

Indigenous interests challenging conventional protection typologies:

Norwegian conservation vs. Sámi subsistence

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1. INTRODUCTION

Loss of biodiversity is acknowledged as a major challenge for mankind. Establishment of nature protection areas is conventionally seen as a panacea, often pursued of as well governments and environmentalists. During the latest couple of decades this understanding is however challenged on both efficiency and equity basis. Interestingly, the Vth *World Park Congress* in Durban, South Africa in 2003 launched an approach seeing conservation as much a social issue as a biological one. A core point in a new paradigm is that to be effective conservation should be *with* people, not *against* people. An illustrating proceedings headline was *"A new deal is needed for protected areas, local communities and indigenous Peoples"* (IUCN, 2005:3). The new agenda is also backed by recent research findings including that protection may be effective or not, depending on a number of factors; e.g. biophysical features, user characteristics, rights structure and institutional/political history (Ostrom and Nagendra, 2007) and also the observed tendency that conservation lands appear to be more representative of areas that are not required for other purposes than the biodiversity distribution of rare species (Adams, 2005).

The WOW 4 panel *"Protected areas as common-pool resources or public goods"* challenges established understandings of protected areas and aims to go beyond current typologies to reveal aspects of how the institutional arrangements of protected areas influence human behaviour in a number of ways. The panel aims to explore a variety of questions including mixes of types of goods, property regimes, the involvement of local people/indigenous groups, influence on traditional livelihoods, conservation and biodiversity/ ecosystem functionality, IUCN categorization etc.

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This contribution touches several of these issues, but aims to focus questions related to the encounter between two long-term processes of institutional reform, those of (1) protection area establishment and (2) indigenous knowledge and land rights. The paper builds on material from Norway, in particular the Norwegian part of Sápmi (Sámiland), and aims to explore the parallel development and encounter between an indigenous and a standard conservation perspective respectively, as the former perspective challenges the latter as well in Norway as on a global scale. Accordingly, the empirical basis is the policy developments and implementations of conservation and Sámi rights issues respectively; seen as multi-tier processes primarily within Norway, but also recognizing dynamic connections to international processes. Most of the events relevant for this study have taken place during the last four to five decades. The two processes certainly have intersections, but the remarkable is that, in spite of this, their formalized mutual influences have been quite limited until the latest couple of years. The contemporary situation is one of beginning integration of indigenous perspectives into national conservation legislation and governmental routines, which opens new possibilities for real indigenous influence on conservation policy. My puzzle is why does this happen nowadays? Why did it not happen three decades ago? At that time, as I will come back to, alliances between environmentalists and Sámi interests were developing.

This contribution, in following panel objectives, aims to go beyond current discourse on conservation and indigenous issues by analyzing goods' characteristics in order to find opportunities and limitations in future policy development. The paper is organized into four more sections. Firstly, I give a basic empirical description of as well institutional history as the facts on the ground; as a basis for revealing both common interests and dimensions of conflict between conservation and indigenous interests. Secondly, I provide a short introduction of relevant aspects of commons theory. Thirdly, I will use this as a platform for an analytic reflection over how actors' interplay and how different perceptions of goods can contribute to the understanding of patterns of interaction and how traditional Sámi use can be integrated into conservation praxis including implications for the use of IUCN categories.

2. CONSERVATION AND INDIGENOUS SUBSISTENCE: INTERESTS AND CONFLICTS

2.1. ASPECTS OF SÁMI POLITICAL AND INSTITUTIONAL HISTORY

The Sámi are the indigenous people of Northern and middle Fennoscandia¹ and Kola Peninsula in Russia, formally recognized as such in Norway, so far not in the other countries, but processes, including that of a Nordic Sámi Convention (Åhrén et al, 2007), are underway. The formal recognition is connected to the incorporation of international policy instruments, foremost the *ILO Convention 169 on Indigenous and Tribal Peoples in Independent Countries*, which Norway in 1990 was the first state to ratify, but now also followed by the *UN Declaration on the Rights of Indigenous Peoples*². The main argument for acknowledging indigenous land rights is to amend historical injustice and to safeguard the material base for indigenous culture. From the Middle Ages Sápmi was an area for competitive expansion of the Nordic states (Riseth, 2005). The whole period from 1328 to 1852 the geopolitical situation was ambiguous and the national borders were somewhat unclear or not strictly enforced (Sandberg, 2008). Under influence from nationalism, Social Darwinism and the doctrine of *terra nullius*, Norwegian policy towards the Sámi from the late 19th century became one of oppression and cultural assimilation. Sámi language became forbidden at school and Norwegian sounding last names became prerequisites for acquiring land titles. Reindeer management was considered as no more than a tolerated use obliged to give way to better entitlements, non-Sámi agricultural settlers in particular. This policy contributed to marginalization of Sámi language, culture and life forms.

After World War II the *Declaration of Human Rights* set new international standards and Norway's Sámi policy slowly began to change. Pan-Sámi activities led to the set up of an umbrella organisation for the Sámi NGOs in Norway, Sweden and Finland, *Nordic Sámi Council*³, in 1956. The same year the social democratic government in Norway established a committee, which in 1960 presented a white book that proposed to end assimilation and develop a policy for positive development of Sámi culture and life form (Aarseth, 2006). For

¹ Norway, Sweden, and Finland

² <http://www.un.org/esa/socdev/unpfii/en/drip.html>

³ Now the Sámi Council also including Russian Sámi

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reindeer herding another committee in 1966 proposed a law revision recognizing this life form as an industry. However, these turns met strong opposition as the assimilation policy had considerable support both within the political establishment, non-Sámi and also among generations of Sámi being influenced by assimilation. In the county of Finnmark⁴ the regional branch of the social democratic party (Finnmark Arbeiderparti), which had a strong political hegemony, promoted actively the assimilation policy. The young and educated Sámi generation that had benefited from schooling in the Nordic welfare states became an important force in the ethno political efforts during the 1970s and 1980s. Nordic Sámi Council arranged conferences on Sámi rights, published ethno political statements, and none the less important developed international connections. Nordic Sámi cooperated with Native Americans and the set up of WCIP⁵. These connections also became important for the internal politics in the following decades (Minde, 2005).

