EUROPEAN MASTER'S DEGREE IN HUMAN RIGHTS AND DEMOCRATISATION 2009/10

The debate on indigenous peoples' rights in international law. Assessing the impact of the United Nations Declaration on the Rights of Indigenous Peoples in Mexico.

Author: Janis Corda Supervisor: Ana Cristina Nogueira da Silva

12 July 2010

Acknowledgements

I would like to thank my supervisor, Ana Cristina Nogueira da Silva, for her guidance, support and patience.

This dissertation is dedicated to the memory of Carlos Montemayor.

Contents

Abstract, 4

Table of acronyms, 5

Preface, 7

Chapter I. The debate about multiculturalism under the political theory and the international law, $\boldsymbol{8}$

- Ia. Multiculturalism from the perspective of the political theory, 9
- Ib. Multiculturalism from the perspective of the international law, 18

Chapter II. Indigenous Peoples under International Law, 20

- IIa. Similarities and differences between the concepts of national minorities and indigenous peoples, 20
- IIb. Indigenous peoples' claims in international law: an overview of the different approaches, 24
- IIc. Indigenous people and the ILO, 27

Chapter III. Indigenous Peoples and the United Nations, 36

- IIIa. Drafting the UN Declaration on the Rights of Indigenous Peoples, 36
- IIIb. Negotiating the Declaration: controversial issues and the impasse of the process, 38
- IIIc. UN instances for the protection and promotion of indigenous peoples' rights, 43
- IIId. The implementation of the Declaration, 46
- IIIe. The role of the SR on indigenous issues, EMRIP and PFII in implementing the Declaration, 49

Chapter IV. The impact of the Declaration in Mexico, 54

- IVa., Indigenous peoples in Mexico, 54
- IVb. The emergence of the issue of indigenous peoples' rights, 55

IVc., The constitutional reform about indigenous rights, 57

IVd. Mexico and the Declaration on the Rights of Indigenous Peoples, 62

IVe. Implementing the Declaration at the national level, 64

IVf. Mexico's discourse on the Declaration before the UN human rights mechanisms, 74

IVg. Assessing the impact of the Declaration in Mexico, 77

Conclusions, 79

Bibliography, 82

Abstract

The research begins with a broad overview of the main features of the contemporary debate about multiculturalism, from the perspectives of the political theory and the international human rights law. The second chapter focuses on the approach of international law towards a particular feature of multiculturalism, that is, indigenous rights. Particular attention is given to the analysis of the recent developments of the debate about indigenous peoples' rights within the United Nations specialised agency for labour issues, the ILO. Also, the participation of the indigenous organizations in the process of international standardsetting, in its different stages, is described. The third chapter addresses the way indigenous peoples' issues acquired progressive relevance within the UN system, in a process that culminated in the historical adoption of the Declaration on the Rights of Indigenous Peoples, the most comprehensive international instrument dealing with indigenous peoples. The last chapter analyses the impact of the Declaration in Mexico, one of the countries that supported its adoption the most. Particularly, the research focuses in the State actions to implement the Declaration and the role of the UN human rights mechanisms to foster Mexico's compliance with it. The outcome of the research is that so far Mexico has not undertaken the necessary reforms in order to make the Declaration effective in the country, with the aim of establishing substantially multicultural social relations.