmental Justice refers to an equal sharing of environmental responsibilities, benefits, and burdens, which translates into unsafe food, poorer health outcomes, poor resource management, and environmental damage[3].

The UNECE Convention[4] gives people the right to get informed about what happens on their territory, and indeed, it finally raises the indigenous peoples as subjects of law[5]. For this reason, environmental justice plays a functional role in social justice, as it not only supports the equitable distribution of benefits and burdens but also provides the groundwork for the guaranteed protection of interests in the legal system.

The non-inclusion of traditional ecological knowledge (TEK) in the mitigation strategies of the effects of climate change has contributed to the complete exclusion of indigenous populations in decision-making processes. Although indigenous peoples are the greatest victims of environmental transformations, many green projects have allowed the violation of rights that have harmed indigenous territoriality. Many international agencies have finally recognized some powers of resolution of disputes in the ecological field alongside indigenous peoples[6].

1. Historical Excursus: From nationalization of Indigenous Land to Indigenous People as subject to International Law

This research additionally aims to demonstrate how the development of the deliberative processes of indigenous communities promotes the sustainable development of communities

that share a colonial experience. To this purpose, the discussion begins with a historical excursus on how indigenous lands have been gradually nationalized, and how colonization and decolonization have negatively affected the full self-determination of indigenous peoples.

The inclusion of indigenous lands within national borders has centralized the management of natural resources, undermining the effectiveness of the self-determination principle.

The emergence of this principle took place through international law treaties. Despite dynamic jurisprudential and doctrinal evolution, its application remains ambiguous especially based on the subject of reference. Some academics prefer to speak of the "subjectivity" of indigenous peoples rather than the "subject" under international law. This term would, in fact, underline the collective dimension of indigenous rights as had already been addressed in the choice between "people" and "peoples" during the drafting of the United Nations Declaration on the Rights of Indigenous People[7]. The International Court of Justice has recognized the *erga omnes* obligations of this principle, which are recognized as legally binding by all states.

The international community has thus identified the principle of self-determination as *ius cojens*, that is, a core of mandatory rules to protect fundamental values. Independence movements have made this principle take the form of a real "right to self-determination", despite the already mentioned application problems. These applicative uncertainties unfold both from the subjective point of view and at the level of practice.

Regarding the first point, neither doctrine nor practice has managed to identify the target groups of the law, while it is still debated whether this right can also be recognized outside the colonial factor and can lead to the creation of new states.

In this regard, the United Nations General Assembly (UNGA) adopted two important resolutions: Resolution 1541 (XV) and Resolution 2625 (XXV). Resolution XV crystallized a generalized *opinio juris*, followed by a subsequent practice that immediately recognizes the right to self-determination and leaves the people to decide on future relations with the administering state (association or integration). Resolution 2625 (XXV) concerns the principles of international law in friendly relations between states. In this resolution, the

right to self-determination also extends to those scenarios of political and economic subjection from another dominant state.

This concept was also incorporated in Chapter II of the Helsinki Conference and in the Consultative Declaration of the Conference on Human Rights[8]. In 1962, the UNGA adopted Resolution 1803 which introduced the concept of the permanent sovereignty of peoples over natural resources[9]. The Resolution declared that people could enjoy their wealth without being influenced by the states' obligations due to international cooperation.

Considering the non-binding legal nature of the Resolution, the concept was transferred to the first article of the two International Covenants on Human Rights, adopted by the UNGA on 16 December 1966 but entered into force in 1976. The Covenants reaffirm the right of peoples to self-determination and to autonomously manage their natural resources[10]. Applying a cosmopolitan perspective, nature, understood as environmental healthiness becomes a constitutive element of human rights. Environmental protection is linked to numerous human rights, including the right to life, the right to health, the right to water, the right to food, the right to family life, the right to information, the right to housing, and the right to an adequate standard of living[11]. Since the 1960s and 1970s, environmental movements have begun to include human rights within environmental law.

The first official international instrument was the United Nations Conference on the Human Environment in Stockholm in 1972, which adopted a human rights approach to environmental protection. The right to information and expression began to enter the paradigm of environmental justice with the Universal Declaration of Human Rights (art.19), the Aarhus Convention, the International Pact on Civil and Political Rights (art.19) the European Convention for the Protection of Human Rights and Fundamental Freedoms (art.10 on freedom of expression, art.2 on the right to life and art.8 on the right to respect for one's private and family life)). Finally, the African Charter also recognizes the right of the parties involved to have access to environmental information.