In 1968 two litigation verdicts of the Norwegian Supreme Court stated that the reindeer herding Sámi had full rights of compensation for encroachments on their pasture and herding land independently of who had the formal land title. In the 1970s the herder organization NRL⁶'s long-enduring lobbying for recognition and support as an industry gave the outcome of a double reform. Firstly, in 1976 the *General Agreement for the Reindeer Industry* (GARI) was negotiated between the Government and NRL and approved by the Parliament. The objectives included protecting reindeer pasture land against encroachments as well as securing welfare and income for herder Sámi. GARI became basis for a sequence of bi-annual agreements on subsidies and development, still in operation. Secondly, a new *Reindeer Management Act* (se above), was finally adopted in 1978. It had a double focus: (1) to establish formal institutions for access and pasture management, and (2) co-management. The former was based on a rationalization paradigm (Riseth 2006), and the latter on a system of herder representation in administrative governing boards on three levels. The intention was

⁴ Norse: *Finnmark* meaning The land of the Sámi. Finnmark is northernmost in Norway and the county where Sámi make up the highest proportion of the total population.

⁵ World Council of Indigenous Peoples (1975-1996), George Manuel, Candada, was president 1975-1981

⁶ Association of Norwegian Reindeer Managing Sámi (Norske Reindriftssamers Landsforbund), set up 1947.

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to establish a governing framework limiting growth in households and herd sizes, while making herders and their representatives responsible for decisions. The outcomes of these reforms are mixed (Riseth and Vatn, 2009), but they nevertheless represent important steps on a way out of a marginalized position.

Competing land use has had serious impacts for centuries (Riseth 2005), in modern pasture fragmentation being the main effect. The crucial problem for reindeer management is lack of protected property rights versus external users. During the Post World War II Era hydroelectric power regulation has been a major type of encroachment on reindeer lands. Unexpected, a disputed case of the kind exploded into a series of events that lead to major reforms as well for Sámi political rights as land rights:

Plans for damming of the Alta-Guovdageaidnu River in Sámi core areas in Finnmark was approved by the Parliament in November 1978, and the implementation started by construction road building the summer 1979. The case was disputed, and in 1970 there had been spontaneous demonstrations in the local Sámi community Maze, which according to the original plans was to be flooded up to the church spire. The modified plans, now adopted, were less dramatic, but still met increasingly strong opposition in the local societies, among Sámi and non-Sámi, from students, environmentalists, intellectuals and the general public, as it became known. The case received unexpected dimensions. A local action group organizing a campaign to stop the damming developed into a country wide "People's Action"⁷ with at most 20000 members coordinating civil disobedience actions to stop the building of the construction road.

During the years 1979-1981 the construction work was stopped, for long periods- the longest more than one year, three times. Each time the official reason was inadequacies in formal preparation of the case. Twice, the real reasons were hunger strikes in Oslo by young Sámi. In particular the first one, October 1979, which took place in a *lávvu*⁸ placed right in front of the Parliament, received tremendous attention, and managed to put Sámi rights issues, launched in a white book back in 1960, very effectively at the government's agenda.

Though the actionists⁹ in the winter tundra in Alta, at the D-day of January 14, 1981, were

⁷ Folkeaksjonen mot utbygging av Alta-Kautokeino-vassdraget.

⁸ Traditional Sámi tent <http://en.wikipedia.org/wiki/Lavvu> designed rather similar to a Native American *tepee*

⁹ The author of this paper took part as an active actionist in 1981(i.e., participant observation).

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about 1000 persons, a big group of them chained, they were effectively removed by 600 policemen in a well planned and coordinated operation. The actions continued with “needle stings” during big parts of 1981, but passive non-violent blocking was not enough to stop the implementation of the damming. The “People’s Action” admitted the defeat and was dissolved in early 1982. The new hydro power plant was opened in 1987 (Hjorthol, 2006).

To put an end to the Sámi actions the government opened for realization of core Sámi claims by initiating processes leading both to political and land rights’ reforms. The main counterpart for the government was the ethno politically organized Sámi in NSR¹⁰, co-working with NRL, advancing claims and conducting dialogue. The Sámi Rights Commission, established 1980, presented its first report in 1984, which laid the basis for the passing of Constitution Amendments and a Sámi Act in 1987¹¹. An important part of the implementation of the changes was that Finnmark Arbeiderparti (see above) during the 1980s transformed its attitude and supported the new policy. In 1989 the Sámi Parliament was established¹², and in 1990 Norway ratified ILO Convention 169 on Indigenous and Tribal Peoples in Independent States. The ratification includes that the central government authorities recognizes the Sámi a clear right to enter into co-management of their lands.¹³

Whereas local people, Sámi and non-Sámi, and lost the struggle for saving the river undisturbed, the Sámi of Norway, during a decade had won the political right to have a democratic body representing their political will within the Norwegian statehood. To achieve this not only the events on domestic areas was important. As noted above, Sámi played important roles in efforts for Indigenous Peoples on International arenas and have continued to play important roles within the international society on indigenous issues¹⁴. It is no doubt that the Norwegian government in the turbulent period around 1980 felt international pressures to find a solution within the frames of a timely indigenous policy.

¹⁰ Association of Norwegian Sámi (Norske Samers Riksforbund), established 1968.

¹¹ Same year as the power plant was opened.

¹² NSR leader from the 1980s Ole Henrik Magga became its first president

¹³ <http://www.ilo.org/ilolex/english/index.htm>

¹⁴ The first director of the Sámi Institute Aslak Nils Sara was Vice president of WCIP in the early 1980s, whereas Ole Henrik Magga became the first leader of UN Standing Forum for Indigenous People in 2002

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The local action for saving the river was initially primarily more an action of nature conservation in its broadest sense than one of indigenous rights. Locally in Alta, the primary concern was the salmon of the river, while young actionists from all over Norway (even from abroad) were more general environmentalist. Visitor actionists were also more interested in the Sámi aspects of the case than many locals. Nevertheless, the complexity of interests involved, and the tough situation facing police actions created a political unity within broad groups of different people; many started to see common interests between nature conservation and Sámi rights issues. Understandings stressing common interests have also been expressed in white books on conservation, but the development of the conservation policy and conservation sector from the 1980s and up recent time have contributed to challenge the validity of the common interests often are expressed as elements of conflict have developed during the subsequent decades.

