

Unpredictable Consequences of Sámi Self-determination: Rethinking the legal protection of Sámi cultural heritage in Norway

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Abstract: Sámi cultural heritage is protected in Norway by the Cultural Heritage Act. A 1978 amendment to this Act provides automatic protection to all Sámi cultural heritage sites and buildings older than 100 years. Strong legal protection has in a very positive and constructive way contributed to Sámi identity and cultural self-determination for more than 30 years. This article discusses the current level of protection and different scenarios for future management of Sámi cultural heritage sites and buildings. Background material includes *The*

Norwegian National Sites and Monuments Record, relevant policy documents, and interviews with Sámi cultural heritage management and three Sámi municipalities. Our results demonstrate that strong legislation for protection of Sámi cultural heritage, and thus in favour of Sámi cultural rights, can contribute to severe restrictions on future planning and development in local communities. The intent to protect Sámi cultural heritage sites, paradoxically, may in future threaten traditional Sámi land use.

Key words: Sámi, cultural heritage, cultural heritage management, Norwegian Cultural Heritage Act (1978), protected sites, Nordland, Troms, Finnmark.

1. Introduction

Both the legislation for and consequent management of Sámi cultural heritage in Norway are a success story. The Norwegian Parliament passed the first Act¹ protecting cultural heritage in general in 1905, thereby issuing automatic protection to cultural heritage sites older than 1537 AD. In 1978 an amendment to the Norwegian Cultural Heritage Act provided automatic protection to Sámi cultural heritage sites and artefacts older than 100 years.² The implication of these provisions is that the Norwegian Parliament has, in fact, evaluated cultural heritage sites and deemed those older than 1537 AD and Sámi sites older than 100 years to be of national value.³ Part of the reasoning behind the current 100-year limit was the fact that Sámi cultural heritage often is attached to “abandoned functional elements” in the Sámi society. Another weighty argument for the extensive protection of Sámi cultural heritage sites was the lack of written sources concerning the Sámi past. Cultural heritage is an important part of Sámi culture,⁴ and Sámi history and cultural heritage were considered vulnerable and under represented. The Norwegian authorities hence decided on extensive legal protection. The authorities wanted to protect all cultural heritage sites that no longer served a function in Sámi culture, including elements that quite recently were functional in Sámi society.⁵ The time limit for automatic protection was therefore made relative and applicable to all Sámi cultural heritage sites, buildings and artefacts older than 100 years.

1. Lov om fredning og bevaring av fortidslevninger.
2. Act of 9 June 1978 Concerning the Cultural Heritage. The first Act protecting cultural heritage in Norway was adopted by the Norwegian Parliament in 1905 (*Lov om fredning og bevaring av fortidslevninger*).
3. Kahn 2007: 130.
4. Schanche 2001: 56.
5. White Paper (Ot. prp.) no. 7 (1977–1978).

This means that Sámi sites, buildings and artefacts, as well as places appearing in stories and narratives, older than 1912 will be automatically protected in 2012.

The Norwegian Cultural Heritage Act gave Sámi cultural heritage visibility as a special category within the cultural heritage field in Norway. Cultural heritage management was also reorganized. In 1990 the County Councils were delegated authority under the Cultural Heritage Act,⁶ thereby assuming responsibility for automatically protected cultural heritage sites older than 1537 AD. In accordance with this organizational model, Sámi cultural heritage management also became subject to a political body as it was incorporated in the Sámi Parliament in 1994.⁷ From a Sámi perspective this is seen as a very important milestone in political self-determination. This protective legislation has brought about extensive documentation of Sámi history and cultural heritage, and has contributed towards the Sámi sense of identity and historical belonging.

Sámi cultural heritage management covers areas⁸ specified in the 2005 consultation agreement between the Sámi Parliament and the Government. At present, Sámi cultural heritage management authorities have a department located in each of the four northernmost counties in Norway: Nord-Trøndelag, Nordland, Troms, and Finnmark. In all parts of Norway where there are or have been traditional Sámi settlements and economic activity, cultural heritage assets are managed by two administrative agencies.⁹ As a response to this situation, the Sámi Parliament and the counties of Finnmark, Troms, Nordland, Nord-Trøndelag, Sør-Trøndelag, Hedmark, and Oppland have reached formal agreements that regulate cooperation within cultural heritage management. For instance, the agreement between the Sámi Parliament and Troms County from 2002,¹⁰ states that the parties have a binding agreement to cooperate in the management of cultural heritage. This cooperation is to be based on mutual trust, professional exchange, and practical adaptation. Both parties have committed themselves to annual meetings on the managerial level. Corresponding texts are also found in the agreements between

6. Gaukstad & Holme 2001: 140.

7. SU 1991 p. 1 (SU is a Sámi Parliament Report).

8. The counties Finnmark, Troms, Nordland and Nord-Trøndelag; the municipalities of Osen, Roan, Åford, Bjugn, Rissa, Selbu, Meldal, Rennebu, Oppdal, Midtre Gauldal, Tydal, Holtåsen, and Røros in Sør-Trøndelag County; Engerdal, Rendalen, Os, Tolga, Tynset, and Folldal municipalities in Hedmark County; Surnadal and Rindal municipalities in Møre og Romsdal County. NOU 2007: 13 Bind B: 887.