At the European level, the Treaty on the Functioning of the European Union (Article 15) establishes the citizen's right to access the documents of the EU institutions. Directive 90/313 of 1990 strengthens the methods of accessing public environmental information. Art. 7 of Directive 2003/4 outlines the obligation of the member state to provide information on

the general state of the environment. Furthermore, Directive 2008/1 grants access to information on installations and programs to mitigate the negative effects of pollution.

2. Environmental Justice as a boost for Indigenous Rights protection

In the evolution of the Environmental Justice principle, it became clear that social groups did not have the same procedural means and the same rights regarding access to natural resources. Indigenous voices, for example, still struggle to play a determining role in political decisions and often do not have the right of veto during the licensing process of activities that concern the exploitation of the natural resources of their territories.

This situation is more complicated if a government fails to ratify important conventions, invalidating most of the effectiveness of other international instruments on the protection of indigenous land rights. The jeopardized implementation of international legal norms among the Nordic countries causes partial and inequitable protection of indigenous rights in the Arctic, even among similar ethnic groups (Sami community).

The multitude of parties involved, and the multidisciplinary nature of the matter has promoted the adoption of different approaches to define the concept of environmental justice. Holifield, Chakrabotyr and Walker envisaged four different approaches[12]:

Distributive environmental justice: This approach concerns the allocation scheme of natural resources between the parties.

Procedural environmental justice: Concerns the degree of fairness in the decision-making processes. An interesting analysis by Cesur and Altunel, analyzed the concept through the principle of public interest (benefit principle). There are cases in which the court has assessed the right to access information regarding the problem of pollution as a human right (Oneryildiz v. Turkey) (Mladenov; Avramovic).

Environmental justice of recognition: As an inclusion of the cultures and values of the stakeholders.

Capability Environmental Justice: Analysis of the actual tools and opportunities that the parties involved enjoy accessing justice systems.

In particular, the Capability Environmental Justice approach is well suited to the needs of indigenous peoples. Above all, this definition analyzes the concrete means of these communities to defend their territory and the rights related to it, namely participation, information and ownership rights.

Considering the various dimensions of environmental justice, it is unsurprising that this concept can be a promoter of indigenous rights by outlining the standards of social justice, and hence non-discrimination, in the face of natural law.

Defining indigenous environmental rights, it is necessary to build a legal framework that includes the major international sources, which are divided into soft law instruments (such as the United Nations Declaration on the Rights of Indigenous Peoples) and legally binding sources (such as ILO n. 169). Among the most cited, environmental conventions such as the Convention on Biological Diversity stand out, but also the conventions on fundamental freedoms such as The African Charter on Human and Peoples' Rights, certainly play an essential role in the balance and inclusion of human rights and environmental health.

The analysis of these sources provides us with a primitive framework for reading on the definition of indigenous rights, in which consent is the basis of cooperation between the government and the indigenous community, and represents the principle of self-determination, definitively overcoming the colonial approach between the state and cultural minorities.

3. Consultation and Participation interplay

Defining consent is, therefore, important to allow adequate discernment between true participation and tokenistic mere consultation. Consensus is important in decision-making processes because indigenous peoples must be able to consciously accept the risks due to mega-projects, such as mines and forestry developments, which concern the exploitation of natural resources for reasons of public utility. By consenting, interested parties can agree

on benefits and opportunities but also compensations, possible relocations, and land transfers in case of damage[13].

Consent is only possible with the fair participation of the interested parties. According to Pretty's analysis, deliberative democracy has different forms. It goes from passive and merely informative participation to more interactive or self-mobilization through political representative bodies or UN institutions[14]. ILO Convention No. 169 also defines the elements of consent, specifying the importance that consent must be free, prior, and informed, but above all, it must be obtained through appropriate means.

Active participation can be done in various ways. Can be conducted: polls, hearings, publications, rules negotiation, and citizens' committees[15]. In citizens' committees, people who do not hold leadership positions are also given the opportunity to participate and ask for further information.

