

## **8 RESEARCH WITH THE SÁMI OF RUSSIA: MOVING FORWARD**

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### Introduction

The outbreak of the war in Ukraine in 2022 has posed significant challenges for researchers to carry out their studies with Indigenous peoples in Russia. These obstacles have prompted many to reevaluate their research strategies and approaches. This chapter offers me an opportunity to share my former research experiences and contemplate future directions for conducting research, particularly in the context of the current socio-political realities shaped by the war.

One of the ways I intend to move forward is to carry out a post-doctoral project to explore the impact of the war on the rights of Sámi individuals moving from the Russian part of Sápmi to Sápmi in the other states of Fennoscandia. The project will identify whether new agendas to renegotiate these rights arise.

This project is driven by the needs of Sámi individuals who have relocated. Some of these individuals have expressed an urgent need for the research to explore the range of rights they have in the states to which they have immigrated. The reason for this is that they have applied for asylum in these states more than two years ago, despite still residing in their own ancestral lands (Sápmi). If their asylum applications are denied and they were forced to return to Russia, they might risk criminal charges and imprisonment, as some are affiliated with organizations advocating for the rights of Indigenous peoples in Russia. Some of these organizations have been labelled as extremist by Russian authorities (Ministry of Justice of the RF, Supreme Court of the RF; Zmyvalova 2024b). The significance of this research is underscored by the discussions within the Sámi community (Edvardsen 2023), the Norwegian Sámi Parliament, the Sámi Council, Swedish (Sjögren 2023; Söderlund 2022), Norwegian, Russian (Severreal 2023; Nilsen 2022) and international media (BBC 2023). Many Indigenous organizations and individuals have condemned the Russian Ministry of Justice's decision to label Indigenous human rights organizations as extremist, emphasizing that this decision suppresses human rights initiatives and highlights the need for protection for those advocating for Indigenous rights in Russia (Saami Council 2024; Sveriges Radio 2024; SVT 2024). Despite the considerable attention that this topic has received across various platforms, significant gaps in the existing research remain.

## From language rights to asylum seekers' rights: My academic journey

In 2013 I obtained a law degree from the Northern Arctic Federal University in Arkhangelsk, Russia; since then, my research has focused on the rights of Indigenous peoples in Russia (Zmyvalova 2015, 2018). After pursuing a multidisciplinary master's program in Indigenous Studies at UiT – The Arctic University of Norway), in 2016, I started a PhD at Umeå University in Sweden, where my topic had a multidisciplinary profile in Sámi studies.

My academic journey has made me aware of that a legal perspective alone is insufficient for a comprehensive understanding of the issues related to Indigenous peoples' rights. In both my master's and PhD projects, I pursued a socio-legal approach. In addition to the legal method that has been central to my research, I applied methods that allowed me to engage directly with the communities I researched.

Researching on Indigenous rights in Russia has always presented challenges. These challenges particularly concerned the need for careful ethical considerations to not cause any harm to Indigenous communities. These challenges have become even more pronounced since the start of the war in Ukraine.

### *Note on positionality*

Some issues on positionality arose in my former research, including my expertise in law, my outsider's status in Indigenous communities, and the socio-cultural experiences of growing up and studying in Russia. Being a researcher with a Russian background (cultural, linguistic, educational) now based in Sweden continues to impact my work.

Firstly, I studied law in Russia. This has impacted my understanding of legal systems in general. The specifics of the Russian legal tradition consist in both the hierarchy of legal sources and peculiarities of legal interpretation. On the one hand, the familiarity with the Russian legal tradition helps me better understand Russian law as it applies to the situations relevant for the Russian Indigenous peoples. On the other hand, this "Russian" legal lens does not necessarily coincide with the established legal doctrine beyond Russia.