2.2. Conservation in Norway

2.2.1. Aspects of Norwegian nature conservation history

The idea of nature conservation through establishment of large protected areas came to Scandinavia before the previous turn of century. Though Sweden established a number of national parks as early as 1909 Norway did not establish her first national park¹⁵ before 1962, but having set up its first professional conservation positions in 1960; already in 1964 the First National Park Plan (green book) was ready and adopted two years later and implemented with 13 national parks established in 1975. A new nature conservation act had been adopted in 1970 and the administrative apparatus were developed by setting up a Ministry of Environment in 1972 and Regional Environmental Departments at each of the 19 counties in 1982. Further a Second National Park Plan developed by a green book in 1986, a white book in 1992, adoption in 1993, implementation from 1994, and set up of new parks from 2001-2006 (final fulfilment planned 2010). The internal Norwegian development went on in parallel

¹⁵ IUCN category II

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with international events as the World Commission of Environment and Development (1987) and major conferences, such as those of Stockholm (1972) and Rio (1992). In line with this Norway has ratified a row of international conventions including the Convention on Biological Diversity (CBD, 1993). Norway also is one of the many countries that have expressed their intentions to follow up the global action plan Agenda 21.

2.2.2. The Norwegian Paradox of Protection Need and Policy

The nature conservancy apparatus has still limited resources and operates in a tension between challenges and possibilities. One international challenge is the International Union for Conservation of Nature (IUCN) goal that all countries should protect 15 % of their land surface. In 2008 Norway has reached 14.3% (DN, 2008a), but a major part of the protected areas are remote mountain areas with relatively low biodiversity, while protection of areas of higher biodiversity that coincide with higher population and development pressure, e. g. along waterways and fiords, lag much compared to the need of protection. It seems though as it more is protection *possibilities* than protection *needs* that govern establishment of protection areas (Arnesen and Riseth 2009). As in other countries, protected areas in Norway tend be *residual lands*, areas not needed for other purposes (Adams 2005), or maybe areas not having actors for other interests being strong enough to avoid protection.

The public web pages of the Directorate of Nature Management provide illustrative statistics

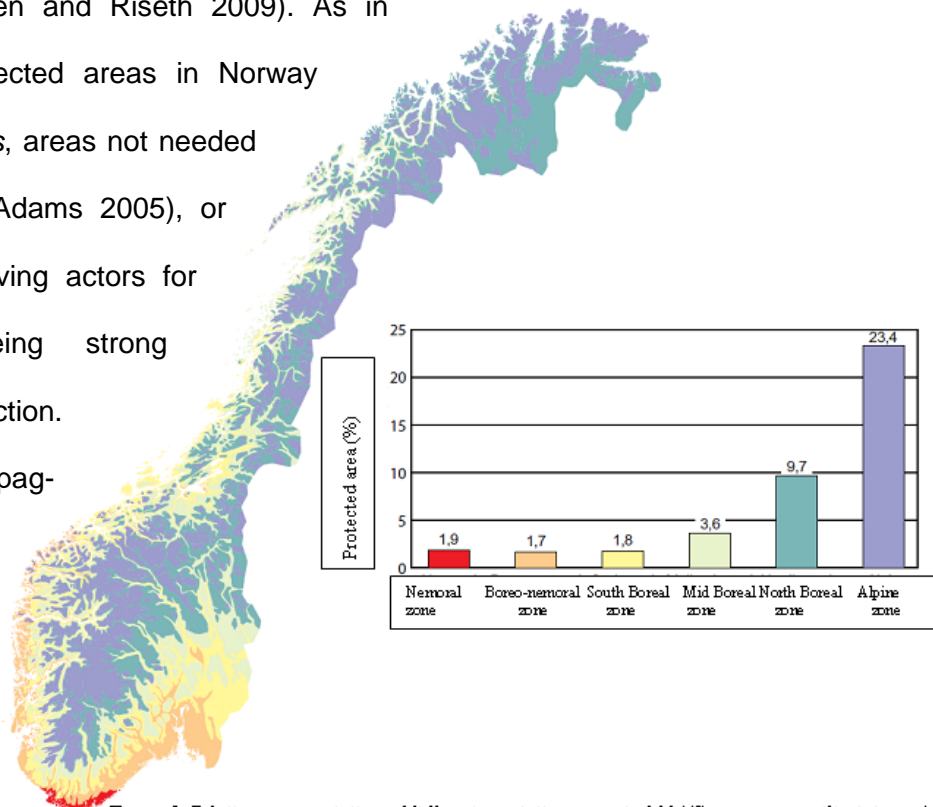


Figure 1. Relative representation of different vegetation zones in 2004 (Source: www.miljostatus.no).

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of how large parts of different vegetation zones that are protected. In Figure 1 the map displays the geographical distribution of different vegetation zones, while the graph provides numbers for the parts of each of the zones that are protected by the Act of nature protection. Studying the map, we note that the nemoral zone and three out of four boreal zones are southern and/or coastal/lowland oriented. The statistics are from 2004, and by that time 11.4 percent of the Norwegian mainland was protected by the nature conservation act.

If biodiversity concerns were the dominant reason for protection; why is not the proportionality between vegetation zone distribution and protection area distribution the other way round? The paradox is summed up in figure 2.