9. Gaukstad & Holme 2001: 142.

10. Agreement between the Sámi Parliament and Troms County. <http://www.sametinget.no/artikkel.aspx?AId=1054&back=1&MIId1=14&MIId2=297>.

the Sámi Parliament and the other counties within the Sámi cultural heritage management area.

This article will describe the current status of protected Sámi cultural heritage sites in Norway. Furthermore, it will present different scenarios for the future protection of Sámi buildings, cultural heritage sites and environments. The main research question asked is what challenges Sámi society will face in the future if the 100-year limit for automatic protection of Sámi cultural heritage sites and buildings remains unchanged. Our results are based on a research project financed by The Directorate for Cultural Heritage.¹¹

2. Theoretical and methodological approaches

Cultural heritage politics is closely intertwined with current societal values and preservation ideology. The strong protection of Sámi cultural heritage sites, together with the establishment of Sámi cultural heritage management, is proof of significant changes in post-World War II-era Norwegian politics concerning the Sámi people. There has been an acknowledgement of the Sámi people as an indigenous people with their own history, culture and way of life. The UN Covenant on Civil and Political Rights of 1966 was ratified by Norway in 1972, and Article 27¹² relates to the rights of ethnic, religious and linguistic minorities. The 1978 amendment to the Act Concerning the Cultural Heritage was the first national legal instrument which proved a change in the Norwegian *dominant narrative*¹³ about the Sámi people. Subsequently several national acts have been amended and international conventions ratified. In 1987 the Norwegian Parliament passed the Act concerning the Sameting (the Sámi Parliament) and other Sámi legal matters.¹⁴ In 1988 an amendment to the Norwegian Constitution was added, stating: “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.”¹⁵ Then in 1990 the Norwegian Parliament ratified, as the first nation state ever to do so, ILO Convention no. 169 concerning Indigenous and Tribal Peoples in Independent

11. Holm-Olsen et al. 2010; 2011.

12. International Covenant on Civil and Political Rights <http://www2.ohchr.org/english/law/ccpr.htm>.

13. Bruner 1986: 139–155.

14. <http://www.usefoundation.org/view/463>.

15. <http://www.stortinget.no/en/In-English/About-the-Storting/The-Constitution/The-Constitution/>.

Countries.¹⁶ The change in Norwegian politics was demonstrated through the development of a legal foundation for Sámi rights.

Our main point of departure is practice theory as described by Ortner¹⁷ among others. Ortner views practice theory as an interdependent process of influence occurring between internal dynamics and external factors. She points out the importance of the past and present social and cultural context for fully understanding existing practices. According to Ortner, it is not sufficient to know only the present-day social structures and environmental/cultural context to understand and explain social relations. The researcher has to understand the past society and cultural traditions as well. In our article Ortner's perspective is linked to how strengthening the Sámi cultural heritage has changed society's view of the Sámi past, and how Sámi cultural heritage management has developed after the amendment to the Act Concerning the Cultural Heritage came into effect in 1978. The process ahead of prospective amendments to the Act can be looked upon as a discourse between internal dynamics and external factors. The same can be said about the process that went on ahead of forming a separate administration for Sámi cultural heritage management, a process where the Sámi Parliament had a decisive role in the discourse.¹⁸

Our methodological approach consists of document studies and interviews. Policy papers and political decisions have been examined, as well as relevant national cultural heritage data bases. We have interviewed employees at the cultural heritage departments of the Sámi Parliament, as well as local political and administrative personnel in three Sámi municipalities. These institutions are central to the documentation of information about experiences and practices concerning current management of cultural heritage.

The Sámi Parliament as well as the municipalities have been very positive towards our inquiry. The Sámi cultural heritage management chose one long-time and experienced employee from each of their four departments for the interviews. At the municipal level, we interviewed local political and administrative representatives in three municipalities: Deanu gieldda/Tana municipality in eastern Finnmark, Gáivuona suohkan/Kåfjord municipality in northern Troms, and Skániid suohkan/Skånland municipality in southern Troms (figure 3).

The main focus of the interviews was the present day 100-year floating limit for automatic protection of Sámi cultural heritage sites, buildings and artefacts, and the interviews covered both current practice and future scenarios for the

16. <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C169>.

