



# Fishing Under the Consent of the Kingdom

*From local requests to Indigenous claims in a coastal Sami fjord*



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## **ABSTRACT: Fishing Under the Consent of the Kingdom – From Local Requests to Indigenous Claims in a Coastal Sami Fjord**

In this thesis, we follow the development of a discourse on coastal Sami rights on the local level and in public discourses from the 1970s up until today.

In Norwegian fisheries management, fishing is only to a certain extent protected from regulations that threaten culture, livelihoods and settlement in coastal Sami areas. Resource use in coastal Sami areas has previously not been a subject of research, and it has been argued that coastal Sami fishing is not culturally specific in the meaning that coastal Sami are similar to any Norwegian citizen. However, when investigating local fishing practices in a coastal Sami fjord, we find that the local population has argued for several decades that their traditional ways of fishing are threatened by the Norwegian fisheries regulations. In 1985, the Supreme Court of Norway recognized a group of fishermen's right to compensation after their livelihood was damaged following the construction of a hydroelectric power station. Fishing practices that were documented in the beginning of the 1980s connected to the court case are investigated and compared with today's practices in the same area. The thesis argues that some practices have stood the test of time, while others are rejected as the circumstances require a flexible approach to resource management in the fjord. Coastal Sami rights are to a great degree unspoken among the fishermen in the area of research. The local fishermen's association in Kåfjord has acted as a resource management institution and a channel for local complaints, but it has not argued in terms of indigenous rights until recently. This is due to the process of assimilation and local circumstances, where expressing any kind of Sami belonging has been sanctioned before the coastal Sami revitalization process made an impact in the Lyngen region in the 1990s.

In public discourses, the issue of coastal Sami fishing rights meets with challenges. During the course of a project aiming at local management in the Lyngen fjord, issues pertaining to the process of expressing a Sami identity in the three municipalities involved in the project, was one of the factors leading to the project's abortion. Another factor was the general power structure in Norwegian fisheries management, where communities stand few chances against a few large fishing companies of controlling fisheries in fjords and at sea where the local population has fished for centuries. Coastal Sami thus face a double challenge in their struggle for recognition of their fishing rights. Today, coastal Sami rights discourse is met with better conditions both on the local level and from the authorities, giving hope for the future if indigenous rights claims are able to overpower capitalistic interests.

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# CHAPTER 1: INTRODUCTION AND THEORETICAL APPROACH

## 1.1 PRESENTATION OF THEME AND FOCUS

This thesis is about the development of an indigenous rights discourse regarding coastal Sami fishing during the recent decades. Fisheries management in northern Norway and coastal Sami resource rights is a huge and complex issue, posing both methodological and practical challenges since little research has been done in the area. Considering the limitations of this present thesis, I have focused on how coastal Sami fishing rights are expressed in public discourses, both by local fishermen in a coastal Sami fjord and by outsiders. I have also asked whether the way the issue is represented has consequences for management of fisheries in coastal Sami areas.

At the same time as international law<sup>1</sup> protects indigenous peoples' closer connection to nature and their ways of managing resources, coastal Sami are struggling for their right to continue fishing according to the ways of their own culture. Before the coastal Sami can have any protection of their resource management, their rights need to be recognized by the Norwegian authorities and they also need to be realized by the coastal Sami

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<sup>1</sup> For instance, article 25 in the U.N. Draft Declaration on the Rights of Indigenous Peoples emphasize indigenous peoples' connection to nature:

”indigenous peoples have the right to maintain and strengthen their distinctive spiritual and material relationship with the lands, territories, waters and coastal seas and other resources which they have traditionally owned or otherwise occupied or used, and to uphold their responsibilities to future generations in this regard” (U.N. Draft Declaration on the Rights of Indigenous Peoples, U.N. Doc. E/CN.4/1995/2, E/CN.4/Sub.2/1994/56, at 105 (1994). As agreed upon by the members of the U.N. Working Group on Indigenous Populations at its eleventh session, Geneva, July 1993. Adopted by the U.N. Subcommission on Prevention of Discrimination and Protection of Minorities by its resolution 1994/45, August 26, 1994.).

The U.N. General Assembly has still not approved the Draft Declaration, after several revisions and rounds of negotiation. However, the final word has not yet been said about this declaration and what kind of wording it will have in the end is unsure, although it has significance as a document adopted by the Sub-Commission. Article 26 also makes specific mention of coastal seas that indigenous peoples have the right to own, develop, control and use (ibid.).The Rio Conference's Agenda 21, chapter 26 states that ”indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices” (Agenda 21: Chapter 26 ”Recognizing and Strengthening the Role of Indigenous People and Their Communities” adopted by the U.N. Conference on Environment and Development, Rio de Janeiro). (Anaya 2000)

themselves. The Norwegian fisheries management debate has so far been framed in terms of the size of vessels and allocations of quotas, since the fisheries policy considers every citizen of Norway equally much entitled to fish. In this context, the question of how coastal Sami fishing is perceived and represented by the different actors in the past and in current debate is of vital importance for how remedial measures in coastal Sami areas are formed.

The general picture of how coastal Sami have adapted to the environment along the northern Norwegian coast, is among other things that they fish inside the fjords from small-scale vessels with passive gear, in a 'traditional' and sustainable way and combined with other occupations. This image might be true to some extent, but the coastal Sami are also found in more 'modern' positions in fisheries, such as on trawlers and as owners of fish farms. Documentation of what coastal Sami fishing actually consists of today is crucial for determining what kind of rights the coastal Sami are entitled to.

A Supreme Court decision from the inner part of Kåfjord (Rt 1985 247) suggests that the winter cod fisheries there are considered exclusive and that the inhabitants are using the fjord as if they were exercising a right. I will discuss to what extent fishing practices in the inner part of Kåfjord can be considered to have fixed characteristics by looking at how the fishermen represent local fishing practices, using the court case descriptions of fishing, the local fishermen's association's protocols, and interviews with fishermen involved in the case as sources. This case also has relevance for other fjords along the northern Norwegian coast.

## **1.2 THEORETICAL BACKGROUND AND FRAMEWORK**

In the article "*Mare Nullius: Indigenous Rights in Saltwater Environments*" (Mulrennan and Scott 2000), the authors attribute the lagging behind of sea claims in most indigenous situations to the European cultural disposition to draw boundaries where land meets sea,

as opposed to indigenous dispositions to see land and sea as continua<sup>2</sup>. "Failure to recognize indigenous constructions of land and sea space as continua has been a major impediment to the continuity and evolution of indigenous ownership, use and management of the sea, and to sustainable marine resource use in self-determined development", state the authors (Mulrennan and Scott 2000:682). They maintain that the European representation of seas as international commons and common property for all state citizens has its parallel in the doctrine of *terra nullius*<sup>3</sup>, but that the *mare nullius* doctrine is more powerful because of the global characteristics of state marine resource management.

For the last 350 years, Hugo Grotius' principle of 'the freedom of the sea' from 1609 has dominated the classical law of the sea. In 1982, the UN Convention on the Law of the Sea (UNCLOS, in force since 1995) established distinct zones of sovereignty and jurisdiction for coastal States, including a 12 nm territorial sea and a 200 nm exclusive economic zone. States have taken an increasingly more ambitious and heavy-handed role in fisheries management since then, opening the seas to a greater extent to market forces. Indigenous rights challenge this doctrine. Land rights are a prominent issue in international law, where indigenous peoples' special relationship with nature and natural resources is emphasized. When it comes to the sea, however, there is only little progress to be seen., with some exceptions (for instance, the Maori in New Zealand (Hersoug 2003) and the Mik'maq people in Canada (Davis and Jentoft 2003)). In the coastal Sami

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<sup>2</sup> In the context of this thesis, the power aspect of the indigenous situation is important. According to Martin Scheinin, member of the Human Rights Committee, for a native group within an independent state to be considered indigenous in human rights law, it is insufficient that an ethnic group is constituted of the descendants of the first known inhabitants of the area in question. The term indigenous presupposes the present-day coexistence of another ethnic group, now dominant either within the territory of the present-day state in question or within the area traditionally inhabited by the indigenous people. But in addition, "there must be another ethnic group and a power relationship involved before the descendants of the original inhabitants are understood as indigenous in the legal meaning of the term" states Scheinin (Scheinin 2000:161). His definition of the term in the legal world (and in a European context) thus emphasises the power relationship between a majority and a minority within an independent state.

<sup>3</sup> For international law purposes, indigenous lands prior to any colonial presence were considered legally unoccupied or *terra nullius* (vacant lands) (Anaya 2000:22). Historians have also used this term regarding the Sami situation in Sápmi, the Sami areas in the northern part of Scandinavia and Russia (Niemi 1997 and Pedersen 2002), that was colonized and put under a pressure of assimilation from the end of the eighteenth century.

situation, there has been little attention and research on the way coastal Sami perceive and use the sea.

In his article “Property in Common, Common Property or Private Property” (Bjørklund 1991) Ivar Bjørklund describes how the coastal Sami before WWII utilized the sea and its resources year-round in what he calls a *marine tenure system*. The coastal Sami used small boats and traditional fishing gear such as gill nets, hand-lines and long-lines. Their knowledge of the seascape and the fish were crucial for succeeding when fishing in the fjord. Bjørklund states that the local fishers had “a vast knowledge of for instance the sea-bottom, currents, climate and the habitat and cycle of different fish species” (Bjørklund 1991:3). This knowledge determined when the locals used *which gear, and where they used it, to fish for different kinds of fish in different times of the year*. To know where the good fishing grounds were, the coastal Sami had a system of mapping the sea using coordinates on shore – the fishing ground defined by the boat’s position in relation to for instance a rock on the western shore and a large tree on the eastern shore. The households had some common fishing grounds, but kept some coordinates a family secret.

The management of marine resources in the coastal Sami areas was thus based upon local knowledge and a specific form of social organisation that allowed for a flexible and sustainable development, according to Bjørklund (ibid). In addition, the coastal Sami regarded the fjordal resources as *property in common* rather than *common property*<sup>4</sup>, as is the view of the Norwegian fisheries management (Bjørklund 1991:5). This representation of coastal Sami fishing is, however, from the period before the Second World War. Today, local communities along the northern Norwegian coast are hit hard by the global trend favoring capitalization and privatization of fisheries.

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<sup>4</sup> I will not go further into the theory of different property regimes and the theory of the ‘tragedy of the commons’ in my context. One of the critiques against Norwegian fisheries management, however, is that it takes for granted the hunter/prey relationship presumed to lead to an unsustainable resource situation where “freedom in a commons bring ruin to all”, as Hardin eloquently put it in 1968. One of the arguments is that social community structures modify this relationship in indigenous communities. For the northern Norwegian context, see Ottar Brox (1990)

At the beginning of the 1990s, great structural changes in Norwegian national fisheries management occurred because of a dramatic decrease in the overall TAC (Total Allowable Catches), which was implemented to prevent a total collapse in the major commercial fish stocks in the Barents Sea (Holm et al 1998:80). Access to fishing grounds was restricted and strict bureaucratic and centrally controlled access restrictions and individual vessel quotas were introduced. These regulations created problems for small-scale and fjord fishers, while they favored the larger coastal vessels. This government-planned privatization and capitalization of the fisheries industries after 1990 is characterized as a "robbery of the fisheries' commons"<sup>5</sup>.

Recently, the robbery of the commons has created public discussion in newspapers regarding local communities' rights to get a fair share of the quotas. In an article in the newspaper *Nordlys* the 28th of February 2005, Svein Jentoft at the Fisheries College in Tromsø characterizes current debate on fisheries as divided in two camps with different view on what the fisheries industry is and what it is there for. On the one hand, from a market- and business oriented point of view, the fisheries is a sector consisting of vessels, vessel groups, aquaculture- and processing companies, exporters, and business. From the societal point of view, the fisheries is the sum of households, coastal communities, districts dependent on fish, and a living coastal culture holding it all together. "Today the business perspective rules the ground, and it has done so for a long time", says Jentoft (2005). In this context, the question of coastal Sami fishing rights has come to the surface to a greater extent than before. The issue at stake at the time of writing is the Finnmark Law, where the discourse on Sami versus Norwegian rights around the law seems to overshadow coastal Sami rights in fisheries. There are some attempts, however, to reframe this discourse. For instance, at the 24<sup>th</sup> of April 2005, a new coastal Sami organization was established in Porsanger, aiming at the protection of coastal Sami rights to and in seawater. The organization, which is named *Bivdi*, demands that coastal Sami rights must be taken into account in the new Finnmark Law, which will regulate

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<sup>5</sup> On the structural changes in Norwegian fisheries industry during the last decades and especially the implementation of transferable quotas after 1990, see, f.i., Svein Jentoft (1998a), and from a Sami perspective, f.i. Sami Parliament, 2004 (*Sametingets melding om fiske som næring og kultur i kyst-og fjordområdene*).

ownership to land in Finnmark county. “The coastal Sami communities do not have time to wait much longer,” the article reads. “It will be natural that our organization becomes part in the further work with the law” (Nilsen 2005). These recent developments show that coastal Sami rights have a long way to go compared to other indigenous contexts. Connected to this issue is the question whether the coastal Sami have sufficient power to be heard in the debate and to influence fisheries management.

### 1.2.1 Coastal Sami rights discourse

The Norwegian Fishermen’s Union has up until recently been considered a legitimate representative of all fishermen, irrespective of scale and geography, reflecting the notion that the sea, too, belongs equally to all citizens of Norway. However, during the last two decades there has to some extent been an increasing actualization of coastal Sami fishing rights in the face of the robbery of the commons.

In his article “The Coastal Sami: a ‘Pariah Caste’ of the Norwegian Fisheries? A Reflection on Ethnicity and Power in Norwegian Resource Management”, Einar Eythórsson (2003) argues that the coastal Sami have recently become relevant stakeholders in the fisheries, a development which highlights the puzzling fact that they have remained invisible in Norwegian fisheries management for so long. Eythórsson makes use of Foucault’s concepts *power*, *domination* and *pariah* caste to analyse the mechanisms that have prevented the voice of the coastal Sami, “a group of relatively numerous, small-scale fishermen in northern Norway”, from being heard by Norwegian fisheries managers (Eythórsson 2003:149). According to Eythórsson the coastal Sami moved from a power relation where they played the role of the pariah group<sup>6</sup> in relation to the Norwegian fishing managers, to becoming totally invisible or dominated by the majority during the period of the Norwegianization policy.

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<sup>6</sup> Eythórsson argues that the Sami had for centuries been considered as a ‘pariah people’ by the Norwegian majority. The concept of ‘pariah’ caste is borrowed from Fredrik Barth, who writes that pariah groups are usually associated with the breaking of basic taboos of the majority society (Eythórsson 2003: 154).

This situation turned in the mid-1980s, when the fjord fishermen's interests have "definitely become a Saami ethno-political issue" (Eythórsson and Mathisen 1998:214), especially with the Sami Parliament (established in 1989) working actively on improving their situation regarding the quota system and redefining the basis for these regulations<sup>7</sup>. According to Eythórsson, by showing their ethnic identity as a group, the coastal Sami had broken the taboo of their pariah status. After the 'coastal Sami revolt'<sup>8</sup> in Porsanger, a process had been started where the coastal Sami eventually became visible and recognised as relevant stakeholders in the fisheries (Eythórsson 2003: 159). However, faith in the power of the Sami Parliament is low among some fjord fishers, since it has managed few concrete results, says researcher Svanhild Andersen. Others support the Sami Parliament as an institution from where fishers expect greater understanding than from Norwegian fisheries management (Andersen 2001:54).

### **1.2.2 The concept of 'culture' and coastal Sami fishing**

In the discourse on coastal Sami rights, a central question is whether Sami have their own culturally specific ways of fishing which are different from Norwegian ways. Connected to this question is the notion that fishing practices are tied to culture and that if they change, the change is a result of modernization and they are no longer connected to culture. On request from the Sami Parliament, lawyer Carsten Smith reported to the Fisheries Department on the Sami people's rights to natural resources – especially concerning fisheries regulations in an influential article from 1990 (C. Smith 1990). The

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<sup>7</sup> The quota system is meant to prevent and regulate a "tragedy of the commons" scenario.

<sup>8</sup> The event that has been called a revolt took place in 1983 when there was a meeting for the first time between a Sami organisation (Norwegian Saami Council) and the Ministry of Fisheries, where the issue on the agenda was measures to protect local fisheries in the coastal Sami districts. The Fishermen's Union in Finnmark interpreted this way of challenging their status in fisheries management as a major provocation (Eythórsson and Mathisen 1998: 216). In 1984 two leaders of local branches in the Fishermen's Union from coastal Sami areas made contact with a large Sami organisation (Samenes Landsforbund (SLF)), to seek support for a demand for local restrictions on the use of active fishing-gear in Porsanger. As the SLF was supportive towards the case, the Fishermen's Union excluded both of them for "being unloyal to and working against the interests of the fishermen and the Union" (Eythórsson and Mathisen 1998:214), a reaction Eythórsson characterises as similar to the action used against "Nazi collaborators at the end of the German occupation of Norway" (Eythórsson 2003: 158). This event highlighted the ethnic dimension in Norwegian fisheries for the first time.

coastal Sami<sup>9</sup> have no special rights to marine resources in Norway today, as the reindeer herding Sami have the exclusive right to reindeer herding. However, Smith concludes that coastal Sami fishing is a traditional Sami way of life (in Norwegian: næring) that is protected as the material basis for Sami culture under article 27 of the ICCPR<sup>10</sup>. Smith separates between a practice as being 'traditional' and/or 'culturally specific' according to his interpretation of the term 'culture' in art. 27. He finds that fishing as conducted by the coastal Sami is a traditional, but not a culturally specific practice, meaning that the Sami have not conducted fishing exclusively and to a greater degree than Norwegians (ibid p. 521).

Following Smith's report, a governmental committee was tasked to recommend measures to protect coastal Sami fisheries. Taking into account Smith's report stating that fishing is the material basis for Sami culture, it proposed the establishment of special regional management zones where among other things free fishing for boats under 7 m was one of the measures, thus protecting what was interpreted as 'traditional' coastal Sami fishing (Fiskeridepartementet 1997:153)<sup>11</sup>. Under today's conditions it is hard for people from the fjords to survive economically with a boat at that size. By putting this limit, the

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<sup>9</sup> The coastal Sami are part of the Sami people, an indigenous people inhabiting the northern regions in the four national states Norway, Sweden, Finland and Russia. The Sami language is spoken throughout Sápmi, as the region is called in the Sami language. The coastal Sami live along the northern Norwegian coast, but the Norwegian policy of assimilation has seriously endangered the Sami language and culture in the coastal Sami areas, decimating the visible number of Sami in the coastal Sami areas by more than half from before to after the Second World War. With the establishment of the Sami Parliament in 1989 and the establishment of the Sami census, the number of Sami from the coastal areas registered in the census is increasing. Currently, the number of Sami in the census is over 11000, where the coastal Sami areas represent just under half in the statistics (from Nordland to Varanger) but the actual number is considered to be much higher. (Source: [www.samediggi.no](http://www.samediggi.no) [read 20.05.05])

<sup>10</sup> Article 27 of the ICCPR protects minorities' rights not to be denied, alone or collectively, the exercise of their own culture, religion or language (United Nations International Convention on Civil And Political Rights, 1966).

<sup>11</sup> In the reason why the committee put the limit for boats at 7 m, it stated: "By this line there is a technological border. In relation to catch, free fishing of this type will hardly mean resource related problems. At the same time the 7 m-limit 'fits' well in relation to the size of boat often used in coastal Sami fishing and one secures that traditional fjord fishing is taken into account". ("Det går en teknologisk grense ved 7 m lengste lengde. I forhold til fangstuttak så vil fritt fiske for denne typen båter derfor neppe komme til å bety ressursmessige problemer. Samtidig vil 7 m-grensen 'treffe' godt i forhold til den båtstørrelse som ofte benyttes i sjøsamisk fiske og en sikrer at det tradisjonelle fjordfisket tilgodeses") (Fiskeridepartementet 1997:151).

committee implicitly lists the inventory of what is seen as traditional coastal Sami fishing, applying a rather limited view of culture on the issue.

