

**SAMI LANDRIGHTS, NORWEGIAN LEGISLATION AND
ADMINISTRATION**

by

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Preface

This report is a presentation of a small glimpse of the legislation, and the administrative bodies, that are important for the control and use of land in Norway. The report aims to provide a snapshot, and is not intended to undertake any in-depth analysis of factors affecting land use.

The report is the result of two months' work. For reasons of capacity it has been necessary to sacrifice certain important aspects of the subject: this applies to maritime law, in which legislation concerning fisheries, aquaculture, hunting and land use is relevant, and also the legislation related to renewable resources on shore.

I would like to express my gratitude to Professor Kirsti Strøm Bull for sound commentary and suggestions for improvements to the report, and also Marit Myrvoll, board member of the Resource Centre for the Rights of Indigenous Peoples, for input and commentary while the work was in progress. In addition I would like to thank Else Grete Broderstad and Ingar Nikalaisen Kuljok for commentary during the process.

I would like to emphasise that the responsibility for any incorrect formulations in the report as a whole is nevertheless mine alone, at the same time as I hope that readers will take the time to provide comments and feedback in relation to both the choices made and the content of the report.

Eva Josefsen
Alta, May 2003

CONTENTS

1.	Introduction.....	4
2.	Some terms related to land rights	6
3.	Norway's obligations.....	8
3.1	The 1966 International Covenant on Civil and Political Rights, Article 27	10
3.2	ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries	10
3.3	The formal status of the Sámi.....	13
4.	Land-use - legislation and administration.....	14
4.1	Introduction	14
4.3	State land	15
4.3.1	Statskog SF	15
4.3.2	Finnmark	17
4.3.2.1	The Land Sales Act.....	17
4.3.2.1	Finnmark Land Sales Office.....	18
4.3.2.2	Draft Finnmark Act.....	19
4.3.3	The Uncultivated Land Commission for Nordland and Troms	21
4.3.4	North-Trøndelag and southwards	21
4.3.4.1	The Uplands Act	21
4.3.4.2	The Uplands Boards	22
4.4	Planning, nature conservation and cultural monuments	24
4.4.1	Land-use administration	24
4.4.1.1	The Planning and Building Act.....	24
4.4.1.2	The municipal and county levels of the land-use administration	25
4.4.1.3	Regarding Sámi interests in the Planning and Building Act	26
4.4.2	Nature conservation	27
4.4.2.1	The Nature Conservation Act.....	27
4.4.2.2	The administration of environmental protection.....	28
4.4.3	Cultural Monuments	30
4.4.3.1	The Cultural Monuments Act.....	30
4.4.3.2	Administration of the Cultural Monuments protection.....	30
4.5	Other legislation and administration	31
4.5.1	Reindeer husbandry and land-use	31
4.5.1.1	The Reindeer Husbandry Act.....	31
4.5.1.2	Administration of the reindeer husbandry.....	33
4.5.2	Mining and land use	34
4.5.2.1	The Mining Act	34
4.5.2.2	Administration of minerals.....	35
4.6	Summary.....	36
5	The development of law.....	38
5.1	Introduction	38
5.2	Some central Supreme Court judgements after 1968	38
5.3	From legal development to administration.....	41
6.	Brief presentation of Swedish and Finnish legislation.....	43
6.1	Introduction	43
6.2	Sámi land rights in Finland.....	43
6.3	Sámi land rights in Sweden	45
7.	Conclusion	48
	Bibliography.....	49

1. Introduction

The mission of the Resource Centre for the Rights of Indigenous Peoples, as enshrined in its statutes, includes:

“collecting, developing, systematising, maintaining, processing, organising and disseminating relevant information and documentation regarding the rights of indigenous peoples nationally and internationally. The Resource Centre can also point out research needs in relevant areas.” (Article 2 of the statutes¹)

The Board of the Centre has given priority to Sámi land rights in its activity plan for 2003. This report, focusing as it does on current legislation and its administration, is a concrete follow-up of this priority. The Resource Centre for the Rights of Indigenous Peoples wishes to create a presentation of the legislation and administration of significance for Sámi land rights so that the general public, private and public institutions, local politicians, bureaucrats and students wanting to know more can receive a simple introduction to the subject.

There have been two central questions in the debate on Sámi land rights (Somby 1999): in the first place, whether the Sámi own, and in the second place, whether the Sámi have legally protected use rights to, these areas. In connection with the report of the Sámi Rights Commission² on Sámi land rights in Finnmark, it appears that sections of public opinion perceive that an introduction of Sámi land rights will mean a radical and negative change in the rights of non-Sámi inhabitants.

There is a clear difference between Norwegian and Sámi legal culture (Uggerud 1996). Norwegian legal culture takes the form of the legal system of a nation-state. Courts, the national parliament, ministries and other governmental and public authorities are carriers of a Norwegian culture and mentality that may come into conflict with, or fail to see, Sámi culture. In addition, the Norwegian legal culture is a written one and has a well-developed apparatus of power behind it, whereas Sámi legal culture is based on oral transmission. The last part of

¹ Laid down by the Minister of Local Government 6 March 2002, c.f. www.dep.no/krd.

² The Sámi Rights Commission has submitted a report on Sámi land rights in Finnmark, (NOU 1997:4). The Commission is continuing its work and will deal with traditional Sámi-populated areas from Troms and south to Hedmark. It commenced this work in 2002 and is supposed to complete it in 2005.

the report will therefore provide a presentation of some central developmental features as regards the judgments handed down by the Norwegian Supreme Court in recent years.

As the review in this document will show, a number of laws are relevant to the management of land without the interests of the Sámi population being specifically mentioned or regulated to any particular degree.

The main focus of the report will be on the most important statutory regulation of Norwegian land use³, and how the law as regards Sámi rights has developed over the last few decades. It should be noted, however, that the selection of acts is not exhaustive, and that there are many other laws that could have been included. Considerations of space and capacity have dictated a prioritising. In the presentation of the individual acts, too, priorities have been enforced. It is therefore recommended that the acts be read in their entirety in order that the texts may be fully understood. Regulations issued pursuant to these acts will not be discussed in detail, but referred to in special cases; but see www.lovdatab.no, where there is a link from the individual act to the main sets of appurtenant regulations.

The report will not deal with defence legislation or that related to petroleum exploitation or watercourse regulation (hydro power). Nor will it present legislation or administrative measures related to hunting, trapping or other renewable resources, provisions on outdoor recreation or the use of motor vehicles on uncultivated (unenclosed) land. Legislation and administration related to salt-water fisheries are also excluded, as are regulations governing use of sea areas, for example for aquaculture. Other acts that will not be presented in the report, but are relevant to land use, include the Land Act (Act of 12 June 1995 relating to Land) and the Forestry Act (Act of 21 May 1965 relating to Forestry and Forest Protection).

³ The report will not deal with other legislation directed to the Sámi community, for example the various Sámi Acts, the Sámi language acts, or legislation in the sectors of education, health and culture.

2. Some terms related to land rights

In connection with questions regarding ownership right and use rights to territories in traditional Sámi-populated districts, some terms recur.

The term Right of ownership (*eiendomsrett*) embraces the right to control one or more objects (for example, houses, fields, forests). This applies both in relation to being able to use and exploit the object oneself and at the same time prevent others from doing the same, provided that such use and exploitation by others is not governed by Norwegian law. As the term is used by modern lawyers, it is not flexible enough to include the Sámi understanding of control of natural resources.

The owner's control is also restricted by, for example, environmental provisions, municipal zoning decisions and other public regulation. Restrictions are also imposed on the owner's control or right of ownership by for example right of use and public rights.

The Right of use (*bruksrett*) means that someone who does not own the object nevertheless has the right to a defined form of use, for example pasturage. The use rights can vary.

The term Public right (*allemannsrett*) means that everyone has a right to move about in uncultivated land, regardless of who holds the title, see the Open-Air Recreation Act of 28 June 1957. Public right has a limited legal protection.

The Right of common (*almenningsrett*) is a type of right of use in areas that are defined as common land, which may be owned by either the State (*statsalmenning*) or the local community (*bygdealmenning*). Here we will confine ourselves to the former, state-owned commons.

Collective rights (*kollektive rettigheter*) are rights vested in a community, for example a *siida*, a rural settlement, a restricted group. The right of use and exploitation of the property remains intact as long as one is part of this community.

Immemorial usage (*alders tids bruk*) is established when a use has been enjoyed without interruption for a long time and in good faith.

Custom or usage (*sedvaner*) and opinion of what law should be (*rettsoppfatninger*) may be understood as terms for regular practice or traditional modes of action. A custom is created when opinions are formed over time through acts involving several persons or groups, for example through use of natural resources. Article 8 of ILO Convention No. 169 specifies that indigenous peoples' "customs and institutions" shall be taken into account in the application of national law and regulations.

The term tolerated use (*tålt bruk*) means that the use of a property occurs with the owner's more or less explicit consent, and that he can halt this use at any time. The right of common is a tolerated use in that the right ceases to apply if uncultivated land is enclosed.

The term land use (*grunnforvaltning* or *arealforvaltning*) is in this context used to mean control of land area, lakes, tarns, rivers, streams, offshore areas belonging to the landowner, and the sub-surface.

The term natural resource management (*naturforvaltning*) is in this context used to mean the management of renewable resources such as woodland, fish and game.

3. Norway's obligations

Norway's obligations vis-à-vis the Sámi as an indigenous people are enshrined in both national and international legislation. Norwegian authorities have several times expressed a desire for Norwegian Sámi policy to accord with international standards, at the same time as a continuous development of Sámi policy in Norway can help to create the premises for international legal development in the area.