17. Ortner 1989: 193–202.

18. SU 1991: 1.

management of Sámi cultural heritage assets. The interviews can be described as half-structured; no detailed questionnaire was used. Rather the interviews were conducted as a conversation concerning a few main themes. An overview of these themes was sent to the interviewees prior to the interviews.

We are aware of the multicultural history of Northern Norway and the diverse cultural heritages of the Norwegians, the Sámi and the Kven people. As this article focuses on Sámi cultural heritage and the consequences of the Act Concerning the Cultural Heritage, other categories of cultural heritage will not be discussed here.

3. Strategies and challenges

The strategic plan of the Sámi Cultural Heritage Council 1995 – 1997¹⁹ provides an overview of the “landscape” where Sámi cultural heritage found itself at the time – both physically and metaphorically. The main objective of the plan was to protect Sámi cultural heritage buildings and sites, as well as Sámi cultural environments and landscapes for future generations, in a way that contributes to strengthening and maintaining Sámi culture and identity. The plan emphasizes cultural heritage as vital historical documentation in a living Sámi society, as cultural heritage is seen to strengthen Sámi identity and self-consciousness. The connection between Sámi cultural heritage as something of the past and simultaneously as something of the present and the future is a focus of the document. Knowledge production as a tool for understanding is also regarded as important in all aspects of Sámi cultural heritage management – in administration, in public relations, and in research.

The Sámi Parliament policy paper “To live on the land by the terms of the land” from 2009²⁰ emphasizes that Sámi cultural heritage is a non-renewable resource, with deep roots back in time, as well as a high degree of continuity. The Sámi Parliament points out the need for increased funding in order to manage cultural heritage successfully. Furthermore, the Sámi Parliament wants a change in legislation to increase the level of self-determination concerning Sámi cultural heritage. In a recent report²¹ to the Norwegian Parliament, the Government states that in decisions concerning future Sámi cultural heritage policies, emphasis should be placed on securing Sámi political influence in accordance with customary international law and existing national legislation.

19. Samisk kulturminneråd 1995. Strategisk plan 1995–1997.

20. Leve i landet på landets vis. Sametingsrådets miljø- og arealmelding 2009: 34.

21. Report no 28 (2007–2008) to the Storting/Norwegian Parliament (from the Government), p. 96.

However, the situation is complex. A report from the Office of the Auditor General²² pointed out that the Government on one side and the Sámi Parliament on the other have different understandings of the Norwegian Cultural Heritage Act (1978) and how the act should be interpreted, especially concerning the protection of Sámi buildings more than 100 years old.

4. Management challenges

According to Schanche,²³ Sámi cultural heritage management and national cultural heritage management have differing social and culture-political priorities, field methods, and focuses. Since the limit set for automatic protection of Sámi cultural heritage sites, buildings and artefacts is 100 years, the Sámi cultural heritage management have to pay a great deal of attention to recent Sámi history and Sámi traditional knowledge. Furthermore, this focus is intended to contribute to present Sámi cultural practices and cultural activities.²⁴ It can be assumed that there is an internal dynamic discourse within Sámi cultural heritage management. In accordance with Schanche, Holand states that management "... always insisted on establishing the broader context of any Sámi remains within a planning area, the Sámi traditions connected with them or the area itself, and the history of any Sámi involvement with the area."²⁵

A report from the Sámi Parliament concerning the preservation and management of Sámi buildings discusses the current limit for legal protection. Although the number of automatically protected Sámi buildings can be expected to increase in the future, the report concludes that there are other and more pressing concerns that threaten the preservations of Sámi buildings. Consequently, the report recommends that 100 years remain the legislative limit for automatic protection.²⁶ There are, however, several challenges in managing automatically protected Sámi cultural heritage sites. The Act Concerning the Cultural Heritage clearly states that any intervention in a protected site is prohibited. An unintended consequence of this provision is that the protection measures themselves can become a threat to living Sámi traditions. Sjølie²⁷ states that relocation of buildings, such as storehouses, has been common practice among Sámi populations. To prohibit relocation would

22. Riksrevisjonen 2008–2009 Document no. 3:9.

23. Schanche1999 <http://www.sv.uio.no/mutr/publikasjoner/rapp1999/Rapport8.html#Milj%F8>.

24. Schanche 1999. <http://www.sv.uio.no/mutr/publikasjoner/rapp1999/Rapport8.html#Milj%F8>.

25. Holand 2002: 87.

26. Sjølie 2003: 90.

27. Sjølie 2003: 93–94.

mean an end to an old practice in Sámi culture. As another example, Skandfer²⁸ points out the contrast between the Act's provisions and the Sámi tradition concerning traditional turf huts. The Act requires protection of turf huts older than 100 years, but according to traditional practice abandoned turf huts should "be returned to nature". Other clear examples of the restrictions the law can put on modern Sámi society are related to reindeer husbandry and the annual migrations between summer and winter grazing. Resting places along the migration routes for both reindeer and herders have been the same for hundreds of years, but today's reindeer herders cannot legally reuse old campfires along the routes as they are protected by law. Furthermore, they are not allowed to build new fires in close proximity to the existing ones.²⁹ Modern reindeer herders have been using motorized vehicles for several decades, and according to current legislation the tracks these vehicles leave in the terrain will be protected by law in the near future.³⁰ The increase in areas where restrictions are or will be placed on land use will become a growing problem for Sámi society and for primary industries like reindeer husbandry, as well for other use of woodlands, mountains and outlying fields.