In a report for the Sami Rights Committee, Peter Ørebech contends that rights to fishing must be based on local, and not special Sami customary rights. This is because he finds that awareness of Sami ethnicity is gone, judging from the interviews he made along the Finnmark coast, where people denied having any Sami identity. “It is a question of self-definition and self-recognition. When the connection between rights and identity is broken, the ethnically-related customary law fails”<sup>12</sup>, says Ørebech. Moreover, he states that it is impossible to separate Sami and Norwegian fishers’ practice when both of the ethnic groups live in the same region (Ørebech 2001:644). Having private fishing sites is also not supported by local customs; rather the coastal Sami custom is that fishing is open. The Fisheries Department’s implementation of access restrictions oppose the Sami principle of free access to fishing, concludes Ørebech (2001: 651). The problem with this position, however, is that coastal Sami fishing is tied to some special characteristics and objectified in a way that gives an impression of coastal Sami culture as static and frozen in time, and that identity has to be expressed in a certain way to exist.

The notion of culture as frozen in time and tied to special characteristics or symbolic markers is a common problem when it comes to representations of indigenous peoples, where they are often represented as ‘the Others’ in relation to ‘us Westerners’ (cf. Hall 1992 and L. Smith 1999). At the same time, as pointed out by Fredrik Barth, “ethnic relations and boundary constructions in most plural societies are not about strangers, but about adjacent and familiar ‘others’ ”(Barth 1994:13). I agree with Barth on this point, because the coastal Sami ethnic identity in the past and today depend on other ethnic groups, to a greater degree, perhaps, than some other indigenous groups around the world. In the coastal Sami case, the close interaction with Norwegians, Kvens<sup>13</sup> and

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<sup>12</sup>,”Det er et spørsmål om selvdefinering og selverkjennelse. Når forbindelsen mellom rettigheter og identitet brytes, svikter den etnisk-relaterte sedvaneretten” (Ørebech 2001:642)

<sup>13</sup> The Kven are a national minority in Norway. The term ‘Kven’ was originally the Scandinavian name for the Finnish people living in the area around the Gulf of Bothnia, known as early as the middle ages. From the fifteenth century onwards, they moved from the coastal regions of the Gulf of Bothnia and eventually reached the fjords and coastal areas of northern Norway. In the nineteenth and twentieth centuries, the term

reindeer herding Sami is one of the things that make coastal Sami ethnic identity visible. We therefore have to look at coastal Sami culture as something 'familiar', rather than identifying it by looking for contrasts between 'us' and 'the others'.

Barth goes on to say that there has been a development in the way 'culture' as a concept is understood in social anthropology since the 1970s. Culture is seen as continuous and changing in every culture, including ethnic, and indigenous, cultures. "So to grasp what a particular ethnic identity is about", says Barth, "the anthropologist must attend to the *experiences* through which it is formed – it is not enough, as one thought with a simpler concept of culture, to make a homogenizing inventory of its manifestations" (Barth 1994: 24). In current debate on Sami rights there is a tendency to associate coastal Sami fishing with some fixed characteristics considered to be traditional coastal Sami practices, as shown in the report from the governmental fisheries committee.

On the other hand, Barth contends that there are some processes that "sustain relative discontinuities in the flux of culture" and thereby provide a basis for ethnic identity. One of these processes can be the active construction of an ethnic boundary through the making and promoting of a few symbols or diacritics, such as the current Sami revitalization process. Connected to the second process where the whole group embraces some common values, Barth mentions how a niche in resource exploitation illustrates how discontinuities can arise in the variation of culture, since "particular cultural traits may be useful as adaptations to particular environments and modes of subsistence" (ibid. p. 18). It could be argued that the coastal Sami culture on the one hand is changing, and on the other hand sustain what is seen as typical coastal Sami fishing today: small-scale, using passive gear and combined with other occupations in an ecologically sustainable way. From this perspective, coastal Sami fishing can be seen as a mode of subsistence in coastal Sami areas where local cultural traits have proved useful in the management of marine resources, since they have stood the test of time. Looking for cultural traits rather

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has been used for the contemporary Finnish immigrants in northern Norway and their descendants (Niemi 1995:326).

than visible manifestations such as the 7 m size boat in coastal Sami fishing practices will do more justice to the fact that culture, and resource management, is changing.

What are such cultural traits in the coastal Sami situation, when it is argued that also Norwegians fish in the same way as Sami? It might be that the coastal Sami in some local areas have certain practices that Norwegians do not have, and it might also be that all coastal Sami have some cultural traits important to fishing practices in common. However, to investigate the issue of whether these traits are Sami or Norwegian is in my opinion a futile task. The coastal Sami have adapted to the fjord and coast environment in their own ways, using their own knowledge and language, just as other ethnic groups, but the difference is that the Sami have been and are marginalized in Norwegian fisheries management. One can argue that the position of the coastal Sami as a 'pariah caste' is a cultural trait in itself, which influences the way ethnic identity and cultural practices are expressed in public, as Eidheim shows in his study (1971). In this thesis, my focus is on power relationships and how they influence the expression of fishing rights and representations of coastal Sami fishing rights as an issue in public discourses. The question then remains how this power relationship has influenced expressions of rights to fish and use the fjord, and how the issue is represented today in a context of indigenous revitalization.

### **1.2.3 Historical context**

To find out how expressions of fishing rights have changed, I have included a historical perspective in my thesis. My material extends back to the beginning of the 1960s with the local fishermen's association's protocols. The historical context of this period is one of great changes for the Sami people in relation to the Norwegian state<sup>14</sup>. Norwegian authorities stopped recognizing the coastal Sami population as an indigenous population in the 1850s, and only recently re-established that status by the ratification of the ILO Convention 169 and by the constitutional changes following the Alta affair in the 1980s. A Sami paragraph was included in the Constitution and a Sami Rights Committee tasked to sort out the rights question was established. After these events, part of what Minde

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<sup>14</sup> For an overview of Sami historiography, see Minde (1992) and Niemi (1995)

calls "the silent revolution"<sup>15</sup>, a new situation made the spread of a political discourse connecting the Sami to the global indigenous movement possible (Eythórsson 2003:152). This discourse, however, was associated with the reindeer herding Sami culture, putting coastal Sami culture in the shadow. Svanhild Andersen writes in her article "Sami belonging in fjords and coastal areas" (2003) that the concept "Sami" in coastal Sami areas is understood almost as an occupational concept, resulting in little public debate about Sami rights to resources (for instance marine resources) in local rights discourses (Andersen 2003: 261). The huge assimilation pressure the coastal Sami were subject to has resulted in the conception that the reindeer herders are the 'real' Sami, and that their culture is not something valuable worth taking care of. In this way, the Sami themselves also carries on the process of assimilation to some extent.

In the 1960s, the official policy of Norwegianization was in a phase of termination, but it was abandoned in reality only in 1979-80 with the Alta affair<sup>16</sup>. The historian Henry Minde points out that this policy hit coastal Sami regions hardest, where some of the consequences were change of language, and partly identity, from Sami to Norwegian, resulting in Sami identity being associated with shame and backwardness (Minde 2003a). From being quite numerous in the census records before the Second World War, the coastal Sami had almost disappeared as a group after the war. After the war, the Norwegian government initiated a large-scale rebuilding programme in the areas that had been burned down by the German war machinery. The modernization following the war added to the assimilational aspects of the process that was designed according to

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<sup>15</sup> The expression "the silent revolution" has been used to characterize the changes that followed in the wake of the Alta affair, such as the Sami paragraph in the Norwegian Constitution (paragraph 110a, saying "it rests the Government to arrange the conditions so that the Sami people may ensure and develop their Language, their Culture and their Social Life"), the ratification of the ILO Convention 169, and the establishment of the Sami Parliament. This silent revolution has taken place on the highest level of governance. Recent developments in Norway, however, for instance regarding the huge public and media discussion on the Finnmark Law (see [www.samediggi.no](http://www.samediggi.no) [read 20.05.05] for more information), a law designed to facilitate the process of deciding who owns the ground in Finnmark (where 96% of the ground is owned by the state, might be an indication that the changes made during the 1980s are moving from behind the scenes to the public scene (Minde 2003: 100).

<sup>16</sup> The Alta affair was about the protests from Sami and environmentalists against the plans for a gigantic hydroelectric power project in the Sami heartlands. The public demonstrations in front of the Norwegian Parliament in Oslo and by the river in Alta, where 10 % of the Norwegian police force were sent to calm the situation down, led to the "disintegration of the old political power structure in Norway, as it related to the Sami" says Minde (2003:75).

Norwegian culture, and it had an even greater impact on how ethnic identity was expressed. In a classic article by the Norwegian anthropologist Harald Eidheim, "When Ethnic Identity is a Social Stigma" (Eidheim 1971), the author describes how people in the end of the 1960s in a coastal Sami area hide their Sami identity and language 'backstage' while they only show signs of Norwegian identity 'front stage' or in public.

When it comes to economical aspects of the assimilation policy, the coastal Sami way of life was associated with poverty while a Norwegian identity was associated with modernity. Their mixed economy, with fishing and animal husbandry as main components, resembled the way of life of the Norwegian population in coastal districts, thus having no reason not to adapt to new standards. "According to organizational principles of the Norwegian welfare state", says Einar Eythórsson, "it was important for rural people to join nation-wide organizations, such as the Farmer's Union and the Fishermen's Union, in order to qualify for different types of benefits" (Eythórsson 2003: 152). The policy of assimilation was in this sense continued through the welfare system, since these organizations were 'Norwegian' by definition.

Taking into account this context, one has to keep in mind the power relations inherent in the way people express themselves through a certain kind of discourse when doing research in coastal Sami areas. The concept of discourse is widely used in social sciences, for a variety of purposes. In this thesis I will use it as a way of distinguishing between different ways of framing or representing a particular topic. Stuart Hall, referring to Foucault, defines a discourse as "a group of statements which provide a language for talking about – i.e. a way of representing – a particular kind of knowledge about a topic" (Hall 1992:291). Today, the assimilatory discourse is countered by the process of revitalization of coastal Sami culture and rights taking place in the Lyngen region.

The archive material I have collected, such as the local fishermen's association's protocols and the municipality and court case documents, must therefore be interpreted in the light of the policy of assimilation. When looking for expressions of ethnic identity

before the Alta affair and the establishment of the Sami Parliament, one has to look for other signs rather than clear statements from the local population flagging their Saminess.

## 1.3 METHOD

### 1.3.1 Area of research

I did my research in the Lyngen area, where marine resource management is a prominent issue. In addition, the Lyngen area is currently going through a process of coastal Sami political and cultural revitalization. Mainly people of Sami, Norwegian and Kven descent inhabit the Lyngen area. The varying density and mixing of ethnic groups throughout history makes it difficult to distinguish between the different groups. The relatively recent revitalization of coastal Sami culture led to many conflicts and recurring debates around the Lyngen fjord, as it touched upon issues regarding Sami ethnic identity that were painful for many. A new generation of educated Sami worked at the revitalization of coastal Sami culture resulting in the increased use of Sami symbols such as Sami place names, and the development and use of traditional coastal Sami dress, as well as creating a new festival expressing the coastal Sami and indigenous culture, Riddu Riđđu. A great deal of this activity was connected to Gáivuona NSR (Norske Samers Riksforbund), the local branch of the largest Sami political party at the Sami Parliament. The conflicts have been especially strong in Kåfjord, as the only municipality in Troms County included in the Sami language management area <sup>17</sup>. Such conflicts or debates reflecting different opinions between generations and different ideological groups on what is Saminess, and who are the ‘real’ or ‘authentic’ Sami are also found elsewhere in Sápmi (see, f.i. Vigdis Stordahl 1996). However, the conflicts slowly simmered down after some years, resulting in a situation the authors of a recent report on Sami political measures in Kåfjord call *ethnic reconciliation* (Pedersen and Høgmo 2004:162). Although many of the elders will not let themselves engage by the new cultural revival due to the effects of the

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<sup>17</sup> The Sami language management area (forvaltningsområdet for samisk språk) is a number of municipalities in Norway where Sami political measures are implemented, such as the Sami Language Act ensuring the inhabitants of these municipalities the possibility of equal access to municipality services in both Norwegian and Sami. The other municipalities are Kautokeino, Karasjok, Tana, Nesseby and Porsanger in Finnmark county and recently Tysfjord in Nordland county (2004). The criteria for selecting areas for the management area is based on the number of Sami-speaking individuals in previous censuses.

assimilation process, "there is a strong belief among the young and middle-aged that coastal Sami language and culture are worth fighting for, and that it is an important part of the coastal Sami identity", says Pedersen and Høgmø (Ibid. p. 158). My task has not been to identify whether the people I interviewed were Sami or not, rather I was interested in the experiences of people belonging to what is understood as coastal Sami culture today.

### 1.3.2 Research at home

I have grown up in Kåfjord myself, and in many ways I am doing research in my own culture. Part of my fieldwork was spent interviewing fishermen in the inner part of Kåfjord for whom I was an 'insider' while part of it was spent doing interviews with people in and outside the Lyngen area for whom I was partly an 'outsider'<sup>18</sup>. This situation has to some extent framed the thesis in terms of a comparison between coastal Sami fishing from the 'inside' or the local perspective and the 'outside' or the public perspective. I did from seven to ten 'field conversations' (as termed by Wadel, 1991) with local fishermen. This means a group of middle-aged to old men (and one woman)

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<sup>18</sup> From an indigenous perspective, the discussion on the 'insider' versus the 'outsider' position in anthropological research (see, f.i. Trond Thuen (2004)) has a stronger political side to it than usual. Indigenous peoples have traditionally been misrepresented when researched through a Western perspective. Linda Smith's book *Decolonizing Methodologies* accounts for the practices by which indigenous peoples were misrepresented in academic research, as much as it sets a research agenda for researchers doing research with, alongside and for (not *about*) "communities who have chosen to identify themselves as indigenous" (Smith 1999:5). She says that "there are a number of ethical, cultural, political and personal issues that can present special difficulties for indigenous researchers who, in their own communities, work partially as insiders, and are often employed for this purpose, and partially as outsiders, because of their Western education or because they may work across clan, tribe, linguistic, age and gender boundaries" (ibid.) These issues, which are part of what Smith terms 'indigenous methodologies', need to be taken into account when doing research in indigenous contexts, just as other considerations need to be taken into account when doing research in other contexts such as with women or afro-Americans. Further, she states that

"some methodologies regard the values and beliefs, practices and customs of communities as 'barriers' to research or exotic customs with which researchers need to be familiar in order to carry out their work without causing offence. Indigenous methodologies tend to work without causing offence. Indigenous methodologies tend to approach cultural protocols, values and behaviours as an integral part of methodology" (ibid p. 15).

This is not to say that I have fully taken into account all of the issues tending to indigenous peoples, since my short 'field work' period lasted only three months. I have, however, tried not to cause offence according to my own understanding of how to behave 'at home'.

who lived in the inner part of Kåfjord and who had grown up with fishing, who had been fishing actively or who were currently fishing actively in the fjord. The conversations took place most often in the kitchen in the fishermen's homes. The conversations were aimed at discovering how they talked about fishing in terms of whether it is a fixed practice, or whether it is changing. For instance, I focused on the use of the fjord in relation to other fishers from inside and outside of the fjord. I did not have enough time to incorporate a gender perspective in my research, since the research period lasted only three summer months. I did around the same number of interviews with project workers connected to the Lyngen Fjord Project in the Lyngen area (three of them were previous mayors) and in Karasjok. Often my informants directed the interview themselves according to what they saw as the most interesting subjects regarding the coastal Sami perspective in the Lyngen fjord. In addition, I have based the historical presentation partly on archive material and the local fishermen's association's protocols (Indre Kåfjord Fiskarlag or IKF).

Wadel separates between issues that informants consider too 'obvious' and too 'personal' to talk about, in addition to issues they do not have knowledge about Wadel (1991:189). In many cases, the questions I asked the fishermen were so obvious to both of us that I was embarrassed to even ask. Nonetheless, it was these questions that brought out the most interesting issues. I asked these questions because I hypothesized that fishermen thought of their use of the fjord as an obvious right, in fact so obvious that they are not even aware that their use might be to exercise a right.

In the article "Local discourses about Saminess" (Thuen 2003), Trond Thuen presents three local discourses that are influenced by changes in how ethnicity is presented as a basis for recognition of rights in Norway. One of these discourses is an *implicit* discourse, where Sami issues are not explicit, but nonetheless carry a form of message about Saminess. This implicit discourse represents a continuity in the many local communities where Sami belonging is made a non-theme, and goes back to a society where social interaction was not divided by ethnic belonging to the same extent as today." It is perhaps not even understood by the participants as something they connect with Saminess, in the

meaning explicit Sami cultural expressions. It could be themes like local customs, stories about the past, folk beliefs, forms of knowledge, myths and stories”, says Thuen (Thuen 2003:281). From my conversations and interviews I realized that the elder generation who had been born before the Second World War talked inside an implicit discourse on how local fishing takes place, while the younger fishermen expressed themselves more explicitly on this issue, with some exceptions. When it came to the project workers and employees in official institutions, I had few challenges during the interviews since they had a more explicit understanding of coastal Sami issues through working with them in the municipal systems.

#### **1.4 STRUCTURE OF THE THESIS**

How are coastal Sami fishing rights expressed in public discourses on the local and over-local levels during the last centuries? To what extent can we say that local fishing consists of fixed, traditional practices, and to what extent are they represented as such? How do coastal Sami express their rights before and after the rise of the coastal Sami rights issue, and how do others represent coastal Sami fishing as a rights issue and as a cultural practice?

In the analysis, it has been useful to distinguish between three levels. In his article ”Enduring and emerging issues in the analysis of ethnicity” (Barth 1994), Fredrik Barth recommends the use of three levels in the analysis of ethnicity to illuminate the complex interconnections between politics and cultural processes. Ethnicity is, according to Barth, ”the organization of culture difference”, where the boundaries between ethnic groups are marked by culture difference (Barth 1994:12). In the Lyngen area, one will be disappointed if looking for clear differences between Norwegian, Sami and Kven culture. Ethnicity is nonetheless an issue in the study of indigenous minorities, and especially in the current situation where the Sami culture is being ’revitalized’, ethnicity is a primary tool for the analysis of both the geographical and social field under investigation in this thesis. The three levels recommended by Barth in the analysis of ethnicity is the micro, median and macro levels. The micro level focuses on among other things ”the embracements and rejections of symbols and of social fellowships that are formative of

the person's consciousness of ethnic identity" (Barth 1994:21). A more suitable term for this thesis is 'local' level, because the interviews and collected material gives a picture of how groups in the whole local community relate to each other.

In chapter two, I will describe the role of the local fishermen's association on the local level as a resource management institution and channel for local protests in Kåfjord from the 1960s to the 1990s. In chapter three, I describe how local fishing practices are represented by the local population, through discussing how a Supreme Court case brought up fishing practices in the inner part of Kåfjord as a coastal Sami practice featuring special characteristics. Events on the macro level have an impact on the median level and they are important for the material presented in this thesis, as well as for the discussion. "Salient imagined communities that relate to ethnicity on the macro level are, besides the ethnic groups themselves, the states or nations, the major religious communities and especially Islam, and the global international arena and discourse", Barth states (ibid. p. 26). The macro level is mostly considered in chapter four, where the focus is on processes in Norwegian fisheries management and the Sami Parliament. The discourse on coastal Sami rights is illustrated through the case of the Sami Fisheries Zone on the macro level. Further, a project from the 1990s aiming at greater local management of fisheries in the Lyngen area is investigated as an example of how coastal Sami ethnicity was an issue between three different municipalities, creating problems for how management of the fjord should be defined on the median level

The median level, Barth says, is needed to "depict the processes that create collectivities and mobilize groups for diverse purposes by diverse means. This is the field of entrepreneurship, leadership and rhetoric; here stereotypes are established and collectivities are set in motion" (Barth 1994:26). In chapters two to five, the thesis describes how fishermen, project workers and politicians in three municipalities to a greater and greater degree are confronted with indigenous rights as an issue and how expressions of rights to fish are reframed during the last decades. Chapter five gives an account of the increasing awareness of coastal Sami rights in the Lyngen region, showing how locals take the coastal Sami rights discourse into use in their local context.