Secondly, as self-reflection on legal training led me to the conclusion that a solely legal approach is insufficient for researching Indigenous peoples' rights, I adopted a multidisciplinary approach to research. This pushed me to pursue multidisciplinary programs in my graduate work. Additionally, during my PhD studies, I undertook several visits to the Department of Sociology of Law at Lund University to expand my knowledge of the method and theory in socio-legal research. Socio-legal research will continue to inform in my post-doctoral research, contributing to theoretical discussions that I will employ within Indigenous contexts. However, the multidisciplinary approach also brings with it challenges, as the integration of diverse corpora of

research and methodologies comes with the risk of diverging from long running and rigorous intellectual traditions.

Thirdly, not being a member of any Indigenous community, I can be regarded as an outsider. Russian by origin, when conducting research in Russia I am an insider in the Russian context. I spoke Russian with Indigenous research participants in Russia, the language they commonly used. However, although I possessed some “insider” knowledge when conducting research with Indigenous peoples of Russia on their language rights, I did not share the perspective of being a member of either a linguistic minority or an Indigenous group educated in the majority language.

In my current post-doctoral project, I share with the participants of the research the experience of immigration from Russia, creating a point of connection. However, the reasons for our emigration and the conditions we now face vastly differ. Although I share a background understanding of many of the issues discussed with the participants, I must remain mindful of the distinctiveness of their experiences and perspectives.

My knowledge of the issues discussed with the participants of previous research projects, coupled with a lived experience of growing up in Russia, allowed me to contextualize the interview data. This familiarity with Russian realities also enabled me to navigate many practical aspects of the research intuitively. For example, during my PhD field research, I decided not to record interviews, but to take only field notes. This decision was made to avoid creating a barrier, because recording can often make participants feel self-conscious or inhibited. Taking notes is less intrusive and promotes a more natural and open conversation (Herzfeld 2023). Another example was the choice to receive informed consent orally from participants. Earlier field experience with Indigenous communities in Russia had demonstrated that requests to sign a written forms sometimes created a tense atmosphere. The post-doctoral project will similarly require careful consideration of issues related to data collection, as well as data analysis and the dissemination of the research results.

### *PhD research before and after the start of the war in Ukraine*

The two main methods of my PhD project were legal analysis and interviews. Application of both methods was significantly impacted by the circumstances created by the war. Additionally, the dissemination of the research findings was affected.

My PhD research concerned the right of Sámi children to learn their language in school and lived experiences of this right in the Russian Sámi community. I first selected and interpreted relevant legal sources (Peczenik and Pattaro 2005). Choice of the legal provisions to consider is contingent on the hierarchy of the legal sources in international and national law. For instance, according to Article 15(4) of the Russian Constitution, international principles and norms are formally an integral part of the Russian legal system. However, an analysis of Russian legal practice reveals

that Russia is increasingly distancing itself from its prior international commitments. Recent changes in Russian legal practice regarding the hierarchy of legal sources indicate that the Russian Constitution is now considered to take precedence over international law (Zmyvalova 2023a). Russia withdrew from the European Council in 2022 and the European Council, in its turn, cancelled Russia's membership (Committee of Ministers 2022). Furthermore, Russia's signature of the European Charter for Regional and Minority Languages is considered suspended from 16 March 2022 (Chart of signatures 2024). Russia denounced the Framework Convention for the Protection of National Minorities on 19 October 2023 (FL 2023). These events encouraged my decision to alter my analysis of the legal sources in question (Zmyvalova 2024a). Constant changes in the Russian legal sources are a continuing challenge for my research. The ongoing developments require constant monitoring. Access to relevant legal sources is often limited, especially due to recent political and legal changes. Despite these limitations, it is still possible to conduct analysis of Russian legal sources. While the constant changes in the Russian legislation create challenges for research, they present the opportunity to trace legal shifts, which constitute an relatively unexplored area.