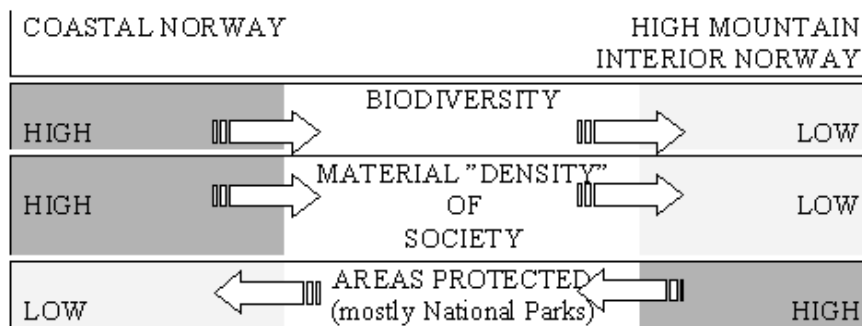


Figure 2. The Norwegian Paradox of Protection Need and Policy

This is very peculiar, because when I worked towards the completion of my master studies in nature conservation three decades ago, a prominent document within the field was a scientific report on the nature geographic regions of Fennoscandia (NUB 1977:34). In the green book for the Second National Park Plan (NOU 1986:13) this report is used as an active tool by reasoning for parks within the different regions defined. However, a striking feature is that though there is reasoning on increasing total protected area by a factor of three to four, there is no reasoning about which types of areas or vegetation zones that should be prioritized because of biodiversity values. Neither is there any analysis of possible threats as a motivation for protection

In other words, neither statistics nor arguments used substantiate that biodiversity concerns is the main reason for choice of protection areas. Adams' (2005) hypothesis of residual lands suggests *availability* as an important criterion. As for Norway property conditions is an

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important issue as the nature conservation act opens for the favorite type of protection area, national parks, mainly only on state (crown) land. This reason can contribute to the explanation of which areas are protected, but behind this there are other questions, if the chosen areas are neither particularly valuable of biodiversity reasons nor particularly threatened, why protect them at all? Local people often have problems to understand such reasoning (Berge, 2006). One possible answer is symbolism:

"To answer this one have to acknowledge that the rationale for national parks – often called "the jewels" of area protection – is not primarily based on ecology or biology, but on symbolisms: Nature per se in National Parks is of course neither 'national' nor 'parks'. The name denotes a perception by an elite and a norm attributed to the area in a political "ceremony" celebrating the nation states' most emblematic sceneries. Thus, national park issues needs to be seen in a national state perspective. E.g. establishing borderer delimitation between Norway and Sweden in 1751 was crucial in the building of the nation state and in enclosure of all in nation state ideology, including the formal colonization of Sapmi (Sámiland). National Park Policy falls in line with this long nation building historical tradition, now repeated on the arena of emblematic nature scenes" (Arnesen and Riseth, 2009:78).

Preparatory works for the national park legislation in Sweden confirm this interpretation (Torp, 2008).

2.2.3. Conservation and reindeer management

The first generation of Norwegian national parks in the 1960s and 1970s did not create conspicuous conflicts with the Sámi reindeer industry though 10 of 13 parks were set up within the Area of Sámi Reindeer Management Entitlement. However, the total area in Norway protected by the nature conservation act has increased sevenfold since 1975, mainly as an outcome of the Second National Park Plan. Obviously this could not take place without tensions and conflicts. In accordance with the intentions of Agenda 21 the Parliament took initiatives to increase local involvement and influence in protection processes and park management. One of the outcomes was that the government in 2003 advanced a new policy

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for increased use of national parks for commercial tourism, named the "*Mountain Text*". The intention was to give something back to local communities, i.e. to provide new opportunities for activity and income in rural areas (Arnesen and Riseth, 2008). However, this change in policy has unintended consequences, not the least for Sámi reindeer management. One indication of underlying problems is that the South Sámi boycotted the solemn inauguration of two national parks in Mid-Norway the summer 2006 (Riseth, 2007) and since then have boycotted participation in the board for one of the parks. Another is that a survey to a reindeer pasture districts with national parks substantiate varying and ambiguous attitudes to how useful parks can be to serve protection of reindeer management areas (Riseth and Holte, 2008). The second national park plan are now near to fulfilled with respect to the set up of protection areas; however these rather large areas are to be managed for the future and will play a role both in conservation efforts and reindeer management.

With this as a background I will now turn to aspects of commons theory in a search for tools to analyze the intersection of nature conservancy and reindeer management.

3. THEORETICAL ASPECTS

Seen in a large perspective the basal question for both interests in question is; which types and levels of regulation are necessary to sustain both natural systems and the human utilization of them? Further, how can different interests be coordinated to ensure sustainable use? To which level will it be necessary to prioritize between different actors and types of use? In a more applied context the questions are what can be the role of protection areas? And more concretely, what are the function of national parks and other protection categories in the IUCN-system used on a Sámi context in Norway?

Lars Carlsson (2008) has taken a start by defining a two-by-two matrix on access to and utilization of a resource, asking whether the access should be open or closed and whether the use of the resource should be regulated or not. The four possible outcomes are: (1) open/ unregulated, (2) open/regulated, (3) closed/ unregulated, and (4) closed/regulated. This author points to that moving from the situation of (1) towards (4) via (2) or (3) tend to in-

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crease transaction costs, i.e. the costs of managing the resource. This reasoning is related to Bromley's (1991) finding that it tends to be a relation between the total value stream that can be appropriated from an area and the complexity of the institutional solution used for regulation the resource. Concretely, very valuable resources tend be under private property, less valuable under common or state property while those of lowest value tend to be under open access. The logic is that the value appropriated need to pay for the necessary transaction costs.

Commons theory can be built on two dimensions of the character of the good involved; excludability and subtractability, i. e. whether it is easy or difficult to keep others away from the good and whether one user's appropriation reduce the value of the good for the next (Ostrom et al 1994). Erling Berge (2005) has suggested extending this typology more directly on landscapes, see figure 4. Some of the examples are for the context of this paper.

