
Beslutet om

Småviltjakten

– En studie i myndighetsutövning –



Beslutsprocessen
Civil- och statsrättsliga synpunkter
Konsekvenser för samebyarna
Det samiska alternativet
Politiska återverkningar
Biologiska följder

Rapport utgiven av Sámediggi – Sametinget

April 1994

Utgivare: Sametinget
Redaktör: Agneta Arnesson-Westerdahl
Övrig redaktion: Olof Johansson

För innehållet i signerade artiklar ansvarar författaren.

Omslagslayout: Agneta Arnesson-Westerdahl
Omslagsfoto: Sven Halling/Naturbild
Layout, typografi och ombrytning: Vanja Leander/Naturinformation AB, Bengtsfors
Tryck: Affärs- och Industritryck Blüme AB, Bengtsfors
Upplaga: 3000 ex
Första tryckningen: April 1994
Copyright: Sametinget 1994
ISBN 91-630-2549-3
Rapporten är tryckt på miljövänligt papper.

Beställningsadress:

Sametingets kansli, Geologgatan 4, 981 31 Kiruna. Tel: 0980 - 827 02. Fax: 0980 - 835 41.

13. Shots Heard Round the World

*By Associate Professor Hugh Beach,
Dept. of Cultural Anthropology, Uppsala University, Uppsala, Sweden.*

New regulations passed by overwhelming majority in the Swedish Parliament on Dec. 15, 1992 have confiscated the exclusive hunting and fishing rights of the Saami "above" or west of the Agriculture Line and in the so called Taxed Lapp Mountains. The content of these restrictions, their supposed justification by the government and their impact on Saami livelihoods, notably reindeer herding, have already been presented. Our purpose here will be to consider this confiscation in the light of international law and to examine paths by which the Saami seek restitution. Finally, some comparison will be made with developments for other indigenous peoples.

International documents protecting minorities and indigenous people

There are a number of international declarations and conventions which pertain to the situation of minorities in that they contain articles against discrimination and articles guaranteeing the right of minorities to pursue their culture practices. The special rights for minorities or groups and for persons belonging to such groups are set forth in: the International Covenant on Civil and Political Rights (CCPR) in article 27; the Convention against Genocide; the International Convention on the Elimination of All Forms of Racial Discrimination (CERD); UNESCO's Convention against Discrimination in Education; the Convention on the Rights of the Child; UNESCO Declaration on Race and Racial Prejudice; the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religious Belief; the Universal Declaration of Human Rights (Article 26); the International Covenant on Economic, Social and Cultural Rights (Article 13); the Declaration on the Rights of Persons Belonging to National or Ethnic, religious and Linguistic Minorities; and the Declarations and Programs of Action adopted in 1978 and 1983 by the two World Conferences to Combat Racism and Racial Discrimination.

The reports of the Saami Rights Commissions in both Norway and Sweden conclude that the Saami are not to be considered a "people" as per CCPR Article

1, but rather a minority under Article 27. This article declares:

"In those states in which ethnic, religious or linguistic minorities exist persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."

A Swedish Saami case, the Kitok Case, has been heard by the UN Human Rights Committee (*reference CCPR/C/D/197/1985*). Kitok was a Saami with immemorial rights in his Sameby area. He had also previously been an active herder in this Sameby but had left the herding livelihood. When he sought to resume herding, he was barred from entrance into the Sameby, and therefore according to the Reindeer Act of 1971, not permitted to exercise his reindeer herding, hunting and fishing rights. The Committee found that Kitok's complaint could not be heard with reference to Article 1 but rather with respect to Article 27. Referring to a previous case, *Lovelace vs. Canada (No. 24/1977)*, the Committee expressed serious doubt that the Reindeer Herding Act of 1971 was in compliance with Article 27 according to the principle that any constraint of a minority member's right must be reasonable and objectively justified as essential to the welfare and continued vitality of the minority.