4. Legal aspects and best practices

Establishing a single legal system in the Arctic is a difficult undertaking and the mere thought that there could be an approved legal practice for natural resources borders on pure utopia. Natural resources represent a decisive vector for the self-determination of the indigenous peoples of the Arctic, as they represent a good engine for sustainable development. Sustainable development poses various challenges to states which are called to adapt to the evolution of international law, especially in the field of indigenous participatory rights.

The 2007 UNDRIP offered a new vision of indigenous participatory rights. If previously they were subject to the domestic legal fabric, UNDRIP has embarked on a difficult path for its legal recognition. With the emergence of new international instruments, UNDRIP has been qualified as international customary law and as a general principle of international law[16].

The inhomogeneity in the matter is given by a multitude of variables concerning the recognition of the different needs of the region, different legal systems, different relationships of interconnection and communication with indigenous peoples. The latter point must be analyzed under the lens of the economic and social advantages that are

distinguished between the different Arctic communities. Many communities welcome the economic development resulting from energy exploitation, while others hardly support the impact that mining activities have on traditional activities. These variables determine the diversity of the most appropriate forms for consultation processes and influence the choice of best practices for promoting sustainability.

Below, the national legal instruments for each Arctic state are reported together with the consultative forms provided for by domestic legislation.

Alaska	Canada	Greenland	Norway	Sweden	Finland	Russia
Alaska Native Claims Settlement Act (ANCSA)	Modern Land Claims Agreement	Self-Government Act, 2009	ILO Convention n.169	Swedish Mineral Act (45/91) and corollary law (385/92)	Mining Act (621/2011)	Federal Law "on the rights of the small-numbered indigenous peoples of the Russian Federation"
Environmental and Land Statutes	Constitution	Mineral Act, 2009	Finnmark Act, (85/2005)	Swedish Environmental Code (808/1998)	Land Extraction Act (555/1981)	Federal Law "on the general principles of organization of communities of indigenous peoples of the North, Siberia, and the Far East"
The Alaska National Interest Lands Conservation Act (ANILCA)				Reindeer Husbandry Act (1971) and Reindeer Grazing Act (1886,amed.)	Act on environmental impact Assessment Procedure (468/1994; amed. up to 1011/2009)	Federal Law "on the Territories of Traditional Nature Use by Indigenous Numerically Small-People of the North, Siberia and the Far East"
The Outer Continental Shelf Lands Act (OCSLA)	United Nations Declaration of rights of Indigenous Rights (UNDRIP),2007	UNDRIP,2007	UNDRIP,2007	UNDRIP,2007	UNDRIP,2007	
Alaskan state statutes on oil, gas and mining				Ethnic Minority Law (2009/714)		
			Constitution	Constitution		
			EU water Directive (EWD), 2000	EU water Directive (EWD), 2000	EU water Directive (EWD), 2000	

Table 1: Arctic states' strategies on Consultative rights (click on the table to enlarge it)

As **Table 1** shows, each Arctic state has adopted a different strategy with respect to its own legal order.

Alaska, part of the United States of America, provides for both the Alaska Native Claims Settlement Act, signed by President Nixon, and specific environmental statutes closer to local needs.

The Alaska National Interest Lands Conservation Act (ANILCA) was signed into law in 1980(Public Law 96-487, 94 Stat. 2371) and designates wilderness areas and activities such as subsistence management, transportation in and through parks, the use of cabins, mines, archaeological sites, scientific research studies. It still does not provide for legally binding consultation obligations[17]. The Outer Continental Shelf Lands Act (OCSLA) created on

August 7, 1953, defines the OCS as all submerged lands that lie off state coastal waters (3 miles offshore) that are under the jurisdiction of the United States. Under the OCSLA, the Secretary grants leases and provides guidelines for the implementation of an OCS oil and gas exploration and development program[18]. Over the years, the Government of Alaska has promoted the development of districts with administrative powers capable of supporting regionalized consultation policies. These solutions are periodically evaluated by the EPA (Environmental Protection Agency), which assesses the degree of need for public hearings.

On the contrary, Canada alongside modern land claims agreements provides also constitutional provisions (Sec. 35/1982). The Canadian Arctic is divided into three territories: Nunavut, Northwest Territories (NWT) and Yukon. Each territory boasts one or more agreements with the government. In 1990, the Umbrella Final Agreement was signed, a non-legal document that groups together the various previous agreements and created a system for monitoring and receiving disputes that include land claims, compensation in money, and self-government[19].