Norwegian Sámi policy is based on national values regarding the State's relationship to its indigenous people. In various contexts, the authorities have stated that it is a desideratum for Norwegian society as a whole that Norway be maintained as a multicultural community. It is also emphasised that Sámi culture has a value of its own and should be upheld in the interests of the national state's overall cultural image, as expressed when the Sámi Act of 12 June 1987 was passed (see Odelsting Recommendation No.79 (1986-87)).

When the Sámediggi (the Sámi Parliament) was created by the Storting (the Norwegian Parliament) in 1987⁴ and Article 110a of the Norwegian Constitution was passed by the Storting in 1988, this took place inter alia on the basis of the Sámi being a separate people with their own culture.

Article 110a of the Constitution:

“It is the responsibility of the authorities of the state to create conditions enabling the Sámi people to preserve and develop its language, culture and way of life.”

During the parliamentary discussion, it was stated that the Sámi ethnic group is in a special position among the ethnic and cultural minorities in Norway. There is, for example, no national state that is founded on and upholds Sámi culture and social life. The Sámi people is thus dependent on Norway (and also Sweden, Finland and Russia) seeing the importance of the preservation of Sámi culture and language (Myrvoll 1999). Subsequently, Norwegian authorities have also recognised the Sámis' affiliation with their traditional settlement districts, as expressed inter alia in H.M. King Harald V's speech at the opening of the Sámediggi on 7 October 1997, in which he said that “*the Norwegian state is founded on the territory of two peoples – Norwegians and Sámi.*”

⁴ Act of 12 June 1987 concerning the Sameting (the Sámi Parliament) and other Sámi legal matters.

Since then, the Council of Europe's Convention on Protection of Human Rights and Fundamental Freedoms from 1950, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both UN documents from 1966, have been incorporated into domestic Norwegian law via the Human Rights Act of 21 May 1999. Should these conventions and covenants and other Norwegian legislation be found to conflict, the provisions of the Convention/Covenant shall take precedence. ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries has not been incorporated via the Human Rights Act.

The Norwegian state has a number of obligations that apply to all or part of its population. These obligations are based on international norms that are gradually being enshrined in international law, and in values internal to states that are expressed in national legislation.

International law consists of treaties and conventions that states sign or ratify. International law is also called "the law of nations".

These two levels, international and national norms, do not operate independently of one another. On the contrary, there is such a tight interaction between the development of national norms and international standards that it would be very difficult to ascertain which level is decisive for the trend. It has, however, been claimed that Norwegian Sámi policy has grown up as a result of Norway's ambitions to behave as a civilised state in which human rights are emphasised (Dunfjeld 1995).

A review of central authorities' most important documents, for example the various Storting Reports on Norwegian Sámi policy and the Storting's consideration of these, also show that international law is an important part of the foundations of Norwegian Sámi policy. Two conventions in particular are emphasised: the 1966 International Covenant on Civil and Political Rights and ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries⁵.

⁵ See NOU 1997:5 Indigenous Peoples' Land Rights under International Law and Foreign Law; need and basis for a Nordic Sámi Convention, report from the Nordic working party for the Nordic Sámi Convention December 1996 – January 1998 for an amplification of the conventions and a presentation of other relevant international conventions and treaties.

3.1 The 1966 International Covenant on Civil and Political Rights, Article 27

In the International Covenant on Civil and Political Rights of 1966, it is particularly Article 27 that is emphasised. This article reads:

“In those States in which ethnic, religious or linguistic minorities exist persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”

Both UN bodies and the Storting have agreed that the Article’s use of “culture” also embraces the material basis of Sámi culture. This means that exercise of traditional Sámi economic activity must be protected against encroachments on the landscape that can render said exercise impossible.

3.2 ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries

ILO Convention No. 169 makes provisions regarding various sectors including education, health, vocational training, employment and working life. Part II of the Convention is dedicated to indigenous peoples’ land rights. Articles 14 and 15 are those to which reference is most often made. Article 14 upholds the right of indigenous peoples to own and occupy the lands in which they traditionally live, and their rights of use in the lands they share with others.

The **ILO –International Labour Organization** – is headquartered in Geneva. The ILO deals with questions of labour law and is organised with governments, employers and employees as the main players. All three groups participate in the development of the ILO’s instruments and the subsequent reporting processes. Indigenous peoples have no formal position in the ILO, or any formal access to reporting in connection with the implementation of the Convention. The Sámediggi has, however, created a reporting partnership with the Government, in which the reports of the Sámediggi are enclosed with the Government’s reports as independent appendices.

Special account shall be taken of nomadic peoples. The Article also instructs the authorities to identify territories in which indigenous peoples traditionally live. Article 15 safeguards the indigenous peoples' rights to the natural resources of their territories. This embraces the indigenous peoples' right to participate in the use, management and conservation of these resources. In addition, Article 6 creates an obligation for national authorities to consult the indigenous peoples concerning new legislation or administrative measures, and establishes the indigenous peoples' right to participate in decisions on an equal footing with others, whereas Article 8 guarantees that indigenous peoples' customs and customary law are taken into account in the application of national law and regulations.

ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries:

Article 6 (subsections 1c, 1d and 2 here omitted):

1. In applying the provisions of this Convention, Governments shall:
 - a) Consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;
 - b) Establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;

Article 8 (subsections 2 and 3 here omitted):

1. In applying national laws and regulations to the peoples concerned, due regard shall be had to their customs or customary laws.

Article 14:

1. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.
2. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.
3. Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned.

Article 15;

1. The rights of the peoples concerned to the natural resources relating to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.
2. In cases in which the State retains the ownership of mineral or sub-surface resources or

rights to other resources relating to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources relating to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.

3.3 The formal status of the Sámi

The formal role of the Sámediggi (the Sámi Parliament) in relation to the national state has several aspects. Formally speaking, the Sámediggi is a consultee for Norwegian authorities. In this connection the Sámediggi has requested a negotiation arrangement with the authorities, but has yet to achieve this. The reindeer-herding industry, represented by the National Association of Norwegian Reindeer Sámi (*Norske Reindriftssamers Landsforbund*), negotiates with the government over the annual reindeer agreement. In international fora the Sámediggi often acts as part of the delegation from the Norwegian State and thereby has an official place and a formal role in international negotiations.

International fora are attended not only by government delegations, but also by separate indigenous peoples' delegations, with representatives from various Non-Governmental Organisations (NGOs). For example the Sámi Council, which is an umbrella organisation for Sámi organisations in Norway, Sweden, Finland and Russia, enjoys NGO status in various international fora. Such indigenous peoples' delegations have no decision-making power, but are solely observers with the right to speak.

4. Land-use - legislation and administration

4.1 Introduction

The presentation in this chapter will cover legislation, or the “material” rules, that are of significance for land use administration. Legislation that governs use and management of renewable resources will be mentioned when this is a natural extension of the land use legislation. Central government bodies and their tasks related to land use and resources will be presented in Chapter 5.

The Acts will be presented citing their purpose and main provisions. It should be emphasised that a process of development and refining of the law in relation to Sámi culture is under way, which means that a normative content is gradually being enshrined in Norwegian legislation. This normative foundation will not be further discussed in the report.

“Satisfactory legal guarantees for a minority cannot automatically be based on the opinion of a majority in the ordinary Norwegian sense. Rather, Sámi policy must be measured against and designed on the basis of more philosophical value judgements regarding the relationship to an ethnic minority. (...) A just treatment of a minority presupposes that the majority is willing to give the minority an adequate legal protection for the minority’s own legal outlook and value judgements.”

(Odelsting Proposition⁶ No. 33 (1986-87), p. 23)

For some of the acts, regulations or circulars have been prepared, which either have a direct impact on Sámi use of land, or more or less advocate that the interests of Sámi culture be taken into account. It should be noted that such regulations and circulars are not approved by the Storting, like the Acts, but are drawn up by central government. That acts, regulations and circulars are prepared by non-Sámi legislators and a non-Sámi government apparatus is relevant to the question of to what degree important rules of law are coloured by Norwegian majority values (Uggerud 1996).

Common to current legislation related to land is an assumption that all land not in private ownership is owned by the State.

Land-use administration is handled by central government, county councils and municipalities. These different administrative levels have different tasks: the municipalities deal with land-use through the Planning and Building Act, that is to say, disposition of land.

⁶ That is, a parliamentary Bill – Translator.

The county councils have the responsibility for coordination of municipal development plans, but no formal authority in relation to land disposition under that Act. However, the county council does have a responsibility for county-wide administration of cultural monuments, and thereby also a land administration responsibility in relation to cultural monuments. Central government has the responsibility for administration of land resources and land in partnership with the municipalities; this is done through various government administrative bodies with responsibilities pursuant to various sector legislation, in addition to Statskog SF. The Sámediggi has no administrative authority over land administration, with the exception of land under the Cultural Monuments Act.

The municipalities' freedom to manage land within their boundaries pursuant to the Planning and Building Act is restricted by the various sector legislation, such as the Reindeer husbandry act, Cultural Monuments Act, etc. This makes demands as to collaboration and coordination between the various administrative bodies. In addition, international treaties ratified by the Storting shall also be reflected in the decisions of the various administrative authorities and shall affect the room for manoeuvre of the public administration. It transpires, however, that the ministries and their subordinate bodies have only to a very small extent prepared guidelines for how ILO Convention No. 169 or Article 27 of the International Covenant on Civil and Political Rights are to be interpreted, concretised or observed (Einarsbøl 2002).

The administrative bodies here discussed have tasks related to both the management of renewable resources and to land-use administration. Use and management of renewable resources will be discussed where this is a natural extension of the land-use legislation.