Sweden escaped reprimand by the Committee on very tenuous grounds: Kitok had been given permission by the Sameby to own some deer (although a Sameby member had to be their official herder) and to engage in some limited hunting and fishing (even if not

according to the much fuller rights of reindeer herder). The Committee ruled that Kitok was therefore not denied his right to practice his culture in the company of other members of his group. Through the Kitok Case, however, the Committee did make it clear that the practice of work, for example reindeer herding, must be considered part of the cultural sphere protected by Article 27.

There is growing international attention to the situation of indigenous people. In 1989 the International Labor Organisation adopted Convention 169 concerning indigenous and tribal peoples in independent countries, revising a previous ILO Convention (No. 107) from 1957. In 1971 the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities initiated an investigation on discrimination against indigenous peoples. This in turn led the UN Economic and Social Council (ECOSOC) to form a Working Group on Indigenous Populations which has been engaged in the composition of a Universal Declaration on the Rights of Indigenous Peoples. The rights of indigenous people are generally understood to go further than the protective clauses of minority rights. However, although Norway ratified ILO 169 in 1990, Sweden has yet to do so.

The main obstacle to ratification by Sweden is §14 of this convention which states among other things that: "The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized." When the text of this convention was still in draft form, Sweden and a number of other nations sought to have this article changed so as to recognize the peoples' right of *use* rather than right of *ownership*. Failing this, Sweden has declined ratification, despite the fact that the text was adopted by the International Labor Conference before being opened up for ratification by member states. Norway, however, has taken another tack and ratified the convention, thus accepting its many safeguards for and positive attitude toward indigenous peoples, while at the same time presenting a special interpretation of §14. According to Norway's special interpretation, strongly protected rights of usage must be viewed as satisfactorily fulfilling ILO's demand for admission of indigenous land ownership, as the Norwegian state cannot grant ownership rights to the Saami for vast land areas occupied by other people, often in the possession of what would then become conflicting private ownership claims. Norway has thereby taken the risk of being declared in violation of the convention, and the Swedish Saami minister, Per Unckel, has made it plain in his presentation of the new Swedish Saami policy to the Swedish national Parliament on December 15, 1992, that Sweden intends to let Norway be the guinea pig on this issue.

The issue of individual rights as opposed to, or in conjunction with, collective rights for minority groups

has been a major topic of discussion within a number of international forums, for example the UN Human Rights Committee and the Conference on Security and Co-operation in Europe (CSCE). There is a growing opinion that individual rights are not sufficient for the protection of minorities. With regard to this issue, it is important to recognize that collective rights or group rights can take a number of forms. For example with respect to the Swedish Saami, on the one hand there is the Sameby which is a collective, but well-defined social entity that *has* been recognized already as a jural "person". On the other hand there is the vague collective of the Saami population which is not well delimited (despite variously employed criteria of eligibility) and which cannot be recognized as a jural "person" in international courts, and has already failed such recognition in the Swedish national courts.

As is well illustrated by the situation of the Swedish Saami below, the move to redefine Saami rights as collective Saami population rights by the government can undermine not only the individual rights of specific Saami, but also the only historical legal foundation of rights existing for Saami in Sweden as a whole. That is, to implement such a redefinition (contrary to the stated content of the laws already in effect for the Saami) prior to the codification of collective rights in international law and their ratification by nation states can prove disastrous for indigenous peoples. This is not to say that collective rights are not a desirable goal, only that it is the responsibility of the international community to give the term content, to forge protective laws for them which can bring violations to court, and to see to it that the good intentions behind the concept are not instead manipulated to circumvent the courts.

Paths toward restitution in international courts

While they might be useful in stirring opinion, international agreements against discrimination and in support of indigenous property rights and cultural maintenance might prove to be of no avail if the Saami cannot make good their claim that the new regulations are indeed discriminatory or unlawful – more specifically, that the new regulations violate articles of international law ratified by Sweden. It is only through the UN Human Rights Committee in Geneva (CCPR 1966) and the European Court at Strasbourg (European Convention 1950) that purported transgressions of international law ratified by Sweden can be tried with judgments binding for Sweden, and it is here Saami efforts are concentrated.

