

JUR-36xx: Indigenous Peoples rights to land, resources and livelihood (10 crd.)

The course is administrated by

Faculty of Law at the UiT- The Arctic University of Norway, in cooperation with the Centre for Sámi Studies at the UiT, and the International Centre for Northern Governance and Development (ICNGD) at the University of Saskatchewan

Type of course

Indigenous Peoples rights to land, resources and livelihood (in national and international law) is offered in the spring semester.

This course specification should be seen together with the Program Specification for the Joint Master's Degree in Governance and Entrepreneurship in Northern and Indigenous Areas (GENI) UiT-The Arctic University of Norway and the University of Saskatchewan, Canada.

Admission requirements

The student must be enrolled in the GENI-program at either UiT-The Arctic University of Norway or University of Saskatchewan.

Course contents

For students on the Master programme, the course builds upon their knowledge of indigenous issues acquired during in their undergraduate education.

The course offers the students an overview of the status of protection of the rights indigenous peoples to enjoy their culture, lands and livelihood in international and national law (Norway). The teaching will thus be based on international legal instruments of relevance to indigenous peoples such as, among others, the 1989 ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, the 1966 International Covenant on Civil and Political Rights and the 2007 United Nation Declaration on the Rights of Indigenous Peoples. National law protecting indigenous livelihood in Norway will also have a wide place in the course.

Objective of the course

Student acquired knowledge:

Having passed the exam, the student has:

- Advanced knowledge of international indigenous people law, including:
 - Characteristics in international law (definitions) of indigenous people. Understanding of the Sámi as an Indigenous People in Norway, including the historical development of Sámi status and land rights.
 - Indigenous peoples' right to self-determination, governance and legal protection for their natural resources and traditional lands.
 - Procedures established in international law related to consultations, including the concept of Free, Prior and Informed consent (FPIC). Implementation in Norway.
 - The interpretation of the concept of culture and cultural rights nationally and internationally in relation to Indigenous Peoples.

- The ways, in which international may be implemented into national legal systems, exemplified by the Finnmark Act.
- Advanced knowledge of property law and natural resources law concerning indigenous people, including:
 - How to assess evidence of use in indigenous land claims
 - Differences in the rules of defining rights to land and natural resources in the Canada and Norway, including aboriginal title, immemorial usage (the Selbu Case).
 - Resource management legislation and environmental protection legislation (Norway).
 - Rules on acquiring and acknowledging rights to title and usage based on prolonged usage generally, and particular in relation to indigenous Sámi (the Finnmark Act).
- Thorough knowledge of doctrine of sources of law (legal methods) and legal systems, including:
 - Types of law; statutory law (constitutional law, civil law, public laws management law etc.), customary law, case law
 - How to reason and what to build on when taking position on legal issues.
 - International law systems, national law, customary law and indigenous people's law, Civil law and common law
 - Significance of statutory law, case law, bills, other sources of law

Student acquired skills:

Having passed the exam, the student will:

- Be able to identify and apply the relevant sources of law in connection to Indigenous Peoples' rights to land, natural resources and livelihood.
- Be able to identify and analyze issues of theoretical and practical categories related to Indigenous and local peoples' rights to natural resources and livelihood
- Be able to explain the implications of the frameworks for Indigenous peoples' right to self-determination, governance and legal protection for their natural resources and traditional lands.
- Be able to identify and discuss the limitations of different legal systems – nationally and internationally.
- Be able to apply basic methods of law – particular in relation to indigenous issues.

Student acquired competence

Having passed the exam, the student will

- be qualified to analyse indigenous Peoples' issues related to land, natural resources and livelihood and to communicate the results in a professional way. Hence, the student will be qualified to apply basic law issues in professional positions at different levels of public management, in the private sector, and planning development processes. The qualifications will be a part of the required knowledge given in the GENI program.

Language of instruction

All teaching will be in English.

Teaching methods

The teaching consists of a combination of lectures and seminars and exercises, comprising a total of 20 hours. The students will receive the lectures as interactive video-distance teaching. The students are expected to be prepared and active during the seminars in discussing legal approaches to the issues at hand. Students are expected to study independently in periods of no seminars or lectures.

Syllabus

Mattias Åhrén, *Indigenous Peoples' Status in the international legal system*, Oxford University Press 2016, 264 p.

Claire Charters and Rodolfo Stavenhagen (eds.), *Making the Declaration Work. The United Nations Declaration on the Rights of Indigenous Peoples*, IWGIA, Copenhagen 2009, 390 p

Nigel Banks and Øyvind Ravna, «*Recognition of Indigenous Land Rights in Canada and Norway*», *International Journal on Minority and Group Rights* xx (x) 2016 40 p. [To be published]

Øyvind Ravna, «The Fulfilment of Norway's International Legal Obligations to the Sámi – Assessed by the Protection of Rights to Lands, Waters and Natural Resources», *International Journal on Minority and Group Rights* 21 (3) 2014 s 297–329 DOI: [10.1163/15718115-02103001](https://doi.org/10.1163/15718115-02103001). (32 p)

Øyvind Ravna, «The Draft Nordic Saami Convention and the Assessment of Evidence of Saami Use of Land», *The Proposed Nordic Saami Convention. National and International Dimensions of Indigenous Property Rights*, Hart publishing, Oxford 2013 s. 177–205. (28 p)

Assessment

The course is assessed through a written home exam (ten days), written in English. The exam may include theoretical and/or scenario questions.

The course includes a small, mandatory paper, and only students who have completed this requirement is eligible to take the exam.

The grading scale of A to F is applied, where F constitutes fail. Students who fail their examination are entitled to re-sit the examination, cf. Regulations for examinations at the University of Tromsø Sec. 22.