4.3 State land

4.3.1 Statskog SF

Statskog SF⁷ was established under the State-Owned Enterprises Act of 30 August 1991 and is therefore a separate corporation at law and not a public administrative body like those described above. The company is wholly-owned by the State, is managed by the Minister of Agriculture via the general meeting, and has administrative duties related to nature

⁷ See www.statskog.no

management and land-use administration. Statskog SF commenced operations on 1 January 1993 and took over from the Directorate for State Forests and Land. As the country's biggest landowner, Statskog SF has as its mission, either alone or with others, to operate and develop state forest and upland property with appurtenant resources and other naturally associated activity. Other Statskog missions are to operate the properties with a satisfactory economic result, conduct active nature conservation and take account of outdoor recreation.

Statskog SF owns one-third of all the land in Norway. This can be subdivided into the following categories of property⁸: the state-owned commons in South Norway, which are managed pursuant to the 1975 Uplands Act and the State-Owned Commons Act of 19 June 1992; state land in Finnmark, which is managed under the 1965 Act on State Non-Cadastral Land in Finnmark; original state land in Nordland and Troms; and purchased state land.

Statskog SF plays the role of landowner, that is to say, it is Statskog SF that in principle has the decision-making authority regarding land disposition. There are, however, a number of other laws that intervene and affect this decision-making authority. Landowners, whether private or state, have a limited right of disposition over their own property in that a number of Acts and public authorities affect the degree to which the landowner can make dispositions regarding his land. It is the municipalities that regulate all land use within their boundaries via the Planning and Building Act, whether on private or public land, see Chapters 4.2 and 5.2. The landowner's control includes the right to decide the buying or leasing of rights, for example the leasing of fishing and hunting rights. Statskog SF does not enjoy this landowner right in full, since, under the Salmonids and Fresh-Water Fish Act, Statskog is mandated to administer the fishing rights in the public interest.

Statskog SF is headquartered in Namsos. Its landowner operations are organised in four districts and are represented by 33 local offices nationwide. In Finnmark there is a separate land sales office led by a land sales board.

⁸ Statskog SF, Annual Report 2001

4.3.2 Finnmark

4.3.2.1 The Land Sales Act

The Act of 12 March 1965 on the State's Non-Cadastral Land in Finnmark County, also called the Land Sales Act, applies to the State's non-cadastral, or unsold, land in Finnmark County, and is based on the assumption that the land of Finnmark is owned by the State. The Act provides provisions for sale and lease of this land, provisions for control of watercourses and all forms of rights in land. It makes restrictions on use of land for purposes other than reindeer husbandry (Sections 2a and 2b). Account shall be taken of the reindeer-herding industry's special land requirements in addition to other weighty societal considerations – for example forestry, mining, fishing, outdoor recreation and nature conservation interests -- or other weighty reasons (Section 2c). The Act also regulates certain rights of use for the population concerning firewood, peat-cutting and cloudberries (Section 5a).

Regulations and guidelines have also been attached to the Act. Section 1 of “Regulations on the State's Non-Cadastral Land in Finnmark” lays down rules for the principal factors to be taken into consideration in disposition of land: *“In order to achieve a rational exploitation of the State's non-cadastral land in Finnmark, sale and lease shall as far as possible be made on the basis of an overall consideration of the interests within an area. In planning, which should be done within the framework of land-use planning under the Planning and Building Act, account must be taken of the need for land for agricultural purposes, land for residential and industrial buildings, road-building, water supply, sewage, airports, defence facilities, nature conservation areas, outdoor recreation areas and other facilities of public interest.”*

This means that the Land Sales Office's land dispositions are restricted by municipal development plans, and property cannot, therefore, be sold or leased in conflict with these plans.

The Sámediggi is a consultee and is entitled to comment vis-à-vis the Land Sales Office *“when it concerns measures that result or may result in major encroachments on natural landscape in which Sámi interests are weighty”*⁹.

The most controversial provision, and that attracting the most media attention, in recent years, has been the so-called “*Gamme* provision”¹⁰. This section of the Regulations says that a

⁹ Regulations on State Non-Cadastral Land, Section 16, promulgated by Royal Decree of 15 July 1966.

gamme – a traditional Sámi earthen dwelling – can be built outside ordinary cabin complexes in order to meet the need for lodging in connection with economic activity, mountain rescue services and as emergency shelter for hikers. Permission is not given for building of *gammes* if this is deleterious to reindeer-herding, agriculture or other important interests, or if local requirements have been met in another way. Permission to erect a *gamme* shall preferably be granted to associations, clubs or other collectivities that operate in connection with outdoor recreation or exploitation of wilderness resources. A contract of lease shall be drawn up. Owners of old *gammes* without a lease must apply to the Land Sales Office to get one; in such cases, permits may be granted to individuals.

4.3.2.1 Finnmark Land Sales Office

The administration of the Land Sales Act is vested in Statskog SF, which issues the necessary instructions on the administration and supervises it, see Chapter 4.3. The Land Sales Office and Land Sales Board are the local administrative bodies created pursuant to Sections 11 to 17 of the “Regulations on the State Non-Cadastral Land in Finnmark”. The administrative tasks consist of land administration and natural resource management, the most important being sale and leasing of land and administration of hunting and fishing rights.

The Land Sales Office is managed by a Land Sales Board consisting of seven members. The County Governor is the *ex officio* chairman, as laid down by the Regulations. Of the other six representatives, three are appointed by the County Council on a political basis and three are nominated by the County Council and appointed by the Ministry of Agriculture as representatives of the reindeer-herding industry (one) and the county agriculture board (two).

The Land Sales Office’ administration of land and rights has not been done purely in accordance with the general rules applicable to a landowner. Rules promulgated in special regulations pursuant to the Land Sales Act and other legislation, such as the Salmonids and Fresh-Water Fish Act and the Wildlife Act, frameworks have been created for what Statskog SF as landowner can do. The Land Sales Office’s activity can thereby be said to have a dual legal basis, in both landowner rights and statute.

¹⁰ See Section 17 of Provisions on Sale and Lease Applicable to the Finnmark Land Sales Office,

The Sámediggi is the consultative body in matters that mean or may mean major encroachments in natural environments in which Sámi interests weigh heavily. In matters that affect the interests of reindeer husbandry, the relevant union committee and regional committee are the consultees.

4.3.2.2 Draft Finnmark Act

On 4 April 2003 the Government submitted a draft for a new Finnmark Act in the Privy Council (Odelsting Proposition No. 53 (2002-2003)), designed to replace the Land Sales Act.

According to the draft, the Act will apply to real property and watercourses with natural resources in Finnmark County. The purpose will be to facilitate the management of land and natural resources in Finnmark in a balanced and ecologically sustainable manner in the best interests of Sámi culture, reindeer husbandry, economic activity and social life, the inhabitants of the county and the public interest in general. What used to be called the state's non-cadastral land will now be known as the "Finnmark Land Management Commission", which will be a separate legal entity managing land and natural resources as owner.

Regarding the administration of land by the Finnmark Land Management Commission, the Act says that the Board will be appointed by the Sámediggi and Finnmark County Council, three members each (Section 7). One of the Sámediggi's representatives should be from the reindeer-herding industry. In addition, the King in Council is to appoint a non-voting member. The Sámediggi is given the authority to propose guidelines for the administration of the uncultivated land, whereas the Ministry is to approve them (Section 4).

The draft otherwise states explicitly that the Act is not to cover rights based on usage or immemorial custom (Section 5).

Management of renewable resources and land dispositions

The Finnmark Land Management Commission shall also manage the renewable resources pursuant to the Wildlife Act (29 May 1981), the Salmonids and Fresh-Water Fish Act (15 May 1992) and other legislation (Section 20). In addition, all inhabitants of Norway will still have the right to hunt small game and to fish in fresh water in Finnmark (Section 21) – the Act makes no changes to the rights of the population on this point.

The population of the county will still have rights to hunt big game, pick cloudberries and take lumber for domestic crafts (Section 22), and so the Act makes no changes to the rights to these resources either.

The inhabitants of the municipality are granted exclusive rights to fresh-water fishing with nets, salmon-fishing at sea with nets, collection of eggs and down, cutting of wood, cutting of peat, cutting of deciduous timber for fence-posts in the reindeer-herding industry and for hay-drying in agriculture (Section 23).

Individual groups or persons who have a major part of their livelihood related to exploitation of renewable resources may, according to the draft Act, be granted a special right to limited areas in the municipality for up to 10 years (Section 24).

It has been proposed that national parks can be established pursuant to the Nature Conservation Act of 19 June 1970 and that land can be expropriated for public municipal or county-council purposes without the management body being able to claim compensation (Section 18).

Nor can the Finnmark Land Management Commission claim compensation for expropriation for public purposes for the benefit of Finnmark County Council or the municipalities of Finnmark, or the State or enterprises wholly owned by the State, or hospitals or other medical or psychiatric institutions, churches, cemeteries, educational institutions, museums or cultural monuments.

Some amendments were also proposed to the Mining Act. The draft says that a provision will be introduced to the effect that prospecting in Finnmark, or exploration for non-claimable minerals, shall be notified in writing to the Sámediggi, the Finnmark Land Management Commission, the relevant regional committee and the district committee for the reindeer-herding industry, no later than one week before commencement (new Section 7 of the Mining Act).

It is also proposed to amend the Mining Act in that an application for staking of a claim (new Section 22a) and for an allocation (new Section 39a) to the Directorate of Mining can be refused in the public interest. The Sámediggi, the County Governor, the County Council, the

municipality and the relevant area and district committees for the reindeer-herding industry the opportunity to comment. Appeals may be made to the Ministry. If the Ministry grants the application, the Sámediggi or the Finnmark Land Management Commission may appeal to the King-in-Council.