## **CHAPTER 2: FISHING UNDER THE CONSENT OF THE KINGDOM**

The coastal Sami have been considered citizens under the Norwegian kingdom just as any other Norwegian since the time of its establishment. They have been fishing according to the various rules and regulations issued by the state apparatus, but not without protests against what they saw as unfair and inappropriate ways of managing the fish stocks. In this chapter I will introduce the local fishermen's association in the local context and its relation to the national fisheries management system.

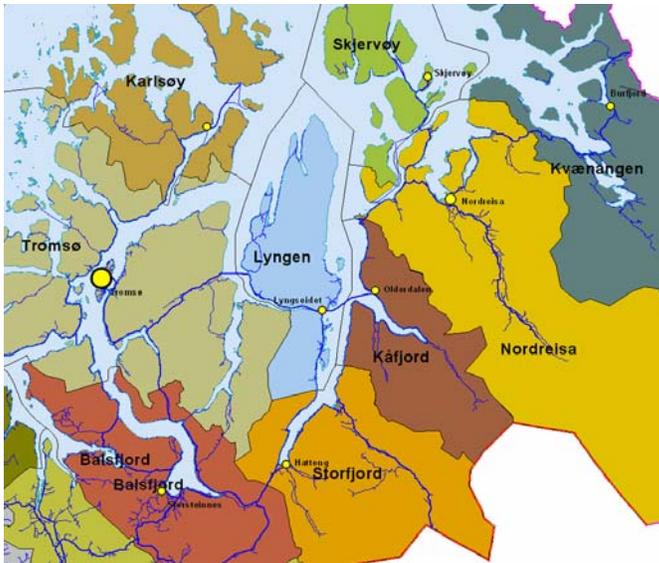
### **2.1 COASTAL SAMI IN THE FISHERMEN'S UNION**

Protocols from local fishermen's associations (f.i. Kokelv, Tana and Nesseby) and regional fisheries administration protocols have been a source of research on coastal Sami local knowledge and fishing practices (Andersen 2001:46). These protocols seldom use the ethnonym 'Sami'; neither do they refer to the local population as coastal Sami. Einar Eythórsson explains this lack of references to Sami background in local and regional politics after the Second World War with the position of domination the coastal Sami found themselves in. The protocols do, however, contain numerous letters and petitions to the fisheries authorities, sent by fjord fishermen in the coastal Sami districts in the 1950s and 1960s (Eythórsson 2003:157). Eythórsson found only one case where he could find something that looks like a subtle reference to the situation of the coastal Sami; a petition from a 'mass meeting' in Revsbotn from 1961 in Finnmark stating that "we demand unanimously as Norwegian citizens and as members of Norwegian society that our livelihood from the cod fisheries in the fjord of Finnmark, as well as along the coast, should be protected by law" (ibid.). The explicit reference to Norwegian society brings out the existence of another kind of identity, or it wouldn't have been mentioned one can hypothesize.

Svanhild Andersen calls such petitions an expression of the 'collective anguish' of the coastal Sami fishermen, who were systematically ignored by the authorities. She has gone through Kokelv fishermen's association protocols, where much of the same story is told (Andersen 2001:47). As an example, one of the letters read: "the state invests millions to the coast fleet (in Norwegian: havfiskeflåten). Continuously, large-scale vessels are sent to catch herring at the expense of the livelihood of thousands of people" (ibid. p. 46). The numerous letters show that the Norwegian Fishermen's Union had a basic lack of legitimacy among fjord fishers. Today, activity in many local fishermen's associations has stopped, mainly because of the reduction in the number of fishers that result from the difficulties in getting anywhere with local claims through the Union. "Fjord fishers now forward their points of view as individuals or through local political organs, but to a small extent as a group and with one voice", says Andersen (ibid. p. 53). In Kåfjord, the activity of the fishermen's association is low, but it has not ceased to exist as in many other places. In this following, I will begin by briefly explaining the geographical context before I present some of the many letters of protest and requests in the local fishermen's association's protocols in the period from the beginning of the 1960s to the end of the 1970s.

## **2.2 THE LYGGEN REGION**

Generally, the way the inhabitants around the Lyngen fjord have conducted their fishing has changed over time, from fishing at home to combining it with seasonal fishing in Lofoten or on the Finnmark coast, which are the two major winter- and spring fisheries along the coast of northern Norway. From the 1960s local fishermen began to fish around the year on fishing fields outside of the fjord, and from the 1980s there has been a development with more fishers fishing at home, among other things because the mean age of local fishermen has risen, and also because the fjord is banned for seine and trawl between December and June, which makes fishing at home more profitable.



Map 1: Northern Troms, including the municipalities Kåfjord, Lyngen and Storfjord around the Lyngen fjord (Source: Tor Arne Lillevoll, 2005)

Tor Arne Lillevoll, researcher at the University of Tromsø, describes this development from the point of view of households in the Lyngen area. Young men are in the best position to earn money as crew members on larger boats along the coast, but when they get older and wish for a normal family life, a combination between small-scale fishing with their own small boat and farming or other work on land is the best option. This combination also seems to be the most flexible and resistant towards change, in comparison with fishing as the only occupation or fishing as a marginal part-time occupation combined with other income (Lillevoll 1998:64).

Since the 1980s, the number of fishermen has decreased, especially after 1990 when the criteria for registration in the fishermen's record were sharpened drastically. These regulations hit the traditional coastal Sami adaptation hardest, and in the Lyngen area the number of fishermen dropped dramatically after the introduction of these regulations, and especially youngsters dropped out because it was too hard to get their own quota. The introduction of these new regulations created more distrust against the management regime, and it was perceived as a threat to the fisheries in areas where they represented, if not the only, at least the traditionally most important source of occupation and income

(Holm et al 1998:83). In this context, Sami ethnicity surfaced as a factor in the discussion on fisheries management, where it had been almost invisible before. In the next part, I will look at how local demands were framed before the 1980s and the Alta affair.

## **2.3 THE FISHERMEN'S ASSOCIATION IN THE INNER PART OF KÅFJORD**

Indre Kåfjord Fiskarlag (IKF) was established in 1933 in Lofoten, with 44 fishers from the inner part of Kåfjord signing membership at once. The organization kept protocols from all of their meetings, which took place in a house built by the union on Langnes; a place close to the main spawning ground in the inner part of Kåfjord. The union treated small and large topics, and they issued statements regarding the Norwegian fishery border, the European Union, regarding the construction of roads and other welfare services in the local area, in addition to all the issues regarding their own occupation as fishermen. Not everyone that was fishing in the inner part of Kåfjord registered as members in the union.

### **2.3.1 The role of leadership in the Association**

The role of entrepreneurs in small societies has earlier been a topic of research in social anthropology in coastal Sami communities. “To the extent that persons take the initiative, and in the pursuit of profit in some discernable form manipulate other persons and resources, they are acting as entrepreneurs”, says Barth in the introduction to the book *The Role of the Entrepreneur in Social Change in Northern Norway* (Barth 1972). In his article “Entrepreneurial Activity Without Its Profits”, Robert Paine separates between two types of entrepreneurs in a society he calls Nordbotn, the *free-holder* and the *free-enterpriser*. The free-holder entrepreneur in Nordbotn (“Nygård”) held responsible positions in the society, one of them as the chairman of the one association with a long record of the confidence of the community – the Nordbotn Fishermen’s Association. Paine contrasts this role with the free-enterpriser, as the role inspiring the most support from the local community, but at the same time vulnerable to criticism. The free-holder is also in the position to use his power as spokesman to give issues his own twist in order to achieve something. “The successive re-elections of Nygård as chairman and a person

called Breivik as secretary, have not given cause for any reproach of the two men”, says Paine. The reason for this is that

“the association deals with professional rather than political issues which the fishermen feel that they understand and have no difficulty in recognizing their practical importance (...) it is believed that no one will make money out of the Fishermen’s Association nor obtain a position in the community independent of the support of its fishermen” (Paine 1972:41).

Paine describes the career of the different entrepreneur types, and concludes that the free-holder type legitimate their intentions by their “industrious engagement on their own farms and in fishing”, that is by taking responsibility without speculative interests. In Paine’s example, Nygård is also a central person in the religious congregation, a position that creates no conflict with his role as entrepreneur according to Paine. However, the free-holder must depend on the mutual exercise of social prudence by himself and the other inhabitants, who may respond with jealousy to successes of the free-holder (Paine 1972:53).

In Kåfjord, the same pattern of successive re-elections in the Fishermen’s Association can be discerned. Looking at the IKF protocols, men from the same families that started the Association in 1933 were elected as foremen and secretaries year after year, followed by their sons. The same men are elected as leaders, secretaries and representatives for various positions of confidence, with few exceptions until the 1980s, when a lot of the old members were replaced and a leader from another family was elected. These men controlled the union in the sense that they decided which issues to comment, and the same men put the decisions on paper in their own wording. That the leadership role was already present in the family often seems to create leaders both in associations such as this one and also in the Læstadian<sup>19</sup> congregation. The leaders of the Fishermen’s

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<sup>19</sup> Læstadianism is a conservative branch of Christianity widespread among the Sami and Kvens in northern Norway, as well as among Norwegians. It came into life as a revival of Christianity in the 1850s, started by the priest Lars Levi Læstadius in Sweden and spread all over the northern part of Scandinavia. His preaches were in Finnish and Sami, and in the Lyngen region Læstadianism was widely embraced with the preacher Erik Johnsen as the front figure. Læstadianism’s relationship with Sami culture as a ‘cultural preserver’ has recently been a central topic of research (see, f.i. Henry Minde (1998): “Constructing ‘Læstadianism’: A Case for Sami survival?” in *Acta Borealia* vol. 15 (1), 1998)

Association can be seen as free-holders in the Kåfjord society at least from before the war and all the way up until today – the fact that families are associated with a farm or a place reinforcing the continuity of families and leadership roles. The central members of the association all lived close to the organization’s meetinghouse and the spawning ground around the Langnes-Båen area in the inner part of the fjord. This position made it possible for them to control how fishing was conducted.

In relation to Paine’s description that there was no reproach of the leaders and the nature of the association, however, the situation in Kåfjord is not quite the same. Firstly, there was some criticism directed at the leaders when I interviewed fishermen in my fieldwork. I do not know, however, if it this criticism was voiced at the time. Secondly, the association did deal with political issues as well as professional issues. It can then be argued that the fishermen felt that “they recognized the practical importance” of these issues, since the same leaders were elected year after year, and that criticism from some fishermen did not challenge the leaders significantly.

The reason for the criticism against the leaders in addition to the role of the entrepreneur could also be that the role of the entrepreneur is a potential source of conflict with the general culture in the inner part of Kåfjord where Læstadian religion and local customs are a part. One might say that there is a strong norm that you should not stick out and not take advantage of your position if you are luckier or more powerful than others. As Steinlien puts it in an article where the case is from a Læstadian area; “everyone has a defined place within the religious community - they are born into it” (Steinlien 1990:41). Some fishermen told me that some of the central persons in the union had their own special places to set and draw their nets, a practice which was not well liked at all by the rest of the fishermen. The central men’s’ position as entrepreneurs made the association in itself something more than a neutral organization for fishermen. Membership could also signify that you sided with the policy of the leader and his family, and in a small society there are always some conflicts, religious or others, between families, which is the case also in Kåfjord. When reading the protocols and interviewing fishermen one has to take into account that not everyone would agree with what was said by the leaders,

because of their positions as entrepreneurs and as families in relation to the religious movement.

## **2.4 A RESOURCE MANAGEMENT INSTITUTION**

In an answer to a letter from a research institution (Havforskningsinstituttet) in 1974, the association gives extensive information on central issues regarding the amount of fish, characteristics and spawning grounds in the fjord, and so on. There were 51 "home fishers" and 6 "other" fishers (probably meaning fishers going to the large seasonal fisheries in Lofoten or the Finnmark coast). The main species were cod (200 tons), pollock (pollock) (100 tons), salmon (0,5 ton) and haddock (5 tons). When asked about marine resources that were not fully used in the area, the association answered that "the fish species that are useable as food are fully utilised, besides this there are no resources of any size"<sup>20</sup>.

The IKF operated with internal rules for the fishery in the inner part of the fjord. Some of these rules were decided upon even before the association came into existence and were written out in the protocols, others were created for a period of time without the knowledge of the central authorities, while some were carried out with their approval. At one point, the association kept strict rules regulating the hours when people could go to sea. One example is when the association's called home to a member to reprimand him for fishing before the night ban was lifted. The reason for this might be that there was ice on the fjord that winter, and the fishermen living further out the fjord had an advantage in relation to those living closed in by the ice border.

## **2.5 A CHANNEL FOR LOCAL PROTESTS**

In the IKF protocols, there are several examples of how the local fishing organization has protested against large boats that were fishing in an uncustomary way, from the point of

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<sup>20</sup> "De fiskearter som er matnyttige blir fullt ut utnyttet, utom dette finnes ingen ressurser as noenlunde størrelsesorden" (IKF protocols 1974)

view of fishermen as a group or the "common man". These complaints were seldom or never taken into regard by the authorities, whether it was about protecting their own fishing gear from the larger boats or the price of the fish. The fishers wanted to place a ban on, among other things, trawling, shrimp trawling, and the use of light to fish for herring. Especially they wanted a ban on trawling during the winter months from February to April, to protect the small-scale fishers (Indre Kåfjord fiskarlag protocols)<sup>21</sup>. In one of the board meetings, the board noted that

"in Kåfjord there has been fishing with permanent [in Norwegian: faststående] gear since the time of settlement. This fishery has been inhibited in the years after the war in the time of fishing for cod that is ready to spawn with nets.(...) Especially the new types of gear (nets and trawling) force a regulation between the different types of gear that can take care of the traditional ways to fish. (...) The association also finds it utmost important that the steadily increasing light fishing for herring stops since this in our experience is ruining passive gear<sup>22</sup>".

Throughout the 1960s and 1970s, the fishermen's union notes in several meetings that their complaints regarding trawling and the mentioned use of the light to fish for herring<sup>23</sup> have not been taken into account by the authorities. In 1974, again a letter is sent to the Fishermen's Union at the county level to have the fjord banned against shrimp trawling at all times of the year at least in the inner part of the fjord, on the initiative of a small community along the fjord (Skardalen). Only several years later the fjord was protected, after the municipality also became involved in the case.

Another case illustrating the frustration felt by the fishermen is a letter from 1968 concerning the price of shrimp. In the same letter, the fishermen complain that prices in general are so low they consider it an attempt to take them back to the time of the

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<sup>21</sup> "For å vareta hjemmefiskernes inntektsgrunnlag finner laget som den beste løsning at fjorden fra Nordnes og innover blir fredet for aktive bruksarter i månedene februar-april" (IKF 1962).

<sup>22</sup> "I Kåfjord har siden bosetting vært drevet fiske med faststående redskaper. Dette fisket har i årene etter krigen vært hemmet særlig i tia da det fiskes etter gytefisker med garn. (...) Især de nye bruksarter tvinger i større grad en regulering mellom de forskjellige bruksarter og som spesielt varetar de hevdvunne fiskemåter. (...) Laget finner det også uhyre viktig at den stadig økende lysing etter sild må bli forbudt da dette er rene ruin for passive bruk etter den erfaring en hittil har høstet" (IKF 1962).

<sup>23</sup> Large boats used light when fishing for herring to attract the fish to their boats. The fishermen found that the boats emptied the fjord for fish, and that it disturbed the balance between the different species of fish feeding on each other.

”nessekonge” (powerful men who controlled the local population by giving loans in exchange for future fish loads, which were so expensive the fishermen had great difficulties paying back), something which they did not expect in the time of the welfare state. The letter goes on to say that

”when it comes to the shrimp price, it is so low we cannot even mention it, since we will scorn both us fishers, our own organization and our most honourable authorities; but as free people put forward our demand to those who hold our existence in their hand, that they would respect and appreciate our toil and lift us out of this economic impasse by paying the price for our products that we had before these joke prices”<sup>24</sup>.

These kinds of statements from the union are often framed in this way, drawing both on socialist ideology and what seems like a Læstadian way of wording. The fishermen align themselves with the Labour Party that was so dominant in Norwegian politics in the time after the war, but at the same time a clear critique is directed at the authorities.

In 1980, there were again plans for damming up another river close to the fjord, in Skardalen. The fishermen’s association protested against this, because they feared problems with icing on an even greater scale than resulted from a previous power construction station if this river too, was dammed. In their statement that was sent to the regional branch of the Fishermen’s Union and to the power company, the fishermen point out that this river has its mouth directly at the spawning ground. They go on to say that

”we are aware that our worry is not heard by neither some politicians or top administratives since the view we promote is characterized as extremistic, and in a way this is correct because we fjord fishers are extreme with so little income that in the total picture we are seen as a millstone around the neck”<sup>25</sup>.

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<sup>24</sup> ”Når det gjelder rekeprisen er den så lav at vi ikke kan nevne den engang, da vil vi ringeakte både oss fiskere, vår egen organisasjon og våre høyst ærede myndigheter; men som frie folk fremsette bestemt vårt krav ovenfor de som har vår eksistens mulighet i sin hule hånd, at de respekterer og verdsetter vårt slit og løfter oss ut av økonomisk uføre med å betale den prisen for produktene som var før vi fikk disse sjongleringsprisene” (IKF 1968).

<sup>25</sup> ”Vi er klar over at vår betenkning ikke får gehør verken hos endel av politikere eller topp-administratører da det synet vi fremhever blir karakterisert som ekstremistisk, og på en måte er det korrekt for vi fjordfiskere er ekstreme med så lav inntekt at i det totale sammenheng blir vi betegnet som klamp om foten” (IKF 10.1.1980).

Following this, the fishermen say that they will engage juridical assistance if the plans proceed, since "we are more awake now and we know some more about what "progress" will cost"<sup>26</sup>.

The creation of a power station in this river never came to pass because of heavy local protests, from among others all of the people living in Skardalen. In their letter of protest, the changed conditions of nature after the damming of the first hydroelectric power station is described:

"The Kåfjord valley used to be green, and in the bottom of the valley was a fine fishing river. Now it looks like a desert where the river used to run, and water for coffee one has to go far to find. (...) The population must not be forced out of their original environment because others might gain short-term advantages. We must learn from our mistakes, and think more about quality of life than what has been the case so far"<sup>27</sup>.

The plans for the dam were made at the same time as the Alta river rebellion in Finnmark, and the power company pointed out that they would reconsider their plans if the Alta power station was built. The secretary in the local fishermen's organization asked the power company "if it is so easy to build stations because the population are Sami", but the representative from the company answered that the question of Sami is not relevant here, rather it was because of the location of the river<sup>28</sup>.

## 2.6 SUMMARY

The Fishermen's Association can be seen as a local resource management institution regulating at least the important winter cod fisheries and providing a channel for the collective anguish of the fishermen through requests and demands upwards in the

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<sup>26</sup> "Vi vil ved vår juridiske konsulent i tide fremme våre rettmessige krav da vi av erfaring er mer våken nu og vet noenlunde hva "fremskrittet" vil koste oss" (op.cit.).

<sup>27</sup> "Kåfjorddalen var tidligere frodig, og i dalbotnen rant en fin fiskeelv. Nå ser det ut som en ørken der elva rant, og kaffevann må en lete lenge etter. (...). Befolkningen må ikke tvinges ut fra sitt opprinnelige miljø på grunn av at enkelte andre kanskje oppnår kortsiktige fordeler. Vi må lære av våre feil, og tenke mer på livskvaliteter enn det som har vært tilfelle hittil" (Common meeting in Birtavarre, 22nd of November 1980).