Besides protests delivered by the Saami Council and other organizations to various international offices, there are at the moment two cases with links to the

hunting issue launched by the Saami with the goal of attaining trial by an international court. Case I was brought by the attorney Tomas Cramér on behalf of individual Saami clients to the Human Rights Committee in March 1993 and contests under article 27 of the CCPR the redefining of Saami immemorial rights by the Swedish government. Case II was begun in the autumn of 1993 by two attorneys, Tomas Cramér who represents 16 Saami individuals and Jörgen Bohlin representing 41 Samebys. Case II rests with the Swedish Supreme Administrative Court (Regeringsrätten). Cramér, who is a Board member of the Saami organization Landsförbundet Svenska Samer (LSS), an organization composed primarily of non-herding Saami who reject the constraints on the practice of their immemorial rights by the rule requiring Sameby membership, represents many non-herding Saami, but also some herders as well and Saami from various organizations. Bohlin is employed by Svenska Samernas Riksförbund (SSR) whose membership is composed of the reindeer herding Samebys.

Both Cramér and Bohlin combine forces to contest the new government hunting and fishing regulations but do so from somewhat different perspectives. Swedish State policies concerning the Saami have developed along a long line of injustices built upon previous injustices. The plaintiffs of Case II brought to the Supreme Administrative Court hold some different views regarding which level of correction is sought. The group largely composed of Saami who do not herd reindeer and who are not Sameby members, seek to regain the right to practice their exclusive immemorial hunting and fishing rights as *individuals* who have inherited these rights in the areas specifically utilized by their forefathers as per the Taxed Lapp Mountain verdict – that is reversion in this aspect to conditions prior to the Reindeer Grazing Act of 1928 (unfortunately maintained in the Reindeer Herding Act of 1971 and further eroded by the law 1993:36 making alterations in the Act of 1971 according to Prop. 1992/93:32). The Samebys would be content to see hunting and fishing exclusivity returned to the Sameby members alone, that is, in the main, a return to conditions just prior to the law 1993:36. Both Saami plaintiff groups claim that the open hunting for everyone is unlawful.

Even previous to the new hunting and fishing regulations with their introduction (not by statute) of a parallel Crown hunting and fishing right on lands reserved for the sole disposition of the Saami, the State had administered Saami hunting and fishing licenses. The State does not administer the hunting rights of other owners but took upon itself these duties with respect to the Saami according to the following motivation:

"Should one consider how poorly suited a Lapp association is to hold deliberations and to make deci-

sions as well as to utilize for the collective good incoming funds, it is probably best to hand over duties of this type to the county administration."

While it has been argued that this was a justified position in the past, it certainly is not so at the present; the Saami are quite capable of holding deliberations and making decisions. Although the State continues to administer Saami hunting and fishing rights, the State has seen fit to consider the Saami capable of holding deliberations and making decisions by its establishment of a Saami Parliament, Sameting. Of course both herding and non-herding groups of Saami oppose the discriminatory guardianship whereby Saami hunting and fishing licenses are allocated by State authorities.

To gain admissibility to these international courts on a point of law, the plaintiff must have exhausted all available appeals in the national legal process, that is, in the Swedish case, to have carried on litigation in three courts, risking in each case great costs without the advantage of free trial and always under threat of losing the case not because one has not proven the State's violation of constitutional rights, but because these violations have not been proven *obvious* enough. Rather than abolish the requirement of obviousness, the Swedish Parliament is apparently going to reconfirm it, thereby maintaining more power to the politicians and less to the courts. It is extremely unlikely that a Swedish court would declare a law based on an act of Parliament, one that has passed the review of the Parliamentary Committees and even maybe the Judges' Committee (Lagrådet), to be *obviously* unconstitutional.