4.3.3 The Uncultivated Land Commission for Nordland and Troms

The Uncultivated Land Commission for Nordland and Troms was created pursuant to the Act of 6 June 1985 relating to the Uncultivated Land Commission for Nordland and Troms. The Uncultivated Land Commission is a special tribunal established to order the legal relations between the State and others regarding the high-mountain areas and other unenclosed areas in the counties of Nordland and Troms. Pursuant to Section 2 of the Act, the terms of reference of the Commission are:

- to determine whether the State is the owner of the land or not,
- to determine boundaries between the State's land and adjacent land,
- determine whether rights of use, including rights of commons, exist or not on State land, and if so, who enjoys these rights of use.

The Uncultivated Land Commission shall take a decision on specific legal disputes between the State and private landowners or possessors of rights of use that would otherwise have been conducted before the Land Reallocation Courts or the ordinary courts. Only the State may bring cases before the Commission. The Commission does not look specially at Sámi rights in its work, but its decisions will nevertheless be of relevance for both nomadic (reindeer) Sámi and sedentary Sámi in the areas in question, as regards both rights to and management of uncultivated land. The Sámediggi is briefed on what cases are being brought before the Commission.

4.3.4 North-Trøndelag and southwards

4.3.4.1 The Uplands Act

The Act of 6 June 1975 relating to Exploitation of Rights and Appurtenances etc. in the State Commons, also called the Uplands Act, applies to the state-owned commons¹¹. The Uplands Act applies to the state-owned commons in Norway south of Nordland County.

¹¹ A state-owned commons is an area that is not subject to private property rights and is subject to collective management – community-owned and private-owned commons also exist.

The State has property rights in the state commons, while a number of farms and the population in general have various rights of use of the areas. The content of these rights of use is not enshrined in the Act, but has been established for a long time and may vary from commons to commons. What the Act does, however, is to regulate how these rights are managed.

Rights of use in the state commons are differentially restricted, depending on which use is in question. Agriculturalists associated with the state commons (Section 15) have rights of pasture. If they need it, they also have the right to be allocated high-pasture chalets (Section 18) and extra land (Section 19). The Act does not cover forestry and felling rights (Section 1).

Everyone resident in Norway is entitled, on the same terms, to hunt without a dog on state commons (Section 23, first paragraph). The right to trap small game and hunt small game with a dog may be reserved to persons permanently resident in the area where the commons is located, or who is resident in a settlement that has traditionally made use of the commons (Section 23, second paragraph). The boundaries of the rural association do not necessarily coincide with the present municipal boundaries. A similar distinction may be made between local people and offcomers also for hunting wild reindeer (Section 24).

The rights of use on the commons impose restrictions on land dispositions (Section 12). Such measures may only be taken if they do not cause material harm for anyone who has the right of use. State-owned commons land may normally not be alienated or sold, except in special cases (Section 13). The rights of use of the renewable resources are managed by an Uplands Committee (Sections 3 to 11, also 14)

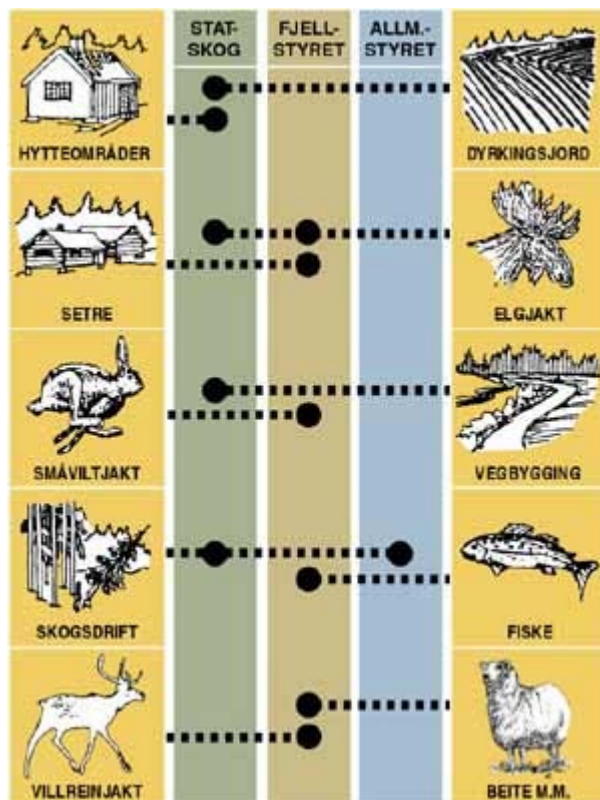
4.3.4.2 The Uplands Boards

The administration of the state-owned commons is divided: Statskog SF makes decisions on land dispositions in the state-owned commons, such as for example road-building, cultivation of new land, gravel extraction, exploitation of watercourses and lease of cabin sites. The Ministry of the Environment, via the Directorate for Nature Management (DN), has the administrative authority in relation to the Act's provisions on hunting and fishing; for example, the DN issues regulations and approves hunting and fishing fees. The

municipalities' tasks are laid down in the Uplands Act and include appointment of the Uplands Boards, which administer the rights of use that are not vested in others.

The most important task of the Uplands Boards is to administer and manage rights of use under the Uplands Act and facilitate public access. The Uplands Board shall work to ensure that the commons are used in such a way as to promote economic activity in the rural district and safeguard nature conservation and outdoor recreation interests; it also has administrative tasks in relation to the hunting of small game and wild reindeer, trapping and fishing. The Uplands Board also lays down detailed rules on use of pasture, in addition to having a supervisory authority and responsibility for facilitation of outdoor recreation.

The Uplands Board is appointed by the municipal council, but is nevertheless not a municipal body (Section 3). It has five members with personal alternates. Its terms of office is four years, coinciding with the municipal election cycle. The municipal council shall ensure that hunting, fishing and outdoor recreation interests are represented on the Uplands Board and that at least two members with alternates are elected from among those who have rights of use on the commons as farmers. The King-in-Council may determine that the reindeer-herding industry shall be represented on the Uplands Board and that one or both of the members who are to have commons rights as farmers shall be reindeer-owners instead. The Uplands Act also regulates the procedure of the Uplands Boards (Section 8 to 10). The table below shows the distribution of administration tasks between Statskog SF, the uplands boards (the commons boards are appointed under the Forestry Act and are only responsible for the administration of the forests on the state-owned commons):



Source: www.statskog.no

Key to the picture, by columns from the left:

Cabin areas, small game hunting, forestry, wild reindeer hunting

Statskog

Uplands Board

Commons Board

Farmland, moose hunting, road-building, fishing, pasture etc.

4.4 Planning, nature conservation and cultural monuments

The Ministry of the Environment has the paramount responsibility for implementation of the Government's environmental protection policy, including the administration of the Planning and Building Act, Nature Conservation Act and Cultural Monuments Act.

4.4.1 Land-use administration

4.4.1.1 The Planning and Building Act

The Planning and Building Act of 14 June 1985 is one of the most important pieces of legislation as regards land use and management, and is currently under revision. The purpose of the Act is inter alia to facilitate the coordination of central-government, county and municipal activity and to create the basis for decisions on use and conservation of resources,

development and the safeguarding of aesthetic considerations (Section 2). Among other things, the planning shall look after the national goals of a sustainable land-use administration.

The Planning and Building Act crosses sector boundaries, and concerns shore and sea areas out to the baseline¹² (Section 1). This means, for example, that all the big fjords fall under the Act. The Act covers planning in relation to both private and public land and is meant to ensure control by elected representatives of land use and planning.

4.4.1.2 The municipal and county levels of the land-use administration

Municipal land-use planning shall be done within the framework of national policy and regional planning shall coordinate and govern the use and protection of land and natural resources across municipal boundaries.

In principle, the administration of our surroundings is done at municipal level. Under the Planning and Building Act, the municipalities shall prepare municipal development plans with a land-use component (land-use plan). The latter shall show the consequences that the municipality's planned action areas and measures will have for land use, and shall be anchored in the municipal development plan's social component. The municipal development plan's land-use component restricts landowners' freedom of action regarding their property. It is legally binding on future land disposition until the municipal council makes a change decision, that is, in principle no action can be taken that would conflict with the land-use component. An important part of the land-use plan is agricultural, natural and outdoor-recreational areas¹³ ("LNF areas" in Norwegian), which make up about 80% of the total area of Norway (NOU 2001:7). Within these LNF areas it is the sector legislation that provides guidelines as to how the various considerations are to be balanced against one another, for example agricultural activity is governed by the Land Act, reindeer husbandry is governed by the Reindeer Husbandry Act and nature conservation considerations are introduced via the Nature Conservation Act.

In addition to municipal land-use planning, there is a county-wide planning via the County Development Plan; the purpose of this is to coordinate the plans of the central government,

¹² The baseline is a set of straight lines drawn between the outermost points of the Norwegian mainland.

¹³ "Agriculture" includes farming, reindeer husbandry and forestry.

counties and municipalities. In contrast to the municipal plans, the county development plans are not legally binding.

In other words, central government, county councils and municipalities have land-use administration tasks, but it is the municipal councils that can make legally binding decisions on land-use and zoning plans. Rights of objection to the plans are vested in the county council, neighbouring municipalities or any technical central government authorities affected (Section 15). For example, the County Governor's Agriculture Department may file objections under the Land Act. Affected individuals and groups are, however, allowed to take an active part in the planning process, that is, in advance of a decision by the municipal council (Section 16).

In 2001 the Norwegian Supreme Court awarded the local population of Manndalen in Kåfjord Municipality of Troms County the property rights to Svartskogen. The owners have no formal right to objection in relation to the municipal land-use plans covering the area.

Reindeer herders have rights of use to traditional reindeer pasturage. These herders have no formal powers of objection *qua* rights-holders, but must go via the technical bodies of the reindeer authorities, that is, the regional committees or the National Reindeer Executive (*Reindrifststyret*). The reindeer-owners in for example Selbu are not parties to a land-use plan covering their pasturage, even though the Supreme Court ruled in 2001 that they had rights of use to private uncultivated land. Nor do the landowners have rights of objection to any municipal development plans covering this land.

