

DISSERTATION EXPOSÉ

Preliminary Title:

The Human Right to Adequate Food of Indigenous Peoples in the Context of the Sustainable Development Goals

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Degree program: UA 783 101

Research Field: Human Rights, Legal Anthropology, Indigenous Legal Studies

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1. Introduction and Description of Research Areas

The human right to adequate food is one of the most complex human rights with a high level of relevance in a variety of domains. It is interconnected with many problems related to nutrition such as public health, food production and food systems and therefore also climate change and the protection of the environment. Additionally, there are relations to other important social questions such as gender roles and the distribution of decision-making power within households, as it is still mostly women who prepare food at home. Furthermore, the aspect of children, children's rights and children's nutrition (for example the growing evidence of long-lasting effects of micronutrient deficiency called "hidden hunger") are also relevant in the context of the human right to adequate food¹.

The human right to adequate food has a broad legal basis in international human rights documents, such as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Elimination of all Forms of Discrimination against Women. The requirements under this human right – to respect, to protect and to fulfil – can be realized on the different levels of society. Therefore, its goals are reachable by various political measures.²

There are certain vulnerable groups, which face an even more challenging situation in term of their nutritional safety, one of them being the indigenous communities around the world.³ They account for 15% of the world's poor⁴

¹ Lemke, Stefanie, and Treena Delormier. 2017. "Indigenous Peoples' Food Systems, Nutrition, and Gender: Conceptual and Methodological Considerations." *Maternal and Child Nutrition* 13(June 2017): 1–12. Schutter, Olivier De. 2011. Report to the Human Rights Council A/HRC/19/59 Report Submitted by the Special Rapporteur on the Right to Food.

² Courtis, Christian. 2019. "The Right to Food as a Justiciable Right: Challenges and Strategies." *Max Planck Yearbook of United Nations Law Online* 11(1): 317–37

³ Desmarais, Annette Aurélie, and Hannah Wittman. 2014. "Farmers, Foodies and First Nations: Getting to Food Sovereignty in Canada." *Journal of Peasant Studies* 41(6): 1153–73.

⁴ Indigenous Peoples' Major Group. 2018. *Statement from the Indigenous Peoples' Major Group Delivered by Gunn-Britt Retter (Saami Council): Review of the SDG Implementation - SDG 15*.

population and are therefore affected by even harder social and health-related consequences. When one thinks about the fact that 22% of the earth surface lies in the hands of indigenous peoples, which accounts for 80% of the global biodiversity⁵, it becomes evident that the inclusion of the situation of indigenous peoples is necessary for solving the aforementioned problems.

The human right to adequate food can also be found in the United Nations Declaration of the Rights of Indigenous Peoples. Furthermore, there is also a connection to other legal documents relating to indigenous rights such as various bio-protocols (such as the Nagoya Protocol). One could argue that the complex way of life of indigenous peoples is mirrored in the various intersections of indigenous rights. Beside the theoretical basis and case law decisions, terms like food security, food sovereignty and its relations to tradition knowledge and free, prior and informed consent must be considered in order to reach a full understanding of the complexity of the indigenous right to adequate food.⁶

The Sustainable Development Goals of the United Nations are a set of 17 global goals for creating a more sustainable way of life. As it will be shown, the policies to reach human right to adequate food can be found in a number of these goals, such as Goal 2 “Zero Hunger”, Goal 3 “Good Health and Well-Being” and Goal 10 “Reducing Inequalities”. Especially the latter plays a crucial role for the realization of indigenous rights as well. There seems to be a strong correlation and interconnection between strategies to realize the human right to adequate food in general and of indigenous peoples and steps to reach the

⁵ United Nations Economic and Social Council, *Update on Indigenous Peoples and the 2030 Agenda for Sustainable Development (E/C.19/2019/2)*, Permanent Forum on Indigenous Issues, 2019

⁶ McClain-Nhlapo, Charlotte. 2004. “Implementing a Human Rights Approach to Food Security.” *2020 Africa Conference Brief 13*: 1–4.

SDGs⁷. This is a promising thought when one thinks about the urgency and relevance of indigenous peoples for finding solutions for the various challenges mentioned above.

2. Research Questions

This dissertation seeks to answer the main research questions:

- Which relationship consists between the right to adequate food of indigenous peoples and other indigenous rights and their assertion and the realization of selected sustainable development goals?
- To what extent is the indigenous right to adequate food mirrored in the United Nation's SDGs?

Besides, the thesis seeks to address the following sub-questions:

- Which role does the human right to adequate food play in solving the problem of global malnutrition, especially for indigenous peoples?
- What is the legal basis of the human right to adequate food of indigenous peoples, and to what extent has it been realized in court rooms?
- What are the intersections between the human right to adequate food and other indigenous rights?
- Which SDGs can be realized by asserting these rights?
- Which state responsibilities in relation to indigenous peoples can be interpreted under the human right to adequate food?