5. Status of recorded Sámi cultural heritage sites and buildings

Although there has been no overall systematic survey of Sámi cultural heritage sites in Norway, relevant cultural heritage data have been recorded for a long time. A nationwide archaeological survey was initiated in 1963 and concluded in 1991. This was a survey of automatically protected cultural heritage sites, but until the 1978 amendment of the Cultural Heritage Act it comprised only sites older than 1537 AD. It was only after 1978 that Sámi cultural heritage sites older than 100 years were included in the surveys. The survey work was part of the production of the Norwegian Public Land Use Maps and covered areas that at the time were considered to be of economic interest. Outlying areas, which happen to be where remains of Sámi settlements and activities often are found, were generally excluded. As the archaeological surveys for the Norwegian Public Land Use Maps could not keep up with the mapping progress in general, whole municipalities were left out. In Finnmark County no more than approximately 16 per cent of the total area was surveyed. However, a great number of surveys for cultural heritage sites have been conducted in recent decades. In addition to research projects, cultural herit-

28. Skandfer 2002: 56.

29. Cf. Norwegian Cultural Heritage Act § 6 Protection zone.

30. Holm-Olsen et al. 2010: 33.

age surveys implemented when Sámi areas are affected by development projects (infrastructure, military activity, or power plants) have been an essential addition to the original national survey. The Sámi-Ethnographic Department at Tromsø University Museum, since its establishment in 1949, has stressed the importance of collecting and recording both tangible and intangible aspects of Sámi cultural heritage. The department has surveyed Sámi cultural heritage sites in connection with several large projects.³¹ Tromsø University Museum had the responsibility for the management of Sámi cultural heritage until 1994 when the Sámi Parliament took over.³² A comprehensive survey project was also carried out by the Sámi cultural centre at Snåsa, Saemien Sijte, between 1985 and 1989. Most of this documentation is collated in The Norwegian National Sites and Monuments Record, Askeladden³³ which is run by the Directorate for Cultural Heritage. This record is now continuously updated by Sámi cultural heritage management.

In 2009 Askeladden contained 262 distinct types of cultural heritage categories, out of which we have identified 26 types that in all likelihood describe sites of Sámi origins.³⁴ In 2009 the record contained 8755 cultural heritage sites that included one or more of these 26 types, such as hearths, turf huts, scree graves, and sacred places (figure 1).

The intention of the National Sites and Monuments Record, Askeladden, is to compile all sites, monuments, and buildings that are automatically protected by the Cultural Heritage Act. As can be seen from figure 2, in 2008 the Sámi Parliament was listed as the management authority for 1746 localities³⁵ encompassing an even larger number of cultural heritage sites. However, in 2010 Askeladden only contained 18 automatically protected Sámi buildings.³⁶ At that time an overview of Sámi house types had been compiled by the Sámi Parliament,³⁷ but the surveyed objects have not been entered into Askeladden. The SEFRAK³⁸ database is a national record of older buildings which is also run by the Directorate for Cultural Heritage. As a comprehensive database of older buildings SEFRAK contains a large number of automatically protected Sámi buildings. However, these buildings cannot easily

31. Storm 1981: 17.

32. Gaukstad 2001: 133–134.

33. Askeladden: National database of automatically protected cultural heritage sites.

34. Holm-Olsen et al. 2010: 4.

35. One locality may be comprised of one or more sites, for instance settlement remains at a locality can consist of several turf huts and storage pits.

36. Holm-Olsen et al. 2010: 13.

37. Sametinget 2003: 108–126.

38. SEFRAK: A national register of older buildings and other cultural heritage, based on a survey 1975–1995.

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be identified as Sámi because the survey methodology used when compiling data for the SEFRAK database did not include ethnic categorization. This clearly indicates that further documentation and identification of Sámi buildings is required.

