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# Legal pluralism in norwegian inshore fisheries: differing perceptions of fishing rights in Sami Finnmark

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## Abstract

This paper explores the opinions of people subsisting on inshore resources toward fishing rights. The empirical setting is a series of public hearings organized by a government-appointed committee charged with investigating inshore fishing rights in northern Norway. The investigation originated in the Sami struggle to secure rights also to marine waters. The hearings provided local inhabitants - included those of non-Sami origin - with an opportunity to voice their concerns. The paper thus provides insights into the perceptions of people living in ethnically mixed areas of fishing rights and the challenges arising from implementing indigenous rights. The author concludes that governance needs to include stakeholders' different perspectives' on fishing rights. The fisheries management could benefit from having a legal pluralist approach which makes it sensitive to local fisheries technical and cultural differences.

## Introduction

This paper explores what the people who subsist on inshore fisheries in the Sami areas of northern Norway think about fishing rights. The empirical setting for the study is a series of public hearings (henceforth: the hearings) held in connection with a judicial inquiry (henceforth: the Inquiry) into inshore fishing rights in Finnmark. The Inquiry was a result of a long-running Sami struggle to ensure access to natural resources on which Sami culture depends. Since it was established in 1989, the Norwegian Sami Parliament<sup>a</sup> has fought hard to protect Sami rights, most recently to aquatic resources. The Inquiry into inshore fishing rights, which lasted from 2006 to 2008 and was initiated by the Norwegian Department of Fisheries and Coastal Affairs, was one of its most significant outcomes.

The Inquiry is a result of Finnmark's colonial history as well as the contemporary Norwegian state's commitment to protect and promote Sami culture. It is part of a legal and political process taking place under Norwegian and international law to ensure proper enjoyment of indigenous rights and to undo past injustices to the Sami, similar to action taken in countries like Canada (Davis and Jentoft 2001; Wiber and Milley 2007), Australia (Robinson and Mercer 2000) and New Zealand (Bess 2000, Hersoug 2003). Like the struggle for rights by the indigenous peoples in these

countries, the Sami have campaigned to have the Norwegian Parliament return the right to manage land and natural resources in traditional Sami areas.

It must be noted that the colonization of Finnmark was different from the colonization that took place of Asia, Africa and Latin America, and hence the postcolonial challenges are different too. In Finnmark, the Norwegian state has followed a policy of integration for centuries. This has resulted in a substantial measure of assimilation of the Sami population and in much intermarriage. Moreover, unlike the situation in the tropics, the colonial power has never vacated the Sami areas. Today, Finnmark is like the rest of Norway, subjected to Norwegian law. Until the passing of the Finnmark Act, which recognized Sami rights to manage traditional lands, in 2005, most of the region was considered crown land. Fish stocks are still, however, considered a national resource and managed by national bodies.

This study investigates the content of the hearings that were arranged by the Inquiry in Finnmark. The objective is to explore what norms and values local inhabitants – who also include many people of non-Sami origin - express about fisheries and their management. My analytical approach is derived from the notion of legal pluralism, which recognizes that people are frequently subjected to multiple normative orders. Studies in legal pluralism share a recognition of normative plurality in the situations that are investigated and its ability to affect people's behaviour, their perceptions of rights and wrongs, and how legislation is implemented (Moore 1978, 2001; Griffiths 1986; Vanderlinden 1989; K. von Benda-Beckmann 2001; F. von Benda-Beckmann 2002; Bavinck 2005; Jentoft 2011).

The next sections first present the study's methodology and analytical perspective, subsequently providing a brief account of Finnmark's colonial history. Attention then turns to the hearings and the debates that took place there. The concluding sections highlights and discusses some of the themes that emerged and attempts to explain why management of resources in postcolonial areas could benefit from having a legal pluralist approach.

## **Method**

My interest in Sami fishing rights is linked to a PhD project in which I am studying stakeholders' perceptions of fishing rights. The decision to follow the Inquiry was taken as soon as it was launched by the Norwegian Department of Fisheries and Coastal Affairs as the Inquiry deals with fishing rights, and follows up two former publications on this subject (Søreng 2007, 2008). In the course of my investigation of this topic, I attended fourteen of a total of eighteen public hearings that were held locally in Finnmark in the period October 2006 to June 2007.

My role was to be a participant observer. Immediately after each hearing, I made a habit of writing detailed notes of the proceedings. These formed the core material for my further analysis. My empirical data did not allow for quantitative breakdowns, as I had no way of assessing the composition of the audiences I had joined. I also had no chance of following up on hearings by means of interviews with participants. This study has therefore only focused on the interactions that took place at the public hearings, and has not investigated the kinds of social fields of which participants are a part outside the hearings, and which would have importance to their perceptions of fishing rights. However, by being present, listening to people, sensing the atmosphere, discussing what had occurred with others who were present, exploring how the hearings were presented in the media, and looking into the official transcripts of the hearings in Norwegian Official Report 2008 (NOU 2008: 5), I

was able to discern several layers of information, which would have importance to inshore people's perceptions of fishing rights<sup>b</sup>. My analysis of discussions follows a sociolinguistic approach where speech is treated as text (Hirsch 1998; Moore 2001:3; Chambers 2009). I thereby focus on the language used by the participants: how they described their situation, in which way they claimed rights, and how they voiced these claims in terms of their choice of words and body language. The concept of 'rights' occupies a central position in my investigation. According to Spivak, who cites the Oxford English Dictionary, a right is a *justifiable claim, on legal or moral grounds, to have or to obtain something, or to act in certain ways* (2004: 523). This is a good description of what I wanted to look into at the hearings. I paid close attention to what people said when they talked about rights – especially what they regarded as *their* rights, and how they argued morally and/or legally for their rights. Rights are best seen in relation to wrongs, argues Spivak (2004), because, if something is seen as right, then something is simultaneously regarded as wrong. I therefore also paid attention to what people regarded as wrong.

### **Analytical framework**

The analytical framework for this study derives from the perspective of legal pluralism and interactive governance. Legal pluralism is an interdisciplinary perspective rooted in legal anthropology and law studies, and has been developed to provide insight into the complex relationships between law and behaviour. A common statement in the literature is that there exists a state of legal pluralism in every society (Forsyth 2009; Jentoft et al. 2009). Griffiths (1986) provides a classical definition of legal pluralism, as a situation in which several legal systems coincide in a social field. All social control is more or less legal (Griffiths 1986: 39), which means that people face multiple normative orders that affect their behaviour (Moore 1978, 2001). In the legal pluralism literature law covers a variety which runs from "the clearest forms of state law through the vaguest forms of informal social control." (Woodman 1998:45). Empirical studies shows that people, deliberately or not, base their claims and behaviour on elements of different kinds of law (Gulliver 1979; F. von Benda-Beckmann 1997, K. von Benda-Beckmann 2001:20). Thinking in terms of legal pluralism can provide better insight into the complexities of law and rights (F. von Benda-Beckmann 2002: 54). As an analytical perspective, it acknowledges the multiplicity of legal levels and more or less overlapping legal systems typically found in colonial and postcolonial societies (Pospisil 1971: ch.4; Moore 1978: 80). The rule-making and rule-enforcing mechanisms are anchored in social groups and other looser transactional complexes (Moore 1978:80–81).