4.4.1.3 Regarding Sámi interests in the Planning and Building Act¹⁴

The municipalities are mandated to seek cooperation with other public bodies that have tasks regarding resource exploitation, conservation measures, building developments or social and cultural development. Sámi interests are not mentioned specifically in the Act; the only area in which the Sámediggi has the right of objection in the municipal planning process is via the Cultural Monuments Act, when Sámi cultural monuments are affected.

¹⁴ On 13 May 2003 NOU 2003: Better Municipal and Regional Planning under the Planning and Building Act II was submitted. The commission proposes that the purpose of the Act be inter alia to "safeguard the natural basis of Sámi culture". The commission also proposes that the Sámediggi be given the same rights and duties of participation in planning as government bodies, that there always be an impact statement for a plan that has major effects on Sámi interests, that the Sámediggi should have the power of objection in regard to safeguarding Sámi interests, and that the Sámediggi be entitled to appeal individual decisions.

The state reindeer management bodies (the district committee and the National Reindeer Executive (*Reindrifststyret*)) have the right of objection in relation to the reindeer-herding industry, and the Sámediggi is represented on these bodies.

A special circular has been drawn up to regulate land use and building in reindeer pasturage (Circular M-121/2000 R-836). This circular discusses questions concerning the treatment of reindeer interests in the planning work. No other circulars have been prepared that are specially oriented to the safeguarding of Sámi interests in the planning processes, but the Sámi angle is mentioned at objective level, in that circulars (T-2/98 and T-3/98) call for Sámi interests to be taken into account in the planning work.

The municipalities may grant dispensation from adopted zoning provisions, but this dispensation authority is not specified to any great degree of detail.

4.4.2 Nature conservation

4.4.2.1 The Nature Conservation Act

The Act of 19 June 1970 relating to Nature Conservation, also called the Nature Conservation Act, states that nature is a national asset that must be protected so as to preserve large undisturbed or mostly undisturbed areas or distinctive or outstandingly beautiful landscapes. This can be done through the creation of national parks, protected landscapes, nature reserves and natural monuments.

National parks are large, undisturbed, relatively undisturbed or distinctive natural habitats. The natural environment, which includes landscapes with flora, fauna and natural and cultural monuments, shall be protected against development, construction, pollution and other disturbance (Sections 3 to 4).

Protected landscapes shall preserve distinctive or beautiful natural and cultural landscape. In such areas, no measures may be taken that may substantially alter the nature and character of the landscape (Sections 5 to 7). Traditional use and agricultural operations may continue in protected landscapes, provided that no measures are taken that substantially alter the character of the landscape.

Nature reserves are areas where the natural environment is undisturbed, or almost undisturbed, or are of a special type or have special scientific or educational interest or stand out because of their distinctive character (Sections 8 to 10). The purpose of nature reserves is protection of special landscape types or animal ecologies; they are generally small in size. Areas can be totally protected or else protected for particular purposes, such as forest reserves, wetland reserves, bird sanctuaries and similar. This form of protection is the strongest available under the Nature Conservation Act.

Natural monuments are geological formation and botanical and zoological features that have scientific or historical interest or are otherwise distinctive. The area around the formation or feature may also be protected so as to protect the natural monument (Sections 11 to 12).

In addition to provisions on protection of particular areas, the Nature Conservation Act also contains provisions on protection of plants and animals by species.

4.4.2.2 The administration of environmental protection

The Ministry of the Environment has the paramount responsibility for the environmental protection. Administration of environmental protection is vested in the County Governor's environment departments and the Ministry's five subordinate agencies, of which the Directorate for Nature Management and the Directorate for Cultural Heritage will be discussed here.

“The Storting asks the Government to assist in making the protection plan work for Tysfjord/Hellemobotn become a national process by direct contact between the Ministry of the Environment and the Sámediggi. The organisation of the work shall be done in consultation with the Sámediggi, and shall ensure that no decisions are made on protection of the Tysfjord/Hellemo area without the interests of the Lule Sámi being studied and safeguarded.”¹⁵

The **Directorate for Nature Management (DN)**¹⁶ is the Ministry of the Environment's technical body for nature management; its ambit is to conserve biodiversity and to protect and strengthen the public rights. DN works to have areas protected under the Nature Conservation

¹⁵ Storting decision of 1 April 2003 in connection with the consideration of Storting Report No. 55 (2000-2001), On Sámi Policy, and Storting Report No. 33 (2001-2002), Supplementary Report to Storting Report No. 55 (2000-2001), On Sámi Policy.

¹⁶ www.naturforvaltning.no

Act and makes specific nominations of new protection areas to the Ministry of the Environment. The Directorate prepares draft regulations for proposed protected areas on the basis inter alia of received consultation comments. It also endeavours to have environmental protection incorporated into all planning and exploitation of natural resources. In addition, the DN also has the paramount administration responsibility for endangered animal species such as wolf, bear, wolverine and lynx, and stocks monitoring of big game.

The Ministry of the Environment has submitted a proposal to expand Stabbursdalen National Park in Porsanger, Finnmark, and create Stabbursdalen Landscape Protection Area with total protection of the flora. The national park will now be 746.9 km², while the landscape protection area will be 189.1 km².

The protection plan says that the protection will be designed in such a way that the traditional use of the local community can continue, at the same time as the area is to be secured against new technical encroachments that may alter the type and character of the landscape in conflict with the protective purpose.¹⁷ The Ministry of the Environment says further that the area is part of a Sámi settlement and use area; reindeer-herders are mentioned as a Sámi user group. Since the protection is said to be a contribution towards safeguarding the ecological basis for Sámi culture, settlement and economic activity, the protection is not considered to create a hindrance to traditional Sámi use of the area.

When the Sámediggi considered the establishment and extension of protection areas in the plenary session of February 2003, it stated inter alia that it is a violation of ILO Convention No. 169 to initiate major protection plan processes without letting the indigenous people participate as an equal partner in all phases of the planning work¹⁸. In its resolution the Sámediggi demanded that the Government withdraw the decision, on the grounds that the Sámediggi had not to an adequate degree been involved in the planning work, and so the decision was not legitimate for the Sámi population. Local people have claimed that the rights of use of the settled coastal Sámi population were not safeguarded.

The **County Governors' environmental departments**¹⁹ are the Ministry of the Environment's regional level, where national environmental questions are translated into regional targets and measures. The County Governor's environmental department is an important agenda-setter and player in the planning of the municipalities and various sectors under the Planning and Building Act and sector legislation. The departments are responsible for implementing protection plan work, administration of protected and preserved areas and

¹⁷ Royal Decree of 20 December 2002, Protection Plan for Stabbursdalen with expansion of Stabbursdalen National Park/rávtttošvuomi álbmotmeahcci

¹⁸ Sámediggi plenary session 24 – 28 February 2003, Item 12/03

¹⁹ www.fylkesmannen.no

planning of new national parks, the administration of outdoor recreation areas (including the approval of snowmobile and bare-ground trails), management of wildlife and fresh-water fish (including promulgation of regulations for fishing), management of the predator population, and registration and monitoring of natural features worthy of preservation.

“The County Governors of Nordland and Nord-Trøndelag have submitted recommendations on the expansion of Børgefjell National Park and the creation of Austre Tiplinan protection area to the Directorate for Nature Management²⁰”.

4.4.3 Cultural Monuments

4.4.3.1 The Cultural Monuments Act

The purpose of the Act of 9 June 1978 relating to Cultural Monuments, or the Cultural Monuments Act, is to protect cultural monuments and cultural milieus as part of our cultural heritage and as a component of integrated environmental and resource management (Section 1).

Cultural monuments from before the year 1537 are automatically protected by the Act (Section 4). Sámi cultural monuments older than 100 years are automatically protected in addition. The cultural monument authorities are also entitled to protect cultural milieus, that is, areas where the human impact has been dominant or special, or areas associated with events, beliefs or tradition.

4.4.3.2 Administration of the Cultural Monuments protection

The Ministry of the Environment has the paramount responsibility for implementation of the Government’s environmental protection policy, including the administration of the Cultural Monuments Act. Administration of environmental protection is vested in the Directorate for Cultural Heritage, The Sámediggi and The County Council.

The Sámediggi has been delegated the authority to manage Sámi cultural monuments under the Cultural Monuments Act and the authority to safeguard Sámi cultural monument interests under the Planning and Building Act nationwide. For non-Sámi cultural monuments, the

²⁰ www.fylkesmannen.no/nordland

authority is vested in the County Council. It is only in relation to the Cultural Monument Act that the Sámediggi has authority in land use matters.

The **Directorate for Cultural Heritage**²¹ is the Ministry of the Environment's technical advisor for cultural monuments and cultural environment under the Cultural Monuments Act and has the paramount technical responsibility for cultural monument issues.

The **Sámediggi** or Sámi Parliament²² has the authority to administer Sámi cultural monuments, and shall inter alia ensure that account is taken of cultural monuments and cultural milieus in municipal development planning.

The Sámediggi's environmental and cultural protection department has its head office in Nesseby Municipality in Finnmark county, with three district offices in Tromsø for Troms county, Tysfjord for Nordland county and Snåsa for Nord-Trøndelag county.

The **county councils** have the same authority as the Sámediggi for non-Sámi cultural monuments.

4.5 Other legislation and administration

4.5.1 Reindeer husbandry and land-use

4.5.1.1 The Reindeer Husbandry Act

The purpose of the Act of 9 June 1978 relating to Reindeer Herding, or the Reindeer Husbandry Act, is to facilitate an ecologically sustainable exploitation of the reindeer pasture resources, in the best interests of the reindeer-herding population and society in general (Section 1). Furthermore, the development and practice of the industry should create a foundation for secure economic and social conditions for its practitioners, and safeguard their rights. The principle was also upheld that reindeer husbandry be preserved as an important foundation for Sámi culture, in accordance with Section 110 of the Constitution and the rules of international law regarding indigenous peoples and minorities.