The war impacted my fieldwork. In 2017 and in 2019 I undertook two trips to the Murmansk Oblast, the region where most Russian Sámi reside. Regrettably, plans for subsequent trips were thwarted. First postponed due to the outbreak of the COVID-19 pandemic, they were then cancelled in 2022 due to the war. The decision to cancel the trips was difficult. Representing Western academia, I could have created risks for Sámi community members in Russia. They could have been accused of allying with the "hostile" West, an action strictly forbidden by the Russian authorities from the start of the war (Pallin et al. 2023). Such an "alignment" can lead to severe consequences (Meduza 2023), including being labeled a foreign agent (HRW 2022; FL 2022; Criminal Code 2022: Article 275.1) or even imprisonment (Golubev and Litavrin 2023). In today's Russia, characterized by deterioration of human rights (Katzarova 2023; HRW 2024), any collaboration or even communication with Western representatives is considered dangerous.

According to my research experience (Zmyvalova and Outakoski 2019), even before the war, the Sámi community in Russia had already been cautious of any contacts with researchers from abroad. I refrained from conducting on-site research after February 2022 to avoid putting them at risk. Already in 2017 and 2019 their cautious way of communicating with foreign researchers made me aware of the need to consider the potential risks from their collaboration. Individuals who I approached for interviews were suspicious of my research enquiries and asked about consequences of contributing to my project. All this caused a long and taxing process of establishing trust relations. The decision to cancel subsequent field trips for the safety of the project's participants was also driven by my university's strong condemnation of Russia's invasion in Ukraine, which made any collaboration with individuals in Russia

undesirable.<sup>1</sup> Continuing my research on the rights of Indigenous peoples in Russia through on-site fieldwork was not a viable option.

The war also impacted my methodological choices for data analysis. The first choice I faced was whether to use the names of the project's participants. Initially, I planned to include the names of those who indicated that they wished to be identified. However, after the start of the war, I reconsidered the potential risks for their safety and decided against mentioning any personal names; I also chose not to use pseudonyms. The second choice concerned presenting the interview data by groupings of participants. This concealed the identity of individual participants for their safety, as well serving to highlight common opinions of different groups. The third choice concerned not mentioning specific geographies when possible. For example, when using the data obtained from participants affiliated with a certain educational institution, I did not name the institution. This made it less likely that participants could be identified, since several higher educational institutions in Russia provide Sámi language courses. However, in some contexts, avoiding the institution's name does not ensure anonymity: Sámi language is taught in only one school in Russia.

Finally, the war significantly affected communication of the results of my research. I initially planned to travel to Russia to share the findings of my research with local collaborators, and to present the results to both Russian and international academic communities. Additionally, I aimed to communicate these findings to a broader audience, including decision-makers in the field of Indigenous rights. I intended to prepare a booklet in Russian that would provide information about the Sámi's rights to learn their language in school, based on my analyses of both international and Russian law. It was to be written in an accessible manner to inform the community members about their rights. The war impacted my communication strategy. Firstly, I was unable to travel to Russia, so that I had to communicate the results of the project online to my partners. Secondly, I was unable to present the research results in person at the regional library in Murmansk and the local library in the location where the Sámi language is taught, as I had hoped to do. Instead, I shared copies of my thesis with these libraries, ensuring that the local community had access to the materials (although the dissertation was in English). Thirdly, although I originally planned to share the results of my project with colleagues in Russia by attending scientific meetings there, I currently have no intentions to do so.

Over time, new opportunities for disseminating the results of my study emerged. I presented the research results in various scientific conferences. One such conference was the 2024 Polar Law Symposium. Among my audience there were the former UN Special Rapporteur on the Rights of Indigenous Peoples S. James Anaya and Vice Chair of the Saami Council Åsa Larsson Blind. Furthermore, one of the supervisors of

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1 For more details on university policies concerning collaboration with Russia (Allemann 2024; Laptander et al. 2024). Position of the Research Council of Sweden regarding the collaboration with Russia and Belarus (Vetenskapsrådet 2023).

my PhD project, Hanna-Máret Outakoski, was invited to speak at the United Nations High-Level Political Forum 2024. Among other topics, she shared information about my research.

