

Legal and political challenges in governance of Northern natural resources

The governance of natural resources in the northern areas raises many questions and force politicians to prioritize and weigh the pros and cons. Recently, oil sands extraction by Norwegian Statoil in Canada has aroused reactions among politicians, environmental activists and professionals nationally and internationally. Locally, spring hunting in some Sámi areas is discussed and defended on the basis that it is an indigenous custom that requires protection in accordance with ILO Convention No. 169, although this kind of hunting may threaten the reproduction of certain vulnerable bird species.

Are natural resources in the North – on the tundra, in forests, on the ice or in the ocean, going to be managed in a sustainable way or will short-term profit prevail? This is a core question in governance. Another question of huge importance is that of whether nature will be governed as a collective resource for the benefit of the community as a whole, or if traditions and customary law according to the locals will be of key importance in the resource governance.

When the Finnmark Act was adopted, the decision-making politicians chose to prioritize the Finnmark community – or the community as a whole, rather than the local villages of the county, refusing to support a proposal for a local governance model with independent boards, arguing in that the nature resources should be managed uniformly. According to the legislator's opinion, local governance might imply that the overview of the total use of outfields disappears: "This could damage a desirable and appropriate allocation of resources in their entirety. Concerns for a proper and sustainable management of resources, means that outlying fields must be managed as a whole."¹ Thus, locals in Finnmark were cut off

1. Ot. Proposition. No. 53 (2002–2003) [*The Finnmark Act*] p. 98–99.

from a governance model that the Sámi Rights Commission had proposed – a model which is also generally used for governing commons elsewhere in Norway.

To decide if natural resources should be managed collectively as a whole or by smaller units, locally or centrally, or for sustainable purpose or for short-term gains, the politicians and decision makers need professionally qualified input from researchers in law and social sciences. In this issue of *Arctic Review on Law and Politics*, *Mikkel Nils Sara* discusses how pastoral resources of the Sámi reindeer herders should be managed, including how the *Sámi siida* should be taken into account. Sara argues that two basic issues must be determined to restore siida autonomy: the number of animals that can be herded and the application of siida rules of land usage. The article discusses these issues in relation to traditional reindeer herding customs.

Rules of land use in Sámi reindeer husbandry are also analyzed by *Christina Allard*. She compares property laws in Norway, Sweden and Finland to understand how Sámi rights to land and natural resources are articulated and recognized. These rights are based on old doctrines: “immemorial usage” in Norway and “immemorial prescription” in Sweden and Finland. Although the doctrines are generally regarded as equivalent, Allard discusses a few significant differences, particularly focusing on reindeer husbandry rights.

The Norwegian Marine Resources Act provides that fish or marine resources belong to the community as a whole. In *Arctic Review on Law and Politics* vol. 1, issue 1 (2010) we saw that this question is disputed. In that issue prominent experts such as Carsten Smith and Jørn Øyrehaugen Sunde have pointed out that such resources may be subject to private legal rights based on historical use that is not very different from pastoral rights for farmers or reindeer herders. In this issue *Vidar Jarle Landmark*, Director General of Fisheries and Coastal Affairs, canvasses parts of current Norwegian fishery legislation, summing up the Norwegian government’s view of the marine living resources as a common resource. He also gives a brief introduction to the legislation on participation in commercial fisheries in Norway and the allocation of quotas.

Protected nature areas are established to meet the need to take care of our natural heritage for future generations. Nevertheless, it raises debate and opposition. Recently, the mayors of the *Avjovárri indigenous region* in Sápmi claimed that the conservation policy must be revised, since it limits local access to natural resources. In this issue of *Arctic Review*, we present the interesting analyses of *Christel Elvestad*, *Frode Nilssen* and *Ludmila Ivanova*, questioning whether the new western paradigm for nature protection, which combine conservation and local development, could serve as a model for nature protection in Russia, and for Russia’s High North in particular. The authors present three different types of

protected areas in Murmansk Oblast focusing on the role protected areas can play in terms of local development. The dominant form of such areas in Russia is still the strictly protected areas, *zapovednik*, in which no form of economic activity including nature-based tourism is allowed. However, local “park enthusiasm,” a growing number of tourists and new governmental strategies may contribute to local development in the years to come.

In *Arctic Review on Law and Politics*, we want to put these kinds of challenges on the agenda, discussing them both in a scientific context but also based on local, traditional knowledge and customs. The debate on different ways to allocate the marine fish resources is a good example of this and that discourse needs to be continued. Similarly, questions about resource exploitation and allocation, conservation and indigenous peoples’ rights need more inputs. Other questions also have to be addressed such as environmental legislation in relation to oil exploration in the Barents Sea or in the Canadian boreal forests, where perhaps the most environmentally damaging way of extracting oil takes place in a world that should be striving to reduce emissions of greenhouse gases.

Finally, we congratulate the Northern Arctic Federal University in Arkhangelsk with establishing the Pomor Institute of Indigenous and Minority Peoples of the North. Surely it will be an important contribution to the academic debate on the challenges indigenous people and minorities faces related to protection of culture and use of nature resources. It will also be an important contribution to extend the cooperation and research on the Northern indigenous’ and local peoples culture, customs and way of life.

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