This study's analytical perspective is that the legal and political processes of (implementing) Sami rights and fisheries regulations form structuring discourses, or rule-making and rule-enforcing mechanisms, which shape the perception of the world. This is much in line with Geertz (1983:184), who sees law as "part of a distinctive manner of imagining the real." The legal and political processes of recognizing and implementing Sami rights as fisheries regulations are infused with different ideas, values and principles, whose origins differ, but which affect people in Finnmark and what they define as real in one way or another. These processes are not, however, immune to the impact of people: they are dialectical processes. From the point of legal pluralism they could be regarded as 'processes of regularization', which "include all the ways in which conscious efforts are made to build and/or reproduce durable social and symbolic orders" (Moore 1978:6). Power is taken to be essential for explaining whose interests predominate and whose remain marginal. The question is what ideas and

values do people who subsist on small-scale fisheries hold in relation to fishing rights and Sami rights, as these are the people who traditionally have had little say in the state's management of the fisheries.

As Jentoft et al. (2009) point out legal pluralism offers a challenge to natural resource management. These authors enquire, given the pervasiveness of legal pluralism, which institutional design is better suited to represent and resolve inter-legal system differences. Their provisional answer is that co-management that is designed with legal pluralism in mind is probably the best way forward where legal pluralism is a valuable resource on which management can draw (2009:35). An interactive co-management process requires involving those who are familiar with the legal systems - from the clearest forms of state law through the vaguest forms of informal social control (Woodman 1998). This, in turn, asks for broad representation. Governance theory suggests that, in order to make hard choices, different sets of values, norms and principles first need to be explicated (Kooiman and Jentoft 2009:819). This study seeks to identify the social values, legal norms and governance principles of local people with respect to fishing rights and Sami rights, and does so by analysing what and how participants say at the hearings.

The hearings are arenas that bring different 'semi-autonomous social fields' together. Like Moore (1978), I use this concept to refer to situations in which different social fields have norm-making and norm-generating capacities. Some semi-autonomous fields exist only briefly, others are more enduring (Moore 1978:80). The hearings constitute a temporary arena organized to enlighten the public about fishing rights. Attendance at the public hearings provided first-hand observation of rule-making mechanisms in action as they contributed to the draft resolutions in 2008 (NOU 2008:5). The hearings' participants belong to several social categories. Present were fishers, members of local communities, families, political parties, fisheries' associations and so on, each representing ideas and values with their own rule-enforcing and rule-making mechanisms. The participants' various backgrounds might influence their ideas about Sami rights and fishing rights, and might also be shaped by the hearings' communication processes. The latter because participation at public hearings has the character of a 'communicative action' (Habermas 1996) in that participants draw from their stock of knowledge to justify their preferences *vis-à-vis* each other – but without aspiring to ultimately agree, something that is essential in Habermas' theory of communicative action.

As fishing rights are essential to the people whose livelihoods depend on the fisheries, any investigation of fishing rights will affect people's sense of dignity and worth, as well as their fundamental sense of justice. Exploring resource users' sense of justice relative to natural resources helps the researcher understand potential conflicts in natural resource management. It also reveals why some individuals and parties are against new management regimes based on, for instance, individual or collective rights. Economic and political interests in natural resources are connected to the people and the societies of which they are members, Bavinck (2005) holds, and their pursuit is governed by the rules and norms of different social systems. Interest conflicts in fisheries are thus connected to dimensions such as law, culture and social organization. Accordingly, what people perceive as a just allocation of fishing rights is connected to the societies to which they belong. In order to provide a contextual background to the judicial inquiry, the next section spotlights Finnmark's colonial history and fisheries.

### **Finnmark**

Finnmark's colonial history has brought along certain norm-generating and norm-restricting conditions concerning its fisheries. The region shares borders with Russia and Finland, and it has a long coastline and rich fishing grounds. The colonization of Finnmark, which according to historical sources little by little began in the end of the 13th century, was both economically and politically motivated (NOU 1994:2, chap. 2; NOU 2008:5, chap. 5; Bull 2011). The region first of all has an abundance of natural resources; secondly, colonization was instrumental in the drawing of Norwegian borders in the north. The availability of jobs in the fisheries attracted people from other parts of Norway, as well as Finnish immigrants, especially in the 18th and 19th centuries (Niemi 1992). The expansion of the fisheries in the 19th century also led to a wave of settlers from the south of Norway (Solhaug 1976:175–176; Bull 2011:42).

It is important to note that Finnmark was already inhabited by the Sami when it was colonized. In accordance with the definition provided by the ILO Convention no. 169, the Sami are an indigenous people, having lived in the area before the Norwegian borders were fixed. Originally, these Sami groups were nomads who hunted wild reindeer. At some point, however, they began settling along the coast, building mutually beneficial relations with Finnish and Norwegian settlers. From about 1850, a process of Norwegianization – which has continued to the present day – began to accelerate in the region. The effects of this policy are well documented in the literature (Eidheim 1971; Aubert 1978; Bjørklund 1985; Niemi 1992; Minde 2005; Minde et al. 2008; Eythórsson 2008; NOU 2008:5). Of particular concern is its radical impact on identities and language, particularly in so-called Sea Sami communities. Writing of the Sea Sami, Aubert noted: “[they] slid into a Norwegian identity, but also into an ethnic no man’s land where it is difficult to know where one belongs” (1978:21. Author's translation). Nowadays, the Sami recognize their diverse heritage, and many describe themselves as ethnically mixed: they are Sami, but they also have Norwegian and often Finnish ancestors. Some communities in the head of the fjords are more Sami than others. Likewise, some coastal settlements are more Norwegian, and some have more Finnish heritage than others. In all cases, Norwegian law has been present for a long time.

Finnmark has traditionally depended on inshore fisheries<sup>c</sup>. Traditionally the inshore fishers from coastal communities are referred to as 'coastal fishers' (Norwegian: *kystfiskere*), and the fishers from the fjords are referred to as 'fjord fishers' (Norwegian: *fjordfiskere*). Coastal fisheries are generally more specialized<sup>d</sup> than fjord fisheries, the latter usually taking place alongside farming and other employment (Nilsen 1998; Apostle 1998; Eythórsson 2008). The cod fisheries<sup>e</sup> have been an important for both coastal and fjord fishers, also attracting migrant fishers from other parts of Norway. The cod fishery focuses on both the northeast arctic cod (The 'Barents cod') and the northeast arctic cod (the 'Coastal cod'). In recent years the red king crab fishery has also gained importance among fjord fishers. While the term 'Sami fisheries' generally coincides with the fishing carried out by small boat fishers in the fjords in Sami areas. The migrant fishers, often referred to as 'foreign fishers' by the locals<sup>f</sup>, are more likely to fish along the coast than in the fjords. They make use of larger boats with a wider range and different tackle.

