

# **Conservation of the diversity of natural and cultural resources through the application of the Intergenerational Equity Principle in Arctic constitutions: comparative observation of Indigenous rights on “future” healthy environment in Norway and Alaska**

Sara Fusco<sup>1</sup>

<sup>1</sup>*University of Lapland*

*University of Akureyri*

*ArcticFive Fellowship*

Environmental constitutionalism is a rapidly developing global legal process, which has the objective of promoting mitigating and compensative solutions in favor of maintaining biological diversity. This phenomenon has been promoted by the strengthening of the of social values justiciability whose dependence on a healthy environment has reached international debates. Environmental constitutionalism promotes ecological conservation through environmental oriented interpretation and application of law.

Environmental constitutionalism is as important especially in regions that are most prone to climate change. The Arctic is an environment that suffers greatly from global warming which is putting the cultural and natural diversity of the region at risk. In fact, the Arctic is inhabited by 500,000 people who identify as indigenous who identify themselves through traditional activities practice. Although six indigenous organizations are Permanent Participants in the Arctic Council, many communities still fight for their political, social and economic rights related to the limited use of land and natural resources. Indigenous environmental governance is based on the uses and customs related to the environment (fishing, hunting, reindeer herding...) suggesting a bottom-up participation that seeks to influence the central state in implementing policies against the ecological degradation. Access to natural indigenous cultural heritage has been already particularly compromised by the climate crisis. For example, Saami environmental cultural heritage includes places of offering and celebration in nature (e.g. a rock, a mountain, a landscape) disappeared and many other traditional activities are impracticable due to environmental changes (such as coast erosion, mining, sustainable development projects and changes of the land use of destinations).

Despite the rich literature on culturally oriented environmental rights, the persistent reluctance of supreme courts to recognize environmental rights as enforceable makes indigenous participation in environmental decision-making processes still too weak. This raises important ethical reflections on the balancing of environmental benefits and responsibilities between indigenous and non-indigenous communities in the maintenance of ecological biodiversity. There could be greater liability on individuals with minimum footprint, such as Indigenous peoples facing an important ecological-cultural loss. Ecological-cultural loss refers the limited ability to use natural resources in order to perpetuate the traditions in which the individual places his identity. What role do Indigenous peoples have in relation to intergenerational equity? What role does Indigenous natural culture play in respecting environmental biodiversity? What responsibility do states have in maintaining ecological biodiversity if domestic law respects indigenous cultural law?

Furthermore, the exemptions granted to Indigenous peoples in the use of otherwise limited resources (e.g. whaling) advance the hypothesis that the principle of intergenerational equity is not in reality universal but applied on the basis of ethnocultural diversity.

Among the Arctic constitutions, only the constitutions of Alaska and Norway also have a clarification on Intergenerational Equity. The presentation aims to demonstrate how the principle of Intergenerational Equity applies to the indigenous populations of the Arctic, analyzing the constitutional texts and the relevant jurisprudence.

The adopted methodology includes consultation of domestic and international legal sources and the analysis of existing literature on Intergenerational Equity principle and Indigenous Rights.

Keywords: Arctic; Indigenous Rights; Intergenerational Equity; Constitutional Law