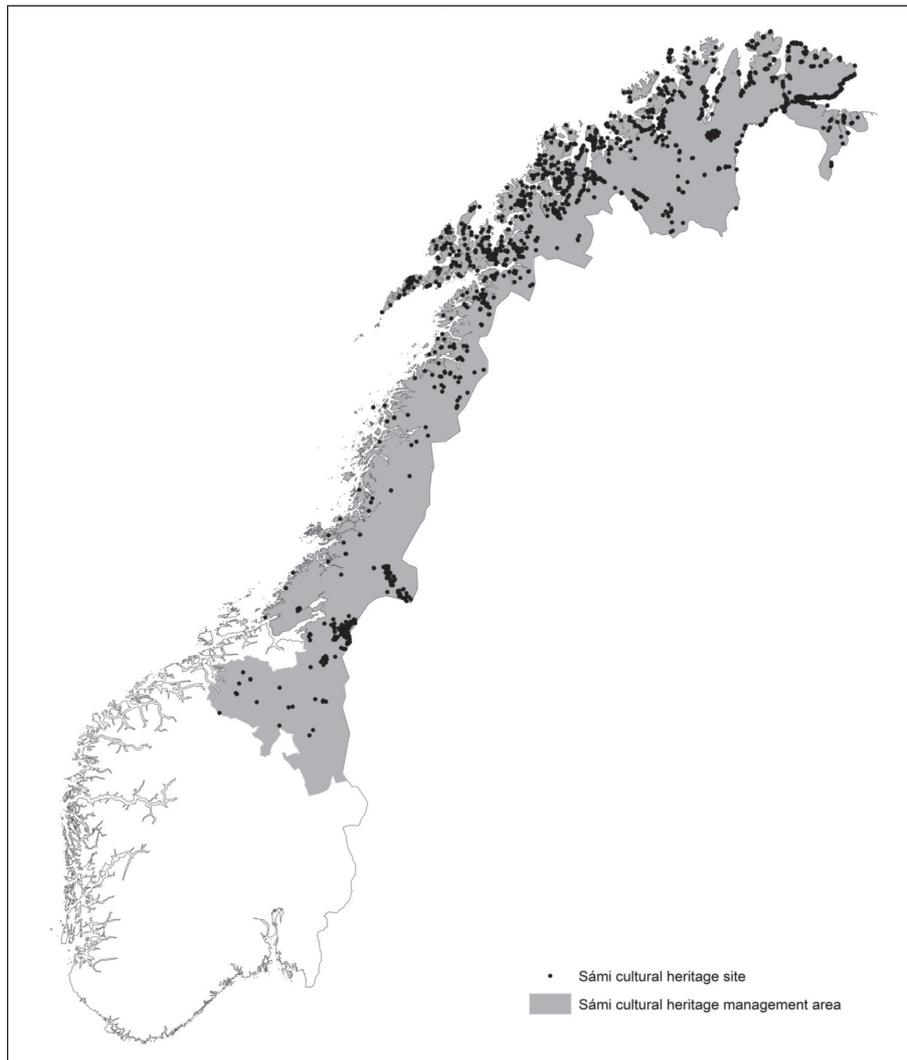


Figure 1: Sámi cultural heritage sites. The grey colour marks the management area for Sámi cultural heritage.³⁹ Data downloaded from Askeladden in week 25, 2009. Map data: The Norwegian Mapping Authority (Map: Alma Thuestad).

39. NOU 2007: 13 Bind B: 887.



Figure 2: Sámi cultural heritage sites specified in Askeladden as the Sámi Parliament's responsibility. In 2008 there were registered 1746 such localities. Data downloaded from Askeladden in week 36, 2009. Map data: The Norwegian Mapping Authority (Map: Alma Thuestad).

6. Sámi Cultural Heritage Management experiences and practices

The amendment to the Cultural Heritage Act was adopted in 1978, and today this amounts to over 30 years of management experience and practice concerning the protection of Sámi cultural heritage sites. The Sámi cultural heritage management/Sámi Parliament is the central body in this regard. As part of our project we interviewed employees at the cultural heritage departments in the Sámi Parliament.⁴⁰ The main point of discussion was two alternative models for future protection and conservation of Sámi sites: (a) continuation of the current legislation that automatically protects all Sámi cultural heritage sites older than 100 years, or (b) amendment of current legislation introducing a fixed protection limit set at 1951. In addition other options such as individual protection according to the Cultural Heritage Act⁴¹ were thought to involve a long and strenuous process, and thus to be avoided.

Several of the interviewees drew attention to the Second World War as a decisive turning point in society and lifestyle. After WWII both Norwegian and Sámi society entered an era of modernization, and the pre-modern lifestyle gradually vanished. For example, turf huts were no longer built as all-year residences, as was usual in pre-war and inter-war times.

The interviewees at the cultural heritage department in the Sámi Parliament stated that discussing the future protection limit is a complex and important issue. Opinions, however, differed. Some of the interviewees stated that a floating limit would be preferable to a fixed one, providing the limit could be set to 150 years. Others said that a fixed limit preferably set to 1951 would be better, since construction of new houses increased enormously after World War II. The general opinion among those interviewed at the Sámi Parliament was that at present it is too early to decide whether the Norwegian Cultural Heritage Act needs to be revised.⁴² Several of the interviewees stated that even if the current situation cannot continue unchanged, more time should be given to further reflection upon this issue. The implications are too important to rush. But there are issues concerning elements in modern Sámi culture that few today consider potential future cultural heritage sites, such as many of the installations and the tracks left by ATVs (all terrain vehicles) used by the reindeer industry.