Up until about 1850, the general rule in the Norwegian court was that fish stocks were not a common national property, but connected to individual or collective fishing

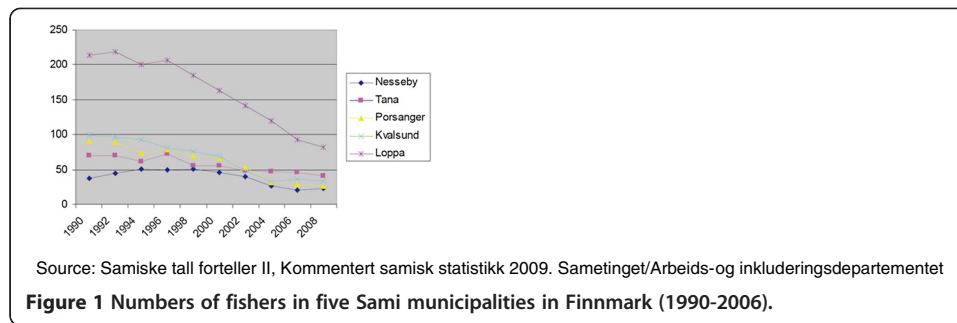
rights on particular fishing grounds (Sunde 2006). Fishing grounds in Finnmark were thereby considered to belong to adjacent communities (Ræstad 1912; Tønnesen 1979; NOU 2008:5; Bull 2011). Until 1830 there were rules that ensured that Finnmark fishers were not displaced by foreign fishers on the fishing grounds (NOU 2008:5; Bull 2011). From 1830 the state opened the Finnmark fisheries up for fishers outside the region, however with certain restrictions (Bull 2011:128). The state's attempt to introduce the doctrine of open access in the local fisheries in Norway from about 1850 was met by resistance from Finnmark fishers as well as by fishers in other regions. Gradually the general rule in the Norwegian fisheries became that fish stocks are a common national property. In spite of this rule, several authors provide examples of local fisheries customs prevalence in the people's consciousness (Bull 2005:9; Sunde 2006:341; NOU 2008:5; Bull 2011:127)<sup>g</sup>.

Historical data shows clear differences between the Finnmark people living in the coastal and fjord communities prior to 19th century (NOU 2008:5, p. 156). The fjords were generally populated by Sea Sami, while the coastal communities were comprised of Norwegians. In its review of historical fishing practices (from about 19th century until 2WW), the Inquiry report points out differences between coastal- and fjord fisheries. While the fisheries in the fjords tend to have been an exclusive fishery for the fjord settlements (NOU 2008:5, p. 156), the fisheries on the coast included fishers from other parts of Norway as well as local inhabitants<sup>h</sup>. The historical materials show that the coastal fishers, including the migrant fishers, tend to focus on arranging equal conditions for the different gear groups operating on the fishing grounds in order to prevent the domination of some over others. As the coastal fisheries were profitable for the Norwegian state they received more judicial attention than fjord fisheries. This is probably the reason why there is less written material describing what the fjord fishers did in terms of regulation (Bull 2011:128).

In 1990, the state introduced cod quotas for individual fishing vessels (replacing a total quota for all cod fishers north of the sixty second parallel) in response to a rapidly declining cod stock (Jentoft 1993). Many small-scale fishers in Finnmark felt they were on the losing side of the policy, because the highest quotas seemed to be reserved for the biggest, capital-intensive vessels (Eythórsson 2003, 2008). Almost none of the small boat fishers in the fjords met the first-allocation quota criteria, and many had to give up their livelihoods altogether. The vessel quota system was challenged, also by Sami activists, but has nevertheless been consolidated since 1990. The privatization of harvesting rights to marine resources in Norway has thus continued (Hersoug 2005). The system is supported by the 'Norwegian Fisheries Association', which is the biggest and most influential fishers association.

Coinciding with the introduction of the vessel quota regulations, the number of Finnmark fishers declined by half. In 2011, there were only 1 384 registered fishers in Finnmark (of total of 12 791 in Norway), and most are over the age 40. Of that figure, 1 061 individuals were fulltime fishers, while the remaining 323 fished as a secondary occupation (most of them over the age 60)<sup>i</sup>. The general decrease in the number of fishers and vessels is replicated in Sami fisheries areas. Figure 1 presents the employment trend in a selection of Sami municipalities in Finnmark. This trend appears to be replicated throughout the region (Figure 1).

The Sami Parliament has repeatedly called attention to the negative effects of the vessel quota system on Sami fisheries. Throughout the 1990s, the Sami rights struggle took place with reference to the global discourse of indigenous peoples' rights (particularly in reference to ILO Convention no. 169). Access to local fishing resources was therefore debated



on the basis of universal prescriptions as well as in relation to the specific historical rights of the Sami people. Both types of arguments were used to criticize the Norwegian constitution. Since the passing of the Finnmark Act in 2005, in which the Norwegian state recognized Sami rights to manage the land, the Sami enjoy statutory rights in Finnmark. In practice, however, Sami rights are still frequently disputed, most often in readers' letters in local newspapers *Søreng* (2008). Some concerned citizens question the legitimacy of indigenous rights in general, not least the influence of international agreements on Norwegian law. Some question the allocation of Sami rights, while others question the current fisheries management system (Søreng 2007, 2008; Jentoft 2013). At the hearings arranged by the judicial inquiry, the coastal and fjord population were explicitly invited to voice their views on these topics. It is to the hearings that we now turn.

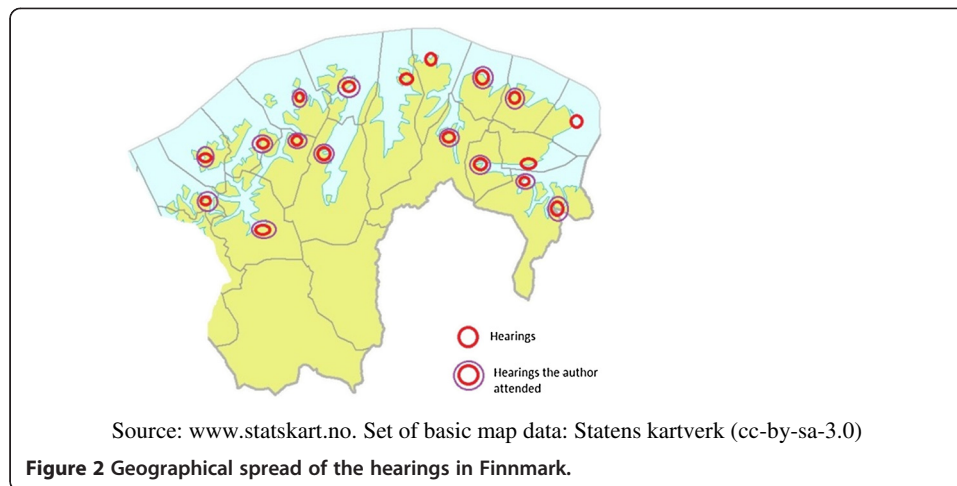
## The hearings

### *Organization of the hearing*

In 2006 the Norwegian Department of Fisheries and Coastal Affairs appointed a committee to investigate the *Sami and others' rights to fish in the inshore zone of Finnmark*. The committee, which launched the Inquiry took the name "Coast Fisheries Committee" (CFC), had nine members. The aim of the public hearings was to consult local people about their fishing practices and opinions on fisheries management. NOU (2008:5) describes the method applied by the Inquiry.

By organizing open, public hearings, the Inquiry committee hoped to elicit information about past and present fishing practices in Finnmark, locals' views on the prevailing regulations, and suggestions to change the fisheries regulations. Hearings were arranged in every municipality that borders the sea<sup>1</sup>. This was a rather large task considering the size of the Finnmark County (48 649 square kilometres) and the scattered population (72 000 inhabitants). Seventeen of a total of nineteen municipalities border the sea: some are coastal municipalities, others are fjord municipalities, and others still are both. Figure 2 shows on the map where the hearings were held, and which the author attended.