²¹ www.ra.no

²² www.samediggi.no

Reindeer husbandry is a strong right of use regardless of who owns the land. Its legal basis is independent of the Reindeer Husbandry Act, though the Act contains provisions governing various aspects of it. The Act creates framework provisions for the industry and determines where the reindeer rights are present and who can engage in reindeer husbandry (Sections 2 to 4). Reindeer husbandry has the same protection in the law of damages²³ as other property rights; that is to say, its rights of use to pasturage are equated with property rights as regards protection against encroachments. The use rights of other groups are also equated with property rights.

All reindeer pasturage districts are supposed to prepare a district plan (Section 8a) showing the district's land use and also containing an overview of the migration patterns in the district, necessary means of transport and access, the bare-ground trails that the reindeer use, and all fences and facilities. This district plan provides important information in relation to the municipal land-use plans and constitute a tool for improving the reindeer industry's land protection.

The Reindeer Husbandry Act is a restrictive law, in that it imposes restrictions on the right of reindeer husbandry. The Act defines what this right contains (Sections 9-15), such as right to pasture, migration, necessary cabins and facilities, and successor (supplementary) rights. For example, fences that are meant to remain beyond the end of the season must be approved by the King (Section 12). Section 15 gives the landowners the right to intervene in reindeer husbandry operations, in that they can take measures to exploit the property for agriculture or forestry or make other use of the uncultivated land for agricultural purposes (Section 15). Chapter V makes provisions governing conditions within the industry.

The Sámediggi is not mentioned in the Reindeer Husbandry Act, nor does it have any administrative authority in relation to the reindeer industry. The exception to this is that the Sámediggi is entitled to appoint three members to the National Reindeer Executive (Section 6). In addition, the Sámediggi appoints a minority of the members of the regional committees (Section 7).

²³ That the reindeer industry's need for land is protected under the law of damages or the law of expropriation means that the industry is entitled to compensation for encroachments on reindeer pasture.

4.5.1.2 Administration of the reindeer husbandry

The task of the **Ministry of Agriculture** is to implement the Government's food and agricultural policy. The latter includes land-use, farming, forestry, animal husbandry and reindeer husbandry, and is meant among other things to safeguard the resource basis for agricultural products. The Ministry of Agriculture has a total of twelve subordinate agencies and institutes, of which we will discuss only the one, the Norwegian Reindeer Husbandry Administration.

The **Norwegian Reindeer Husbandry Administration**²⁴ is the Ministry of Agriculture's executive body in matters concerning reindeer husbandry; its tasks include land-use administration and liaison with municipalities and other administrative bodies in matters of reindeer administration.

The Reindeer Husbandry Administration is headquartered in Alta, Finnmark, and acts as secretariat for the National Reindeer Executive. There are six local offices that act as secretariats to the regional committees for Øst-Finnmark, Vest-Finnmark, Troms, Nordland, Nord-Trøndelag and Sør-Trøndelag/Hedmark.

The National Reindeer Executive consists of seven members, of whom four are appointed by the Government and three by the Sámediggi. The Executive is the technical advisor to the administration of the reindeer husbandry industry and to reindeer research and public guidance. It has decision-making authority in a number of cases, including undertaking the division into reindeer pasturage districts and determination of pasturing season and zones. For a more complete overview of the National Reindeer Executive's authority, see Bull (1997) page 19. The Executive is also the appeal body for decisions by regional committees.

The regional committees are appointed by the elected county councils and the Sámediggi every fourth year. They are technical advisers and agenda-setters vis-à-vis the public administration in reindeer matters, and also sector authorities under the Planning and Building Act. The committees are empowered to confirm district plans, remove or alter illegal fences, fix the figure of operating units and number of reindeer per unit, plus many more duties, see

²⁴ www.reindrift.no

Bull (1997) pages 20-21. The regional committee is the appeal body for administrative decisions taken by the district committee.

The district committees are elected from among the reindeer-owners of the district, represent the district in matters of common interest, undertake the day-to-day administration and control common facilities and assets. The committee is a private legal entity, but is also assigned administrative duties under the Reindeer Husbandry Act, see also Bull (1997) pages 21-22.

4.5.2 Mining and land use

4.5.2.1 The Mining Act

The Act of 30 June 1972 relating to Mining, also called the Mining Act, includes rules on claimable minerals. The Mining Act lays down a principle of mining freedom, that is, in principle everyone is entitled to prospect for, claim²⁵ and be granted an allocation (*utmål*) in²⁶ deposits of claimable minerals (Section 2), including on others' land and property. Actors from outside the EEA area must apply for a concession to prospect.

A main distinction in the legislation is between claimable and non-claimable minerals. Claimable minerals are metals with a specific gravity greater than 5 and ores of such minerals. Claimable minerals include gold, copper and titanium; they belong to the finder, but are managed by the Directorate of Mining.

Non-claimable minerals include diamonds, industrial minerals, natural stone, and rocks that be crushed for gravel, sand, clays, bog and sea ore.

Non-claimable minerals belong to the landowner. Statskog SF manages the ownership rights on state land.

Section 3 of the Act sets limits on where the prospecting can be done, for example it is not allowed to prospect in cultivated fields, gardens, parks, industrial sites, sites for public roads, railways, power lines, or land belonging to military facilities including training grounds.

Those who have been granted claim rights (Section 8) are not entitled to make any encroachments on land that would cause material harm without the consent of the landowner.

²⁵ Claiming is a registration system for securing the right to investigate deposits of claimable minerals ahead of others.

²⁶ An allocation is granted if the deposits of claimable minerals are commercially viable. The allocation gives exclusive rights to exploit the area. It shall take the form of a rectangle and not be larger than necessary to cover the probable extent of the deposit, and never greater than 300,000 m², with the longest side not exceeding 1,200 m.

Those granted an allocation and a concession, may initiate mining operations (Section 36). In the event of damage or inconvenience, the landowner or user is entitled to compensation (Section 37). It is the holder of the allocation who is entitled to all claimable minerals in the allocation area (Section 38). Chapter 5 of the Mining Act concerns necessary expropriation of land for the purpose of making the necessary investigations, any trial operations and ordinary operations (Sections 40 and 41).

Over and above Section 3 of the Mining Act, the areas for raw material extraction are indicated in the municipal development plan's land-use component (see Planning and Building Act). No production or extraction of claimable or non-claimable minerals can be done in contravention of this land-use plan. The provisions of the Planning and Building Act on impact statements are also applicable. Other legislation that may be significant for the right to extract minerals includes the Cultural Monuments Act (Act of 9 June 1978 relating to Cultural Monuments), the Land Act (Act of 12 June 1995 relating to Land) and the Motorised Traffic Act (Act of 10 June 1977 relating to Motorized Traffic on Uncultivated Land and in Watercourses).

4.5.2.2 Administration of minerals

The paramount goal of the **Ministry of Trade and Industry** is to facilitate the maximum wealth creation in the Norwegian economy. This means getting as much as possible out of the resources available. Such a resource is minerals, and mining is an umbrella term for extraction of these minerals. The Ministry has a total of nine subordinate agencies in addition to a number of affiliated undertakings. One of these subordinate agencies is the Directorate of Mining, which has missions under the Mining Act.

The Directorate of Mining

The Directorate of Mining administers the mining legislation and supervises investigations of mineral deposits and operation of mines.

The Directorate of Mining sends a copy of all mineral claims certificates issued in Finnmark to the Sámediggi.

4.6 Summary

The table below lists the various Acts presented, what administrative authority administers the legislation and their most important administrative tasks:

Act	Administrative authority	Summary of duties re land-use administration and nature management
The Planning and Building Act	The municipalities	Make binding decisions on municipal development plans with land-use component.
	The County Councils	Prepares county development plan with guidelines for use of land and natural resources that cross municipal boundaries.
The Land Sales Act	The Finnmark Land Sales Office (Statskog SF)	Leases land for prospecting and extraction of non-claimable minerals. Sale and lease of land, cabin sites.
		Regulates pasture rights for agriculture, wood and peat cutting, cloudberry picking.
The Uplands Act	The Uplands Boards	Administer the state-owned commons with regard to farming, rights to summer pasture and supplementary land, and hunting, trapping and fishing rights.
The Cultural Monuments Act	The County Councils	Administer the county's cultural monuments.
	The Sámediggi	Administers Sámi cultural monuments.
The Reindeer Husbandry Act	Central Government, via the Ministry of Agriculture	Regulates the encroachment rights of the reindeer herders, for example fences and facilities.
	The Norwegian Reindeer Husbandry Administration, via the regional committees	Right of objection under the Planning and Building Act.
The Nature Conservation Act	Central Government, via the Ministry of the Environment	Creation of national parks, protection areas, nature reserves, natural monuments.
The Mining Act	The Directorate of Mining	Issues claim certificates for prospecting for claimable minerals. (Non-claimable minerals belong to the landowner.)

Disposition of land is governed through a number of laws, of which a few of the most important are presented above. Different acts endeavour to serve different purposes, and the Planning and Building Act is intended to ensure as uniform as possible planning of the use of the land. These acts have, however, only to a limited degree been revised with a view to incorporation of international legal obligations with regard to Sámi culture. It is solely in relation to the Cultural Monuments Act that the Sámediggi can be said to have an indirect

influence through the Reindeer Husbandry Act and its representation on the bodies of the reindeer-herding industry. Other control is at regulations level; the regulations pursuant to the various acts are not approved by the Storting, but are guidelines prepared by the central government administration. Awareness of Sámi questions is only sporadically to be found in such regulations, and mostly takes the form of laying down that the Sámediggi is to be informed of various measures.