40. Holm-Olsen et al. 2010.

41. Cultural Heritage Act §§ 15, 19, 20.

42. Holm-Olsen et al. 2010: 28.

7. Local government experiences and practices

We interviewed local political and administrative representatives in three municipalities: Deanu gieldda/Tana municipality in eastern Finnmark, Gáivuona suohkan/Kåfjord municipality in northern Troms, and Skániid suohkan/Skånland municipality in southern Troms (figure 3). These municipalities are areas with a long history of Sámi settlement. If the 100-year protection limit is maintained, these areas can expect a steadily rising number of automatically protected cultural heritage sites. However, the communities are located in different parts of the traditional Sámi settlement area and they represent diverse situations historically and economically. Deanu/Tana and Gáivuona/Kåfjord are located within the area affected by the scorched earth tactics⁴³ used by German forces during WWII. This meant a tremendous loss of buildings, and consequently the number of existing buildings protected by law is relatively low. However, all three municipalities are facing similar future challenges in Sámi cultural heritage management. Sámi buildings are among the more pressing concerns for local management authorities, but any trace of Sámi activity and traditional subsistence such as potato fields, boat landings, and tracks after motorized traffic in outlying areas, will, when reaching 100 years of age, become protected by the Cultural Heritage Act § 4. Basically, any disturbance of the ground can in time become a protected archaeological site. The expected increase in protected Sámi cultural sites will in time become a massive challenge, not only for local management but also for cultural heritage authorities.

The main point of discussion was what impact a continuation of the current legislation can be expected to have on local cultural heritage management and local planning. The current floating time limit means that every year there are Sámi cultural heritage sites that reach the age of 100 years and thereby qualify for automatic protection. A good example is the wooden buildings that have replaced turf huts in Sámi areas. For the local management current legislation means an ever increasing number of sites and buildings that must be taken into account in local planning efforts.

The following scenarios for future protection and conservation of Sámi sites were discussed:

1. A continuation of the current legislation that automatically protects all Sámi cultural heritage sites older than 100 years.
2. An amendment of current legislation introducing a fixed protection limit set at 1951.

43. Scorched earth tactics – during a defensive war, especially during retreats, a military strategy or operational method used to lay waste to large areas in order to deny the enemy anything useful (Store Norske Leksikon 2011).

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3. An amendment of current legislation introducing a fixed protection limit set at 1920, but with the option of declaring Sámi sites dating to the period 1921–1951 as automatically protected.⁴⁴

Among the representatives from the three municipalities there was a general consensus that a fixed limit for the automatic protection of Sámi cultural heritage sites



Figure 3: Chosen municipalities (Map: Alma Thuestad).

44. Cultural heritage sites can also be individually protected by a number of existing paragraphs in the Cultural Heritage Act (§§ 15, 19, 20) and by the Planning and Building Act. These options were not discussed in the interviews with the municipalities.

should be introduced. Furthermore, the consensus was that a fixed limit set to 1920 was preferable to 1951. The option of declaring certain buildings and constructions from the period 1920–1951 as automatically protected met with approval, provided such a system includes national guidelines or criteria for selecting and evaluating cultural heritage sites of interest. It was emphasized that a fixed limit would give a larger degree of predictability for local planning.

8. Discussion

For several decades surveys of Sámi cultural heritage sites have been conducted. A continuation of the 100-year limit for automatic protection in coming years will result in a rapid increase in the number of protected sites. For instance, the number of buildings covered by the law can be expected to rise dramatically within the next forty years as large numbers of post Second World War construction becomes protected. A wide range of buildings such as private residences, public buildings, industrial buildings and infrastructure will be automatically protected. In addition there are numerous traces of economic and other activities, such as tracks left by motorized traffic in outlying areas, campsites and installations connected with the reindeer husbandry industry that will be covered by the law. This can be expected to put considerable restrictions on land use in Sámi settlement areas, not just in densely populated areas, but also in areas used by primary industries such as reindeer husbandry and agriculture. For local administration, cultural heritage management concerns more than sites and buildings. As cultural heritage sites place restrictions on land use, cultural heritage also becomes a concern for local planning in general. Gáivuona suohkan/Kåfjord municipality is an example of an area where cultural heritage sites come into conflict with other assets and interests. The municipality is a typical coastal community in Northern Norway where the settlements are mainly located on a narrow strip of land between the sea and the mountains. This settlement pattern is also seen in historical times and reflected in the location of cultural heritage sites (figure 4). Areas that today are deemed suitable as residential areas, or for industry and other activities, are limited and often coincide with areas preferred in prehistoric and historic times. The interviewees from this municipality voiced their concern over the impact a rising number of sites and especially buildings will have. They were quite clear in their preference for a set limit for automatic protection.⁴⁵