The Inquiry strove to maximize participation at the hearings. Every hearing was therefore widely announced in advance in local newspapers and media. Notices were also sent to the fisher associations, and sometimes to all registered fishers in a municipality as well. The Inquiry committee collaborated with the municipalities in organizing the hearings. The municipalities arranged for meeting rooms (generally public assembly rooms such as city halls, schools and community centres, but also hotels and cafés) and



introductory speakers, and briefed the committee about local associations, for instance belonging to the Sami, that ought to be given a special notice.

Each hearing lasted for two to three hours and was chaired by the leader of the Inquiry. On average, about 35 people, including the nine Inquiry members, attended the hearings<sup>k</sup>. The male dominance available in the fisheries was reflected in all the audiences. Men were in the majority and did most of the talking. The average age was quite high at some hearings, probably reflecting the rising proportion of elderly, especially in the fjord settlements, and the difficulty of persuading young people to pursue a career in the fishing industry. Organized interests were almost always present—mainly representatives of the local branches of the Norwegian Fishers Association, but other smaller associations too<sup>l</sup>. Local and county politicians often showed up, while Sami politicians did so on occasion. Hearings differed substantially from one municipality to another, depending mainly on the assembly gathered. Some municipalities had organized for several persons to speak of different topics concerning local fisheries. Some gatherings proved more talkative than others, while other gatherings could be rather silent and reserved. At one occasion a participant explained the Inquiry committee that "we are not the kind of people who are in the habit of holding the floor". Discussions were in this manner influenced by the way in which the hearings were arranged, the gatherings, and also how the chair of the Inquiry introduced the committee and its mandate.

The chair of the Inquiry opened the hearings with a presentation of the committee's mandate and members. He then explained the background to the investigation, i.e. the Sami rights struggle and the adoption of the Finnmark Act in 2005, noting that the Inquiry was charged with investigating the rights of Sami *and* other inhabitants, meaning all people in Finnmark. The Sami and other inhabitants, he believed, shared an interest in the fishing rights issue, and the Sami Parliament was not trying to enact individual fishing rights based on ethnic origin. The purpose of the public hearings, he explained, was to listen to local people and learn about the local situation. One could argue that his introduction was aimed at encouraging members of the public to communicate in a setting in which the overall goal was identical, rather than acting strategically to promote their individual interests (Habermas 1996). After this introduction,



the mayor or otherwise a regular member of the municipal council would make a statement about the municipality and the challenges faced by the local fishing industry. This would typically be followed by remarks from a local fisher, sometimes a member of the local branch of the Norwegian Fishers Association and/or other fishers associations, about the local fisheries. The meeting was then thrown open to the public. Some people wanted to know more about the committee's mandate, and frequently, the committee members asked the public about local conditions. The discussions also dwelled extensively on Sami rights, fishing rights in general, and the conditions of fisheries management. I consider each of the latter topics in the next sections.

### **Response to the mandate**

Although the chair made efforts to erase the distinction, the Inquiry's mandate clearly linked ethnicity to fishing rights, thereby indirectly labelling non-Sami as 'the other'. Hearing participants usually had things to say about the 'Sami and others' distinction and the absence of the term 'fjord' in the Inquiry's mandate and title. The table below (Table 1) illustrates local people's responses to the Inquiry's title and mandate.

Identity, belonging and origin were central in participants' responses to the mandate. Participants interrogated the committee about what they meant by 'Sami and others', and many found it difficult to identify themselves and/or their local communities with either category. This is most probably because people from or living in the region tend to see themselves as natives of Finnmark. They are 'Finnmarkers', an identity Kramvig (2005) describes as open and unifying, filled with bits of Norwegian, Sami and Finnish history. This could explain why participants were uncomfortable with being placed and/or placing themselves in ethnically pure categories. The mandate's simplification of people's ethnic categories ('Sami and others') was not always consistent with local norms for ethnic labelling.

Some participants were pleased that Sami fishing rights were finally being discussed, while others seemed to be worried and sometimes irritated by the fact. As Benda-Beckmann (1997) points out, important legal differences can be created by categorizing people as 'indigenous' because some are likely to be excluded from enjoying rights to natural resources. The Sami's status as an indigenous people is being questioned in

**Table 1 Participants' response to the mandate**

'Sami and others'	Sami fishing rights	Fjord fishers
<i>"I'm not sure what I am – whether I'm Sami or 'the others'..." (meeting in a coast municipality).</i>	<i>"It must have been a brave man who was the first to put my rights to survive on the agenda. To talk about rights in Finnmark, in a county that is Norwegianized, is almost like swearing in the church!" (meeting in a fjord municipality).</i>	<i>"Due to old conflicts between coast- and fjord fishers, the latter should also constitute the name of the committee. The fjord fishers have always been the losing part. They have lost in organizational and political work" (meeting in a fjord municipality).</i>
<i>"I'm not so concerned with who are Sami. My community has people who are both, and the same goes for other communities. It's not possible to make a division" (meeting in a fjord municipality).</i>	A local government politician feared the mandate would provoke people in Finnmark and suggested the word, Sami, be dropped from the text. The mandate should instead investigate the rights to fish at the coast and in the fjords (meeting in a coast municipality).	A participant argued for the inclusion of fjord fishers as there have been clear differences between the coast and the fjord (meeting in a fjord municipality).
<i>"In Finnmark the Sami is but a small part of the population,...and so should we be among the others?! This hurts me" (meeting in a coast municipality).</i>		

discourses at higher levels than the local as well Søreng (2008), probably for the same reason. When discussions about ethnic rights arose during the hearings, it was usually in response to the introduction of the Inquiry's mandate, even though the chair had made it clear that they interpreted the mandate to mean the rights of all people in Finnmark. When participants at some hearings commenced a debate on ethnic rights, the CFC leader usually attempted to stop it by repeating the committee's interpretation of the mandate. Most participants seemed to be reassured by the chair's words. The discussions that took place about ethnicity and indigenous rights showed that people held different opinions about the practice of Sami fishing rights, and the idea of Sami rights seemed both consistent and inconsistent with local norms at the same time.

Participants at the hearings in the fjord communities were particularly eager to hear why the term, 'fjord fisheries,' had not been included in the Inquiry's title. This could indicate that fjord fishers have different rule-enforcing and rule-making mechanisms (Moore 1978) than coastal fishers. At one meeting, a participant pointed out that it was the Sea Sami's areas - fjords settlements - in particular that had been hardest hit by Norwegianization. The chair of the Inquiry sought to reassure the public that fjord fisheries were indeed included since the committee's name referred to all kinds of inshore fisheries in Finnmark. The mandate's terminology was thus not consistent with local norms for categorizing inshore fisheries: it did not refer to it as coastal and fjord fisheries.

#### ***Wrongs in inshore fisheries***

In accordance with the mandate, fishing rights were the main issue at the hearings. Most members of the public were critical of current conditions in inshore fisheries. People criticized the state of the ecology, fishing equipment, and fisheries management – as illustrated in the table below (Table 2).

Participants were concerned about the decline in fish stocks, especially in the fjords. Many reported dramatic declines in local cod stocks, on which they had always depended heavily. Some asked rhetorically what they were supposed to do with a right to fish when there were no fish to catch anymore. Several people blamed the Danish seine, purse seine and mechanised longlining for the decline in local cod stocks. People said it was a mistake of the authorities to permit the use of mobile tackle in the fjords and close to shore, especially when it came to letting the biggest vessels fish close to the shore. However, some fishers reminded everyone that fish stocks had always recovered. The fishing industry has always been subject to natural variation – declining fish stocks were not necessarily people's fault.