As the presentation in this chapter shows, land-use administration occurs in an interaction between several players who have different administrative tasks. It is the municipalities that have the responsibility for planning of the land use via the municipal development plan. This planning function presupposes, however, that account is taken of a number of user groups and there is an extensive collaboration with administrative bodies that have various fields of responsibility.

There are other acts that influence land-use administration, and also other ministries, for example the Ministry of Fisheries, the Ministry of Defence and the Ministry of Petroleum and Energy, that are of importance for land-use administration. The above presentation is therefore selective and therefore provides neither a comprehensive picture of applicable land legislation nor a complete description of the activities and fields of responsibility of the institutions described.

5 The development of law

5.1 Introduction

As the presentation of selected legislation shows, Sámi rights are to a small degree reflected in Norwegian legislation. This does not, however, mean that Norwegian courts can ignore the possibility that such rights exist. On the basis of special factors such as Sámi language, culture and social life, the Storting has stated that a question-mark may be set against whether Sámi receive equal treatment before the courts and whether Sámi customs and opinions of what law should be are under-reflected in the courts (Storting Report No. 23 (2000-2001), Storting Recommendation No. 242 (2000-2001)). The Sámi Act and the Constitutional article signal that the Sámi people have a natural and inherent place in the legislation too. Thanks to the Storting's ratification of ILO Convention No. 169, Sámi customs and opinion of what law should be are protected by Article 8. Such customs and opinions are based on oral transmission, for example place-names, *joik* and other traditional material. The problem with such material is that its reworking for use is not complete, and that this reworking would be very time-consuming with regard to documentation and systematisation.

Sámi use of natural resources was regarded as a “tolerated use” by Norwegian authorities and courts for almost a century prior to the 1960s. Sámi rights cases were mostly those related to reindeer, and were seen as exhaustively regulated by the reindeer legislation.

5.2 Some central Supreme Court judgements after 1968

The Brekken Judgment and the Altevann II Judgment

The year 1968 marked a watershed, thanks to two Supreme Court judgments, the “Brekken Judgment” and the “Altevann II Judgment”. These judgements upheld two important principles for reindeer husbandry; first, that reindeer husbandry is protected under compensation law, and second that the principle of “tolerated use” was set aside. Reindeer rights continued, however, to be seen as a right to do business and not as a right to natural resources. In later judgements the Supreme Court continued to employ a case law, written sources and a view of the Sámi that went back to the worst of the forced-assimilation years²⁷.

²⁷ C.f. Eriksen, Gunnar (2003) on the Kåfjord Judgment, the Trollheimen Judgment and the Korssjøfjell Judgment.

The Aursunden case

As late as in 1997 we saw a Supreme Court judgment in which a century-old ruling was used to reject the reindeer-herders' right of pasturage on the basis of "immemorial usage"²⁸. Like the Korssjøfjell case, the Aursunden case concerned the reindeer-herders' right to use privately-owned uncultivated land for reindeer pasturage.

The formulation below and similar statements underpinned the courts' rulings in reindeer cases a hundred years ago:

*"... Given its [reindeer husbandry's] position as a historical survival, that to a not negligible extent acts to hamper better-grounded and more expedient social interests, the limits of this claim are obvious. And these limits must by the nature of things continue to give way ..."*²⁹

In the Aursunden case, neither the new direction of Norwegian authorities' Sámi policy, nor international law, nor previous judgements were taken into account. In the same way, no emphasis was accorded to the special nature of reindeer husbandry; it was described as a business and not as a cultural activity. This meant that Sámi customs, orally transmitted, were not considered by the Court either.

The judgement in the Aursunden case means that the Supreme Court defended a legal decision from a time when Social Darwinism and nationalism had a strong position in all sections of the official apparatus, and did not signal any will to a change of course in accordance with Article 110a) of the Constitution.

The Tysfjord case

In 1996 the Supreme Court considered a case that concerned the mountain plateau in Tysfjord Municipality in Nordland – the boundary between state land and the farms in Hellemofjorden and Grunnfjorden (Bull 2001). The case was appealed after the Uncultivated Land Commission for Troms and Nordland had awarded the property rights to the disputed areas to the State. This case concerned not reindeer rights, but the rights of settled Sámi. The main question was whether the use of the high plateau involved in the operation of the farms constituted grounds for claiming property rights.

²⁸ Ánde Somby discusses the "Aursunden case" and "immemorial usage" in detail in his 1999 work, "When the Supreme Court repeats *no Pardon*. The Supreme Court's judgment in the Aursund case (Rt 1997 s 1608) in the perspective of jurisprudential theory and international law". Trial lecture on a given topic for doctoral degree in law, 26 February 1999.

²⁹ Quotation from the Lapp Commission's report of 1904, in Somby, Ánde (1999) page 16.

The minority opinion of the Supreme Court was that the use of the high mountain plateau had been quite essential and also that “the farms were, by way of exception in the 200-300 years they were inhabited, were operated by Sámi who traditionally and culturally were accustomed to exploiting the mountain resources, and sometimes made more use of these resources than the rest of the population, for instance gathering of sedge for lining footwear, and sheep-sorrel. The minority thought that the farm boundaries should embrace a larger portion of the area.

The majority, however, found that that use that had been practiced was only the expression of a public right, and not an established property right by virtue of immemorial custom or a right of use to the area. The State was awarded property rights to the area in question.

The year 2001 saw two Supreme Court judgements that took a wholly different approach to the question of Sámi rights than we had seen in the Aursunden case and other places; these two judgements, the Selbu and Svartskog cases, are often termed a revolution in the Supreme Court’s treatment of the Sámi and matters Sámi. In both cases the Supreme Court indicated that the rules on immemorial custom must be adapted to Sámi culture.

The Selbu case

The Selbu case also concerned the rights of reindeer husbandry; 229 owners of farms at Selbu in Sør-Trøndelag county went to court over grazing reindeer on their private uncultivated land. The Supreme Court heard the case in plenary session³⁰ because of the important principles raised by the case, which included the legal basis of reindeer husbandry, immemorial usage, the concept of indigenous people, the Lapp Commission and the methodology question (Bull 2001). The Supreme Court found that reindeer husbandry was based on “immemorial usage” and that the land-use had to be considered relative to the industry’s traditionally nomadic operating forms, making extensive use of wide areas, and the fact that the use is not necessarily annual but depends on weather and pasturage conditions. The Supreme Court majority opinion concluded that the reindeer Sámi in Sør-Trøndelag enjoyed status as an indigenous people under ILO Convention No. 169. The minority took no position on the question of indigenous people. Over and above this, the Supreme Court did

³⁰ The Supreme Court can hear cases in plenary session or by division. The Court is chaired by a President and includes another 18 justices, of whom decisions in division are taken by five at a time.

not justify its ruling by reference to this convention. The Court also considered the work of the Lapp Commission at the end of the 19th century and characterised it as a product of its time. On this point the Court was not unanimous, but it did reach unanimity on not being able to reject oral tradition as a source, and documentation of presence posing special difficulties because nomadic Sámi leave so few physical traces. The Supreme Court agreed with the reindeer herders that they had rights of pasturage on private uncultivated land, but the minority wanted to restrict the geographic extent of this right to the one district.

The Svartskogen case

In the Svartskogen case, the rural population of Manndalen in Kåfjord Municipality, Troms county, claimed that Svartskogen, an area of 116 km², belonged to them jointly. Consideration by the Uncultivated Land Commission for Troms and Nordland, however, awarded title to the area to the State. The case was appealed to the Supreme Court, which gave the rural population the property right to the area on the grounds of immemorial usage. It was emphasised that the population had been Sámi-speaking, with all the communication problems this may have caused in their encounter with the Norwegian public administration. It was also emphasised that even if the rural population had not itself characterised its relationship to the area as one of ownership, they had exercised a degree of control that qualified it as such. The Supreme Court did not base its judgement on the ILO Convention, but pointed out that the judgement was in line with the Convention.

5.3 From legal development to administration

The 2001 decisions by the Supreme Court described above give grounds to expect a positive development in Sámi land rights. It may, however, seem necessary to make a distinction between the decisions of the Supreme Court and the administrative apparatus that implements them.

There is little to suggest that legal decisions that strengthen Sámi land rights are automatically adopted by the public administration; for example, there are few signs of the central apparatus having given any signals to the regional and local levels regarding the significance of these judgments for current administrative practice. During the struggle over the Alta hydropower project, the Supreme Court required that the service road to the construction site be closed.

Kirsti Strøm Bull writes:

“During the Alta development, the service road to the dam was one of the great contested issues. The reindeer-herders and the nature conservation interests feared future traffic along this road, and the authorities at that time declared that the road would never be opened to ordinary traffic, see Norwegian Law Gazette 1982, 241, Alta case, see page 300. Today we know that it is just as we feared – the road is open much of the year, and there is extensive tourist traffic along it. Many caravans are parked along the road, and the authorities are under pressure to build cabins in the area” (Bull 1997, p 73)

There is much to suggest that legal decisions that protect or strengthen Sámi land rights will not necessarily be found to be operational as new administrative practice at either central, regional or local levels.

It was, however, expected that the two Supreme Court decisions from 2001, the Selbu judgment and the Svartskogen judgment, would be reflected in the new draft Finnmark Act, since the principles on which the Supreme Court based them are of relevance for other Sámi areas as well. Such a follow-up of the Supreme Court’s decisions is, after all, common in other cases. For the importance we can expect the ministries and other public administration to attach to the two judgements, Kirsti Strøm Bull says:

“It is clear that these judgements restrict the authorities’ freedom of action, and it would not be surprising if they tried to restrict the significance of these judgments” (Bull 2003 p. 218)

6. Brief presentation of Swedish and Finnish legislation

6.1 Introduction

Like the Sámi in Norway, the Sámi of Sweden and Finland have their own elected Sámi Parliaments.