Further east, Greenland gained full jurisdiction after the constitutional revision of 2009, which made self-government on the island possible. The first division of competencies between Denmark and Greenland had already been hypothesized in 1979, in which the Home Rule Act raised the right to natural resources for residents to a fundamental right (Section 8).

In practice, supremacy over the management of natural resources is severely limited by the residual competencies that the Danish government still holds. Indeed, Denmark retains the reins on foreign policy and the power to extend or limit the effects of international treaties to the two detached regions, unless these directly affect Greenlandic interests. The main source of Greenlandic legislation is the Mineral Resource Act of 2009 which designates the licensing structure and civil liability of mining companies[20]. The major diatribes are still directed at the uranium mine in southern Greenland, but the newly elected government seems to support the definitive ban on mining in that particular region of the country.

A more pragmatic situation exists in mainland Scandinavia, where the Sami population still feels excluded from major decision-making centers. Norway, Sweden, and Finland present a partially similar legal framework, but they offer a different picture in the area of Sami

rights.

The region of Lapland, where the Sami population resides, stretches from the Kola Peninsula to Norway, crossing the northern coast of the three Nordic states. While in Russia the Sami Parliament is not legally recognized, in Norway the rights of the Sami are well established. In 2005, Norway adopted the Finmark Act which established the following:

- There is an obligation to involve all interested parties in the licensing process.
- The power of the Sami Parliament to issue opinions and recommendations with respect to the development of a project in the Lapland Region is recognized.

In 2005, it was proposed to collect all the statements in a single instrument, namely the Nordic Saami Convention which is divided into seven parts: general rights, governance, language and culture, livelihood, the Convention's implementation, development, and final provisions[21].

Sweden has decided not to ratify ILO 169, the only legally binding instrument in the scenario of indigenous rights. Sweden explained that ILO 169 would go against Article 14 of their constitution, and parliament prefers to work on national law before ratification creates formal conflicts. In fact, the government established a commission in 1997 to point out the reasons why Sweden should have ratified it. In the conclusion of the so-called Heurgren Report of this commission, it is established that Sweden could ratify the Convention if it was able to solve some controversial issues about the right to land of the Sami.

According to the Report, Sweden should recognize Sami Rights and corollary priorities to sustain Sami people in exercising own traditional activities as reindeer husbandry[23]. Subsequently, two acts were issued: The Reindeer Husbandry Act and The Reindeer Grazing Act. In both acts, the land defined for use by Sami is discussed only in regards to maintaining reindeer grazing.

In 1991, the Swedish Parliament issued the Swedish Minerals Act (4 5/91), accompanied by the corollary law (285/92). Notwithstanding the subsequent amendments, the act does not present a reference to the law for grazing reindeer and Sami rights.

In 1998, the Swedish Environmental Code (808/1998) obliged extraction companies to draft Environmental Impact Assessments (EIAs) as a requirement for licensing.

In 2009, Sweden adopted the law on Ethnic Minority (2009/724) which assured the Sami the right to maintain and develop their own culture and the right to participate on issues that concern them. In 2018, Sweden implemented the European directives concerning water policies. The UN system, particularly the CERD, expressly criticized Sweden's belief that the state's not respecting the obligations accepted by the ratification or signature of the Conventions.

As regards the Finnish situation, Finland does not yet have any legally binding instruments with regard to the rights of the Saami. There is no provision for the obligation of the FPIC in decision-making processes. Worthy of note, the Climate Act Reform, scheduled for September 2021, with which the Finnish Parliament is supposed to have a provision to encourage greater participation of Sami people in climate change-related decision-making. Like Sweden, but unlike Norway, Finland has not ratified ILO 169, despite the Saami Council presenting a shadow report (2020) to the United Nations Human Rights Committee asking for the strengthening of the national legislative circuit in defense of Saami rights through the ratification of ILO Convention 169[24].

Still, the Sami way of life has been recognized since time immemorial. In 1751, the Lapp Codicil considered that the Government had to implement all the necessary measures so that the customs and the concept of Sami territoriality were protected[25]. At the constitutional level, the fundamental text includes respect for cultural and linguistic rights without specifying participatory rights. Furthermore, these rights also encounter application limits of a geographical nature. This legislative lacuna has been resolved with reference to the Sami Act of Finland, Article 1 of which specifies the rights to consultations and negotiations[26].