45. Holm-Olsen et al. 2011: 34.

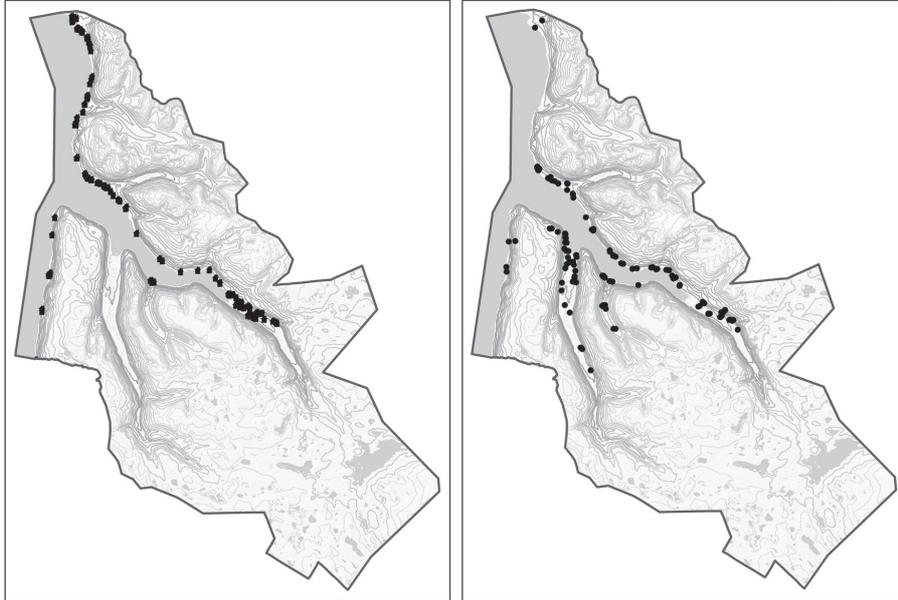


Figure 4: Gáivuona suohkan/Kåfjord municipality: Buildings older than 100 years and registered in SEFRAC are shown on map to the left, while automatically protected cultural heritage sites are shown on map to the right. Map data: The Norwegian Mapping Authority (Map: Alma Thuestad).

The protection of cultural heritage sites is, formally speaking, a matter of public interest.⁴⁶ In the long term, however, the floating protection limit can undermine the intention behind the current legislation, and the rapidly increasing number of automatically protected sites could become an impediment to desired social development. Put another way; can the restrictions placed upon local communities by the Cultural Heritage Act lead to a society that has more in common with a museum than a living community? A continuation of the current legislation can lead to a situation where cultural heritage sites, by both local authorities and private individuals, are seen as an obstacle and not as a resource. Considering the fact that the Act speaks of cultural heritage as a resource for both our and the coming generations⁴⁷ this is potentially a serious situation.

Introducing a fixed limit for the automatic protection of Sámi cultural heritage sites will, in all probability, reduce the expected increase in the number of protected sites and buildings. Representatives from the three municipalities featured

46. Kahn 2007: 130.

47. Finne & Holme 2001: 26.

in this project were all in favour of a set protection limit.⁴⁸ A set limit is thought to generate a greater degree of predictability for property owners, cultural heritage management, and local planning authorities. There are, however, challenges that have to be considered. One of the possible drawbacks or challenges of introducing a fixed limit is that culturally important heritage assets that reflect current society are excluded. This challenge can be met by using existing legislation more actively, for example the Planning and Building Act.⁴⁹ Also, if a set limit for automatically protecting Sámi cultural heritage sites is introduced, this decision will not be irreversible. It can be re-evaluated and changed in retrospect.

An automatic protection of Sámi cultural heritage sites set at 1951 means that buildings from the earliest rebuilding phase as well as infrastructure and other constructions dating to the time immediately after World War II will be encompassed by the legislation. Structures that today constitute the oldest buildings in the municipalities that were affected by the German scorched-earth tactic during World War II will thereby be ensured status as automatically protected sites. A great many new categories and types of cultural heritage sites have been introduced since the war. A fixed limit at 1951 will stem the tide of new types of cultural sites given automatic protection, compared to the number that would be legally protected if the limit were set 10 or 15 years later. However there are disadvantages to a limit set at 1951, the main one being the sheer number of buildings put up in the years immediately after World War II. A floating limit for the legal protection of Sámi cultural sites in 1978 was justified by the lack of other sources of Sámi history. But this argument can hardly be maintained for the period following 1951.