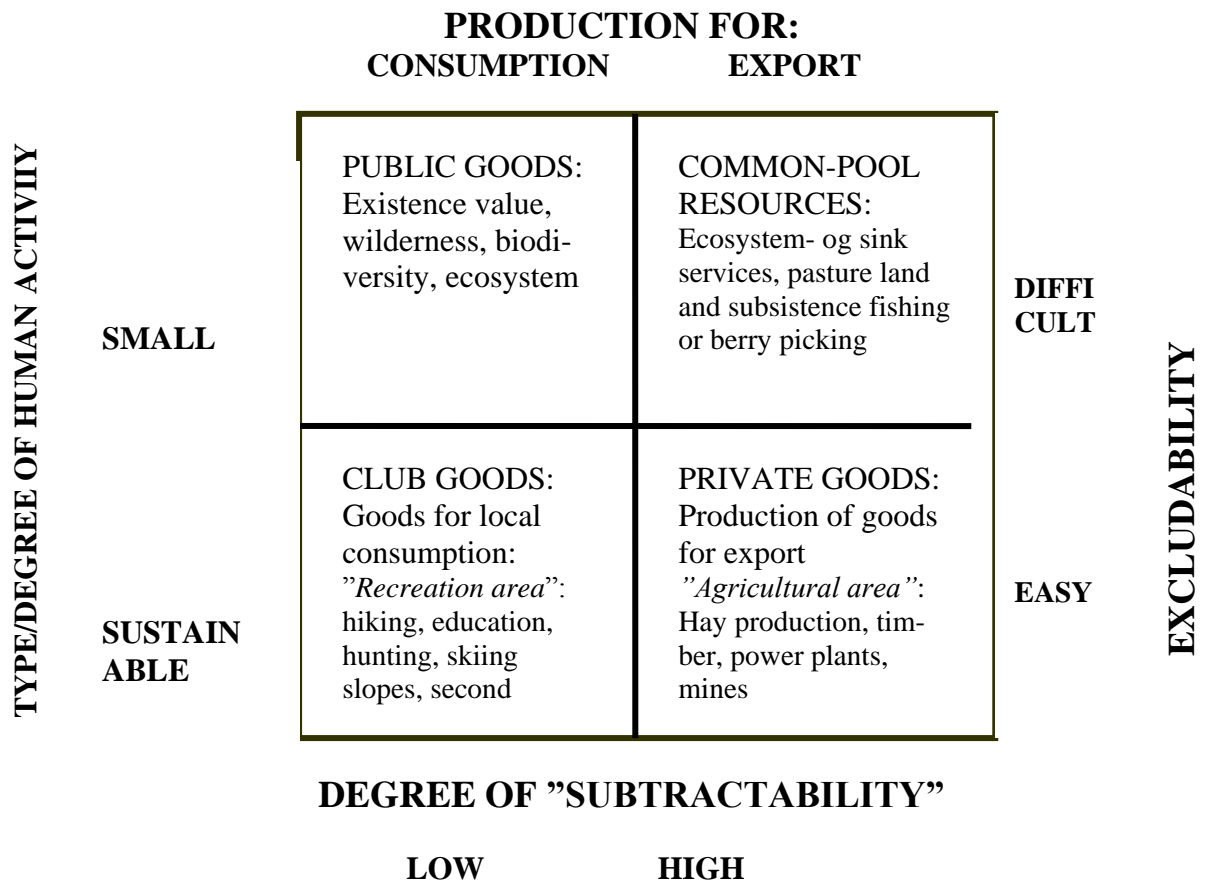


Figure 3. Good theory used on different landscapes. Based on (Ostrom et al. 1994) and Berge (2005). Author's examples included.

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In the horizontal dimension production for export or consumption on site are connected to degree of subtractability. Appropriation of goods that reduce the value for others can easily be produced for export. In the vertical dimension type or degree of human activity are connected to excludability so that for resources where excluding appropriators is difficult, human activity needs to be small, while where this is easy it needs to be sustainable.

Considering the types and examples given, the left column describes landscapes where the difficult subtractable goods/ services produced in the landscape are not exported but consumed on site. The main management problem will be to sustain the goods. More specifically a public good, such as a vulnerable birds' biotope will require little human activity, at least at certain seasons, which can be difficult to achieve, while a recreation area (club good) also can be worn down of intense use (crowding effects), but regulation will be relatively easy to implement.

The right column describes subtractible goods which can export goods and services. Common-pool (CP) goods and private goods are mainly distinguished by that it is more difficult to keep out competing users than from CP goods than from private goods. Here I do not find Berge's (2005) distinction between 'sustainable use' and 'small human activity' less useful than for the left column as I find sustainable use to be relevant also for most CP goods I can imagine. CP goods can be open, such as the everyman's right¹⁶ in Scandinavia or closed¹⁷. In Sámi tradition reindeer pasture resources are closed as admission requires membership in a *siida*¹⁸. In Norway that became formalized 1978 by the Act of reindeer management by requiring concession for herders not taking over from very close relatives.

Most private goods will be exportable. The non-biological example of mining is typically such, while many CP goods also can be privatized, but that can be costly. In Sámi tradition CP resources such as mires for cloudberry picking and lakes for fishing can be CP resources

¹⁶ No: *allemannsrett*

¹⁷ No: *allmenning*

¹⁸ Sa: cooperating group of households performing reindeer management

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(*meahcci*) for most people, but at the same time private goods (*baiki*) for one our few households (Hågvar, 2006).

Concrete landscapes produce different kinds of goods for different users. Consequentially, different actors have different perceptions of the character of the resource as well as a variety of interests. How a protection area is perceived as a good is often crucial for various right holders and stakeholders and contributes to shape the general societal discourse on protection issues as a basis for contemporary policies. Recalling the conflicts outlined in this paper Carlsson (2008) points to the paradox between management systems based on few objectives and few actors and a reality with many objectives and many actors. Berge (op. cit.) emphasizes one important fact:

"There is every reason to suppose that a particular landscape ... may hold several and possibly all mentioned goods....This means that many interest groups have to co-exist within the same landscape. It may be taken for granted that every group wants its special interests safeguarded. Those with the interests in the old resources are protected by property rights. Those concerned with the new resources have turned to the state to get regulations passed that would protect their interests. The remarkable thing is that often such special regulations, at least partly, are introduced without much consideration of the possible interactions and interdependencies there might exist among the various resources of a regulated area" (Berge 2005:71).

For analyzing the interplay between different groups having conflicting interests and rights within nature resource use and management a wider institutional context is necessary. Institutions for natural resource management are usually complex and nested rule-systems, which can be analyzed by IAD Framework (Ostrom et al., 1994, Ostrom, 2005). In a recent case study of a park establishment process Riseth (2007) has utilized an IAD Framework with four analytic levels:

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(1) The *operational* level with all everyday rules of access and use of a concrete landscape. Rules-in-use are the rules which most people normally comply with. As Ostrom (op.cit) underline, rules-in-use can have multiple sources formal ones; such as laws, by-laws, and verdicts, informal; such as local customs and traditions. This also implies that there may be overlapping jurisdictions and which rules that are rules-in-use and which are rules-in-form may be unclear.