The hearings also revealed a past disagreement between fjord and coastal fishers about the use of the Danish seine in the fjords (see Eythórsson 2008). At some hearings in fjord communities, people criticized fishers in neighbouring coastal communities who had used the Danish seine and mechanized longlining in the fjords. In response, the fjord fishers had appealed to the local Fishers Association to lobby for a ban on Danish seines and mechanized longlining in fjords, but the Association had dismissed their complaint. At one meeting, a retired coastal fisher, who used to be an active member of the Finnmark Fishers Association (a regional branch of the Norwegian Fishers Association) pleaded guilty and explained why the Association had turned a deaf ear to the fjord fishers. According to him, the appeal had been rejected, because coastal fishers held a majority. Many participants claimed that the Finnmark Fishers Association had failed to represent

**Table 2 Participants' views on what is wrong in inshore fisheries**

	<i>Wrongs</i>
<b>Ecology</b>	<p><i>"Today the winter cod is gone [in the fjord]. It's almost impossible to catch fish for self-consumption"</i> (meeting in a coast and fjord municipality).</p> <p><i>"The scarce cod resources are caused by the insane Danish Seine fisheries in the 1980s at the herring fishing grounds close to shore. The herring attracted the coastal cod"</i> (meeting in a coast and fjord municipality).</p> <p><i>"It [the scarce marine resources] is presumably caused by something that happens in the nature, which I blame no one for"</i> (meeting in a coast and fjord municipality).</p>
<b>Fishing gears</b>	<p><i>"The problem was never who should fish – whether one was Sami or not – but the problem is what kinds of gears that should be allowed"</i> (meeting in a fjord municipality).</p> <p><i>"We don't mind foreign vessels are coming here as long as they have the same size as our boats and harvest with the same gears as us"</i> (meeting in a fjord municipality).</p> <p><i>"For some years ago, there came an armada of Danish seine vessels and harvested by the load.... That gear is not a traditional gear for this area. I believe that it leads to fish down the stock"</i> (meeting in a coast and fjord municipality).</p>
<b>Fisheries management</b>	<p><i>"Fjord fisheries are sensible fisheries and protect the resources – but they have never been heard!"</i> (meeting in a fjord municipality).</p> <p><i>"We were greedy in the organizations. It's one thing that the Fishers Association claim things, but wrong of the authorities to fulfil them"</i> (meeting in a fjord municipality).</p> <p><i>"Introducing fishing quotas has been the biggest encroachment done towards the fishers"</i> (meeting in a coast municipality).</p> <p><i>"The fish we felt we owned – we don't own it after all. We don't even have a kind of user rights over it"</i> (meeting in a coast and fjord municipality).</p> <p><i>"I believe that we started in the wrong end. We took from those who harvested least and let those who harvested most go on"</i> (meeting in a coast municipality).</p> <p><i>"Those fishers who left the fisheries in 1990 [when the vessel quota system was implemented] didn't have a chance to enter it again. Neither did their children"</i> (meeting in a coast municipality).</p> <p><i>"The regulations that have been introduced were not based on local usage. I believe the Finnmark Act is the first act which is based on usage from this part of the country. It is not strange that there turn out to be problems when laws are based on usages from other part of the country"</i> (meeting in a fjord municipality).</p>

small-scale fishers' interests in Finnmark, only serving the interest of the vessel owners with the biggest quotas. The Fisheries Association was also criticized for not sufficiently attending to Sami interests, while some even went so far as to suggest the Association had betrayed the Sami altogether.

Many participants argued that it had been wrong to introduce the 1990 vessel-quota regime. In effect, it had robbed them of their right to fish, and many described it as an injustice to the local people. The system had resulted in the privatization of fishing rights, a development some argued was wrong. Additionally, the regime made it difficult for communities to survive. Fishing rights were concentrated in few hands, and local communities lacked the capital to hold on to quotas. Many agreed that the vessel quotas had undone the historical advantages of living close to the resources and had harmed recruitment into the profession. The latter in large part because the cost of entering the fisheries is as high as the vessel quotas are expensive. It was unfair that young fishers had to buy quotas that older fishers had received free of charge in 1990. It should be pointed out, however, that some participants at the hearings were happy with the current quota system, and had no desire to change it. The quota system was defended in particular by the representatives of local branches of the Norwegian Fishers Association.

To summarize, there are multiple regulations that affect Finnmark inshore fishers. The Norwegian fisheries authorities together with the Norwegian Fishers Association and science<sup>m</sup> constitute a powerful alliance in fisheries management (Mikalsen et al. 2006). In this 'process of regularization' (Moore 1978), which aims at establishing durable management of the fisheries, the interests of small-scale inshore fisheries have not been adequately represented. Participants blamed the Norwegian fisheries management body for the difficulties facing local fisheries, because it had not taken either local ecological conditions<sup>n</sup> or local customs<sup>o</sup> into consideration. At the end of the day, the neglect thereof had harmed local fisheries and communities.

### ***Righting the wrongs***

At almost all of the hearings, participants brought forward ideas on how to improve the situation of marine resource on which people depend, in particular on how to bring back the cod that had vanished from some areas. Their arguments were based on a comparison with marine resources of the past, and an analysis of what had changed between then and now. They pointed out factors related to fisheries management, fisheries practices and ecological changes. People's arguments were based on their own and/or others' experiences and know-how, as well as those of their forefathers. Fishing rights could be protected through forms of privileged rights, specifically indigenous rights, people argued, by reopening the fisheries commons and enabling individual fishing rights, as illustrated in the table below (Table 3).

Participants argued that certain forms of privileged fishing rights for Finnmark would help to empower local people. Some suggested that privileged rights could be realized by implementing historical or indigenous rights. Several participants noted that they possessed hereditary fishing rights in Finnmark derived from their historic settlements and fisheries history. Indeed, indigenous rights might well be the card to play; the Finnmark Act, which recognizes indigenous peoples' right to land, would help ensure regional fishing rights for all independent of ethnicity. Participants thus expressed a desire for a regulatory regime based on local customs. Territorial rights and a local say in the management of the fisheries management, many believed, would – to paraphrase Spivak (2004) - 'right the wrongs' in the Finnmark fisheries.

According to these discussions, the right to fish is about more than a right to marine resources and fishing grounds, it is also about a right to lead and protect a certain way of life. Two essential conditions for having fishing rights, many claimed, were proximity to and dependency on marine resources. This perception of fishing rights rests on a view that it is first and foremost the people living close to the sea who are most entitled to its resources, and should therefore have priority before outsiders. However, participants also recognized the limitations of this adjacency principle: it was wrong to prevent fishers from the outside from harvesting fish in the fjords, and especially wrong to exclude colleagues further down the coast.