<sup>28</sup> "(...)om det var fordi befolkningen er samer at det er så lett å bygge ut i Kåfjord. Myrvang svarte at det med samer ikke var aktuelt her. Årsaken er at (...) Skardalsvassdraget ligger fint til for å utbygge" (op.cit.)

national system. Many of these requests were sent to the Fishermen's Union. The association had its greatest activity in the 1970s and the beginning of the 1980s, when the activity decreased and the number of fishermen started dropping. The first function of the association was to some extent successful as long as the association enjoyed the support of the fishermen, to some degree depending on how strong the leader appeared to be. However, the second function of the association was not as successful. At the yearly members' meeting in 1986, it was noted that the fleet had been reduced by half in the course of two years (that is, registered boats), and that the members were mainly from the older generation. From the opening of the meeting, it is noted that the foreman had said "the Norwegian Fishermen's Union seems to have changed from an organisation to an economic business enterprise", in this way expressing some of the frustration the fishermen must have felt (IKF 1986).

The failure to reach through with local demands might be one of the reasons why the number of fishermen dropped – as hypothesized by among others Svanhild Andersen. A decrease in the amount of fish during the winter cod fisheries, and the shift in leadership in the 1980s, when the people who started the organization and that generation of fishers disappeared, might also be reasons for the decreased activity in the association. However, the association is still living today even though the number of members has decreased. The association has shown itself as an institution carrying a great amount of knowledge about resources and local characteristics of the fjord and its ecology, it regulates and transmits ways of managing both resources and the fisher families, in addition to its role as benefactor in the local society<sup>29</sup>. The state and the national Fishermen's Union did not take care of this knowledge and great experience in the proper way, even though they knew about the many protests and claims sent by this association and several others from Finnmark.

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<sup>29</sup> As mentioned in the first chapter, being a member of national Unions carried certain benefits, such as reduced gas prices and free clothing etc.

Before this time, Sami ethnicity is not mentioned in the IKF protocols (except when it comes to applying for funds from the Sami Development Fund (SUF)<sup>30</sup>), something which is not surprising considering the long period of assimilation and the conflicts connected to expressions of Sami ethnicity in the area. The relationship between the fishermen and the authorities is the main focus, where ethnicity is unarticulated. The differences that are noticeable reside in the way that the ways of fishing are considered "traditional" and different from the new and modern ways of fishing. From an indigenous perspective, the main thing characterizing the relationship between the nation state and the indigenous group is that it is a relationship of power where the state does not take into account the needs of the indigenous minority as stated in the introduction. The story of the situation of these fishermen and other local fishing organizations (cf Andersen 2001), in addition to the power construction plans, is a story of this kind of power relationship, where the local population in the fjords are for the most part neglected as insignificant in national resource management.

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<sup>30</sup> Anyone living within an area defined as eligible for the Sami Development Fund, independent of ethnicity, can apply for financial support for fishing boats etc. from the fund.

## **CHAPTER 3: COASTAL SAMI FISHING IN THE SUPREME COURT**

Local fishing practices have not been a topic of research in Kåfjord until the court case concerning the Guolasjohka<sup>31</sup> power station brought up the issue. In this chapter, we will see how the legal system investigates local fishing practices and what representations of local fishing practices are presented. The background material used for this presentation is, in addition to academic literature, interviews, court protocols concerning the court case following the building of the Guolas river (Guolasjohka) power station in the 1970s, documents from the Kåfjord municipality archive, and protocols from Indre Kåfjord Fiskarlag.

### **3.1 THE KAAFJORD RULING**

In 1971, a hydroelectric power station in the valley above the fjord was put into operation. The consequences of the construction of the dam above the valley have been great for the Sami reindeer herders moving with their herds to Kåfjord in the spring. In this thesis, however, our concern is the problems with ice causing trouble for the local coastal Sami fjord fishermen. The court case concerned compensation for lost income from the fisheries during the winters 1971-1974, when there was no ice breaker in operation. The local fishers were compensated already in the local court, but the case was taken further to the Supreme Court because of complaints from both the side of the local power company and from the municipality.

Local inhabitants and the municipality had many complaints and the local power company was taken to court on several occasions concerning among other things compensation for disturbing reindeer herding in the area, loss of income from salmon fishing in the river, loss of well water, icing causing the fjord fisheries to decline, and other problems caused by the construction of the power station. Connected to the case were several investigations of consequences from the construction of the power station on

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<sup>31</sup> Guolasjohka (Sami spelling) is the river running down the Kåfjord valley, coming from the Guolas lake in the mountains and running out in the fjord.

how fishing is conducted in the inner part of Kåfjord. The court records give an account of how the fishing in the inner part of Kåfjord was conducted from the point of view of the local fjord fishermen, the municipality and the majority of the court members. Preceding the court meetings, a committee consisting of both experts and lawyers did investigations as well as interviews with the people living around the fjord to gather information about ice conditions and the way fishing was conducted.

In the Supreme Court ruling from 1985, the group of fishermen from the inner part of Kåfjord were granted compensation for loss of income from the winter cod fisheries due to the ice problems caused by the construction of a power station in the Kåfjord valley (Rt 1985 247). Generally, a common right (allemannsrett) such as fishing in the sea has little legal protection. The fishermen were supported in this case because the Supreme Court judged the fishing practices as having the character of the exercising of a right<sup>32</sup>. The conditions for compensating the fishermen were that the fisheries were exclusive and of vital economic importance for the fishermen. The Supreme Court noted that the fishers referred to their Sami descentance to support that the use was old and consistent. However, the court did not interpret this as a legal ground for the claims for compensation, even though “it is a factor that has to be taken into account when considering whether the use has such a character that it must be given protection, even though it is a reflection of a common right”<sup>33</sup>. Moreover, the special arrangements that had developed in the inner part of the fjord were emphasized as practices respected by other inhabitants of the fjord as reserved for the fishermen in the inner part of the fjord, such as the implementation of fishing hours<sup>34</sup>.

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<sup>32</sup> ”Flertallet mener videre at den bruk som har vært utøvd er så konsentrert og særpreget at den utad har fremtrådt på samme måte som om det skulle være en rettighet som ble utøvd” (Rt 1985 247)

<sup>33</sup> ”Ankemotpartene har til støtte for sin anførsel om at det gjelder en gammel og festnet bruksutøvelse, vist til at utøverne for en vesentlig del er av samisk herkomst, og til at næringstilskuddet fra fisket utvilsomt har vært med på å skape grunnlaget for bosetningen i dette området. Selv om dette ikke kan påberopes som et særskilt rettsgrunnlag for kravet om erstatning overfor eksproprianten, er det iallfall et moment som må tas i betraktning ved vurderingen av om bruksutøvelsen har et slikt preg at den må gis beskyttelse selv om den er utslag av en allemannsrett”. (ibid.)

<sup>34</sup> “På grunn av fiskeklassenes sterkt geografiske begrensning, har det mellom fiskerne i denne delen av fjorden etablert seg en faktisk deling av bruksmulighetene, først og fremst ved begrensning av antall garn pr. båt (etter stilltiende overenskomst). I den siste tid er det også innført faste utrorstider på fiskefeltet, noe som forekommer meget sjelden andre steder. De spesielle forhold ved dette fisket har også utad blitt akseptert og respektert som en næringsdrift forbeholdt befolkningen i denne delen av fjorden, ved at

From a legal perspective, Elisabeth Einarsbøl states in her report “Some juridical observations on Sami rights in salt water” (2004) that the state long has maintained that saltwater areas cannot be subjected to private rights of ownership. However, legal developments show that the idea of rights at sea has become more and more prominent, a development that is challenging the state’s position<sup>35</sup>. For the coastal Sami to be able to claim rights to the sea, “the concrete use must fulfil the criteria of customary rights or ‘age-old use’ (alders tids bruk)” (Einarsbøl 2004:8). The criteria that has to be fulfilled for this Norwegian legal principle to be fulfilled is that there must be a certain amount of *use* (intensity, continuity and exclusivity), it must have been conducted over a long time, and the claimants must have used the resource in good faith. In addition, the concept customary right (in Norwegian: *sedvane*) is often made use of when claiming indigenous rights. The concept is used to describe the exercise of a practice through a long period of time in the belief that you are following a rule of law (Einarsbøl 2004: 16). Einarsbøl argues that coastal Sami and other fishers might have gained some rights that enable them to be protected from intrusions by the state, among other things on the basis of the 1985 Supreme Court decision from Kåfjord.

Following from this, Elisabeth Einarsbøl points to the interesting situation that this ruling shows that there can be collective rights to the fish resources on the background of a certain type of use (Einarsbøl 2004:34). The decision in the Supreme Court was made before the ratification of ILO Convention no. 169 in 1989. The Supreme Court decision from 1985 has not been widely known in a coastal Sami rights context. However, recently it has been used in several reports and documents on the issue as an example of exclusive fishing rights in a Sami area (f.i. Bull 2004, Sunde 2005)<sup>36</sup>.

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fiskerne fra andre deler av kommunen eller andre distrikter ikke har deltatt i konkurranse med de lokale fjordfiskere” (Rt 1985 247)

<sup>35</sup> I will not make use of legal terminology to a greater extent in this thesis. However, legal terms are useful in the sense that they provide concrete ways of determining the nature of a resource use. Legal sources are also influential and abundant when it comes to Sami issues because of the governmental reports produced by the Committees established after the Alta affair.

<sup>36</sup> Kirsti Strøm Bull, Aja Sami Centre Conference in Manndalen, Kåfjord, 6th of February, 2004, on the Svartskogen case and Jørn Sunde, 9th of March, 2005, Favllis seminar in Tromsø on fishing rights in salt water, see <http://www.sami.uit.no/favllis/seminar.html> [read 20.05.05]. The Svartskogen case was a

### 3.2 DOCUMENTATION OF FISHING PRACTICES

The importance of fishing as a whole- or part time occupation is well described in the court protocols, emphasizing that the local population was dependent on the cod fisheries for their living. The power station caused the increased amount of water from the regulated river to freeze on the fjord during the wintertime to such an extent that the local fishermen had trouble taking advantage of the most profitable cod fisheries on a spawning ground in the inner part of the fjord.

In the local court protocol, it is stated that the fisheries in the inner part of the fjord are special in the sense that the cod come yearly to permanent spawning grounds concentrated around the Båen area in the winter months from February (but the fishing for cod can start in October) to April and May. The protocol goes on to say that regular movements of cod from the coast takes place in very few other instances and is of a very

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Supreme Court case where the local population in Manndalen and the State both claimed rights of ownership to a piece of land. The local population, which are mainly Sami, won, for the first time in Norwegian history, collective rights of ownership to the area (Rt 2001 12). I have not included this revolutionary decision in the thesis because of space limitations, but it is a very interesting case because the court gave the population rights of ownership even though the resource use in the Svartskogen valley had not been practiced consistently through the times, as the court system normally requires. For a further discussion on this aspect, see Bjerkli 1996. The fishing practices in the inner part of Kåfjord were also not practiced consistently, but the Supreme Court did not put weight on this aspect in relation to the fact that fishing was economically important to the population in the inner part of Kåfjord. The Supreme Court noted in both cases that the population is Sami, and in the Svartskogen case that the Sami have, with their collective resource exploitation, "not the same tradition for thinking about rights of ownership as others" :

Det ble vist til at samene har utgjort den dominerende del av Manndalens befolkning. Med sin kollektive ressursutnyttelse har de ikke samme tradisjon som andre for å tenke på eiendomsrett. Hadde en tilsvarende bruk vært utøvd av personer med annen bakgrunn, ville den ha avspeilt at de mente å eie området. Skulle det da hindre rettserverv ved alders tids bruk at det finnes flest eksempler på at oppsitterne har talt om bruksrett, ville deres rådighetsutøvelse, som i innhold tilsvarer utøvelse av eiendomsrett, bli satt i en ugunstig særstilling i forhold til befolkningen for øvrig. (Rt 2001 12)

This point was not, however, elaborated upon in the Kaafjord ruling. If the same principles should apply also to the sea, and I don't see why they should not, considering that indigenous peoples might have other ways of looking at the relationship between land and sea than others as stated in the introduction, this argument could be used today in a similar case – assuming that there is a better climate for indigenous claims in Norway considering the developments since the 1985 ruling. At the time of writing, there is a court case pending in the Norwegian court system concerning fishing rights of the northern Norwegian population, but it has not been put in an indigenous perspective. In the newspaper *Nordlys*, 12th of May, 2005, fisherman Svein Johansen says that their goal with the court case is to give everyone a chance to establish themselves as fishermen, as it used to be before 1989 and the implementation of limits to participation in the fisheries, which ended the common right (allemannsretten) to fish.

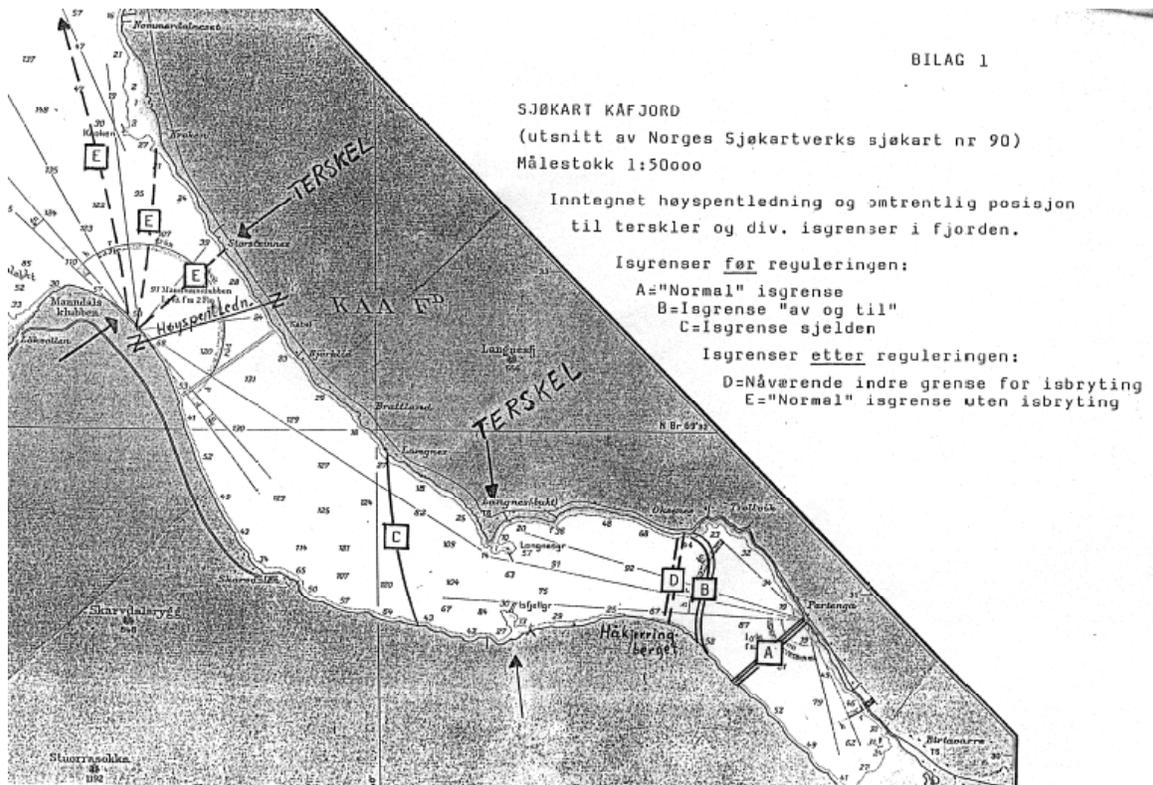
special character, a fact that has major consequences for the "establishment and maintenance of population in this part of the fjord" in an area otherwise weak in resources (Lyngen herredsrett protocols, Kåfjord municipality archives). The fjord fishers and the municipality do not let go of the opportunity to stress the fact that Kåfjord is a poor municipality with few other options for sustaining the local population.

The winter cod fisheries in the inner part of Kåfjord have "always" been done with nets from open one- or two-man boats, the court protocols go on to say. The local population has traditionally hung the fish to dry and the catch has been delivered to a local service station for sale. The fish was hung on racks on shore, and each household had their own drying rack. Until well into the 1990s the fish was still hung on racks, but today this practice is more and more replaced with selling the fish fresh. People combined the winter fishing season with other work, such as construction work on sites in the area or in the south of Norway. The local fishers in the inner part of Kåfjord have "never been considered as ordinary coast fishers" the court record says, because of the way they fished, and with a certain kind of gear, and since they only took advantage of fishing as an occupation in a limited period of the year and on a very limited fishing field. The fishers further out in the fjord made use of bigger boats aimed at ordinary coastal fishing, and they partook in the fjord fisheries only in especially good seasons when they could catch the fish on other fishing fields when the cod was moving in or out the fjord.

### **3.3 CONSEQUENCES AND IMPLICATIONS FOR FJORD FISHING**

During the winter 1970/71 the ice froze as far as Manndalsklubben (line E on map 2), and the population in the fjord had to fish from the ice if they couldn't get their boats to the open sea. Other problems for the fishermen were that they had to reduce the amount of nets they could set out from the boat to around half of what it used to be, it was difficult and took a lot of effort to set and draw the nets, the nets could not be moved after where the fish was swimming because of the ice, and the fishermen had to buy boats made out

of plastic and aluminium instead of wood<sup>37</sup>. Information about the ice conditions before the building of the power station is conflicting, the court notes.



**Map 2:** The inner part of Kåfjord (Source: Kåfjord municipality archives, Guolasjohka court case protocols, expert report by Cand.real Carl A. Boe, 1982). Ice limits before the regulation: A='normal' ice limit, B=ice limit 'sometimes', C=ice limit seldom. Ice limits after the regulation: D=current inner ice limit for breaking of ice, E='normal' ice limit without breaking of ice. These limits are based on the expert's interviews and observations. According to my informants, however, there was no or little ice before the regulation (line A by the place Perteng), except for the period of copper mining in the Kåfjord valley. The main spawning ground for the winter cod fisheries is in the middle of the fjord, between line C and D on the map (Langnesgrunnen – Isfjellgrunnen (Båen)).

According to a map made by the expert (see map 2), the people living further in than Perteng did not get compensation for damages done by the ice to their property since it was assumed that the ice limit before the regulation was drawn at that point (see map, line A). However, two of the fishermen who acted as witnesses for the court pointed out that before the regulation there was only sporadic icing in the innermost part of the fjord.

<sup>37</sup> Witness testimonial from Magnus Gamst, 1984, Kåfjord municipality archives

One exception is during the time when there was copper mining in the Kåfjord valley (Ankerlia) and the Guolas lake was dammed. During this time, the fjord was iced over sometimes to Steinnes but most often to Oksenes because of the greater amount of fresh water coming into the fjord during the winter. After the First World War, the mining stopped and the fjord was free of ice so that bigger boats could use places in the inner part of the fjord as harbours (IKF 1975). However the conditions were before the regulation, in the winters without any ice breaker, from 1971 to 1974, the ice could reach as far as Steinnes (line E).

After the local fishermen's union had asked the municipality to start breaking the ice, following an incident in 1974 when forty (40) sets of nets stood in danger of being stuck in the ice, the municipality started breaking ice from 1974 and the court case against the power company was initiated. The fishermen could now set and draw their nets, but they were dependent on the ice breaker to be able to carry out these tasks at all. They could increase the amount of nets when the ice was broken, and it was easier to get to and off the sea with their boats when there was less ice. However after 1975, the broken ice caused trouble because great ice flakes damaged the boat landings on the fishermen's property. In addition, the ice was not broken completely but only to Oksenes (line D on the map) because the ice was too thick to break with the ice breaker. The fishermen living further in the fjord from this point had to keep their boats at a point further out the fjord, for instance on Langnes, and then travel a distance to get to their boats in the morning. The fishers fished by making holes in the ice and pulling the nets from hole to hole. It was also possible to fish from the ice with lines, but this kind of fishing did not gain the fishermen the same kind of income. It was estimated that the income from fishing on the ice would be reduced by 75% if the fishermen were forced to fish from the ice. In 1979, the winter cod fisheries were estimated to be approximately 200 tons in total.