⁷ Golay, Christophe. 2018. "No One Will Be Left Behind - The Role of United Nations Human Rights Mechanisms in Monitoring the Sustainable Development Goals That Seek to Realize Economic, Social and Cultural Rights. Academy Briefing No. 11." *Geneva Academy* (January): 1–106.

Sterling, Eleanor J. et al. 2020. "Creating a Space for Place and Multidimensional Well-Being: Lessons Learned from Localizing the SDGs." *Sustainability Science* 15(4): 1129–47.

- Which connections exist between the human right of adequate food (in general and of indigenous peoples) and the SDGs?
- How has the Covid-19 pandemic affected the indigenous right to food?
- What is the legal basis for the right to adequate food of indigenous people in Greenland, especially in connection to the right to culture? How have whale and other environment protection mechanisms impacted food security in the area?
- What are the connections between the access to land and the realization of the human right to adequate food in Guatemala? In what way does the human right to food offer solutions for the current malnutrition situation?

3. State of research

Over the last years it has been shown that there is a strong interconnection between the human right to adequate food and several indigenous rights in the international human rights literature. As the access to food is dependent on access to land and food practices form an integral part of a community's culture, there is a strong link to land rights and the right to culture.

A right to food context can be seen in several indigenous rights, such as the right to life, right to health, right to water and the right to land. However, as it has been shown, there is a specifically strong connection to the right to self-determination⁸. Topics like food security and food sovereignty of indigenous communities are also considered in this context, as well as other important questions in indigenous legal studies such as traditional indigenous knowledge or free prior and informed consent.⁹

⁸ Golay, Christophe, and Irene Biglino. 2013. "Human Rights Responses to Land Grabbing: A Right to Food Perspective." *Third World Quarterly* 34(9): 1630–50.

⁹ Ghosh-Jerath, Suparna et al. 2020. "Leveraging Traditional Ecological Knowledge and Access to Nutrient-Rich Indigenous Foods to Help Achieve SDG 2: An Analysis of the Indigenous Foods of Sauria Paharias, a Vulnerable Tribal Community in Jharkhand, India." *Frontiers in Nutrition* 7(61): 1–26.

This thesis integrates into the current state of research by conducting a detailed analysis of the present human right obligations, whose practical implications will be shown by discussing case law and the judicature of human and indigenous rights. The human right to adequate food will be analyzed, especially in relation to indigenous peoples and the sustainable development goals. This gives a three-step structure: the human right to adequate food in general, the human right in connection to indigenous rights, and the human right of indigenous peoples in the context of the SDGs.

Especially the third step of the dissertation represents a new perspective for the current research, as the aim of this thesis is to set the previously established theoretical conclusions in the context of the Sustainable Development Goals of the United Nations and thereby conjure a connection to the current global discussion of sustainability. The detailed analysis of the connections between the human and indigenous right to adequate food, the related political measures and the role of the SDGs will be the main contribution of the dissertation to the current state of research.

4. Methodology

In the first chapter of this dissertation, the legal basis of the human right to adequate food will be evaluated in general.

Methods will include historical, systematical and teleological interpretations of various legal sources. Scientific studies, comments and reports of international organizations will complement the resources, while the discussion of selected case law decisions will add a more practical view to the issue.¹⁰

As a next step, this human right will be discussed in the legal framework of indigenous peoples and will be additionally set in the context and goals of the sustainable development goals. As a main source for the theoretical analysis,

¹⁰ Such as the cases of *People's Union of Civil Liberties (PUCL) v. Union of India* (2003), *Rarasea vs. State of Fiji* (2000), *Government of the Republic of South Africa and Others v Irene Grootboom and Others Case* (2000) or the impact of the FAO's and WFP's "Home Grown Feeding Framework"

legal documents and especially the decisions of international monitoring organizations for indigenous rights and other international organizations will be used.¹¹ Regional or national documents, government or NGO materials or case law will be used to highlight specific problems. The analysis will focus on the legal background, possible intersections and differences between the themes and implication for concrete policy measures.

The third step will bring together the results of the preceding evaluation and answer the research questions.

Wherever relevant, the impact of the Covid-19 pandemic on the indigenous right to adequate food will be discussed to make reference to a current development.

There seems to be several ways the pandemic has impacted the situation of indigenous people, especially regarding the indigenous right to self-determination. As the pandemic is still ongoing and therefore very little scientific publications are available at the time of writing the exposé, digital sources might have to be used to obtain necessary information.