Other participants were quick to criticize these ideas and suggestions. Some of those critical of the vessel quota system expected a bleak future for the inshore fisheries, and had no faith in a policy emphasizing territorial fishing rights (based, for instance, on indigenous rights). They called for the fisheries commons - which were closed when the vessel-quota regime was implemented - to be reinstated. Reinstating the commons would benefit all Norwegian fishers as it would apply to fisheries

**Table 3 Participants' views on how to secure inshore fishing rights**

	<b>Righting wrongs</b>
<b>Privileged / territorial rights</b>	<p><i>"I have always argued that fish is a national resource. But now it has become private. So I'm no more firm of my principles than if we could claim historical rights, well, then we'll do so"</i> (meeting in a coast municipality).</p> <p><i>"The hereditary rights we have in Finnmark passes for Sami, Finnish and Norwegians. We live here and our souls are here. We have rights to fish. The Norwegian state should not refuse us to fish"</i> (meeting in a coast municipality).</p> <p><i>"Closeness to resources must acquire a crystal clear right to harvest the resources"</i> (meeting in a coast municipality).</p> <p><i>"We say that everyone should be entitled to exploit these resources. But we must dare to say that we in Finnmark should have some privileged rights (...) we must dare to say that fjord fishers should have certain rights"</i> (meeting in a fjord municipality).</p> <p><i>"It's in the end a value based decision why we live here – and rights must secure these values"</i> (meeting in a coast and fjord municipality).</p>
<b>Customary/ Indigenous rights</b>	<p><i>"The Finnmark act is for everyone. If we use it right, it could benefit us all. We must look at traditions and old-time usages"</i> (meeting in a coast municipality).</p> <p><i>"If we shall have a future as a fishing county, I believe that we have to claim rights based on ethnicity. The premise is that we'll have the same arrangements as in Canada. There (...) the indigenous people have one third of the fishing quotas. They don't need to apply for quotas, but are allowed to fish free"</i> (meeting in a coast municipality).</p> <p>One participant stressed that it is obvious that people have customary and indigenous rights to fish in the fjords and at the coast, and that this right must be legalized (meeting in a fjord municipality).</p>
<b>(Re)opening the fisheries commons</b>	<p>One participant argued for the end of transferable quotas and the expansion of the fisheries commons: <i>"This is something that everybody will take advantages of, whether they are Sami, Finnish or Norwegians"</i> (meeting in a coast municipality).</p>
<b>Through current system</b>	<p>The secretary of the Finnmark Fishers Association stressed that visiting [Norwegian] fishers have always harvested in Finnmark and should not be shut out: <i>"Fish is a common owned marine resource which should be managed at a national level"</i> (meeting in a coast municipality).</p> <p><i>"I believe us Finnmark fishers will have worse conditions than we have today [if privileged rights for Finnmark are implemented]. We are after all fishing outside Finnmark in periods – and then what?"</i> (meeting in a coast and fjord municipality).</p>

outside Finnmark as well. Different types of privileged rights in Finnmark would limit Finnmark fishers' chance to fish outside, they worried. Some were unhappy with the idea of decentralizing powers to regional or local bodies as they objected that decentralized fisheries management would probably be partisan. By contrast, other argued, the current fisheries management scheme, at the very least, gives all Norwegian fishers the same opportunities.

To summarize, many participants wanted to have increased control over local fishing resources, and suggested different strategies based on different legal sources to gain that control. In doing so they were willing to use the law in an instrumental way to further their goals (Gulliver 1979). Some argued in favour of embedding local fishing rights in national law, others suggested international law that recognizes indigenous rights. Law in this sense is not only a way of imagining the real (Geertz 1983), it is also a means to adjust or even perhaps create the real. They wanted to change the idea that fish are a national resource. Local norms of ownership to marine resources would be different from what the authorities are likely to envisage. Here, the public hearings acted as forums where such differences were communicated. As participants defended the current fisheries management system, they differed on how to address the challenges occurring in the Finnmark fisheries.

## Discussion

In line with legal plural analysis, several normative orders intersect in the field of in-shore fisheries in Finnmark. The discourses occurring in the public hearings provide vivid illustrations hereof. The Norwegian Fishers Association, the biggest and most influential interest organization for Norwegian fishers, anchors one strand of thought. Following Moore (1978), it can be argued to have the power to influence the 'processes of regularization' (Moore 1978) of the fisheries. The Association advocates individual fishing rights and centralized fisheries management. However, the presence of representatives of the Fishers Association at the hearings did not silence other speakers, as other views on fishing rights were also being expressed, sometimes through direct disagreements between participants. New associations have arisen of late to promote the interests of small-scale fishers and/or Sami fishers who want a decentralized management system based on territorial or collective rights. Additionally, political parties and institutions, both Norwegian and Sami, are norm-making and norm-enforcing fields advocating various rights regimes in the fisheries. These organized interests were all represented at the hearings. Based on an analysis of the discussions that took place there, this study can therefore draw conclusions about the norms and values underpinning different fishing practices, but also the legal principles that were voiced.

The discourses at the public hearings demonstrate how participants categorize the in-shore, small-scale fisheries. Use of equipment, size of vessels and geography are pertinent criteria. People using the same techniques and tackle, as well as having similar sized vessels, see their own practices as legitimate. Participants spoke of inshore fisheries in both normative and non-normative ways, lending support to Johnson's (2006) contention that small-scale fisheries categories rest on normative foundations. Inshore fishers also seemed to believe their way of fishing is more sustainable than offshore fisheries. As demonstrated in the hearings, the inshore fishers category in Finnmark breaks down into coastal and fjord fishers. These two categories seem to have different norm-generating and norm-restricting abilities (Moore 1978). The coastal fishers consider visiting fishers to be colleagues, and at the hearings coastal fishers urged that visiting fishers should retain their right to fish in Finnmark. Many small boat fishers, especially the smallest, however, felt squeezed by bigger vessels, in particular by foreign boats that in periods fish in their home areas. They also felt pressured by the government's fisheries regulations and other industries, namely aquaculture. These inshore fishers' interests appear to be under pressure: they lack rights regimes to protect their way of life and regard the current fisheries management system as fundamentally unjust. The group often argued that fishing rights in their home areas should primarily be reserved for them. The biggest inshore fishers, usually coastal fishers, seemed to argue that every Norwegian fisher should have a right to fish in Finnmark, while the fjord fishers' fellowship primarily extended to other fjord fishers and colleagues from nearby coastal communities, especially if they used the same fishing techniques. The fjord fishers argued that the right to fish should be reserved for fishers in Finnmark.

Values, norms and principles are at work in different layers of governing systems, including local resource user levels (Kooiman and Jentoft 2009). The discourses at the public hearings illustrate that local people have different views on and desires for fisheries management. The exploration of what the participants suggested is wrong with the current state of the fisheries and why, and what they believed could fix it, reveals preferences for

either a decentralized or a centralized approach to the management of the fisheries. Advocates for either approach argue on the basis of justice, but emphasize different principles. As the discourses at the public hearings show, participants in favour of decentralized fisheries management (DFM) assume that a local management regime would be sensitive to local ecological and social conditions and be sensitive to local fishery know-how. This is in line with Jentoft et al. (2009:29), who argue that management institutions must pay attention to "norms and rules that are particular to specific social systems within the area they operate." A DFM- system would give small-scale fishers a bigger say than they have under the current management regime. Indeed, because the current system does not consider local conditions, it lacks legitimacy. Those who argue for DFM regard marine resources as a collective asset that people who live nearby and depend on should have privileged rights to. This is also in line with the historical fjord fishers' practices (NOU 2008:5). This adjacency principle stresses place-based rather than market-based rights. Fishing rights should not be transferable, but should be embedded in local communities. The idea of the good life, where people hold territorial fishing rights, can be achieved by implementing indigenous fishing rights that acknowledge people's historical fishing rights<sup>P</sup>.