The development of Sámi land rights in the legislation of the national states is not uniform between Norway, Sweden and Finland. In Norway and Finland, international human rights are a part of the national legislation, but this is not the case in Sweden.

Sweden and Finland are members of the European Union, and in connection with their membership “Protocol 3³¹” was prepared. This consists of two articles: Article 1 lays down that the Sámi right can be granted exclusive rights to reindeer husbandry within traditional Sámi territories. Article 2 says that the Protocol can be extended in line with the development of exclusive rights for the Sámi linked to their traditional economic activities. That is, under Article 2, the signatory states can create legislation that give special economic rights to the Sámi in relation to the rest of the population.

The presentation below will not discuss Swedish and Finnish land law in detail, but provide merely a rough outline.

6.2 Sámi land rights in Finland³²

International treaties on human rights that Finland has signed are a part of Finnish legislation on an equal footing with other Finnish legislation. Article 27 of the International Covenant on Civil and Political Rights of 1966 is thereby a part of current Finnish law, and Sámi rights are protected under this provision.

³¹ See: “Need and basis for a Nordic Sámi Convention”. Report from the Nordic Working Party for a Nordic Sámi Convention, December 1996 – June 1998. Protocol 3 was renegotiated to clarify the states’ special legislation on traditional Sámi special rights in relation to the Treaty of Rome.

³² Where not otherwise stated, this chapter is based on Hyvärinen, Heikki J.: “The legal status of the Sámi in Finland” in NOU 1997:5 Indigenous People’s Land Rights in International and Foreign Law.

ILO Convention No. 169 has not been ratified by Finland and is therefore not part of Finnish national legislation. The Riksdag has asked for a report on the practical consequences of ratification. A number of reports have been prepared over the last 15 years regarding Sámi land and water rights in Finland, both by the Sámi Parliament there and on the initiative of the Government³⁴. Sámi land rights in Finland have, however, yet to be clarified.

Article 27 has been used in Finnish courts: *“After Finland joined the European Union in 1995, foreign mining companies received more than 100 allocations in Sámi settlement areas. Some reindeer Sámi complained of these allocations, which they thought in conflict with Article 27. In nine different judgements given on 15 May 1996 the supreme Finnish administrative court annulled all mining allocations in Sámi territory and returned the case to the Ministry of Trade and Industry.”*³³

The Finnish Constitution

Sámi rights are enshrined in the Finnish Constitution³⁵. Article 17, third paragraph and Article 121, fourth paragraph³⁶ are the most important provisions .

Article 17, third paragraph: Right to own language and own culture

The Sámi as an indigenous people..... shall have the right to retain and develop their language and their culture.....

Article 121, fourth paragraph: Municipal and other regional self-government

... The Sámi shall have, within their own territory, linguistic and cultural autonomy in accordance with what is laid down by law.

The term “culture” in the Finnish Constitution also covers the traditional Sámi economic activities such as reindeer husbandry, hunting and fishing.

³³ The example is taken from Hyvärinen, 1997, page 106.

³⁴ C.f. Heikki J. Hyvärinen’s lecture on the Sámi Parliament in the Norwegian Rights Seminar in Karasjok, 26 February 2003.

³⁵ Constitution of Finland 11.6 1999/731

³⁶ “Territory” covers the municipalities of Enontekiö, Enare and Utsjoki, and the reindeer pasturage in Sodankylä municipality.

Other Finnish legislation

These two Constitutional articles have yet to be followed up in other Finnish legislation. The Riksdag has adopted a wait-and-see attitude to the clarification of Sámi land rights in legislation related to reindeer husbandry, hunting and fishing. Amendment of these laws has taken place without Sámi rights having been considered. This has been justified partially in terms of Sámi land rights not being clarified and the need to await such clarification.

In contrast to Norway and Sweden, the Sámi of Finland do not have exclusive rights to reindeer husbandry. On the contrary, the right to reindeer husbandry is accorded to all EU nationals resident within the reindeer area³⁷, and is regulated in the Finnish Reindeer Act (848/90).

The northernmost part of the reindeer area, the Sámi “territory”, is an area specially assigned to reindeer husbandry. In practice it is a Sámi industry. Within this area, land may not be used in a manner that would cause material inconvenience to reindeer husbandry (NOU 2001:35).

6.3 Sámi land rights in Sweden

Like the other Nordic countries, Sweden has ratified the UN human rights conventions, including the International Covenant on Civil and Political Rights from 1966. These are not a part of Swedish national legislation, but ratification nevertheless means that Sweden has a duty to follow them up, a responsibility incumbent on the Government, the central and local administration. Sweden has not ratified ILO Convention No. 169. A Swedish government white paper, SOU 1999:25 *The Sámi – an indigenous people in Sweden*, discusses what conditions must be met before ratification takes place.

The European Convention on Human Rights, however, has been a part of Swedish national legislation since 1995³⁸. Under the Swedish Constitution, no act or regulations may be in conflict with this convention.

³⁷ For a brief presentation of reindeer husbandry in Finland, see NOU 2001:35 pp. 83 – 84.

³⁸ Act (1994:1219) on the European Convention regarding protection for human rights and fundamental freedoms.

In Sweden, official Sámi policy is mostly a question of reindeer policy. The Swedish Reindeer Act (1971/437) lays down that the reindeer right in Sweden is based on “immemorial custom” (Section 1) Only Sámi who are members of a Sámi community are entitled to conduct reindeer husbandry.

“A Sámi community (sameby) is partly a geographical area, partly an economic and administrative association. Under Section 9 of the Reindeer Act (1971:437) the purpose of the Sámi community is inter alia to organise the reindeer husbandry in the best interests of its members. The Sámi community represents the members in questions affecting reindeer husbandry and the common interests of the members of the reindeer interests in general (Section 10).” (NOU 2001:35, p. 95)

This right is accompanied by other rights too, those to hunting and fishing. In 1997 there were 57 Sámi communities (Wängberg 1997). The reindeer area covers about a third of Sweden’s land area, and husbandry is practised in the counties of Norrbotten, Västerbotten and Jämtland in addition to parts of Kopparberg and Västernorrland. The rights of use of the reindeer-herding industry are equated with property rights through a protection in the law of compensation.

The reindeer right means the right to practice reindeer husbandry, in addition to rights related to hunting, fishing and to some extent forest products. The Act also lays down the right of the Sámi communities to local self-government. Up to 1992 the reindeer Sámi had strong rights related to small-game hunting justified in terms of immemorial usage, including both free use and commercial exploitation. These rights included a partial right to sell hunting permits for small game above the cultivation line³⁹. The rest of the population, including other Sámi, could purchase hunting permits for small game from the Sámi communities. In 1992 small-game hunting was opened to everyone, and since 1993 these hunting permits have been sold by the State. The Riksdag justified this change in terms of the state, as landowner, having the hunting rights in these reindeer areas (Prop. 1992/1993:32).

The Skattefjäll Judgment

The Skattefjäll Judgment of 1981 inflicted a defeat on the Swedish reindeer Sámi of northern Jämtland county, in that the reindeer herders failed to get property rights to the areas in question. The Swedish Supreme Court also upheld the ruling that the local reindeer herders did not have rights of use over and above what followed from the Swedish Reindeer Act. This

³⁹ The cultivation line was an administrative line drawn in the latter half of the 19th century in order to protect the reindeer husbandry areas from this line and up to the Norwegian border against new cultivation.

judgment was nevertheless seen as the victory of an important principle in relation to Sámi land rights, since the Swedish Supreme Court stated that nomadic reindeer husbandry could also form the basis for acquisition of property⁴⁰.

There has been a negative development in Sweden as regards reindeer pasturing rights. In the year 2002 the reindeer-owners of Härjedalen in Jämtland county lost a case in the appellate court regarding reindeer pasturing rights in private-owned uncultivated land. The case has been appealed to the Swedish Supreme Court.

⁴⁰ For a detailed presentation of the Skattefjäll judgment, see SOU 1989:41 pp. 251 – 260 or NOU 1984:18 pp. 210 – 212.

7. Conclusion

Sámi policy and indigenous-people questions challenge the majority understanding of what are fair and just arrangements. Such questions also challenge the values basis on which various social arrangements rest and they turn the spotlight on how the values of the majority are reflected in inter alia national legislation.

Up to now there has been considerable agreement about the goals of the Norwegian authorities' Sámi policy. Through the creation of the Sámediggi the Norwegian authorities established an arena in which various Sámi views could contest with one another, a platform for the Sámi population and a partner for dialogue and cooperation. The formal frameworks are therefore in place for handling conflicts between Sámi and majority interests. Within these frameworks there must be a dialogue and a political decision-making process. The Government's Storting Reports (white papers) on Norwegian Sámi policy also show that this dialogue is in progress.

There are, however, few signs that national legislation and various administrative arrangements have undergone an integrated revision in accordance with the political developments. The political dialogue and the political decisions have not been reflected in national legislation to any great extent. An updating would challenge both Norwegian authorities' and the Sámediggi's capacity for dialogue and collaboration. Even if Norwegian authorities have had high ambitions for their official national Sámi policy and also act as prime movers in indigenous people questions internationally, it is still not automatic for political objectives to be converted into legal terminology and administrative arrangements, in which Sámi rights are operationalised and become a natural and integrated part.

This report has presented a "snapshot" of some of the legislation and the administration applicable to land use as it appeared in the spring of 2003. Several of the Acts discussed in this document are under revision. This applies to the Planning and Building Act, the Reindeer Act and the Minerals Act. To what degree this revision work has embraced Sámi questions has not been considered in this report.

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