The municipality mayor, Einar Storslett, provided the court with numbers and information about the fishermen's income before and after the regulation. In 1969, fishers

from Kåfjord landed 37 tons of fish<sup>38</sup>, in 1970-71 they landed only 4 tons, and in 1972 they landed 8 tons. This was obviously because of the ice problems in the inner part of the fjord, and the issue, which concerned around 1/3 of the municipality's inhabitants, was taken to local politicians and the local government seated in Olderdalen. In 1974, when the municipality had started breaking the ice, fishers landed 49 tons of fish, and in 1979 the amount was around 80 tons to the newly built service station in Djupvik. Some people quit fishing when the ice started freezing after the construction of the power station, but after 1974 there was a greater activity on the fjord again and the mayor pointed out that the income from the cod fisheries was important for the municipality since it came on top of the other income people had from farming, construction work or other occupations.

The court noted that the fishermen from the period 1971-1974 had a real loss of income from fishing, and that they had increased difficulties when fishing after the regulation, and the fishermen received compensation for lost income from fishing for the years 1971 to 1974, and some also received a small amount of money for the yearly damages made by the ice to their boat landings after 1974 and for the future. One of my informants told me that they had received that compensation as late as 2003, but then the amount of money was too small to be paid out so the yearly compensation stopped.

### **3.4 IS FISHING EXCLUSIVE OR FREE FOR ALL?**

One of the central points under discussion during the court case was whether the cod fisheries taking place in the inner part of the fjord was exclusive in the sense that only the inhabitants who resided in that part of the fjord took advantage of it. This was an important question since it would show whether the fishermen in this particular part of the fjord were dependent on the income from this particular fishing for their living. If they could go elsewhere to fish during the time the ice was inhibiting their usual practice, there would be no reason to compensate the fishermen, and also if other fishermen from other parts of the fjord went to the inner part to fish.

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<sup>38</sup> Numbers from Norges Råfisklag. However, the fact that fishers hung a great deal of fish to dry and also sold fish privately makes the number too small to give a picture of the amount of fish actually caught in the fjord.

The majority of the court members in the lower court stated that the use of the fjord is so "concentrated and special that it for outsiders has been perceived as if it was a right that was exercised"<sup>39</sup>. In the lower court protocols, the fjord fishers state that fishing in Kåfjord is exclusive for those who are practicing it, and that practically no one from outside takes part in the fishing. However, "last winter there were two men from Manndalen and that is not enough to say that people from outside have taken part", said the defending lawyer. Furthermore, the fishers have stated that there is no room for others to fish in the inner part of the fjord, and that the fishermen themselves have made it impossible for others to fish there among other things because of the night ban (in Norwegian: nattfredning). In the Supreme Court text, the statement that the majority approved of simply said that no one competed with the fishermen from other parts of the fjord, and that their use might seem like a privilege for the local population<sup>40</sup>. When it comes to on what grounds the court made their judgement, the court interviewed the fishermen, and three witnesses made written statements before the court. One was a local fisherman and member of the fishermen's association's board, another was the mayor in Kåfjord and the third the man operating the ice breaker.

The local fisherman clearly stated that no foreign fishers took part in the cod fishery at all – "so we perceive it as an industry that at all times has been reserved for the population/the fishers in inner Kåfjord". He also pointed out that some of the things demonstrating the fishery's exclusivity were the implementation of hours for when it is allowed to draw and set nets during the winter cod fisheries, and attempts to limit the number of nets per boat. The night ban was implemented after the local fishermen's organization applied to the authorities, but the limitation on the number of nets is not

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<sup>39</sup> "Flertallet mener videre at den bruk som har vært utøvd er så konsentrert og særpreget at den utad har fremtrådt på samme måte som om det skulle være en rettighet som ble utøvd" (Lyngen herredsrett protocols, Kåfjord municipality archives).

<sup>40</sup> "Det dreier seg om et fiske som utad er blitt akseptert og respektert som en næringsdrift. Slik flertallet i overskjønnsretten beskriver det, har det vært «forbeholdt befolkningen i denne delen av fjorden, ved at fiskerne fra andre deler av kommunen eller andre distrikter ikke har deltatt i konkurranse med de lokale fjordfiskere». Bestemmelser fastsatt av fiskerimyndighetene har bidratt til at fisket rent faktisk har fått et slikt preg av særrett for lokalbefolkningen. Dette gjelder således bestemmelsen om at det en viss tid av året er forbudt å trekke faststående fiskeredskaper fra kl. 19.00 til kl. 06.00. (Rt 1985 247).

totally carried through. He also says that other people have never been chased away from the fishing fields because this was never necessary, and that outsiders would not be chased away from fishing if they came. Locals from the Kåfjord valley have always participated in the fishing and do so today. The fisherman also stated that the individual fisher did not have his own special place in the fjord where he set his nets, because, as another fisherman answered to me, “fishing is free for all”.

A minority of the court members protested against the notion that the fishery was exclusive for the fishers in the inner part of the fjord, on the grounds that fishing in the sea is a common right (*allemannsrett*). They were also of the opinion that most of the fishers perceived their own fishing in this sense, because foreigners were never chased away from fishing and because the fishers did not have special places to set their nets. In addition, since there were more people applying for compensation (68) than there were fishers in the fjord (54), one could not say that the fishery was reserved for an exclusive group, also because people from the Kåfjord valley took part in the fishing. The minority also points out that outsiders stayed away from the fjord because of regulations closing the fjord from shrimp trawling and fishing for herring implemented from the 1970s, and by that time the ice problems were already occurring. The group of people fishing in the inner part of the fjord is also so large and indefinite that there can be no exclusive rights for compensation from loss of income, since the seeming exclusivity of this fishery must be because of the issues already mentioned. The power company took the case to the Supreme Court on these points: that also other people from further out along the fjord had participated in the fisheries, that fishing also had taken place outside of the spawning grounds affected by the ice, and that fishing was not a considerable enough part of the fishers' income.

The majority agreed that the fishery actually was exclusive because it was performed like that in practice, and that among other things the special arrangements between the locals illustrates this (Rt 1985 247). The court did not put significant weight on the fact that the fisheries were not exclusive in the sense that other fishers were not chased away

and the fishers did not have their own permanent fishing grounds<sup>41</sup>. In the conversations I had with the fishermen, however, I had the impression that there were some other principles, which were tied to the social connections between families that ruled the way fishing had been conducted earlier. When I say earlier I mean that the fishermen referred to the past when talking about how fishing should be conducted, rather than beginning with how fishing is conducted today.

During one of my conversations with a retired fisherman born before the war, I asked whether everyone could fish in the fjord. By asking this ignorant question I felt myself quite stupid. Even though I had grown up in the fjord and should know that this is the kind of issue people think too obvious to even mention, I still asked to see what would be the answer. After a pause he answered that "of course you are allowed to fish wherever you want", in a tone implying it should be no other way. The fishermen went after the fish, and having your permanent fishing site would only mean you are not able to being flexible enough to fish where the fish migrate from year to year. Of course there are some places everyone knows as good fishing sites where the fish bite every year, such as in the summer when fishing for pollock. Fishing for pollock is more open to everyone, since people who normally don't live in the fjord come back for the summer to fish. Pollock is also not as important for the household's income as cod, and you cannot hang it to dry because of the heat of the summer. But taking a pollock fishing place as your own is not the custom. As an example of the opposite, the fisherman mentioned that another local sometimes put his nets across other people's nets if they had set their nets where he usually put them. He also remembered from the time when he was young and the local fisheries involved a great number of boats, that on Sundays boats used to queue to get back to "their" place where they had drawn up their nets the day before. From the conversation, I understood that having a special place to set your nets is not a violation of

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<sup>41</sup> "Etter min oppfatning gir den beskrivelse som foran er gitt av fisket, grunnlag for at det langt på vei kan karakteriseres som eksklusivt for befolkningen i et nærmere begrenset område, nemlig den indre del av Kåfjord. Dette må gjelde selv om det er enighet mellom partene om at utøverne ikke har praktisert sin bruksutøvelse i tilknytning til faste fiskeplasser for den enkelte, eller slik at fiskere som ikke har vært bosatt i det nevnte område, ikke har vært bortvist. Som nevnt har overskjønnsrettens flertall på den annen side funnet at utenforstående fiskere faktisk har respektert at fisket etter gytetorsk i tilknytning til de beskrevne grunne områdene var forbeholdt de lokale fiskerne." (Rt 1985 247)

the principle that everyone can fish wherever he wants when everyone agrees about where 'their' place is such as during the winter cod fisheries, but trying to exclude others from setting their nets *at the good fishing place* during the more open summer pollock fisheries is going too far in the sense that you are denying others their opportunity for a dinner meal.

When asked about special places to set nets in the fjord, other fishermen denied that they had any special places, but their wives would laugh and say that yes, their husbands and those neighbours indeed had their "special places" that others were chased away from. My impression is that the fishermen tried to avoid such situations because of the unpleasant situations in the past and the talk that followed in the small community afterwards. This might also be a reason why the fishermen consistently said that "fishing is free", while other stories about chasing big boats away were told proudly because it concerned an incident where everyone in the fjord would agree that the larger boat behaved incorrectly. This goes to show that "outsiders" means something else than just people who are not from that part of the fjord, since fishers from Manndalen were welcome to the fishing field.

According to one of my informants, there was one incident when a boat from outside the fjord entered the winter cod fishery in the inner part of the fjord and put his nets in the other direction, across all the other nets. After all the others had pulled up their nets, there was not much left of the outsider's nets. This goes to show that even though fishers say that fishing is open for all, there are still some rules the people fishing at the site has to follow. Perhaps it has not been necessary to directly chase people away from the fjord, which would clash with the idea that everyone has a right to catch their food from the fjord and that fishing is free, but there are other means of keeping an area reserved for the locals as this story tells. Also, fishing has not always been concentrated to the Langnes area since, according to my informants, the fish in earlier times spawned further out in the fjord, and the population naturally followed the fish where it was. This point was discussed in court, however, and was not given significance as an argument against the economical importance of the fishing.

One active fisherman in his sixties, living closer to Olderdalen, told a story about one time when he had heard that the cod fishing was especially good in the inner part of the fjord and he had went there with his boat. However, he quickly understood from the other fishers that they did not like it that he came there, even though they did not say anything directly, he realized that it was not appropriate. The fisherman commented that he agreed that the people in the inner part of the fjord could have the fjord for themselves. But, commenting on the Sami Fisheries Zone, he did not think it was a good idea if it entailed closing the whole fjord to people from other places who used to fish further out in the fjord – ”otherwise, you can be beaten up”, as he put it. Fishermen in the inner part of the fjord also pointed out that people from outside had participated in the winter cod fisheries, but they could always mention the ones who had participated if not by name, at least they knew from where they came and how many times they had been participating. This information is in accordance with what was said during the Supreme Court ruling, where it was pointed out that the fishermen in the inner part of the fjord already knew the people who had participated from other parts of the municipality.

The statement that fishing is free for everyone, then, is true in the inner part of Kåfjord with some modifications. ”Everyone” means people from your place, and the people who have a tradition for fishing at the ground, as contrasted to people from other places in the fjord and from outside the fjord who have not established such a tradition. Fishing is free means that you can fish as long as you follow local rules and don’t overexploit the fish stock<sup>42</sup>, depending on what kind of fisheries you are taking part in.

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<sup>42</sup> Anita Maurstad mentions something of the same in her article ”Fishing in murky waters”, where she points to the fact that elder fishermen in the fjord she was investigating seemed to have their established places which younger fishers had to ”earn” their right to. At the same time, through kin relations you could get access to fishing grounds in other fjords if fishing was bad in your fjord, or lend the ”mea”, a coordinate at sea to mark a good fishing site. Also in Kåfjord fishermen used ”mea” and passed them on to younger generations so they would know where to catch fish at sea. Maurstad also describes methods for sanctioning inappropriate behaviour when fishing, where the philosophy was that “...if you want to stay in a community and fish, staying on good terms with the locals is an advantage, both socially and economically” (Maurstad 2002:161).

### 3.4.2 ARE THE PRACTICES CHANGING?

When it comes to the special character of this cod fishery, the court record states that there had developed special internal agreements and an actual sharing of the use between the fishers at the site in the inner part of Kåfjord because of geographical limitations, among other things by limitation of the number of nets and that fishers could not draw their nets in the night<sup>43</sup>. However, the fishermen I interviewed during my fieldwork commented that the leaders of the fishermen's association had tried to implement this rule and that some of them were annoyed by it. How successful it was they didn't know, it was more an attempt than an actual rule that everyone followed. The court maintains, however, that the special conditions for this fishery was accepted and respected by others as a use reserved for the population in this part of the fjord, because fishers from other parts of the municipality did not partake in competition with the local fjord fishers.

During my fieldwork period, I heard on a number of occasions other fishermen and locals talking about particular incidents where someone had broken a local rule such as putting the nets in the wrong direction or putting their nets across other nets during the winter cod fisheries. The consequences of such actions were either just talk among people, or that someone (another fisherman) told the person to stop that kind of fishing, or in the worst-case scenario that his nets were cut. When it comes to the occasional outsider making use of the same fishing sites as the locals, some mentioned that they had occasionally cut the nets of larger coastal fishing vessels. When asked about why they wanted to keep the larger vessels from the fjord, one fisherman answered: "it is because of the fish" (meaning protection of the fish stock's sustainability). He gave the same reason when he told that "we keep it a little silent where the pollock gathers together" during the summer pollock fisheries. Today, he said, effective gear makes it much easier to overexploit the stock, that's why today you have to keep larger boats away from the fjord.

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<sup>43</sup> På grunn av fiskeplassenes sterkt geografiske begrensning, har det mellom fiskerne i denne delen av fjorden etablert seg en faktisk deling av bruksmulighetene, først og fremst ved begrensning av antall garn pr. båt (etter stilltiende overenskomst). I den siste tid er det også innført faste utrorstider på fiskefeltet, noe som forekommer meget sjelden andre steder. (Rt 1985 247)

When interviewing people who did not fish in the inner part of the fjord, it became obvious that the different communities used different parts of the fjord in some situations, and that all of them could use other parts of the fjord in other situations. There were some common places and some places attached to one of the communities, but the inner part of Kåfjord was special in the sense that it was so geographically limited. Many of the places in the fjord that my informants mentioned had Sami names.

Anita Maurstad found a similar system when doing research among fishermen in Finnmark (Maurstad 2002). She observed that gill netting could take place right outside the villages people live in and often people on places next to their doorsteps. There are also places, she notes, where several villages have approximately the same distance to the fishing sites. Within these ‘commons’ (bygdeområder) there are certain rules that organize the fishery, such as dividing the good sites between themselves; keeping secrets from each other and from outsiders, and making newcomers earn their way into the commons (Maurstad 2002:160).

The implementation of fishing hours is given special mention in the ruling. In the IKF protocols from 1986, the practice of a night ban from 1900 p.m. to 0600 a.m. between the 1st of December to the 30th of April is again confirmed for another five years (IKF 1986). In addition, the organization notes in the same meeting that the nets are to be set in one direction out from the shore, another rule that all the fishers followed and that the fishers said had been there before the creation of the fishermen’s association.

Anita Maurstad writes that the rules she found among fishermen in Finnmark were not a result of a harmonious meeting before the season starts. “Rather, the organized fishery stems from a competitive practice between fishers where assets as experience, respect, friendship and to a certain extent also technology play out”<sup>44</sup>. She also recounts examples of sanctions from the local population such as fishing gear being damaged. It is important to note, however, that such sanctions work best between fishers in same-size vessels,

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from 7 to 12m, says Maurstad. “Fishers in large-scale vessels relate more to the formal Norwegian law stating that all fishers have equal rights to use an area but must abide by gear regulations” (Maurstad 2002:160). In the inner part of Kåfjord where the competition between small-scale and large-scale vessels is not large today, local fishing practices can be left in peace. However, the practices are also developed based on the experiences of the local fishermen. One old man told me that he used to fish on a herring boat in his youth, and that he too took part in practically emptying the fjord of fish. From this experience, he saw that the large vessels were not good for local fjord fishing. This goes to show, then, that the practices were not continuous and consistent, but changed with time. Rather than some special characteristics inherent to the fishing practice, there are other, more flexible principles behind it, based on the experiences and knowledge of the resource users.

### **3.4.3 THE ETHNIC DIMENSION**

An interesting point in the case is the mention of Sami descendance to support that the practice was indeed from old times and that it had been practiced consistently through the times. The fjord fishermen’s lawyer had in 1983 gained information from a TV program that the settlements in the inner part of Kåfjord and the Kåfjord valley are coastal Sami. The lawyer wanted to make it an argument in the Supreme Court case that the fishing in the inner part of Kåfjord is a right for the Sami population<sup>45</sup>. He requested information from the local historical association about these matters, and especially whether they had information about the importance of fishing for settlement in Kåfjord, that ” can prove that the coastal Sami population in the inner part of Kåfjord have considered fishing in this part of the fjord as their special privilege, or can say that it is these fishers that have for the most part conducted this fishing”<sup>46</sup>. The lawyer did not get the information he

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<sup>45</sup> ”Det er på den bakgrunn nærliggende å gjøre det til et moment i Høyesterettssaken i Indre Kåfjord er en rettighet for den samiske befolkning”. Letter 17th of February 1984 to Kåfjord municipality by Odd R. Tvedt, Kåfjord municipality archives.

<sup>46</sup> Letter 17th of February 1984, to Torleif Lyngstad by Odd R. Tvedt: ”Ad: Opplysninger om fiske og bosetning i Indre Kåfjord”: ”Jeg er også særlig interessert i opplysninger eventuelt kunne påvise at den sjøsamiske befolkningen i Indre Kåfjord har sett på fisket i denne delen av fjorden som deres særrettigheter, eller om momenter som kan tilsi at det er disse fiskerne som for det alt vesentlige har utøvet dette fisket”. (Kåfjord municipality archives)

required at that time, or the outcome of the case could have been different, I believe<sup>47</sup>. It is stated in the text from the Supreme Court decision that the users of the fjord are of Sami descent, but no further significance is attached to this point. The lawyer, it seems, therefore had to rely only on the point that the fishing was conducted as an exclusive practice for the inhabitants in the inner part of the fjord.

None of the fishermen used the argument that local fishing customs were coastal Sami customs. However, they did refer to Sami ethnicity in other connections, for instance when referring to place names and terms for fish or equipment in Sami language. “Sami words for what you do at sea and in the boat are not as powerful in Norwegian”, said one of the old fishermen, regretting that he could not express himself as powerfully to the young people who did not know the language. One of my informants told me that no one was thinking in the direction of coastal Sami rights at that time, and the municipality archives show that it was the lawyer who later pointed out the fact that most of the people were coastal Sami only after having been told this by outsiders. However, that local people themselves did not argue in this direction only goes to show that they did not express their Sami ethnic identity openly, as was also the usual practice elsewhere in coastal Sami communities because of the stigma attached to Sami identity (cf. Eidheim 1971) and the assimilatory discourses attached to it – which were also exercised between Sami, and not only between Sami and Norwegians. In the court case following the ice difficulties from the power station in the 1980s, we find for the first time the coastal Sami argument used in relation to the fjord fishing before 1990 and the establishment of the Sami Parliament, on the local level.

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<sup>47</sup> The reason why the lawyer got no answer from the historian is that there was no documentation concerning his questions at the time, since this is an area with very little research, for various reasons. The information he could give the lawyer was personal opinions. At the same time, there was a project for registering Sami and Kven place names in Kåfjord, but the results from this investigation were not taken into account in the court case (Torleif Lyngstad, personal communication 10th of February 2005). The mayor at that time pointed to the fact that the fjord is under the Sami Development Fund area (SUF) and referred the lawyer to two articles in *Diedut* no 1/1982 pp 54-60, and *Diedut* no 2/1984.

### 3.5 SUMMARY

The Supreme Court decision is important at least for two reasons: 1) It gives a description of fishing practices in a coastal Sami area, and 2) it shows that it is possible that coastal Sami can have rights to fish, judging by the criteria given in Norwegian law on the protection of a customary use. Compared to the way Ivar Bjørklund and Anita Maurstad describe coastal Sami fishing practices, it can be argued that the practices in Kåfjord are similar to those descriptions, giving the impression that we here have an example of an indigenous resource management system.