Those in favour of centralized fisheries management (CFM) have an opposite view of how to realize the good life. They have adjusted to the current fisheries management system and defend the vessel-quota regime, regarding CFM as impartial because it does not convey privileged rights. On the contrary, it provides equal access to fish resources for all. Fishing rights seem to be perceived as something that is 'out there', which an individual acquires through the authorities' quota allocation. Fishing rights are thus not a right people have obtained through residence in a particular place or through a community history. Moreover, fishing rights are transferable, and the profit falls to the individuals who hold quotas.

DFM- and CFM-adherents disagree on whether indigenous fishing rights would have positive or negative externalities for Finnmark fishers. For those advocating DFM, realizing indigenous rights as collective, territorial rights would benefit Sami and non-Sami in Finnmark alike. A common property, they believe, could secure inshore fishers' rights and encourage young people to become fishers and perpetuate communities. This is the view on which the Sami Parliament's fisheries policy is based. However, participants also argue the opposite: indigenous rights create negative externalities for local people. They would exclude visiting fishers (from outside Finnmark) and prevent Finnmark fishers from fishing outside Finnmark, which would not be in line with the historical coastal fishers' practices (NOU 2008:5). In this manner, the common property involves exclusion to a degree that the common pool does not (McCay 1996): when people fence themselves in, they also tend to fence themselves out Jentoft (2013:27). Those who opposed the idea of indigenous rights often said that it was not necessarily fair to undo old injustices (i.e. the process of Norwegianization) by initiating new injustices (unequal allocation of fishing rights). This is an argument frequently levelled against realizing Sami rights (Søreng 2008). Some participants were concerned that the Sami parliament would gain too much influence over how the fisheries were managed, undermining the perception of the Sami Parliament's legitimacy as political and administrative organ for all inshore people. People were also afraid of losing quota rights under a new management system, rights which were acquired under the current system.

Both those arguing in favour of common property and common pool in Finnmark fisheries believe that collective and individual rights can help inshore people live the way they

want to live, and both perspectives are based on a form of moral reasoning. Fishing rights are vital for inshore fishers to sustain their livelihoods and are, in this sense, equal to human rights (Allinson et al. 2012; Jentoft 2013). People are thus not necessarily against the principle of indigenous rights, but neither are they willing to take the risk of changing the current management system, renouncing individual rights and welcoming a collective fishing rights pool. Dismantling the current quota regime to institute regional management would for many people be a mistake. This could explain some of the resistance to Sami rights in inshore fisheries.

The discourses at the hearings illustrate that the inshore fishers' economic and political interests in the fisheries are connected to the societies of which they are members (Bavinck 2005). The inshore fishers have a strong sense of belonging to the local communities, in which they were raised and reside, as well as the fishing grounds (Meløe 1995). Growing up in a place affects people's sense of rootedness (Hay 1998), also in earlier generations. Participants in the hearings were thus observed to often draw on their ancestors' experiences. In general, participants expressed what might be conceived as an experience-based perception of rights. They made references forwards and backwards in time when they spoke about rights: they analysed the present in light of their experiences of fisheries in the past, and their hopes and expectations for the future. Their perception of fishing rights are thus based on fishing practices and (in)justices experienced by themselves, their forerunners, and their ideas about their future progeny.

### **Conclusion and lessons**

Concluding that coastal and fjord people in Finnmark are entitled to fish, the Inquiry recommended amending Norwegian fisheries law, arguing that the right to fish is a collective right - a territorial right - that should benefit all people in Finnmark, and that the inshore fisheries should be managed locally. The recommendation stressed the importance of protecting and promoting Sami culture:

*The vulnerable fjord and coastal Sami culture is in a state of to be or not to be. It is not only a new chance, but probably the last chance for the Norwegian state to fulfil its cultural responsibility towards the Sami. It is thus of vital importance that the state devotes adequate resources to fulfil their obligation. (NOU 2008:5: 371.*

Author's translation)

Public reactions to the Inquiry's recommendations were mixed. The Sami Parliament and Finnmark County Council agreed in principle on the right of people living in the coastal zone to fish and manage inshore fisheries locally. Many small-scale fishers in Finnmark and their associations came out in support of the proposed legislative change. However, the biggest and most influential fisher association (the Norwegian Fisheries Association) found it unnecessary and advised against interfering with the basic principle of central management of fish resources. In 2010, the Sami Parliament Council and Ministry of Fisheries started a consultation process on the proposed amendment, reaching an agreement in May 2011. The agreement's main content was that Finnmark fishers and fishers in certain Sami areas outside Finnmark should have a legal right to fish<sup>9</sup>. It did, however, not suggest recognizing historical fishing rights, which diverged fundamentally from the amendment proposed by the Inquiry. On this point the Sami Parliament and the Government agreed to



disagree. The lack of recognition of a historical Sami right to fish in the agreement disappointed opponents.

Based on the agreement, the Ministry of Fisheries published a draft resolution (Prop. 70 L 2011–2012) in March 2012, to which the Norwegian Parliament gave its support in June. There is widespread dissatisfaction with the settlement among Sami and Norwegian activists and fishers, as the Bill does not grant historical fishing rights to people in Finnmark Jentoft (2013). Some Sami politicians propose taking the case to court and challenge the state's failure to recognize its obligations towards the Sea Sami as an indigenous people in compliance with international law. For example, the Norwegian Sami Association (NSR) did argue that the Sea Sami should try out their case in the Norwegian legal system (The Norwegian Broadcasting Corporation). The government, on the other side, claims that the agreement is in line with international law on indigenous rights.

The Finnmark inshore fisheries are in this manner still subjected to a unitary, national fisheries management system, where fish is regarded as a common pool resource to be managed by the state. Discourses at the hearings, however, reveal that inshore Finnmark fishers hold different norms and values regarding fishing rights and fisheries management. Whereas some support the principles, norms and values enshrined in the prevailing fisheries management system, others want to see policy changed. These varying sets of norms and values, one could argue, exist by virtue of being part of the social life of the group rather than through institutional recognition (Woodman 1998:42). The Inquiry recommended the institutionalization of social norms by recognizing historical fishing rights in Finnmark, and the arrangement of collective, territorial fishing rights (NOU 2008:5). This proposition was however turned down by the Norwegian Parliament, which confirmed the unitary fisheries management system. In this manner, the national state's fisheries management is embedded in a set of values, norms and principles (Kooiman and Jentoft 2009; Jentoft 2011), which are not necessarily in accordance with those held by the Finnmark inshore fishers.

Sami activists will most certainly continue the struggle to have Sami's historical fishing rights recognized by invoking international law. If the Sami win support, the Norwegian state will have to institutionalize legal pluralism in Finnmark's inshore fisheries by recognizing local fishing rights. In this manner, international law has the potential to realize local fisheries management based on the rights the Sami hold as an indigenous people. If this is to be the future of the Finnmark fishers, an important question to ask is how such a management system should be designed? What, or whose norms and rules should it rest on? Tamanaha (2008: 396) argues that one should treat as law that which people in various groups take as law, which in this case means building fisheries management on norms, rules and principles held by Finnmark fishers.