(2) The *collective-choice* (CC) level where decisions about operational rules are made; typically the process of establishing a protection area is a CC process. As a corollary of (1), arenas for rule change can be multiple, and mixed and formal changes may not be sufficient to achieve real changes. The different arenas may also be based on diverse principles of decision including consensus, majority rule and hierarchical top-down management.

(3) The *constitutional* level determines decision making relations between major parties; sector authorities, municipalities and the local and indigenous societies. In our context the national park plans and national policy development are on the constitutional level. The Berge citation substantiates that tug of wars in natural resource management policies may produce unpredictable outcomes.

(4) The *metaconstitutional* level includes international political processes of environmental and indigenous policy. By the turn of the millennium the number of international bodies and agreements are very high and, also reciprocally competing. Each country may also join different agreements that in consequence may be contradictory within the country itself.

A fully relevant situation analysis for our discussion needs to cover crucial elements of actors and action on all these levels.

4. DISCUSSION

In this section I will provide a sketch of relevant interdependences, positive and negative, having impact on our discussion. Firstly, let us start with the operational level, how goods are perceived in daily use.

4.1. Operational level

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To grasp the current protection discourse in Norway, we need to consider the interrelation between all four main good categories; public goods, common-pool goods, club goods and private goods. Contemporary protection policies largely focus *public goods*; conservation of wilderness/unspoiled nature and biodiversity values. As others Norway has adopted the Yellowstone model and uses national parks (IUCN, category II) as her main vehicle of large area protection. The category as such also includes recreation as an objective, in Norway traditionally expressed by the term 'simple outdoor recreation'¹⁹ which may be a public good, but more often, especially by more intense use, can typically be classified as a *club good*. Typically the most popular national park hiking routes, e.g. in Jotunheimen, central Southern Norway, have very marked wear and tear signs due to high exposure of hikers. The Mountain Text intentions of promoting mountain tourism in protected areas as an industry clearly reinforce the club good character of the parks. The main threats against these public goods are diverse forms of infrastructure development and extractive industries, i.e. *private goods* (but also *public goods*, e. g. military defence, hydro-power regulation, wind mill parks etc.). Remarkably, this change of focus towards parks more pronounced as club goods is done without discussing whether this challenges the public good of 'unspoiled nature' or 'wilderness'.

Reindeer pasture lands are closed CP resources. Whereas the activity has a production value as agriculture, at the same time it has a considerable cultural existence value (Riseth, 2006, Riseth and Oksanen, 2007). As an indigenous people with a long tradition and relatively few users but strong rights the character of the good is close to a private good at the same time being large in physical extension. This provides potential for conflict with other interests.

Other users often are not aware that 'outfields' can be 'infields' for the Sámi; lands which they are dependent on for sustaining income and life form. From a reindeer management perspective the most serious problems with other land users are connected to physical encroachments by goods of export character, typically private, sometimes public; such as

¹⁹No: "enkelt friluftsliv" meaning hiking/skiing/biking/tenting/fishing; participants ideally carry their needs

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mines, power, establishment of roads or infrastructure. The direct effects include destruction of pasture land, loss of animals and production, while indirect effects include avoidance effects, i.e. reindeer can due to disturbances; avoid use of areas in the surroundings areas of encroachments (Vistnes, 2008).

As for the limitation of physical encroachments reindeer management and nature protection have clear joint interests. To some extent, a road's function as a 'bridgehead' for expansion of disturbing activities into up-to-now rather inaccessible mountain areas may be just as much disturbing as the roads as a physical encroachment. The problems with urban people's recreation activities often are connected to coincidence in time and space, and often occur as an outcome of lacking knowledge of reindeer and reindeer management, and absence of coordination. Typically in spring, ski tourists and reindeer find the same bald spots attractive, the former to halt for an orange or a coffee, the latter for the first green sprouts after a winter on the back burner. In the fall reindeer need to be undisturbed during rutting time, but may be intruded by grouse shooting. As a counterexample Tossåsen Sámi village in Härjedalen, Sweden, administers the shooting, and can allocate the hunters to areas where there are no reindeer and accordingly avoid conflicts.

Seen from a conservancy point of view, the technological development of reindeer management, with snowmobiles from the 1960s on and later with ATVs and helicopters, challenges the ideal of pristine nature as a public good, cf. figure 3. Although, the vehicles are necessary, it is obvious that because of driving current reindeer management have a quite another potential of wear and tear on its own natural base than had the traditional life form based solely on human and animal muscle power (Riseth, 2006). Further, it is also a problem both for reindeer management and nature protection that snowmobiles and ATVs have become popular among other users of the outfields, in particular for recreation purposes. Regulation via the Act of motorized traffic in outlying fields has made off-road use of these vehicles to a club good. Insofar as the vehicles can be freely traded represent a considerable pressure for extension of the club. Tourism activities connected to national parks, promoted by the governmental initiative The Mountain Text, increase this pressure. Recrea-

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tion activities beyond a minimum level may disturb animals' pasturing, seasonal movements, rutting behaviour etc. and cause reduced calving success, lower calf weights and at last significant economic losses. Another club good being in process of becoming a club good connected to border areas of national parks is establishment of groups of cabins or secondary homes²⁰, currently a major factor of pressure towards reindeer management lands (Lie et al. 2006).

As opposed to wear and tear of the landscape, there is another side of the relation between reindeer management being less focused, let alone known; reindeer pasturing is important for the sustenance of landscape and biodiversity. In fact, the grazing keep the landscape open and keep the forest-line down and contribute to the creation of esthetically pleasant scenery, a classical public good. More important, a number of rare chalk requiring mountain plants exposed to competition seem to be dependent of reindeer pasturing for their existence (Olofsson and Oksanen, 2005). The nature conservancy apparatus has had a fortress conservation tendency, tried to keep reindeer out of protection areas; e.g. parts of Jávrioiavit Nature Reserve in Nordreisa (Troms, Norway) and Malla National Park by Kilpisjärvi (Enontekiö, Lapland) in Finland, this quite opposite to research findings.

To sum this up, on the operational level nature conservancy and reindeer management have considerable joint interests, in particular by safeguarding the landscape's natural productivity and limit direct physical encroachments. However, conventional nature conservancy and reindeer management are connected to different knowledge traditions; science and indigenous/ traditional knowledge respectively. In addition, nature conservancy is historically connected to urban recreation use, also illustrated by the comprehensive use of the protection category national park. As recreation interests probably, apart from physical encroachments, are the current main source of disturbances reindeer pasture land, it is a great challenge to limit recreation interests, and at the same time allying with conservation interests.