To complete the picture, Russia offers a new panorama on the indigenous rights front. The system of protection of indigenous rights is still unclear, also overlaid by the complex legislative system which includes federal laws and various regions with special status with minimum powers of an autonomous administrative nature. The federal government and all federal sub-structures have exclusive jurisdiction over the rights of indigenous peoples.

Federal laws include the right to continue subsistence activities, valuation of environmental, social, and economic impacts of economic activities on the territory, but weak policies in support of sustainable development for IP[27].

5. Consultations and public hearings

Stakeholders can be involved in decision-making processes by taking different paths (**Table 2**). In many countries (such as Canada, Greenland, Norway, and Sweden), mandatory consultations are arranged with the indigenous communities of the territory at certain stages of issuing the license. In other regions (for example, in Alaska), public hearings are held in order to allow the dissemination of information to all parties involved in the process.

Alaska	Canada	Greenland	Norway	Sweden	Finland	Russia
Public Workshops and hearings in local communities	Consultation	Consultation	Consultation* *Not mandatory	Consultation	Mineral Act, Sec.38 "in co-operation with the Sami Parliament, the local reindeer owners' associations"	General rights of traditional lands and activities**
Communication with local governments		SIA assessment and EIA assessment (SIA as well)	SIA and EIA assessment	SIA assessment	SIA assessment	Mechanisms of consultation of indigenous communities**
The Environmental Protection Agency (EPA) issued its guidelines on how to conduct consultations, applicable on Indian Tribes and Alaskan Natives.			Sami Parliament can issue guidelines			Zoning of traditional lands where economic activities are prohibited** **Not legally binding
						SIA Assessments

Table 2: Different ways of consultative processes (click on the table to enlarge it)

Although public hearings and consultations perform different tasks, they both pursue the same objectives:

1. To obtain grants and further information on the draft regarding the project and license.
2. Provide business agents, locals, and other interested parties with parties.
3. Identify a wide range of public hearings.
4. Give publicity, transparency, and legitimacy to the EIA and Strategic Impact Assessment (SIA), and the authorization process[28].

Consultative measures are also influenced by the political representation structure of the

indigenous community under consideration. For example, the centers of Sami policymaking are Sami parliaments which carry out political leadership activities and communicate with national parliaments.

In this context, Sami parliaments may have the power to issue opinions, recommendations, or even guidelines on how to conduct consultations. Although the Sami parliaments are structured similarly, and the Sami priorities are rather homogeneous, the relations between local and national governments are very different. These discrepancies create a lot of inequality between the Sami themselves in the field of protection of their rights and in the degree of representation.

Finally, sometimes it is the national government that makes important choices for the good of indigenous communities, imposing bans on exploitation in certain areas inhabited by indigenous communities without, however, establishing legally binding consultation obligations, for example; Russia[29].

6. Bureaucratic complexity – The case of Sweden

On the occasion of a workshop in Troms[30], the author addressed the issue of deliberative democracy in the Lapland region, Sapmi, in relation to the management of natural resources in Sweden. The analysis began with a shortlist of the most important steps in the evolution of the mining law and the reasons for the failure to ratify ILO 169 in Sweden. In relation to this circumstance, the special commission elected by the Swedish Parliament in 1997, declared the possibility of ratification of the Convention only after overcoming some issues concerning the recognition of Sami rights and land rights. The discussion on the recognition of Sami rights is still relevant today, above all because national legislation still has gaps and lends itself to ambiguous interpretation. This legislative vaguery affects the current licensing system which, despite including the consultation of indigenous communities, does not set any guideline on the methods of acquiring consent by them. Furthermore, the failure to ratify ILO 169 affects the effectiveness of international instruments already adopted by Sweden, such as UNDRIP and ICCPR[31].

The analysis presented a focus on the situation in Kiruna, where the population is about to be progressively moved to a new area away from the iron mine. The author conducted on-

the-spot questionnaires and interviews with members of the Swedish Saami community and Saami Parliament to establish the degree of active participation of the parties involved in the relocation of housing due to the environmental damage associated with the extraction activity.

Given that Sweden implemented the Aarhus Convention through European law, the author wanted to establish the degree of access to information, public participation, and access to environmental justice by the Saami people in Sweden[32].