However, when investigating the same area today, one discovers that the practices that were documented in the early 1980s are gone, just as the number of fishermen has dropped and the winter cod fisheries is not as large as before. Judging from this, it is easy to come to the conclusion that the 'coastal Sami resource management system' itself is gone since the practices that were judged to be so special and characteristic of inner Kåfjord are gone. In addition, the fact that most of the fishermen do not state their ethnic identity openly while Sami politicians say that fjord fishing is a coastal Sami tradition, makes the case even weaker.

There are at least two reasons why that conclusion could be wrong. The court was interested in the observable practices and not in the principles behind those practices, in addition to the fact that coastal Sami may have other conceptions of a right than the Norwegian law. Considering the strong position of the leaders of the fishermen's association, and the fact that they tried to implement the rules mentioned in court, and also that the court took their witness statements, the lawyers gave the court a simpler picture manufactured by the fishermen's association's entrepreneurs. Other fishermen modify their version of fishing practices in the inner part of Kåfjord, thus reminding us that culture is changing and subject to negotiation all the time. That the practices, or the visible signs of a culture are gone, does not mean that the culture itself is gone. Taking into account the historical context of the Lyngen region and the policy of assimilation

towards the Sami, one should not expect other expressions of rights than Norwegian ones, either.

Second, when it is the same fishermen fishing at the same places today as in 1985, one can argue that the changes which have occurred have happened with their consent and according to their understanding of how fishing should be conducted – ruling out the major changes such as the decrease in the number of fishermen and the lower amount of fish in the fjord. Today, there are other challenges for the fishermen than the ice problems, which they have to adapt to as best as they can. One of these challenges is the resource crisis and the implementation of the quota system and the regulations following the 1990 resource crisis, as mentioned in the introduction.

In the last chapter, we will see how they meet these new challenges and how rights are expressed locally today. It can be argued that the fishermen to a greater degree express their rights as coastal Sami after the establishment of the Sami Parliament. This can be interpreted as an instrumental use of indigenous rights, since there were no expressions of such a right earlier. In the next chapter, we will make a visit to the median and macro levels and the development of a coastal Sami rights discourse to investigate this issue.

## **CHAPTER 4: COASTAL SAMI FISHING RIGHTS ON THE PUBLIC AGENDA**

In this chapter, we move away from the local, to investigate what kind of representations of coastal Sami fishing are prominent on the macro and median levels from the 1990s to the present, and to what extent indigenous and assimilatory discourses influence these representations. Policies formed at this level have an impact on the local level, which will be the theme of the next chapter.

With the establishment of the Sami Parliament in 1989, fisheries management in a Sami perspective was immediately put on the agenda. The situation of coastal Sami fjord fishers was one of the first issues to be addressed by the Sami Parliament, and their starting point has been to "secure fishing as an important material basis for settlement and livelihood in the coastal and fjord areas. (...) It is clear that it is about securing the industrial activity that forms the material basis for Sami culture and identity", as the president of the Sami Parliament stated (Nystø 2001:7).

### **4.1 THE CASE OF THE SAMI FISHERIES ZONE**

The Sami Parliament asked in 1992 for the introduction of a "Sami Fisheries Zone" in north Nordland, Troms and Finnmark meaning "a collective right to exercise fishing in an open commons for everyone who lives within a geographically limited area". This was followed up with a committee outlining the content of a "policy area for Sami fisheries" in a report from 1995 (Storslett 1995). The area was supposed to include Finnmark, northern Troms, and the municipalities in Nordland that were already included in the Sami Development Fund (SUF) policy area, in addition to some other municipalities in Nordland and Troms (Storslett 1995:73). The Lyngen and Tana fjord were also suggested as "experiment areas" for management of marine resources. It seems that even though the different measures to be introduced in the zone were made pretty clear in the report, such as banning all mobile fishing gear from the zone and guaranteeing the fishers within the

zone a quota they could make a living from, the question of rights on the basis of ethnic identity was addressed specifically by the committee. The committee states, in relation to the question of who should benefit from the new policy:

“It is natural that exactly these questions are subject of interest, not least from the Norwegian population in Sami settlement areas. Several have expressed a fear of ”discriminatory treatment” within the single local communities when strengthening Sami fishing rights. This fear has been used by different actors carrying different motives, and is thereby upholding reservations against Sami fisheries measurements, often on a wrong basis” (Storslett 1995:64).

With reference to Smith’s report from 1990, and to the Sami Parliament’s own statements that collective solutions for geographical areas are preferable to individual rights, it is unanimously stated by the committee that measurements intended to secure the material basis for Sami culture also include everyone living in the policy area, and that it does not entail any division on an ethnic basis (ibid p. 65). Because the name ”Sami Fisheries Zone” contains a ”strong Sami dimension” in relation to the fact that also other people live in the suggested area, the committee suggests a new name for the zone, namely ”Sami fisheries management area” (in Norwegian: virkeområde for samisk fiskeripolitikk) (Storslett 1995:67).

In a report on Sami interests in the fisheries issued by a committee established in 1997 by the Fisheries Ministry, the majority of the committee concluded that the suggestion of a Sami Fisheries Zone was too unclear (Samisk fiskeriutvalg 1997, see also 1.2.2). This committee did not take into account the report issued by the Sami Parliament two years earlier, but nevertheless the committee suggested a similar policy zone that included the municipalities that were part of the Sami Development Fund policy area in addition to some other municipalities (Finnmark, north Troms, and some municipalities in Nordland). There was also a suggestion for an experimental area for management of fjord systems, but this was not specified further (Samisk fiskeriutvalg 1997:147). However, the Fisheries Ministry’s suggestions are not as radical as the suggestions from the Sami Parliament’s committee, where it was proposed that the policy area should have its own

Fisheries Directorate and representation in negotiations with Russia (Storslett 1995:70, 71).

One of the reasons why the committee rejected the Sami Parliament's suggestion for a Sami fisheries policy zone, was:

”the committee will not approve of measures that entail ethnic divisions. The committee's suggestion will be geographically limited. To establish a Sami Fisheries Zone will in that case be misleading in relation to the real content of the zone”.

In addition, the committee argues that such a zone will seem unfair if you don't have knowledge about the content and background of such a zone, leading to future difficulties in securing indigenous rights and Sami culture (Samisk fiskeriutvalg 1997:166). The committee suggests a policy zone in coastal Sami areas where among other things free fishing for boats under 7 m (ibid p. 155) and Sami participation in regional fisheries management boards (ibid p. 170) are mentioned. It seems that it is the naming of the management area and whether it should include the word 'Sami' or not which is the problem, rather than a management regime for coastal Sami areas.

In 1998, an action plan for Sami coast- and fjord areas 1997-2001 was decided upon in the Sami Parliament. The report from the Fisheries Ministry had been taken into account in a decision from the Parliament in February that year, where the Parliament underlines the importance of ”infrastructure, and management arrangements securing coastal and fjord fishing as an industry” and suggested as a first phase in the establishment of a Sami fisheries policy that three fjords, Tana, Lyngen and Tysfjord, should be testing areas for such as policy. However, when the government issued a paper on Norwegian fisheries policy in June, these suggestions were not followed up. In the action plan, the Sami Parliament decided again ”to establish a fisheries policy zone to try out locally adapted management arrangements in three Sami coast- and fjord areas: the Tana fjord in Finnmark, Lyngen in Troms and Tysfjord in Nordland” (Sami Parliament 1998:7). As a follow-up to this decision and formulations in the Sami Parliament's plan for 1998-2001

where it is stated that the Parliament promises to work actively on a "Sami Fisheries Policy area", a project named "Sustainable development in chosen fjords" (in Norwegian: Bærekraftig utvikling i utvalgte fjorder) was initiated. This project concentrated on developing local Sami industries, not just fisheries, in the Lyngen fjord, the Tana fjord and Tysfjord in cooperation with the three northern Norwegian counties, the Fisheries Department and several other departments.

At a seminar in 2001, arranged by the Sami Parliament, the secretary of the Fishermen's Union in Finnmark stated that his organization was against the local experiment project.

"The reasons why Finnmark Fishermen's Union is critical, negative, and think this is a bad solution are many (...). We think other measures are better for developing fjord fisheries. The Union is against special arrangements and regionalization of the fish resource like Finnmark County has proposed" (Sagen 2001: 77).

This is the Fishermen's Union's position in general, as the organization favours national management and it is not ready to let the Sami Parliament manage resources on the basis of indigenous rights<sup>48</sup>. Also the representative from the Fisheries Department, ms. Ellen M. Bergli, was cautious when it came to the issue of a fisheries zone and promised only that the Department and the government would consider whether a Sami Fisheries Zone is a suitable tool (Bergli 2001:20)<sup>49</sup>. However, the Fisheries Department did introduce some changes such as making it easier for fishermen to combine fishing with other occupations in municipalities under the Sami Development Fund, in addition to the fact that the Sami Parliament has one representative in the regional fisheries regulation board (reguleringsrådet).

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<sup>48</sup> For instance, Reidar Nilsen characterizes in an interview in the newspaper *Fiskaren* a statement from the Sami Parliament that they want more influence in the management of coastal cod as "crap"(tøvete): "Nilsen is not surprised by the Sami Parliament's initiative and he knows that the Sami are working to gain *special* rights in the capacity of being indigenous" (*Fiskaren* 15.12.2003) (my italics). Again, indigenous rights are perceived as special rights reserving something for the Sami based on ethnic identity.

<sup>49</sup> At the same seminar, Bergli also reasoned that it is important to create a culture that is not dependent on fisheries and reindeer herding to survive, but that language and culture should survive even though the number of participants in the primary industries decrease (Sami Parliament 2001: 32). To this, one of the participants at the seminar answered that strengthening fjord fishing also strengthened the whole coast and the local population – and thereby also coast culture and Sami culture (Sami Parliament 2001: 88).

Some measures have been tried only in the Tana fjord so far. The project in Tana has been fairly successful because it was concentrated on development of the industry rather than changing the management regime<sup>50</sup>. In a recent paper on fishing as industry and culture in coastal areas and fjords (Sami Parliament 2004:46), the Sami Parliament refers to Norway's national and international obligations towards indigenous peoples as the reason for establishing new management regimes. In addition, special mention is made on the situation of women in coastal Sami fisheries. The Sami Parliament notes that authorities have been negative towards the idea of a the three trial fjords, but it nonetheless states that the Sami Parliament will continue working for the establishment of local and regional management regimes.

At a seminar in Tromsø, arranged by Amnesty International, on indigenous rights and fisheries in 2004, the representative from the Sami Parliament, Inge Arne Eriksen, repeatedly stated: "indigenous rights in Norway are decided by the Fisheries Department under very strong and large influence from the Fishermen's Association". Some researchers also support this statement. For instance, in the article "The Challenge and the Promise of Indigenous Peoples' Fishing Rights" the authors write that the proposal for a Saami Fisheries Zone was characterized as "reverse racial discrimination" at a meeting in the Finnmark Fishermen's Union (Davis and Jentoft 2003:205). Very simply stated, Eriksen put the situation in these terms: the Sami have no influence in fisheries management, no protection by law, the authorities do not accept indigenous rights, and the state wants a capitalistic management of fisheries while the Sami Parliament wants a management regime according to the principle of closeness and dependence (in Norwegian: nærhets- og avhengighetsprinsippet)<sup>51</sup>.

As the treatment of the fisheries zone issue shows, the indigenous discourse is controversial with the central authorities both in the bureaucracy and among politicians, where the Sami Parliament is aligned directly against the Fishermen's Union and the

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<sup>50</sup> Interview with Osvald Grønmo, august 2004

<sup>51</sup> Inge Arne Eriksen, seminar on Indigenous fishing rights, Tromsø May 2004

Fisheries Department in the debate – where Sami initiatives in some cases are not taken very seriously by the Norwegian management regime. The very explicit indigenous discourse at this level poses a challenge to the Norwegian fisheries management discourse, but only seldom reaches the media and the public.

## **4.2 THE LYNGEN FJORD PROJECT**

In this part, we will look at how the policies formed at the macro level and the different discourses come into play in a project aimed at local resource management. On the municipal scene, local contexts and local history interact with the overarching national resource management policy and indigenous revitalization discourse.

The Lyngen Fjord Project was a joint project between the municipalities around the Lyngen fjord, aimed at establishing local management of marine resources in the Lyngen fjord, but also other industries were seen as part of the whole project. The Lyngen fjord project basically contained the same issues that were discussed as part of the suggestion for a Sami fisheries zone by the Sami Parliament. While the initiative came from the three mayors in the municipalities Kåfjord, Storfjord and Lyngen bordering on the Lyngen fjord, it was at first seen in connection with the plans for a Sami Fisheries Zone, and the central people involved in the project were in contact with the Sami Parliament's internal committee. However, it had its roots in a different context and the municipalities were the main driving forces behind the ambitious project – in this sense, it makes a good example of how discourse on the same issues as were discussed on the higher level of governance are spelled out in a regional context.

The Lyngen fjord project was inspired by among others researchers at the Centre for Marine Research in Tromsø, and by a number of conferences on management of marine resources arranged at the beginning of the 1990s in the aftermath of the introduction of the quota regulations in Finnmark and Troms. The three municipalities initiated the project in 1993 with the three mayors as the driving forces in the steering committee, with a social science researcher from the area as the central person writing the pre-project

report. In the pre-project, the coastal Sami perspective was an integral part, and it was pointed out that a special management for coastal Sami areas had to be established. The pre-project leader points out in the report that the fact that the local population traditionally have exploited the marine resources together provides a basis for discussing the local population's rights to manage marine resources. The intention of the project was also to form cooperation between the municipalities to improve the utilisation of marine resources in the fjord (Lillevoll 1993:5). The main focus was on sustainable management and development, taking into account regional variations in nature, industry and culture. The project would include cooperation with local fishing- and farming organizations, as well as with researchers at the University of Tromsø, attached to the Man and the Biosphere Program (MAB-program) where professor Svein Jentoft was the research coordinator of the Norwegian MAB-program.

The Lyngen Fjord Project would, dependent on financial support from external research, investigate ecological and biological specificities in the fjord, characteristics and movements of fish stocks, household economies and their dependency on fishing, as well as other external interests in the Lyngen fjord. One of the central points in the pre-project was that research had shown the possible existence of local fish stocks, a finding which implied that these stocks should be managed independently of for instance the Norwegian-arctic cod stock (Lillevoll 1993:15, 17). This argument in addition to the arguments brought to the table by Carsten Smith and Peter Ørebech about the traditional and indigenous rights of the coastal Sami, formed the justification for a local management project where the local population had rights of management. The project should, the author says, be coupled with the Sami Parliament's work on the Sami Fisheries Zone because the Lyngen region is a coastal Sami region, and the project could in this sense also take into account Sami rights (Lillevoll 1993: 18). As possible sources of inspiration, Lillevoll mentions a new suggestion for an independent commission for fisheries management in Canada as an interesting model, where indigenous peoples are also represented.

The project was supposed to run for a trial period from 1995 to 2000, but it was aborted in 1996 after much local and internal controversies. After the pre-project period where a local had been the leader, a new, external project coordinator was appointed for a two-year period in 1994, financed by the three municipalities, with his main office in Lyngen municipality. The project leader judged the project too ambitious in itself to also accommodate Sami rights to marine resources<sup>52</sup>, and the coastal Sami perspective disappeared in the arguments for local management in the Lyngen region. Instead, the main purpose of the project was based on the argument that there was too little local involvement in national resource management, where the local situation for fjord fishers was not taken into account both in a democratic sense and when it comes to what kind of knowledge resource management was based on – namely functional and not scientific and local knowledge about the fjord fisheries. The main purpose of the project was, according to the mayors, development of local industries and the possibilities for increased settlement and job creation in the region (Dale 1994:5). The project coordinator argued for a new local resource management regime as a tool for reaching this goal, in terms of political local democracy, the closeness to resources leading to better administrative solutions also for the state, and on the background of the worsening conditions for the fjord fisher since the implementation of the regulations in 1990. In the line of arguments was also the existence of local cod stocks as a reason for why local management was a better solution than the existing one, but also ”that the line of new management regulations seem to tighten the possibilities for passing on the traditional northern Norwegian/Sami fjord- and coastal fishing”<sup>53</sup>. This formulation contrasts clearly with the formulations made in the pre-project, where international conventions on the rights of minorities and Smith’s arguments for securing coastal Sami culture in a ”five to twelve” situation, are taken into account.

In the beginning, central authorities seemed positive towards the project, and several presentations of the project were made for the Fisheries Department, the Directorate and

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<sup>52</sup> Interview with Dale, august 2004, Bodø

<sup>53</sup> ”rekken av nye forvaltningsmessige bestemmelser synes å stramme inn mulighetene for videreføring av det tradisjonelle nordnorske/samiske fjord- og kystfisket” (ibid p. 10)

also with local fisher – and farmer organizations. However, the project coordinator and the mayors met with resistance from central authorities, and after less than two years the project itself dissolved. The reason why it was aborted has been an issue in several articles written by academics at the Fisheries College at the University of Tromsø and the Centre for Marine Research (Holm et al 1998, Jentoft 1998).

In their perspective, the Lyngen Fjord Project dissolved because the pressure from the central authorities in the Fisheries Ministry and the Fisheries Department was too great – without their consent and financial support, the project died. The central feature in focus from the perspective of the researchers involved at the time was the highly possible existence of a local cod stock in the Lyngen fjord, something that would imply a possibility of local quotas and local management. Why the central authorities did not approve of the project in their perspective was that it was too controversial: "Probably the main reason was that the Ministry perceived it – quite correctly – as a fundamental attack on key features of the established fisheries management system". The project, if realised, would set a precedent and trigger a flood of similar proposals from all over the country – the number of 280 similar municipalities along the Norwegian coast seeming quite overwhelming (Holm et al 1998:87).

In one of the articles, there is a description of what is characterized as an "assassination" of the project that occurred at a meeting in October 1995, when the Ministry rejected the project as unrealistic and refused to accept the existence of local fish stocks in the Lyngen fjord (Holm et al 1998:87). In addition, the mayors "disassociated themselves from the project manager and the project's fundamental idea. The primary goal of the project, according to the mayors, was economic development and job creation in the region". With this, the authors of the article go on to say, "the basic agreement among the project's core members with regard to the project's identity and purpose dissolved, and the project was effectively dead" (Ibid). After this meeting, the project took a different turn and the local management aspect of the project was tuned down because the central

authorities were negative<sup>54</sup>. Also, the quotas increased during this period and there was some improvement of the regulations in Finnmark and northern Troms, a development making the argument for a local management project even weaker.

When interviewing the main people involved in the project at the regional level, however, some important internal reasons why the project failed become apparent, that have to do with the special local context from which the project was initiated. In the following we shall see how some of the actors explain the outcome in hindsight.

### 4.3 REFRAMING THE LYNGEN FJORD PROJECT

”[The cooperation between the municipalities] was good, but other projects stopped because of more curious reasons. We had plans for joining together the municipalities on the agenda (...) Then a few days before Kåfjord municipality board treated the issue, whether or not to evaluate the consequences, some of these politicians [in Lyngen] could say things in the wrong way and one of them described people from Kåfjord in a way that...they were pissed off from, he called them ”komag”<sup>55</sup> people, and I think a lot in the board and in the municipality were offended. That is what I call curious reasons.”<sup>56</sup>

When asking the people who were involved in the Lyngen fjord project why it went awry, the differences between the three municipalities were often an issue, as this story told by a politician shows. The Lyngen area is traditionally a multi-ethnic area, where Norwegians, Sami and Kvens engage in a ”meeting of three tribes” (tre stammers møte) as the local slogan goes. Kåfjord is the only municipality in the region that is part of the

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<sup>54</sup> ”(...) utredningsarbeid og skissering av hvilke formelle strukturer en lokal modell for forvaltning og regulering av marine ressurser kan organiseres etter. Styringsgruppen finner hensiktsmessig å nedtone dette delementet fordi fagmyndighetene (politisk- og forvaltningsapparat) ikke vurderer det forsvarlig å gi tillatelse til et forsøksprosjekt med lokal forvaltning” (Dale 1996)

<sup>55</sup> *Komager* are the traditional Sami footwear, worn by local inhabitants as the cheapest and most rational footwear in the area before and a while after World War II.