²⁰ Each cabin is clearly a private good; however the good includes not only the cabin, but also the use of the landscape that often is more disturbing than the building. Accordingly, a group of cottage owners/users make up a club in their local area.

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In next subsection I will turn to the CC level; the interplay of how everyday rules are changed.

4.2. Collective-choice level

In Norway local natural resource management often tend to be imprinted by a consensus oriented approach. One illustrating example from the park establishment processes studied is that the involved municipalities agreed reciprocally and with the county municipality²¹ to protect the areas in question by use of the general planning act. However, as protection processes are the competence of the county governor²² this authority and central government overruled them by imposing the use the nature conservancy act which meant the management of the area was taken out of the local realm (Riseth 2007). This created considerable conflict. In other counties similar processes have been run smoother by more accommodating involvement of municipalities, county municipality and user groups. One process was stopped due to strong local Sámi protests supported by the Sámi parliament. Nevertheless, the general pattern is that protection processes has been conducted mainly by cooptation processes trying to achieve as far as possible a local/regional consensus around the final solution, though the main objective clearly have been to have the areas selected by expert judgment protected by the act of nature conservation.

Conducted analyses of protection processes of the Second National Park Plan (Arnesen and Riseth, 2008, 2009, Bjørkeng 2005, Hovik and Sandström, 2008, Riseth 2007, Riseth and Holte 2008) substantiate that it have been difficult for local indigenous users to achieve real dialogue with the conservancy apparatus. It seems as the main objective with hearings and participation has been to create support and legitimacy for a predefined wanted outcome, i.e. protection of an area based on the nature conservation act. Though clear variation in the praxis of the regional branches can be identified, my impression is that our findings (Arnesen and Riseth, op. cit and Riseth, op cit) represents a clear trend in use of model

²¹ Joint regional political and administrative body. No: fylkeskommunen

²²Deconcentrated governmental administration at regional level. No: Fylkesmannen

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power (Bråten, 1998), i.e. the model define which information is relevant, and cooptation (O'Toole and Meier, 2004); cooperation is called on with possible supporting parties. A Nordic anthology of case studies also summarizes as a main finding that there are few examples of real powers devolved from central government to local management and communities. Rather, local participation seems to have been used to enact and legitimize national policy (Hovik and Sandström, op.cit.).

Experiments with decentralized management of conservation areas have not been successful (Falleth and Hovik, 2008, Skjeggedal and Aasetre, 2006), the reason seems to be that the models used do not build on the international experiences by co-management (Carlsson and Berkes 2005, Borrini-Feyerabend et al., 2007). Instead of seeing co-management as a step-wise process starting with identification of parties and interests where the management model becomes the outcome of the process, the management model has been defined from the outset. Interestingly, the responsible state agency have recommended that decentralized management of protection areas should be ended, and as corollary the task should be conducted by local servants for the central agency (DN, 2008b).

The assessments of the situation for the reindeer industry are inquired by a survey to herder leaders representing the majority of herder households in Norway (Riseth and Holte, 2008). Whereas the *Mountain Text* strengthen the goal of recreation, affected Sámi herders fear that parks instead of protection for them will mean increased disturbance of vulnerable animals and areas and accordingly have changed their basic attitudes from being positive to becoming ambiguous towards new parks and park extensions. One case description is illustrating:

“The reindeer keepers point out that they are the ones who have had total control over these areas both in terms of use as well as in terms of preservation. It is a paradox for the reindeer keepers that the issues that created the basis for the claim for preservation, such as forestry roads, development of cottage areas and the like, are kept outside the park, that the protection even creates new demands for the development of cottages and that this is in fact used as a sales argument for the park.” (NTCC, 2001:43).

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The survey shows that the half of the asked leaders consider the advantages of a park within their district to be greater than the drawbacks. Those having achieved better protection of their winter land are most positive as this also reduce disturbance as recreation driving with snowmobiles. Those with a more negative attitude to parks tend to be districts with parks in their summer land. This can be connected with negative experiences or expectations of increased tourism in the parks.

There is also a comprehensive dissatisfaction with how the reindeer industry has been involved in park establishment and management. I.e. the survey confirms that the reindeer herding Sámi have ambiguous attitudes towards park establishments in their areas. Park establishment can be positive, but if a park means more encroachment and disturbance, more bureaucracy and reduced influence over traditional areas of the reindeer industry, a park can also be a negative phenomenon (op. cit.). Accordingly, the question is how, and on which premises, can the gap between the reindeer industry and parks possibly be bridged?

This subsection give arguments that CC-processes on nature protection in Norway tend to be rather top-down and substantiates that the responsible governmental agency seems to be reluctant to decentralization or devolution. As this tendency is as opposed to important international trends which impose duties on the national level, I will next turn to the international level to reveal which trends that possibly may influence national policies.

4.3. Meta-Constitutional level

Different from the conventional western paradigm of *fortress conservation* indigenous nature philosophies are on the contrary based on unity between use and protection; also focused in “Our Common Future” and Agenda 21, and not least in the Convention on Biological Diversity (CBD). Lockout of local and indigenous peoples and lacking participation in set up and management of protection areas was a core topic on the IVth World Park Congress in Caracas in 1992 and even stronger at the Vth in Durban in 2003. This congress can be seen as a

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breakthrough for that protection need to be a societal issue to be efficient (Andrade 2005). The World Conservation Union (IUCN) revised their protection categories already in 1994 at the same recognizing that indigenous people can own and manage protection areas. The new categories juxtapose biodiversity protection and sustainable use. The most relevant is Category VI, *Managed Resource Protected Area* which is defined as:

Protected area managed mainly for the sustainable use of natural ecosystems. Area containing predominantly unmodified natural systems, managed to ensure long term protection and maintenance of biological diversity, while providing at the same time a sustainable flow of natural products and services to meet community needs (IUCN, 1994)

Other available international instruments, such as *community conservation areas* (CCAs) are used by some countries (Borrini-Feyerabend and Dudley, 2007) while Australia practices indigenous protected areas (IPAs) (Smyth, 2001).