As regards the right of access to information, Sweden has an effective digital case advertising system on official networks, accessible online. The right to participation of indigenous communities is included in UNDRIP and the Swedish Mineral Act (by drafting SIA), but the lack of specific rules on how to conduct the public hearing negatively impacts the monitoring of inclusion of populations and the effectiveness of these consultative activities. According to the Mineral Act, preliminary consultations are provided at the beginning of the licensing process. The company must go to the Mining Inspectorate to obtain the mining concession and the institution consults the local representations (Sameby) about the project[33]. The same local representations will be advised about the first EIA by the company[34]. However, considering that ILO 169 isn't applied, the role of the SIA is not clear. The law doesn't clarify if the SIA aims to achieve a high degree of active participation, to obtain the consent of the local community, or to negotiate an agreement between the Saami, companies, and government.

Concerning access to environmental justice, Sweden has a specific procedure for disputes concerning environmental hazards and land cases[35]. In addition, the administrative system provides for alternative conflict resolution solutions, such as mediation. NGOs and indigenous communities can be included in the process through the appeal phase[36]. The major limitation to the access to environmental justice is represented by the reservation of Sweden to the Aarhus Convention, which limits the review procedures by environmental organizations in specific circumstances[37]. However, it is important to specify that the Aarhus Convention does not include any indigenous or minority rights regarding consultation during licensing. To date, Swedish legislation does not provide for any right of veto by the Sami people to stop a mine opening.

Access to information Aarhus (reservation)	UNDRIP
Right to Participation	UNDRIP / Swedish mineral act (SIA)
Access to environmental justice Aarhus (reservation)	Swedish Environmental Code

As previously mentioned, the author conducted interviews with Swedish Saami, and the data that emerged presented a moderate dissent from the Sami communities on the work of the Kiruna Parliament.

Even today, in fact, many members of the communities, especially those who live near the mines, complain about the lack of political inclusion in public consultation systems, in the final phase of the granting of the license, and in case of environmental damage. In fact, the Saami do not have a defined legal position as it is not clear whether they are interested parties or stakeholders in the negotiation phase of the extraction plans.

It is possible to paint the political position of the Swedish Saami, listing some points to solve:

- Weak Saami political representation.
- Insufficient inclusion of the community knows to me along the licensing path.
- The ambiguity between right to consultation and right to consent (FPIC).

The solutions to these problems are to be found between politics and national legislation. As the Kiruna Parliament has expressed in its political standpoint[38], a first step would be the ratification of ILO 169 which would have the double effect of raising the community Saami as stakeholders and defining the goals of domestic mining legislation to reach a free, prior and informed consensus, thus going beyond the limit of mere consultation. Obviously, the need to obtain a consensus would strengthen the political position of the Saami which could still be resolved in an alternative way to ILO 169, by simply changing internal legislation and providing more opportunities for inclusion of the Saami in the natural resources sector. Offering training, working on tenders and consultancy planning are some potential routes. Current domestic legislation is not yet able to guarantee the complete protection of

indigenous rights, limiting itself to allowing the use of land for grazing reindeer[39]. Agreeing that the right to self-determination does not necessarily imply a property right on land, the interpretation of the law on ethnic minorities is not yet clear, in so far as it establishes the right of indigenous peoples to maintain and develop their culture if, to the Saami culture closely linked to Nature, no right to enjoy the land is recognized but only a "right to specific use". Finally, a further solution to the Saami's political weakness could also be a strengthening of the collaboration between the Kiruna Parliament and the national one, still very compromised by political systems and parliamentary representation which are not yet fully inclusive.

Conclusions

First of all, the major issues related to indigenous participation in the sector must be addressed.

According to Sam Morley, many problems that hinder the full inclusion of indigenous peoples in decision-making procedures are to be found in the capacity for representation and coordination between central and decentralized political bodies[40]. In fact, in small communities with many needs particularly, there is insufficient coordination in the issuance of services and programs.

Often, indigenous communities and their representatives do not have sufficient power to propose effective action or policy plans that reflect the true priorities that affect the communities. This concerns the allocation of benefits from the exploitation of natural resources as other issues of social interest, such as gender equality or education.

Over the years, many diatribes have arisen around the possibility of strengthening the protection of human rights by ratifying treaties such as ILO 169 or designating international guidelines for companies to have guidance to enable greater dialogue with indigenous communities. This dialogue would not be limited only to consultations, but also to outline a training and development framework that is traced and would like to have more opportunities for study and work.