The discourses at the public hearings show that coastal and fjord fishers in Finnmark - based on historical differences in terms of fishing practices, settlements, culture, ethnicity and lifestyles - tend to have different perceptions of fishing rights. Importantly, coastal and fjord fishers are not only technical categories for grouping the inshore fishers. They are also cultural categories. The differences between their fishing practices remains in place despite much else having changed. These differences have not been sufficiently represented in Norwegian fisheries management. Fjord fishers' interests, and thus Sami fishers, have not been adequately represented by the biggest and most influential fishers'

association. This demonstrates that a new type of representation is required, where stakeholders' varying ethnicities and perceptions of fishing rights are recognized and regarded as valuable resources that fisheries management can draw on instead of being perceived as a threat to the current order. Fisheries management must allow for both technical and cultural differences.

In resource management processes, values compete for attention and many hard choices have to be made (Kooiman and Jentoft 2009). In order to make legitimate decisions, a governing system should be able to identify stakeholders' different perspectives of rights. This would be an asset to governing institutions in that it would help them identify value conflicts and obligations. According to Bavinck (2005:817), the benefit of a legal pluralist approach to conflicts of interest in fisheries is that it makes both observers and participants aware of differences separating the parties involved. From this viewpoint, governance systems should be sensitive to the existence and workings of legal pluralism in concrete settings (Jentoft et al. 2009:29). Putting deliberative arenas in place that encourage communication, free speech, and interactive learning is one step in establishing basic differences (Søreng 2006). Jentoft et al. argue that co-management is an 'essential path to legitimacy' (2009:27) by bringing together stakeholders that embody legal diversities in a partnership with government authorities (2009:35). Co-management establishes arenas for stakeholders to deliberate on the kind of law needed for fisheries management. By initiating such discourses and thus drawing on legal pluralism, the management of the Finnmark inshore fisheries can become more innovative in developing and applying effective and socially just law in concrete situations. First, however, the Norwegian state must acknowledge the historical fishing rights of the Sami people.

## Endnotes

<sup>a</sup>Established in 1989, the Norwegian Sami Parliament (in Sami 'Samidiggi') is political tool for strengthening the Sami's political position and contributing toward just treatment of the Sami people. It is a democratically elected body comprised of 39 representatives that are elected from 7 districts once every four years. Only those listed in the Sami Electoral Register have the right to vote. In order to register, one has to identify as Sami and speak Sami at home, or at the very least have a relative who speaks the language at home, be they a parent, grandparent or great-grand parent. The central government has transferred authority to the Sami Parliament in some areas, primarily those concerning preservation of Sami cultural heritage, education, language, business and industry, and culture. It controls its own budget and is a mandatory body to be consulted on matters concerning the Sami population (Norwegian Sami Parliament 2012).

<sup>b</sup>As this study is not an evaluation of the Inquiry's work methods, I will not discuss whether there could have been other ways of consulting local people about fishing rights than through public Hearings.

<sup>c</sup>The Norwegian inshore fishery is often referred to as the 'coastal fleet'. The coastal fleet is comprised of smaller boats (smacks) using (hand) line, longline and net, as well as net-, longline-, Danish seine-, shrimp trawler- and seinevessels under 28 meters (Norwegian Encyclopedia 2012). The Participating Act of 1999 regulates who can fish for a living. At [www.fisheries.no](http://www.fisheries.no), an official norwegian website, the participation is described as followed: Participation is limited by annual permits (coastal fleet) and licenses (ocean going fleet) in combination with individual vessel quotas (IVQ). The overall Norwegian fish quotas are

allocated to different vessel groups and the quotas are then distributed amongst the vessels holding the necessary licenses to participate in the groups. The authorities can withdraw permits and licenses if conditions are not met, and can also allocate new licenses and permits.

<sup>d</sup>In general, the coastal fisheries are more capital intensive and specialized than the fjord fisheries. The accompanying fisheries industries and supply services in the coastal communities also depend on the visiting fisheries fleet.

<sup>e</sup>Cod have traditionally been the most valuable resource. This includes both the migrating northeast arctic cod (The 'Barents' cod) and the stationary northeast arctic cod (the 'Coastal cod'). In the fjords, the households' main income came from fisheries in combination with agriculture, and later other industries. The women often had income from other activities, such as the fishing industry and public administration. The men were part-time fishers harvesting on the migrating and stationary fish stocks that stayed in the fjords during the year. During the winter, coastal cod fisheries were particularly important for the household economy in the fjords. A breakdown in the stationary cod stock in the Finnmark fjords since the 1980s has led to difficult times for the fjord fishers. The invasion of the red King crab (*Paralithodes camtschaticus*) in the 1990's in some Finnmark fjords, has ensured that the King crab is now the main source of income for many fjord fishers. The regulation of the King crab fisheries are subjected to a different regulatory system than the cod fishery.

<sup>f</sup>The term, 'foreign fishers', is generally applied on vessels that are registered outside Finnmark.

<sup>g</sup>As late as 1985, a Norwegian Supreme Court judgment, the 'Kåfjord' verdict, recognized local fisheries customs (Bull 2005:15; Søreng 2007).

<sup>h</sup>The fisheries on the coast have attracted visiting fishers since the 13th and 14th centuries.

<sup>i</sup>Fishery statistics at the Norwegian Directorate of Fisheries's website, [www.fiskeridir.no](http://www.fiskeridir.no), 'Facts About Fisheries and Aquaculture 2012', brochure from the Norwegian Ministry of Fisheries and Coastal Affairs (2012).

<sup>j</sup>There were 18 Hearings in total, because at one occasion two Hearings were held in one municipality.

<sup>k</sup>Four members had a legal background; three were social scientists; one a coastal fisher; and one a former minister of fisheries and coastal affairs (Labor Party). There were four women and five men, including the leader who was a professor of law and former chief justice.

<sup>l</sup>For example, the Coast Fisheries Association (in Norwegian: Norges Kystfiskarlag), the Sea Sami Catch and Fisheries Association (in Sami: Bivdi), and the Fjord fishers Association (in Norwegian: Fjordfiskernes forening). The Norwegian Fishers Association is the biggest fishers association in Norway (has about 5 700 members. Norwegian Fishers Association 2012), followed by the Coast Fishers Association, which has about 1 000 members (Norwegian Coast Fishers Association 2012). The Fjord Fishers Association and the Sea Sami Catch and Fisheries Association are two small, recently initiated associations in Finnmark.

<sup>m</sup>The fundamental principle for the Norwegian management of living marine resources is the principle of sustainable use based on the best available scientific advice (Norway's official website for information about seafood safety, fisheries and aquaculture management).

<sup>n</sup>For example, people presented hypotheses on why local cod stocks had become scarce: due to overfishing and/or predators like grey seal, otter, cormorant and king crab, and the growing sea urchin stock that is overgrazing the sea tangle, also the spawning grounds for cod.

<sup>o</sup>Example 1: Fjord fisheries are often combined with other income. The fisheries management has proved incapable of maintaining the requisite flexibility in these fjord communities. At the Hearings many uttered better constraints to ensure the flexible of work. Example 2: Local customs at fishing grounds - unwritten laws/ local practices based on reciprocity and loyalty where to fish.

<sup>p</sup>Some local people also argued for the return to the system in existence prior to the introduction of the vessel-quota regime in 1990 that is to reopen the fisheries commons (See paragraph *Righting the wrongs*, and Søreng (2007,2008) and Jentoft (2013) for more information on this perspective).

<sup>q</sup>See Jentoft (2013) for more information on the agreement.

#### Competing interests

The author declares that she has no competing interests.

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