CBD instructs ratifying states by own legislation to preserve indigenous and local knowledge significant for sustainable use of biological diversity (art. 8j) and instructs the parties to protect and promote customary use of natural resources in line with traditional practices compatible with sustainable use (art. 10c)²³. The fifth meeting of parties under CBD approved a working program for implementation of article 8j including reinforcing the indigenous peoples' capacities to participate in decision processes and policy development. A project inquiring the necessary requirements for Sámi interests, and found that:

“Transfer of authority to superior Sámi bodies is a necessary, but not sufficient instrument. Democratization of NRM decision processes will in addition require empowerment of Sámi communities and local NGOs so that their knowledge and viewpoints can be expressed, and that work methods assigning them equality and significance are developed” (Schanche, 2001:6).

Further, the seventh meeting of the CBD parties in 2004 claimed full and effective indigenous participation within 2008, as well in management of existing as establishment and management of new protection areas. In addition, the seventh meeting adopted a work program for

²³ <http://www.cbd.int/convention/convention.shtml>

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area protection to be fulfilled within 2010 (CBD, 2004). Accordingly, the international development creates a pressure on Norwegian central government and at the same time a window of opportunities for Sámi interest to promote their case and achieve influence on future NRM.

4.4. Constitutional level

The expansion phase of the nature protection apparatus in Norway engraved the sector by a natural science basis and political consensus processes. Up to the 1980s public reports on nature conservation had little focus on the relation to reindeer management. The objects clauses for parks established in the 1960s throughout the 1980s do not mention protection of the natural base for reindeer management. It is remarkable that the often only land users completely dependent on sustainable use of the protected areas are not mentioned. This changed by the Second National Park Plan implemented from the mid 1990s. For new parks the objects clauses have an addendum: "*Safeguarding the natural baseis important for Sámi culture and industry. The area can be used for reindeer management.*" (www.lovdata.no). Despite this, recreation is still mentioned before reindeer management, and further; the position of recreation is reinforced through the new policy of the Mountain Text.

Recalling the citation from Berge (2005) above in section 3, we should acknowledge that policies on this level, in this context national level, often are not coherent across sectors and interests. Berge's statement illustrates that the state's effort to solve problems for one group of stakeholders, though it may be unintended, create new problems for other stakeholders. The new government policy of the Mountain Text from 2003 implied that recreation purposes became promoted as alternative income possibilities for rural communities and were awarded a potential to overrule Sámi livelihoods and industries, in particular as an infringement upon reindeer management rights and interests. Other traditional subsistence activities can also be harmed by protection rules promoting urban recreation use while restricting traditional techniques.

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Whereas the political rights of the Sámi in Norway were recognized during the late 1980s, Sámi land rights were not improved since 1968 with the consequence; no particular focus on Sámi issues during the Second National Park Plan processes. Several principal protests, from Sámi interests, organizations and even the Sámi Parliament during hearing rounds were overruled. The exception is the already mentioned single park process that was stopped after unified heavy protest from local Sámi and the Sámi Parliament.

The adoption of the Finnmark Act in 2005 became a turning point in two respects. Firstly alleged state land was recognized as the land of the inhabitants of the county and transferred to a new collective landowner, the Finnmark Estate, from which typically local collectives, but also others, can advance land-claims that will be decided by a commission and a court. Secondly a constitutional custom was established requiring that the state has the duty to consult the Sámi Parliament and Sámi interests in issues important for the Sámi. In 2007 the consultation duty led to an agreement between The Ministry of Environment and the Sámi Parliament about conservation processes in Sámi areas providing Sámi interests the right to be consulted at every stage of the process. As for the county of Finnmark, the area of application for the new act, the Sámi Parliament has adopted by-laws for change in use of nature. Both the act and these by-laws put heavy weight on protecting traditional Sámi use of the land. Though the act opens for national parks on the land of the estate, the objectives and the rules require that the new parks put much force on traditional use (Riseth 2007, Riseth et al. 2009).

The Sámi Parliament has utilized the right of consultation to advance points of view on the green book of the proposed Act of biodiversity achieving to have traditional knowledge included in the clause of objectives, though proposals of adjustment of conservation categories by including IUCN Category VI were not accepted by the government and accordingly left out of the proposition (Ot. Prp. 52, 2008-09).

5 CONCLUSION

In the introduction I questioned why has not indigenous approaches been brought into natural resource management and conservation policy before. This paper shows that an answer is composed of several elements, but one main part obviously will be path dependency. As Heinmiller (2009) shows, investment and adaptations in institutions can make it difficult for actors to abandon these institutions, thereby shaping subsequent collective actions effort. Lock-in effects makes it very difficult to deviate from the path set by the established institution (North, 1990). In our context this mirrors well that the set up and expansion period of the core actors of the conservancy apparatus; the central agency as well as the county councillor's environmental department, took place in parallel to the development of Sámi rights. This contributes to explain that the conservation sector has been rather focused on its own perspectives. As for the indigenous side both focus and capacity have been limited on the superior level and reactions from local herders and communities primarily have come in the hearing round, i.e. from the late 1990s on. Nevertheless, well-founded protests from both Sámi NGO's and the Sámi Parliament, using the same principal arguments that are use by IUCN and COB, were overruled. This indicates strong central government focus on achieving the the IUCN overall 15 percent conservation goal, and less focus on how, and for whom.

Anyhow, the current situation is one of possibilities. Reindeer grazing is important for the sustenance of landscape and biodiversity. Reindeer management and nature conservancy has joint interests in protection of nature against encroachments. The conflict between recreation reindeer management requires that one of the parties have priority and indigenous interests require that this will be the Sámi part. My main argument is that recreation and reindeer management are no way incompatible interest; what counts is who is to give the premises, i.e. *who is going to adapt to whom*. Therefore the long-term main users should be given priority and other interest should adapt to the reindeer industry. I recommend that IUCN Category VI become standard category for larger protection areas within the Area of

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Sámi Reindeer Management Entitlement as this will provide opportunities for solving the perceived problem both on equity and efficiency basis.

The main focus ahead will be management of already protected areas, and an objective clause focusing indigenous knowledge is a basis for management plans serving indigenous interests.

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