### Moving forward: Research after the start of the war in Ukraine

From the very onset of the war in Ukraine I made up my mind to continue researching Indigenous peoples' rights in Russia. The urgent need to speak up about their rights has always been my primary motivation. If these rights were significantly limited even before the war, after its start, they were violated to a much greater degree (Zmyvalova 2023a). Violations concern, inter alia, the rights to lands, language rights, and freedom of expression.

I began to handle two research topics simultaneously: my PhD project (in its final stages) and the pressing research topic on Indigenous rights in Russia during the war time. The journal *Arctic Review on Law and Politics* served as a platform to disseminate information about the rights of Indigenous peoples of Russia during the war time. The journal called for publications addressing "how the war in Ukraine impacts human rights in general and the rights of Indigenous peoples living in the Arctic in particular, as well as other environmental, economic, and energy-related issues" (Ravna 2022). The debate section of the journal provided the opportunity to publish open-access research updates on topical issues within a short timeframe.

When discussing the situation with human rights of Indigenous peoples of Russia with a Russian Sámi activists who moved to another state within Sápmi, I was deeply touched by this person's experience of emigration. This person had to leave due to disagreements with the political regime in Russia. This person avowed that they "have always opposed the political regime in Russia suppressing Indigenous peoples". When the war started the concerned person decided to leave Russia. After two years of waiting for the asylum decision the person in question feels unwelcomed by the country to which they moved. At the same time, this person feels alien to Russia. "I left everything behind in Russia. Some others stay at home with their families and go on with their lives. They chose not to protest. So, I wonder whose choice was right?" I have come across other stories like this, which drove me to draft a post-doctoral project on Russian Sámi emigration to other parts of Sápmi.

### On Indigenous peoples of Russia, but outside of Russia: Current research project

My post-doctoral project is entitled "Sámi peoples' rights: Are there any emerging agendas in light of the war in Ukraine?" The war has caused a large migration crisis in Europe (UNHCR 2022; European Commission 2022) that not only involves

Ukrainians seeking refuge, but also encompasses migration from Russia to European countries (Kantchev et al. 2022; Boutsko 2022; Re-Russia 2023). Many members of Indigenous groups, including Sámi individuals, have left Russia (Zmyvalova 2023c). If local Indigenous communities have faced a prolonged discrimination, it heightened after the start of the war (Zmyvalova 2023a).

Sámi politicians and activists have raised concerns that Russian Sámi asylum applications are being processed without recognition of their cultural and territorial ties to Sápmi (Heitmann 2023). For instance, Silje Karine Muotka, the head of the Sámi Parliament of Norway, has advocated for their right to reside throughout Sápmi, irrespective of borders (Larsen 2022). At the same time, the increase in migration numbers is pressuring authorities in Norway, Sweden, and Finland to enforce stricter scrutiny of asylum claims (European Commission 2024). This raises crucial questions about whether the war is impacting the political discourse on the rights of the Russian Sámi within Sápmi.

My newly launched research aims to assess how the war has influenced the rights of Russian Sámi individuals who are migrating within Sápmi, and whether new agendas are emerging in Sámi and migration politics as a result.

### A socio-legal approach to the research

In the post-doctoral project I continue to adopt a socio-legal approach, employing a theoretical framework informed by Roscoe Pound's classic theory of 'Law in books' and 'Law in action' (Pound 1910). Pound's theory offers insights into the implementation of legal provisions on asylum applications, and how this implementation can be understood within the context of evolving socio-political agendas. Its key idea is that there exists a "general lag of law relative to social conditions, the failure of legal thought to take into account advances in the social sciences, the rigidity of legislation, and defects in the administration of law" (Deflem 2008:100). In other words, the theory addresses the gap between law *per se* (Law in books) and the practice of its implementation, i.e. activity of judicial and executive branches of power (Law in action) (Banakar 2015).

Interpreting Pound's theory, A. Javier Trevino (2013:43) stated that "[t]he challenge and task for judges and other lawyers, acting as social engineers, was to formulate a reasoned scheme for valuing conflicting interests and arrive at social consensus through compromise." Mathieu Deflem (2008) argued that, according to Pound, law needs to reflect interests of as many people as possible. In case of contradictions between the "Law in books" and the "Law in action," there arises a need for their harmonization. Regarding which should prevail, either the "Law in books" or the "Law in action." David Nelken explained that Pound favors the "Law in action" "as the model for new law" (Nelken 1984:167).