As has been mentioned, the human right to adequate food is indivisibly connected to the right to land and the right to culture. After the theoretical analysis of the human right to adequate food, a more practical approach will be taken to show these interconnections in the form of a case study. National and international grants and scholarships will be reviewed in time in order to ensure undertaking a research trip in the countries of the case studies in 2023.

The first study will focus on the right to adequate food of the indigenous people in Greenland. Special attention will be paid to the issue of traditional whaling and how these practices are part of a community's cultural identity.

¹¹ Such as the cases of Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya (2003), Kichwa Indigenous People of Sarayaku v. Ecuador (2002), Saramaka People v. Suriname (2014), The Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria (2002), Sawhoyamaxa Indigenous Community v. Paraguay (2006) and R. v. Côté v. Canada (1996)

Additionally, the influence of whaling restrictions and other environment protection regulations on indigenous food security in the area will be examined. For this, NGOs active in Greenland such as IWGIA and the ICC Greenland have already been contacted.

A second research study will focus on the link between access to land and the realization of the human right to adequate food, shown on the example of Guatemala. The country has some of the highest rates of malnutrition in the world – 47% of all children are stunted, but the rate can be as high as 70% in mostly indigenous areas.¹² Contact to several experts living in Guatemala has already been established, and more research will be done to identify experts and representatives that might agree to give interviews about the current situation.

5. Personal Motivation

My personal motivation for the research topic originates from the fact that I had the chance to address the issue of the human right to adequate food twice in very different settings during my academic career. Firstly, I wrote my seminar paper about the legal basis and theoretical implications of this human right during my exchange semester at the University of Copenhagen. Secondly, I was able to conduct in-depth research about the connection between the human right to adequate food in the context of children's rights and the global issue of malnutrition during my internship with "Sight and Life", a global nutritional foundation in Switzerland. This work focuses on the role that the legal framework might play in solving the problem of the rising hidden hunger and improving early childhood nutrition. The article "A Children's Rights approach to the Double Burden of Malnutrition" was subsequently published in the

¹² <https://www.usaid.gov/sites/default/files/documents/1864/Guatemala-Nutrition-Profile-Mar2018-508.pdf> (accessed 25.08.2021, 20:10)

foundation's journal.¹³ My passion for the interconnection between the human right to adequate food and malnutrition is the reason why I want to conduct a case study in Guatemala about this topic.

Furthermore, I have already written my seminar paper during my diploma studies of law with Dr. Kuppe and have developed a strong interest in indigenous peoples since then. Hence, it was only logical to decide to deepen my knowledge regarding the fascinating topic of the human right to adequate food and conduct an in-depth analysis of the complex context of indigenous people.

My motivation for doing a case study about the topic in Greenland stems from the fact that I was born in Copenhagen and grew up bilingually speaking German and Danish. The analysis could be evaluated in a more detailed manner as my language ability enables me to conduct the analysis of national legal documents and statements without the need for translation. There arise interesting issues concerning the human rights situation in Greenland as an autonomous territory of the Kingdom of Denmark and the application of European human rights standards, which I seek to analyze in detail in the case study about Greenland.

6. Provisional Structure

Chapter I – Introduction

Chapter II - The Human Right to Adequate Food

Chapter III – The Role of the Human Right to Adequate Food in the global (mal)nutrition status

¹³ Mortensen, Julie Teresa 2018. "A Children's Rights Approach to the Double Burden of Malnutrition." *Sight and Life Magazine*. 32 (2): 119-124.

Chapter IV – The Human Right to Adequate Food of Indigenous Peoples

Chapter V – The Human Right to Adequate Food in the Context of the SDGs

Chapter VI - The Human Right to Adequate Food of Indigenous Peoples in the Context of the SDGs

Chapter VII – Case Study I: The human rights to adequate food of the indigenous population in Greenland

Chapter VIII: Case Study II: Right to Food, land rights and nutrition in Guatemala

Chapter IX - Conclusion

7. Timetable

Winter semester 2020 VO Legal Methods (380001)

SE Doctoral seminar on religious law, law of culture and anthropology of law (380009)

SE Seminar on Legal Philosophy and Religious Law: Human Rights - Women's Rights (030425)

Summer semester 2021 Seminar in the subject of the dissertation I:

SE Indigenous Legal Studies: Self-determination and decolonial Law (030227)

Composing of Chapters I, II, III

Winter semester 2021 Seminar in the subject of the dissertation II
Completion of Chapters I, II, III
Detailed Research

Summer semester 2022 Composing of Chapters IV, V, VI
Detailed Research on Case Studies
Field Trip Preparation

Winter semester 2022 Completion of Chapters IV, V, VI
Research field trips

Summer semester 2023 Completion of Chapters VII, VIII, IX
Research field trips

Winter semester 2023 Review
Submission
Defensio

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