<sup>56</sup> ”Mange andre prosjekt som stranda av mer kuriøse grunna, vi hadde jo det her med kommunesammenslåing på kartet (...) Så hadde vi bare noen daga før Kåfjord formannskap skulle behandle den innstillinga, ja eller nei til vurdering av konsekvensan, så va det jo en her av politikeran kan jo være litt sleivat i kjeften vet du og vi hadde jo en som va ute og beskreib kåfjordingan på en måte som ...de ble forbanna for, kalte dem for komagfolk, og eg trur mange i formannskapet og kommunen blei sur, og det e det eg kalle for kuriositeta” (Interview, August 2004, Lyngseidet)

Sami language management area, while the other municipalities express their Sami roots in different ways and to different degrees. Kåfjord and Storfjord used to belong to the large Lyngen municipality before they split in 1930 in three new municipalities. In a recently published history of the Lyngen region, the author hypothesises several reasons for the split, and one of them is because of the great geographical and mental distances within the large municipality – especially between the common people and the "elite" in Lyngen, in addition to the fact that Lyngen was more Norwegian linguistically and ethnically than Kåfjord and Storfjord. The author finds that

"the administrative centre Lyngseidet had through the times received "more than their fair share of benefits [in Norwegian: *goder*]" than many in the outskirts approved of. The reason was naturally the status as centre that led to an accumulation of persons with both cultural, political and economic power and authority" (Richter-Hanssen 2004:127).

As the statement about the "komag" people goes to show, old divisions within the Lyngen region still exists today. One of my informants, an old fisherman, also shared the politician's point of view, saying that the people in Lyngen were "better" ("finere") because they had the priest, the doctor, the boarding school (Solhov) and the police officer while Kåfjord had nothing.

In this perspective, it is not surprising that the differences between the three municipalities were emphasized as the reason why the project failed from a local perspective. All of the central informants involved in the project agreed that there were differences of opinion about the central premises of the project between the three municipalities from the beginning. Kåfjord municipality entered the Sami language management area in 1992, and the Kåfjord mayor wanted the coastal Sami perspective to remain in the project, while the mayor in Lyngen wanted nothing to do with the Sami perspective at all. The project coordinator had his office in Lyngseidet, and by this fact the project was already clearly connected more to the traditional administrative centre in the region than to any other parts of the fjord. The previous mayor in Kåfjord was of the opinion that the whole project was controlled from Lyngen, and that this was also the reason why the coastal Sami perspective disappeared:

”..and what happened was that Lyngen municipality controlled the project leader and the pre-project was left when it came to the coastal Sami part and one wouldn't even have it mentioned by name. And then we in Kåfjord felt that we lost something important and essential, and I had the impression that Storfjord too felt this way”<sup>57</sup>

Looking at the project in retrospect, the two most fundamental mistakes or issues that could have been managed better, said the project leader during one of my interviews, were specifically the level of ambition when it comes to which forces the project challenged, and the lack of involvement on the local level. As an academic coming from outside, it was clear for the project leader that he spent too little time making connections with local organizations. During one of the meetings with a local fisherman's organization, he felt that he did not reach through to the fishermen with these points, and that they were reserved and sceptic to the kind of ideas he lectured about.

The project leader characterized the mayors in Lyngen and Kåfjord as two opposites, while the mayor in Storfjord put himself in between when it came to the coastal Sami rights perspective. In his opinion, this was a major issue between the three mayors, and it was something on which they couldn't agree. However, since just one of the mayors had the most extreme position on the Sami issue, his voice was in minority in relation to the two others and the project leader, and he agreed that the project would run strictly as a management project without mixing in the Sami perspective. The project leader had his education in political science from the University of Tromsø, and he agreed with the mayor in Lyngen that the Sami perspective did not belong in the management project.

”I argued very strongly that this is a fisheries management project and it is about management of resources. And then I was of the opinion that we must do this project as a pure management project. If we are going to take in the Sami aspect

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<sup>57</sup> ”og det va det som skjedde at Lyngen kommune styrte prosjektlederen og man forlot forprosjektet når det gjaldt den sjøsamiske biten og ville ikke engang ha det nevnt med navn. Og da følte vi fra Kåfjord at vi mista nåkka vesentlig og viktig, og det hadde eg inntrykk av at Storfjord også følte” (interview August 2004, Manndalen)

and in a way put it on top of the purely fisheries management issues, it will be too complicated to handle”<sup>58</sup>.

The project leader went on to say that this is more an issue for the Sami Parliament, and the political structures in Northern Troms and Finnmark, a task too ambitious for the Lyngen Fjord Project. When asked about what the project leader thought a Sami aspect would mean for the Lyngen Fjord Project, his answer was that he thought initially that only Sami fishermen would have special rights or higher quotas in the region, even though it was stated in the pre-project that a Sami Fisheries Policy Zone would include all the inhabitants in the region.

From a social sciences perspective, the project clearly lacked a sufficient knowledge of the local culture and Sami political institutions to be able to take into account the regional differences that led to disagreement on the basic premises for the project at the time. In the afore mentioned meeting described in the article written at the MAB-project, it is also clear from my interviews that the main disagreements were between the Kåfjord mayor and the project leader, and it was this disagreement that made an impact at the meeting with the central authorities. The mayor felt that the project had grown too ambitious – among other things because of a controversy on plans for fertilizing the fjord<sup>59</sup>. If such a project was to be developed again, the mayor felt that one had to be much more realistic and begin on a smaller scale:

”Now you need to keep your tongue straight in your mouth, you have to reach the little goals, and not think that this is going to be revolutionary, that you need to

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<sup>58</sup> ”Men eg argumenterte veldig sterkt for at det her er et fiskeriforvaltningsprosjekt og det handler om forvaltning av ressurser. Og da mente eg at vi må kjøre det prosjektet som et rent forvaltningsprosjekt. Hvis vi skal ta inn det samiske aspektet og på en måte legge det oppå det rent fiskeriforvaltningsmessige problemstillingene, da blir det altfor komplisert til å holde på med.” (Interview with Dale September 2004, Bodø)

<sup>59</sup> At the end of the project period, the possibility of fertilizing the fjord was explored within the frames of the Lyngen fjord project. These plans were heavily criticized by some locals and environmentalists, while the leader of the local fishermen’s union at the time did not reject the idea immediately. This idea did not go well with what the mayors had in mind with the Lyngen fjord project, and it also spurred questions about the direction and the usefulness of the project from the municipality boards. See *Nordlys* 17th of January 1996 and *Framtid i Nord* 20th of January 1996.

take on everything at once, because then it is easy to fail. You have to take the small goals and carry them through to succeed”<sup>60</sup>

The mayor also felt that the project had already left one of the central principles that could have made the project beneficial for the small-scale fishers and the local culture, namely the coastal Sami issue.

The previous mayor of Storfjord pointed out the change that had occurred since the time of the project and up until today, approximately ten years after the project period and the implementation of the Sami language management area in Kåfjord. He pointed to the fact that Lyngen had applied for participation in the Sami Development Fund area, and reasoned that Lyngen needed to go through a process to accept their Sami roots, as Kåfjord had done.

”(...) Something was buried in Lyngen. I experienced that between Kåfjord and Storfjord things were very homogenous when it came to these issues, but as I said Lyngen lagged a little behind in accepting their Sami roots, they were still on that level that they were Kvens and not Sami. So it takes time, but I have said in many contexts you actually need to allow yourself to take that time, it’s no point in using force, it will come with time”<sup>61</sup>.

Several of my informants also said that it was much more feasible to talk about the coastal Sami issue ten years after the Lyngen Fjord Project, and that it would be much easier to do the same kind of project today, with the help of the Sami Parliament and other large institutions, on the condition that the coastal Sami perspective in fisheries management is taken into account and integrated into the project. At the time, the local municipality boards and political parties started asking questions about the progress of the project, and it was heavily criticized in local newspapers and among the local

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<sup>60</sup> ”No må man ha tonga rett i munn og ikke rote det til, man må nå de små målan, ikke tenke at det her skal være så revolusjoneranes, at man favne over alt på en gang, for det har lett for å sprekke det. Man må ta de delmålan og gjennomføre dem for å lykkes” (interview August 2004, Manndalen)

<sup>61</sup> ”(...) nåkka lå begravd i Lyngen, eg opplevde at det var veldig homogent mellom Kåfjord og Storfjord når det gjaldt de her tingen, men som eg sa så hang Lyngen litt etter i det å akseptere sine samiske røtter, dem va fortsatt på det nivået at dem e kvena og ikke sama. Så det tar litt tid, men eg har sagt i mange sammenhenga at den tida må man faktisk tillate seg å ta, nøtte ikke å bruke tvang, det kommer med tida” (interview August 2004, Skibotn)

population for bad management and too little contact with the local level. At a meeting in Manndalen where the project was presented, a Sami politician also criticized the project leader as a Norwegian, and several of the people present at the meeting told me that they felt the project lacked a clear attachment to the local culture, especially when it came to its relationship to Sami issues.

#### **4.4 LOCAL CONTEXTS AND INDIGENOUS DISCOURSE**

As the case of the Sami Fisheries Zone and the Lyngen Fjord Project has shown, there are several reasons why authorities and project workers have or have not taken into account indigenous rights in their work and why there are also different representations of the concept coastal Sami fishing. At the macro level, Norwegian authorities have a problem with the idea of discrimination on an ethnic basis, assuming that coastal Sami and Norwegian fishers fish in the same way on the same resources. At the same time, the Sami Parliament does little to modify this representation of coastal Sami fishing, locked by their repeated promise that a Sami Fisheries Zone is a geographical and not ethnic measure, including all inhabitants in one area. This idea gives the impression that Sami do not fish *differently* from others, but that fishing *on a smaller scale, with passive gear, and in combination with other occupations* in certain fjords is a practice that should be protected, since this adaptation is "the material basis" for coastal Sami culture, as the president of the Sami Parliament (see 4.1) and Carsten Smith confirms. The debate is framed in terms of regionalisation of resources rather than in terms of protecting indigenous resource use, as the global debate on indigenous resource management. The authorities do not accept the argument that coastal Sami fishing is different from the majority's way of fishing, following the fact that they have been assimilated into Norwegian society but maybe lags a little behind in exploiting the resource in an effective way, and the Sami Parliament makes use of the same representations of Sami fishing in their counterarguments.

At the median level, the consequences of the assimilation process are still making themselves felt in discriminatory statements and in attitudes towards coastal Sami. The

story about the "komag" people is not the only example of comments or attitudes about people from Kåfjord or other places associated with Saminess – however, it is one of the few instances where such attitudes are displayed openly. Another such instance is the shooting of road signs displaying the Sami name of the municipality Kåfjord (Gáivuotna) – perhaps the best known from this area since the road sign now forms part of a museum exhibition in Tromsø<sup>62</sup>. As is often the case, such attitudes might be even stronger in areas where the majority of the inhabitants - including the people who are making such comments – are of Sami descentance themselves, continuing the regime of truth created in the era of Norwegian domination towards their own fellows.

This might be one of the reasons why the Lyngen mayor and the leader of the Fishermen's Union did not take the Sami perspective seriously in the project or regarding the Sami Fisheries Zone suggestion. In addition, the historical status of Lyngen municipality in the region gave it more influence in the project than the other municipalities in addition to the fact that the project leader sided with this municipality. Moreover, with his education in political science, it is not likely that the project leader had access to information on Sami issues or the special history of the Lyngen region and its heritage of assimilation. Being in this position gave the municipality power to define what the project was all about, and also to exercise control over the project. When an argument is not taken seriously in this sense, it is not considered important and the ones in power have the opportunity to define the case of resource management as a struggle between resource users competing on equal national terms, where small-scale fjord fishers unfortunately come out as the losers in the game.

In the case of the Lyngen Fjord project and in the case of the Sami Fisheries Zone, the Fishermen's Union together with the Fisheries Department has gained such a position in Norwegian fisheries management that trying to change the management regime based on any kind of argument is in itself a major task. When these institutions operate on the principle that all citizens of Norway should have equal rights, to argue on the basis of indigenous rights seems only to reinforce the impression that the Sami are trying to gain

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<sup>62</sup> Tromsø Museum, 2000: "Sápmi – becoming a Nation"

rights for themselves – something which is seen as unfair in relation to the Norwegian population. As shown in the discussion on the Sami Fisheries Zone, even though the proposals might not contain any discriminatory measures, it is enough that the word ”Sami” is used to raise controversy about the issue. When it is hard to even define who is Sami and who is Norwegian especially in coastal Sami contexts, this argument is even harder to defend.

From the point of view of the bureaucracy, it is also be a matter of prestige to be able to manage fishing in a sustainable way by modern methods. Holm et al explains the attitudes the Lyngen Fjord Project was met with as a result of the end of the Barents Sea cod resource crisis. At the beginning of the 1990s when the project was under planning, it met with positive signs from the authorities. However, the Directorate and the Department of Fisheries were not convinced to carry through such a risky and resource demanding experiment, considering that the fish population had risen from the low levels of the early 1990s and the crisis was over (Jentoft 1998: 110). When the resource crisis was over, after the implementation of the quota system, the fisheries authorities celebrated themselves as 'world champions' of fisheries management (Holm et al 1998:86). In this context, coastal Sami fisheries management is considered more like sand in the machinery than anything else, and accepting Sami methods as better solutions than modern methods used globally might be hard to swallow.

#### **4.5 SUMMARY**

So far, we have seen that the issue of coastal Sami fishing rights was controversial throughout the 1990s, but that it is explicitly at the highest levels of governance, and implicitly at the median level. In the Lyngen fjord project, there was no serious public discussion on the issue apart from the mentioned meeting where the Sami politician criticized the project leader. At the beginning of the 1990s it was discussed much more openly in the pre-project and at the conferences where the researchers at the Fisheries College at the University of Tromsø were involved. The issue of coastal Sami fishing rights seemed more pressing with the introduction of the quota system, the establishment of the Sami Parliament and the official reports made at the time. When the plans for the

Sami Fisheries Zone were dragged out in the bureaucratic system that the Sami Parliament encountered, the issue itself lost momentum. At the median level, when the Lyngen fjord project failed and the coastal Sami argument was taken out, it looks like the initial enthusiasm from the pre-project period among the mayors disappeared. Since politicians and researchers had initiated it “from above”, local people showed no support or engagement in the project. In retrospect, the previous project workers interpreted the Lyngen fjord project as a stage on the way in a process towards including the cultural characteristics of the region made visible by the coastal Sami revitalization process. The mayors seemed optimistic about initiating a similar project today, when even Lyngen municipality had come through a process of accepting their Sami roots.

## CHAPTER 5: INDIGENOUS CLAIMS IN THE LYNGEN FJORD

In this chapter, we will see how, after the 1990s, a new kind of discourse makes its impact on local ways of expressing the relationship between ethnicity and local fishing rights. This chapter is based mainly on the fieldwork I did during the summer 2004, mainly in the inner part of Kåfjord. I will focus on some central debates that were important during my fieldwork period.

### 5.1 NEW ISSUES AND TRADITIONS IN THE FISHERMEN'S ASSOCIATION

The fishermen I interviewed seemed generally not aware that they were actually expressing a right to fish through their explanations of local customs. The fishermen's association expressed their right to fish in stronger terms and in writing, but nonetheless they had not expressed these rights in terms of coastal Sami rights – yet. The IKF protocols show that the fishermen's association was active and engaged in many issues in the 1990s, for instance when it comes to how ice breaking was to be conducted. The ice problems remain a contentious issue among the fishermen and between them and the municipality. It is an extra challenge for those who want to fish for a living in the inner part of Kåfjord. As was stated in the Supreme Court, that there are few other possibilities for income in Kåfjord is one of the reasons why the fishermen were compensated in the first place:

“Considering the weak subsistence basis present the winter cod fisheries are therefore a vital factor for establishing and maintaining settlement in this part of the fjord with a basis in the combination fishing/agriculture/seasonal occupations”<sup>63</sup>.

Taking into account the continued icing over of the fjord, one can argue that monetary compensation is not enough for securing future generations' possibilities for taking up

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<sup>63</sup> ”I betraktning av det svake næringsgrunnlaget som ellers er tilstede er derfor vintertorskfisket et helt vesentlig moment for etablering og opprettholdelse av bosetting i denne del av fjorden med basis i kombinasjonen fiske/jordbruk/sesongarbeider” (Rt 1985 247).

fishing as a means of subsistence and way of passing on local culture. The ice problems together with the fisheries regulations since 1990 was a general source of concern among the fishermen, leading to the impression that the whole way of life as it has been in Kåfjord is disappearing.

Among the old generation of fishermen, the impression that traditions were breaking down was strong. When referring to today's situation, the general saying was that "everyone goes wherever" to fish, but when observing fishing patterns, in general people stick to the fjord areas closest to their house or they go to common fishing grounds when they go fishing. With motorboats it is easier to go wherever you want to fish in the fjord, but one can argue that if people did not know about old practices, they would not comment that there is a difference between how people are fishing today and how they used to fish 'before'. In my opinion, the perception that old traditions are breaking down is connected to the general impression most fishermen had that the world they knew is changing fast with the impact of modernization. Through their lives, they have watched how people move out of the community, how the number of fishermen decreases, how the fish disappears and the larger vessels take over, and also how younger people do not care about values and saving money to the same degree as they did. Fjord fishing meant more to people in the old days in the sense that it was important for their survival. "Today we are so rich that it doesn't matter so much", said one of the fishermen. "People don't care, that's the way it has gone. Before the kids took care of empty bottles but now they are lying along the road, can you imagine, one *krone* doesn't mean anything anymore, that's the way it has become"<sup>64</sup> said the fisherman.

Together with these changes, Sami culture and language is also perceived to be fast disappearing. Even though Sami place names for fishing sites are still in use, other things are disappearing simply because the practices are gone. One such practice is the mending of nets. One of the fishermen born before the Second World War told me that he used to mend nets together with his father and other fishermen as a young boy. As they were

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<sup>64</sup> "I dag e vi jo så rik at det betyr ikke så mye, folk bryr seg ikke, det e blitt sånn. Før tok ongan vare på tomflasken men no ligg det attme veien, tenk det , en krone betyr ingenting mer, det e blitt sånn" (interview August 2004, Langnes).

mending the nets, the men were talking and sharing stories, in Sami, and that is how he as a boy learned story-telling, where to fish, how to mend nets, and family and local values all at once. Today, young people go to school instead of staying around the family and other adults. Einar Storslett, the principal author behind the report on coastal Sami fisheries to the Sami Parliament in 1995, commented that young people were losing their attachment to the community as long as local issues were not included in the school system, as it is to a greater degree today with among other things the Sami schools plan in Kåfjord (L97S).

“You can say that while the grass grows, the cow dies, that is, in the period up until then most of the attachment had disappeared. For the number of fishermen in Kåfjord was in 1960 almost 200-300, and today it is 70, that shows...as long as the decrease was slow one couldn't notice it but today you see that the environment is disappearing, as well as the knowledge together with the people, so that is a danger<sup>65</sup>.”

The IKF protocols did not frame this or other issues in terms of coastal Sami rights at any point, but rather used other terms and references to traditions. At a board meeting during my fieldwork period, the board decided that an old rule of leaving Sundays free of fishing should be implemented again. A few years back, it was decided that this old rule, which applied all over the country, should be abandoned. However, after a lot of complaints from local fishermen's associations and fishermen from all over the country, the Fishermen's Union took up the case again. At the discussion at the board meeting, old customs were referred to as reasons for why this rule should be implemented again. The fish, fishers and the rest of the locals needed this day to rest, argued the fishers, and if it was the same rule for everybody there would be no competition. Another issue was that some locals had complained to the owner of tourist fishing cabins that tourists fished on Sundays while all the other locals stayed ashore. This incident goes to show that old

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<sup>65</sup> ” (...)ja man kan sei at mens graset gror så dør kua, altså da i den perioden fram til dit så har jo mesteparten av den tilknytninga forsvunne, for antall fiskera i Kåfjord va i 1960 borti 200- 300, og i dag med 70, det fortell jo ... det e jo så lenge nedgangen va sakte så merka man det ikke men i dag ser man jo at det miljøet e i ferd med å forsvinne og det også kunnskapen sammen med folket så det e jo en fare.” (interview August 2004, Olderdalen)

traditions are still alive, but that they are subject to discussion and negotiation between different local groups.