The legal regulations that can apply to Russian Sámi immigrants moving to other parts of Sápmi constitute the “Law in books.” Implementation practice of migration authorities constitutes the “Law in action.” Analyzing these two levels will unveil whether contradictions exist between the former and the latter. If contradictions are identified, this may prompt new discussions on reconsideration of the rights of immigrants of Sámi origin from Russian Sápmi. This process of reconsideration is achieved through “harmonization.” Harmonization implies that diverse societal interests must be considered and assessed. These diverse societal interests must be incorporated into new legal regulations.

Pound’s theory informs the stages of the post-doctoral project and the selection of the research methods. I will apply a legal method when examining the “Law in books,” i.e. examining the Schengen and Sweden’s, Norway’s, and Finland’s national legal regulations on asylum applications of individuals with the Sámi background, which consists of “the systematic, analytically evaluative exposition of the substance” of relevant legal sources (Peczenik and Pattaro 2005: 1).

Two levels of migration regulations exist in the Schengen member states, namely the European Schengen regulations<sup>2</sup> and the migration regulations of the Sweden, Norway, and Finland. When individuals apply for asylum in Norway, Sweden, and Finland, these two-level regulations apply.

Having examined the content of the relevant legal provisions, the post-doctoral project will examine implementation practice of migration authorities. Indigenous politicians’ opinions will also be explored (e.g., Sámi parliament’ members opinions). I will scrutinize the relevant documents of migration authorities of Sweden, Norway, and Finland, and interview Sámi individuals who moved from Russia, and the Sámi politicians.

### *Challenges*

While one of the challenges for my current research lies in the impossibility of conducting fieldwork in Russia, the project was designed to not require the fieldwork in Russia. Still, on-site fieldwork in Russia could give a more comprehensive picture of the situation. The inability to engage with Indigenous communities in Russia creates a significant difficulty in capturing a full picture of Indigenous views on the topic.

The ethical principle of not causing harm to participants is also related to my second challenge. Sámi individuals who have migrated from Russia are very few in numbers. The decision on their asylum is not yet taken and some of them risk being required to return to Russia. Disseminating information collected during interviews with them

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2 Article 12 (2) of the Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.



could potentially create problems for them from public authorities in Russia, where they have to return. A key challenge will be to decide whether I can identify participants by name in the research findings while anonymizing the interview content. My experience of researching with Indigenous individuals after the start of the war in Ukraine has demonstrated that some participants explicitly wish their names to be included, to raise awareness among authorities and the academic community about the challenges they face. Others prefer to remain anonymous due to fears of punishment by Russian authorities if they were to have to return to Russia. Safety concerns are a central issue in discussions about Indigenous peoples in Russia, frequently addressed on various platforms. For instance, during the 17th Polar Law Symposium, Åsa Larsson Blind emphasized that communication with the Sámi in Russia has been halted by the Saami Council, in part because of the current political regime posing significant risks for Russian Indigenous communities that interact with Western representatives (PLS 2024). This situation underscores the sensitive nature of the research in question and the importance of navigating ethical and safety considerations carefully.

## Conclusions

The war in Ukraine has brought about significant challenges for Indigenous peoples in Russia, including in their cooperation with Indigenous peoples in other states. It has also impacted the researchers' way of doing research with Indigenous communities.

The war has only added to these challenges. Despite this, it is of crucial importance to continue addressing the topic of human rights of Indigenous peoples of Russia. To this end, in this chapter I have related my research experience and outlined a way forward in studying an aspect of this topic, given the current circumstances. While I cannot fully engage with Indigenous communities in Russia, the research can shed light on the rights of those who have relocated, and hopefully can support them, as well as contributing to scientific knowledge, and raising awareness of the issue within both the academic and broader communities.

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