Another problem is the lack of transparency of the procedures that accompany the various

stages of licensing, especially to determine how crucial the consultations were.

Obviously, all these proposals need an internal legislative change with the hope of greater developments that consider the indigenous communities in the area.

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[24] HAETTA K., *"Saami Council: Finland must repair the human rights violations and ratify ILO 169 Convention"*, on official Website of Saami Council, April 2021 (https://www.saamicouncil.net/news-archive/finland-must-repair-the-human-rights-violations-and-ratify-ilo-169-convention). I highly recommend also: ALLARD C., *"The Rationale for the Duty to Consult Indigenous Peoples: Comparative Reflections from Nordic and Canadian Legal Contexts***",** 2018 in *Arctic Review on Law and Politics* DOI: 10.23865/arctic.v8.723, in particular paragraph 3.2-3.3.1

[25] For further information about Lapp Codicil, I suggest the review of this article: SUONINEN I. E,*"Court case between Swedish reindeer herders and the State of Norway: Trying the validity of "Lapp Codicil"*, for Yle Sampi, 2018 (https://thebarentsobserver.com/en/arctic/2018/11/court-case-between-swedish-reindeer-herders-and-state-norway-trying-validity-lapp)

[26] Section 1 — Objective of the Act (1279/2002) (1) The Sámi, as an indigenous people, have linguistic and cultural autonomy in the Sámi homeland as provided in this Act and in other legislation. For the tasks relating to cultural autonomy the Sámi shall elect from among themselves a Sámi Parliament

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*Decisions: Perspectives from Sami Communities and Swedish State Officials"*Arctic Review on Law and Politics Vol. 10, 2019, pp. 4–23 (available onhttps://arcticreview.no/index.php/arctic/article/view/1323/3025 , accessed on 14th October 2020)

[31] UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples : resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295, available at: https://www.refworld.org/docid/471355a82.html (accessed 14 February 2020); UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: https://www.refworld.org/docid/3ae6b3aa0.html (accessed 14 February 2020)

[32] EUROPEAN JUSTICE, "*Access to justice in environmental matters – Sweden*", Last update: 31/05/2018 (accessed on 14th February 2020)

[33] The Swedish Environmental Code was adopted in 1998 and entered into force 1 January 1999.

[34] LAWRENCE R.; LARSEN R.K, "*Fighting to be herd, Impacts of the proposed Boliden copper mine in Laver, Älvsbyn, Sweden for the Semisjaur Njarg Sami reindeer herding community*" Sydney Environment Institute, University of Sydney, Stockholm Environment Institute, April 2019, pp.19-24 (https://www.sei.org/wp-content/uploads/2019/04/sei-report-fighting-to-be-herd-300419.pdf, last accessed 14th February 2020)

[35] Environmentally hazardous activities are condemned in Chapter 9 of the Swedish Environmental Code.

[36] HOJEM P. ,"Mining in the Nordic Countries :A comparative review of legislation and taxation",Norden, Denmark, 2015 (https://norden.diva-portal.org/smash/get/diva2:842595/FULLTEXT01.pdf, accessed on 14th February 2020)

[37] UNECE, CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN

DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS , Aarhus, Denmark, 25 June 1998

[38] SAMEDIGGI, "*Minerals and Mines in Sàmpi*", 2015 (https://www.sametinget.se/mining, last accessed on 14th February 2020)

[39] The Reindeer Husbandry Act and the Reindeer Grazing Act mention the "land use" only for reindeer grazing. In 1991, the Swedish Parliament issued the Swedish Minerals Act (4 5/91), accompanied by the corollary law (2 85/92). Notwithstanding the subsequent amendments, the act does not present a reference to the law for grazing reindeer and Sami rights. In 1998, the Swedish Environmental Code (808/1998) obliged the extraction companies to draft the EIAs as a requirement for licensing.In 2009, Sweden adopted the law on Ethnic Minority (2009/724) which assured the Sami the right to maintain and develop their own culture and the right to participate on issues that concern them.

[40] Morley S., "*What works in effective Indigenous community-managed programs and organisations*", CFCA Paper No. 32 , May 2015 (https://aifs.gov.au/cfca/publications/what-works-effective-indigenous-community-managed-programs-and-organisations)