A set limit for the automatic protection of Sámi cultural heritage sites set at 1920 was the preferred option agreed upon by the interviewed local political and administrative representatives.⁵⁰ As for the period 1921–1951, cultural heritage management can be given the option, on the basis of an evaluation, of declaring cultural sites as protected. Questions concerning the need to preserve all Sámi cultural sites from the 1920s, the 1930s and the 1940s when they become more than 100 years old are undoubtedly pertinent. Large numbers of sites dating to the period between WWI and WWII will in all probability reflect traditional ways of operation in the primary industries. A great number of site types from this period will, when they reach the protection limit, already be represented by sites dating to the preceding decades. This is probably particularly applicable when it comes

48. Holm-Olsen 2011: 46.

49. LOV 2008–06–27 nr 71: Lov om planlegging og byggesaksbehandling (plan- og bygningsloven).

50. Holm-Olsen et al. 2011: 46.

to remains of agriculture and reindeer husbandry. Managing a large number of such sites presents great challenges for regional cultural heritage management and land use planning on the local level. Regional Sámi and local municipalities' cultural heritage management have expressed differing views regarding a change in cultural heritage legislation.⁵¹ This is understandable considering their different starting points. Regional cultural heritage management has a different focus on managing cultural heritage than local planning authorities, who have to consider cultural heritage assets alongside other interests.

At the same time there are other types of sites from the interwar period that should be automatically protected. Legislation for non-Sámi sites in Norway has a fixed limit at 1537 AD for automatic protection. Buildings dating to the period 1537–1649 may also be protected by law. This requires the authorities to take an active stand and, based on an evaluation, declare them standing buildings from the above-mentioned period. This provision may have transfer value with regard to a future adjustment of legislation for Sámi cultural sites. A similar provision may be made for Sámi sites dating to the period 1921–1951, making it possible to preserve selected site types or categories where protection is required. This model allows for the legal protection of buildings dating to the first rebuilding after World War II.

This undoubtedly means there will be challenges predicting which cultural assets are to be considered valuable in the future. Over the next few decades cultural sites and buildings deemed to be of importance for posterity will continuously be added. Even if a set limit for protecting Sámi cultural heritage sites and objects is introduced, cultural heritage sites not covered by automatic protection can still be protected through existing legislation. Nor will a set limit be irreversible – a set limit can of course be re-evaluated and adjusted at a later date.

9. Conclusion

When protection of Sámi cultural heritage sites and buildings older than 100 years was included in the amendment to the Cultural Heritage Act in 1978, the situation in Norway for Sámi cultural and political rights was very different from today. Sámi culture and society experienced severe negative pressure from the majority society, and thus these provisions were necessary. Neither the Sámi Act nor the Sámi paragraph in the Norwegian Constitution existed in 1978. Today the Cultural Heritage Act with its focus on the Sámi past has for more than 30 years contributed in a very positive and constructive way to Sámi identity and cultural self-determination.

51. Holm-Olsen et al. 2010.

This article has discussed scenarios for future management of Sámi cultural heritage. It has demonstrated that strong legislation for the protection of Sámi cultural heritage, and thus in favour of Sámi cultural rights, can in fact contribute to severe restrictions on future planning and development in local communities. Paradoxically, restrictions intended to protect Sámi cultural heritage sites can in time become a threat to Sámi traditional land use. In the long term legal protections can even lead to “freezing” of Sámi local communities in time. The world has changed in the past 30 years. So has Sámi society. As a future legal instrument for maintaining and strengthening Sámi culture and society, it is now time for reflection on how the intentions embedded in the Cultural Heritage Act can best serve Sámi society for generations to come.

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Непредсказуемые последствия защиты самоопределения саами – пересмотр правовой охраны культурного наследия саами в Норвегии

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Аннотация

Культурное наследие саамского народа в Норвегии находится под защитой Закона о культурном наследии. Поправка к настоящему Закону обеспечивает автоматическую защиту всего саамского культурного наследия и зданий старше 100 лет. Прочная правовая защита в очень позитивном и конструктивном ключе способствовала сохранению саамской идентичности и культурного самоопределения в течение более 30 лет. В этой статье обсуждается вопрос настоящего уровня защиты и различные сценарии будущего управления саамским культурным наследием и зданиями. Основным материалом являются *Справочник национальных норвежских памятных мест и памятников*, ряд политических резолюций и документов, а также интервью с Управлением саамского культурного наследия и представителями трех саамских муниципальных образований. Результаты этого исследования свидетельствуют о том, что сильное законодательство по защите саамского культурного наследия, и следующая за этим фаворитизация культурных прав саами, могут способствовать жесткому ограничению будущего планирования и развития местных общин. Парадоксально, но намерение защитить саамское культурное наследие может в ближайшие годы стать угрозой для традиционного природопользования саамов.

Ключевые слова:

Саами, культурное наследие, Управление культурным наследием, Закон об охраняемых объектах, Нурдланд, Тромс, Саами Финнмарка