## 5.2 “I WILL CONTINUE TO FISH AS BEFORE”

However, the fact that the local fishermen’s association did not argue within the discourse of coastal Sami rights, does not mean that it was not discussed among fishermen in general. In a letter to the local newspaper *Framtid i Nord* from 1990, a local fisherman puts great trust in the power of the newly established Sami Parliament. He had been fishing for cod with nets in the inner part of Kåfjord when an inspector showed up and charged him to stop fishing because he was not registered as a fisherman in the fishermen’s record. The order to stop fishing was sent to him by letter. His answering letter to the Fisheries Directorate Control department in Finnmark and Troms goes far in arguing for his own right to fish in terms of indigenous rights, and I reproduce it here:

”Firstly, You do not have any juridical basis for making a decision on how the inhabitants in coastal Sami areas should manage their resources. Both in Norwegian and international legal practice Sami rights to land and water are fastened as a principle. International law and legal practice regarding minorities- and indigenous rights are crystal clear. When it comes to resource management we in the Sami areas have to resort to ancient rights (gammel hevd), and the local, formal rules – until the Sami Parliament has started to exercise its legal authority.

Secondly I would like to state that the authorities You represent, the Norwegian, have shown neither ability, will or competence in managing resources in the north. The current crisis along the coast and in all the fjords and which might turn into a catastrophe is not caused by coast- and fjord fishers with nets and other passive gear. The crisis, which could turn into a catastrophe, we who practice fjord fishing in the Lyngen fjord have long predicted. Already in 1935 the Lyngen local court sent a ”request” that seine and trawl should be banned. Since then so many ”requests” from local authorities, local organizations and unions have been sent on this issue, that I cannot count them all. No concern, from the authorities You represent, has ever been taken regarding our local knowledge and our local judgments. Many of the requests regarding reasonable resource management we have sent, through almost 60 years, have not even been answered. Enough injustice has been committed against us. For my part I will not resign my right to fish. There is no reasonability that I and others in the coastal Sami fjords shall suffer because Norwegian capital and modern high technology has committed senseless resource plundering in the Barents Sea and at the richest fishing fields

along our coast. By allowing trawl and seine in the fjords Norwegian authorities, whom You represent, have also destroyed to a considerable degree the basis of life for us who live here. These fjords are a Sami area.

Thirdly I will deal with Your letter, as the Norwegian authorities have done with letters from us who live in the fjords: Fail to take their contents seriously.

I intend to continue fishing as before with my nets, if that is what suits me. Or with a line or hand line [juksa] if that is what suits me. I will fish for my own use, for cutting into fillets or for hanging to dry. The fish I do not use myself I will give away or sell.

This for your orientation.<sup>66</sup>”

As we can see, this letter contrasts sharply with the local fishermen association’s protocols, where national fisheries policies are heavily criticized, and the indigenous background of the fishermen is mentioned implicitly. This letter, however, puts the local population and their requests in an indigenous perspective, where the state and the indigenous population engage in a relationship where power is unequally distributed. This letter is fairly well-known and has great support among locals in general, probably because it is not the only incident when fishers have been denied their right to fish, and independent of the references to coastal Sami rights. Other local fishermen did not argue in the same way during our talks, rather Sami ethnicity was an issue that rarely came up in connection with fishing rights.

A few people, such as the author of the letter above, expressed this right explicitly as a Sami right. As the IKF protocols has shown, with all the letters about restrictions on fishing in the fjord, the fishermen had the conception that they were protecting a certain tradition against intervention from the authorities and from outsiders. Even though they did not argue in terms of coastal Sami fishing rights, they still argued that their livelihood was threatened by Norwegian fisheries policies that did not take into account their traditional way of fishing. As the Supreme Court ruling also shows, local people fished in a way that lead the judges to conclude that they were exercising a right, even though not

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<sup>66</sup> Aksel Trollvik, Birtavarre 12th of March 1990 (deceased) (my translation). The letter was printed in the local newspaper *Framtid i Nord*, and in the yearbook for northern Troms 1990. It is also printed in *Allmenningens komedie (The Comedy of the Commons)* by Svein Jentoft, 1998.

all of them argued in that direction. The Lyngen Fjord project shows that academics and politicians at the median level were equipped with a discourse explicitly acknowledging the existence of coastal Sami as an indigenous group with rights, which was more pronounced in Kåfjord than in the other municipalities. Now we will see how this discourse also makes itself finally on the local level in Kåfjord.

### **5.3 COASTAL SAMI AROUND THE LINGEN FJORD DEMAND CHANGES**

The fifth of August, 2004, the leader of the IKF asked in the local newspaper: "Is salmon farming going to save settlement in Lyngen and other fjords in northern Norway in the future?" (Samuelson 2004). The letter was written to the newspaper on a background of the rejection by the mayors of the three municipalities around the Lyngen fjord of a proposition from the Norwegian Parliament to make Lyngen into a national salmon fjord<sup>67</sup>. The intention of giving Lyngen status as a national salmon fjord was to protect the stocks of wild salmon in the rivers at the bottom of the fjord, by among other things restricting further establishment of salmon farms in the fjord. The three mayors rejected the proposition and traveled to Oslo to bring forth their arguments to the politicians at the Norwegian Parliament, before consulting any local organizations, because of among other things the negative effects on new establishments of fish farms<sup>68</sup>.

The negative effects of fish farms have been a topic of discussion among local fishers for many years. Among other things, fishers argue that fish farms scare away the non-farmed fish so that they do not migrate to the old spawning grounds, in addition to occupying fishing grounds in the fjord. Therefore, the fishermen's association was not happy that the mayors expressed their concern regarding the fish farms. The leader of the IKF writes that "formally the case has not been discussed with those who would be naturally important in such a case: the fishers in the Lyngen area. It is therefore with very little

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<sup>67</sup> According to St.prp. nr 79 (2001-2002) from the Norwegian Parliament, rivers supporting a stock of wild salmon were to be protected by preserving the whole surrounding fjord. One of the measures to be introduced was limitations on further establishments of fish farms, in addition to a number of other measures designed to protect the wild salmon.

<sup>68</sup> Storfjord municipality board statement 22.09.2004 [internet]  
[http://www.storfjord.kommune.no/kommunalt/sakspapirer/sakspapirer/04\\_09\\_22\\_formannskapet.htm](http://www.storfjord.kommune.no/kommunalt/sakspapirer/sakspapirer/04_09_22_formannskapet.htm) [read 20.05.05]

back-up that the mayors go to Oslo on such an errand” (Samuelsen 2004). In the article, the leader does not say whether the organization is for or against the national salmon fjord proposition, rather he invites the mayors and other local politicians for a dialogue with the fishers in the Lyngen area to find ”the best basis for further development of industries in the area”, and he goes on to ask: ”Maybe there is room for both aqua-culture and tourism in addition to traditional fjord fisheries?” When interviewing the leader of the IKF, however, he stated that the fjord fishers approved of the proposition, because research had shown that fish shied away from fish farms. This could be one of the reasons why the winter cod fisheries in the inner part of the fjord had been bad for the last ten years. The debate on the Lyngen fjord as a national salmon fjord is in this sense a good example of a conflict between traditional fjord fishing and the wish for more industry and income for the municipality through modern technology such as fish farms. The leader of the fishermen’s association did not argue in terms of coastal Sami rights at the time, but agreed that demanding rights as an indigenous people could be one way to go in the future. At the following board meeting in the IKF, the organization made a resolution that they approved of the proposition to make Lyngen a national salmon fjord.

The debate about the national salmon fjord continued, and on the 18th of September, 2004, seven organizations in the Lyngen area made a common statement in the local newspaper about the case. Under the title ”says yes to the Lyngen fjord as a national salmon fjord” , the Kåfjord and Storfjord fishermen’s associations, Gáivuona-Kåfjord Sami union NSR, the Manndalen, Skibotn, Lyngen/Western Storfjord hunter- and fisher organizations, and Signaldalen landowner association, together supported the salmon fjord suggestion. The leader of the IKF was mostly concerned about the decreasing number of fishermen and the disappearance of the spawning cod, while the leader of the Sami association stated that ”we should rather focus on development of traditional coastal Sami fisheries than facilitating more fish farming” (*Framtid i Nord* 18.09.2004). The seven organizations also sent a common statement to the Directorate for Nature Management (Direktoratet for Naturforvaltning) on the suggestion for national salmon fjords. ”As far as we know”, the letter states, ”this is the first time river interests, fjord fishers, landowner associations and Sami associations join interests together like

this”(Mikalsen et al 2004). A number of arguments were put on the table in the common statement, most of them arguing the importance of protecting wild salmon in the rivers. However, under one of the paragraphs ”importance for coastal Sami culture”, it is stated:”for the Sami population around the Lyngen fjord, fjord fishing is of great importance”. Further, the associations go on to say that

”Coastal Sami traditions have historical roots as far back as there has been settlement in the area. The fjord population here therefore considers that we have time-honored rights to the fish resources. Norway has been signatory to international conventions designed to secure indigenous rights. These do not apply only to a narrow conception of culture, but includes traditional industries as the material basis for the exercise of culture. From our point of view fish farming industry contributes to the taking away of our subsistence basis” (ibid.).

The associations also go on to say that fish farms occupy good fishing sites, that they scare away fish that are ready to spawn, and that fish farms pollute the water in the fjord, in addition to the fact that they are often owned by people who land their profit elsewhere, and not in the municipality. The debate has gained a new dimension to it by the Sami association’s entrance on the scene, namely that the fjord is a coastal Sami area that should enjoy special protection because of the coastal Sami’s status as an indigenous people.

## **5.4 SUMMARY**

As we can see, the argument that the people around the fjord have fishing rights because they are Sami has not previously been very pronounced at the local level. The few people who have been engaged in politics regarding Sami issues used the argument, but it did not reach through in the local fishermen’s association before it’s participation in the common statement about the national salmon fjord. The letter written by Trollvik is an exception, whereas the general discourse avoids Sami ethnicity connected to fishing rights, even though people readily talk about other issues such as Sami words and building of Sami turf huts and sewing of Sami dress, a rather popular activity in Kåfjord. The very careful way of expressing how you should or should not fish is barely visible, and the local population seldom refers to the Supreme Court case from 1985 as often as

the fishermen's association does. Nonetheless, by their behavior and the reactions when outsiders come to fish in the fjord, there are signs that locals have perceptions of their rights that they are not expressing openly or in another way than rights are usually expressed in the Norwegian public. Through the common statement about the national salmon fjord, local fisheries are finally represented as a coastal Sami practice. However, it is framed in the words of Smith's report, referring to fishing as a basis for culture, even though it is mentioned as not only part of the narrow conception of culture. This goes to show that some representations of coastal Sami fishing are reproduced also on the local level, most probably because the action taken is not part of a grassroots movement, but as a response to a challenge, inspired by the knowledge of recent developments on the coastal Sami rights issue.

The kind of statements and the impression that 'everything is changing' may be a sign that the older generation of fishermen has surrendered to the assimilatory aspects of national fisheries management. However, that the Sami association and the fishermen's association band together in common cooperation projects like the one presented in this chapter, does raise some hope that one might be able to find new ways of meeting these new challenges to coastal Sami fishing.

## **CHAPTER 6: SUMMARY AND CONCLUDING REMARKS**

### **6.1 SUMMARY**

In this thesis, we have followed the development of a coastal Sami rights discourse in fisheries on the local, median and macro levels since approximately the 1970s up until today. The initial question was how coastal Sami rights to fish are expressed on the local level during the last decades. The second question was how power relationships are expressed in public discourses on fishing rights. This has been answered by looking at fishing in the inner part of Kåfjord, at the case of the Sami Fisheries Zone and the Lyngen fjord project. By looking at historical developments and local contexts I pointed to the fact that the indigenous rights discourse meets different conditions on different levels.

In Chapter Two, we saw how the local fishermen's association in inner Kåfjord drew upon local traditions and the importance of fishing as the basis for subsistence to request and demand changes in the national resource management system, as other fishermen's associations also have done. The association acted as a resource management institution and a channel for forwarding claims. When reading the protocols of the fishermen's associations, however, one has to take into account that not everyone would agree with the work of the leaders. With few exceptions, ethnic identity was not pronounced, but considering the historical circumstances and the power relations in Norwegian fisheries management, where the fisher identity is identified as Norwegian, this is not to be expected before the 1980s. It can therefore be argued that even though the locals themselves do not argue that their fishing practices are Sami, they can still be represented as such. In chapter three, we looked at a Supreme Court decision from 1985, which is put in a coastal Sami context today, where we saw that fishing in the inner part of Kåfjord was represented in terms of special characteristics such as the exclusivity and special rules developed there. To some extent, fishing in Kåfjord represent a fixed practice where coastal Sami cultural traits play a part, such as the use of Sami terminology. On the other

hand, when interviewing local fishermen we found that a lot had changed since the time of the ruling, and that locals prefer to represent their fishing practices as flexible and changing with the conditions of the fish stocks and the number of fishermen participating in the fisheries. The relationship between these two factors can be regulated by the fishermen's association, but is not necessarily so. One also has to keep in mind that this is an ideal representation of the situation, and that other concerns connected to modern challenges also influence resource management.

In Chapter Four, the discussion in the Sami Fisheries Zone showed that bureaucrats and politicians on the macro level talk about coastal Sami fishing as 'traditional' in the meaning that it is conducted on a smaller scale and with passive gear. Coastal Sami rights are absolutely rejected by the Fishermen's Union. The problem of accommodating the obligation to secure coastal Sami culture is sought solved with the idea of special management zones, both by the Sami Parliament and by the Norwegian management system, assuming that fishing is fishing for every citizen in Norway.

In the case of the Lyngen Fjord Project, we saw how such management zones can run into problems on two accounts: when meeting the existing power structure in Norwegian fisheries, local management is nothing but sand in the machinery. When it comes to local historical and cultural contexts, the Sami issue is not thought of fondly, but the process of coastal Sami revitalization may facilitate the implementation of coastal Sami resource management with the help of time, at least at the median level. In Chapter Five, we saw that the local fishermen's association struggles on with their problems and challenges, still firmly grounded in local traditions and culture. After the establishment of the Sami Parliament, the impact of indigenous rights discourses makes itself felt more strongly, concluding in a clear statement placing local culture within a long history of coastal Sami traditions opposing plans to manage the Lyngen fjord from above. However, there is a tendency to reproduce representations of fishing as 'the basis for material culture' when arguing for local rights. The phrase 'material basis' is a result of the wording in art. 27 of the ICCPR, and one can argue that it entails an understanding of culture, in the meaning high culture such as art and music, as being based on primary industries without

including resource management in the concept itself. In this sense, such concepts might become new symbols representing ethnic identity in fisheries, in another way and for other groups of coastal Sami.

## **6.2 CONCLUDING REMARKS**

The move on the local level from implicit to explicit discourse is tied to the Sami institutions in the Lyngen area, and connected to the coastal Sami cultural revitalization process that has made it feasible to break the 'taboo' Einar Eythórsson described in the introduction. The way the local fishers have expressed themselves can also be seen as a kind of strategic communication, dependent on the ethnopolitical climate and how effective it would be to express a coastal Sami identity or not. The leaders of the fishermen's association have perhaps not always been aware of the different strategies available because of the power of the Norwegian management system in relation to the Sami Parliament's small resources. On the median and macro levels, the discourse has been explicit for a longer time but framed according to some central representations of coastal Sami fishing – such as the 'material basis' image. In this sense, one can argue that where the indigenous rights discourse is made explicit in relation to coastal Sami fishing, there is a power struggle between different sectors rather than different representations of what coastal Sami fishing consists of.

To draw upon the indigenous rights discourse at the grassroots level, people must first have the knowledge about it, and second they must be able to identify with that discourse and use it on their own terms to really be able to use it. In the Lyngen region, historical circumstances have made it difficult to implement remedial measures designed to make up for historical injustices, as the discussion on the Lyngen Fjord Project in chapter four shows. Taking into account the process of conflicts and ethnic reconciliation in the aftermath of the implementation of the Sami language law in Kåfjord, arguments drawn from the indigenous rights discourse that the Sami have a right to positive discrimination, for instance, does not meet the best conditions. But, as the people involved in the Lyngen Fjord Project pointed out, the times are changing and today the climate for discussing Sami rights in public would be better than ten years ago, if not optimal. At the beginning

of the 1990s, optimism and belief in the Sami Parliament was greater than later, as shown in the letter written by the fisherman that was denied his right to fish. When the Sami Fisheries Zone issue stopped in the Fisheries Department and in the Norwegian Fishermen's Union and the limitations of the Sami Parliament's power was shown, enthusiasm and support among locals dropped. In addition, the implications of positive discrimination in fisheries were too hard to swallow for both bureaucrats and local fishermen, as among others the project leader in the Lyngen Fjord Project said. This reluctance to accept that the coastal Sami have rights to fish is not only grounded in a slow bureaucracy. In Lyngen, historical differences between the ethnic groups and the discrimination of the Sami still had an impact on the cooperation between the three municipalities, and general assimilatory discourse still has its power as seen in the attitudes of the Norwegian Fishermen's Union in the debate about the Sami Fisheries Zone.

The changes in fishing practices through the times show that resource management in the inner part of Kåfjord is not tied to some special observable characteristics; rather, the practices that can be observed are solutions negotiated between the fishermen, at times but not necessarily through the fishermen's association, as expressions of a social relationship between the inhabitants. The rules guiding this relationship are, among other things to give everyone a chance to fish at the good fishing sites, and to keep the local fish stock sustainable by trying to keep the big vessels away and in times of scarcity imposing stricter rules. These flexible principles have been agreed upon out of the long history of experience and knowledge the locals possess together. But first of all this social relationship means that the sea and the way it is managed together with the other resources available in the fjord is a matter for the local inhabitants to decide.

This thesis has shown how expressions of rights in resource management in a coastal Sami fjord have changed from local requests to indigenous claims during the last decades. It shows that although the fishing practices among the coastal Sami are basically the same, the discourses surrounding it change. It has also given examples of coastal Sami fishing where concrete fishing practices have changed, and some principles seem to

last even in the face of globalization and capitalization of the fisheries. My research could, among other things, have focused more on the use of local knowledge and Sami language and terminology in fishing, to investigate the relationship between language and fishing practices and its implications for rights. Moreover, I have not made use of the many tales and stories the elder people told to me during my ‘field conversations’, a very rich material I was unfortunately not able to take into account due to the methodological focus and other limitations for the present thesis. I could also have taken more into account the differences between the field of law and social anthropology, and the consequences of the concept of culture applied in the legal language for how management measures are formed. However, the thesis states that we have to take into account the long history of assimilation and local contexts in the future management of fisheries, since coastal Sami identity is expressed in a power relationship influencing the expressions of rights.

As long as coastal Sami culture as a flexible and changing culture is included in plans for local and national fisheries management, both parties will benefit. However, if coastal Sami fishing rights continue to be represented as an issue of minor importance, and as a fixed practice carried on by only a few elderly fishermen, not only the material basis for coastal Sami culture but also vital principles baked into resource management, will vanish. Sami institutions, administrative system, the local communities and especially national fisheries management have an important task ahead in this regard. Just as important is to do more research on the use of Sami language and local knowledge in fishing. Moreover, to actually make this research known and a powerful tool for an alternative approach in fisheries management, as the Lyngen fjord project attempted to do in the beginning. To accomplish this, the work has to start both in the national fisheries management system and on the local level. The fjord and its surroundings are not an empty space, a *mare nullius* to be regulated on the whim of fisheries managers.

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**Frontpage:**

Photo of the Lyngen Alps, taken by John Johansen, Djupvik in Kåfjord.

Title: ”Alpene speiler seg i sjøen” (2001)

+ All quotations from Norwegian articles, translated from Norwegian into English, are my own translation.

\* all dates are written in the order day-month-year