When the State policy of administering Saami hunting and fishing rights was before the Swedish Supreme Court in the Taxed Lapp Mountain Case (Skattefjällsmålet), the court ruled 1981 that there was no discrimination against the reindeer-herding Saami as per the Swedish constitution (RF) chapter 2:15. Chief Justice Bertil Bengtsson submitted a dissenting opinion: that there was discrimination, however, not an obvious discrimination. To reach the international courts (which lack the requirement of obviousness), the route through three Swedish national courts contesting a given law will be both extremely long and costly. Sweden no longer grants the Saami free trial on such points of principle, and so they stand to carry the legal costs of their opponents as well as their own.

Case II, however, confronts the government's decision, not a law, via its own Supreme Administrative Court. In Sweden the regular courts cannot contest a governmental decision, and therefore the exhaustion of national court instances is more speedily attained. Yet article 6 of the European Convention maintains that such decisions must be accessible to court trial; hence in Sweden one has referred such contests to a Supreme Administrative Court. After ruling by this

court the plaintiff has only six months in which to appeal to Strasbourg. (Geneva imposes no such time limit.) Appeal to the UN Human Rights Committee can be made on the grounds that the Swedish hunting and fishing regulations violate the protective clauses for minorities specified in Article 27 of the International Covenant on Civil and Political Rights (CCPR), while appeal to the European Court in Strasbourg can be made on the grounds that these regulations violate Article 1 of the 1952 Addendum to the European Convention in conjunction with Article 14 from the European Convention (1950).

Once the Supreme Administrative Court has passed its judgment, (assuming this judgment is not favorable to the Saami) the complex matter of admissibility to the international courts must be addressed. By ruling of the international courts, both in Geneva and Strasbourg, only the cases of individuals, not collective groups, can be heard. On the one hand the Swedish Supreme Court in the Taxed Lapp Mountain verdict confirmed Saami immemorial rights (*urminnes hävd*) which, according to the Swedish Code of Land Laws (*Jordabalken*) from 1734 clarifying its content, is both an individual right and can be a collective right when, as in the case of the Lappbys/Samebys a specific collective jural body can be identified.

"It is immemorial right, when one has had some real estate or right for such a long time in undisputed possession and drawn benefit and utilized it that no one remembers or can in truth know how his forefathers or he from whom he got the rights were acquired first came to get them. (Jordabalken: 15; Promulgation of the new Jordabalken, SFS 1970:995; cf. Undén, 1969:142)"

The content of immemorial rights cannot be changed without changing the Swedish Code of Land Laws from 1734. "The Land shall be ruled by the Laws," (RF 1:1). On the other hand, it appears that, since both Geneva and Strasbourg admit only the cases of individuals, the case championing the immemorial rights of the Samebys must rely on their members.

Prop. 1992/93:32 which ushered in both the Sameeting and the new hunting and fishing regulations, made changes to the Reindeer Herding Act of 1971 (RNL – Rennäringslagen) crediting for the first time in legislation immemorial rights as the foundation of Saami rights – rights which are impossible to deny after the *Altevatn* verdict in Norway 1965 and the Taxed Lapp Mountain (*Skattefjäll*) verdict in Sweden 1981. At the same time, the new 1993 1§ of Reindeer Herding Act formulates Saami immemorial rights as a collective Saami right (collective exclusively for all Saami – who cannot act as plaintiff in court – not the collective membership of the Samebys). Before this alteration, herding rights were linked to individuals who had parents or grandparents who had practiced herding.

By previous injustice of the State (with the Reindeer Grazing Act of 1928), of all those Saami eligible to herd, only those who also were Lappby/Sameby members were permitted to exercise this right. The others had occupational prohibitions (related to the very practice of Saami livelihoods/culture) imposed upon them – a continuing, perdurating crime against them. The current reindeer herding legislation maintains this ruling, so whether their rights are defined as collective or individual, there has been no change in the actual number of Saami who can herd as a result of Prop. 1992/93:32.

A fundamental change

Still, for those Saami interested in reinstating their rights, there has occurred a fundamental change in principle. The herding (hunting and fishing wrongly proclaimed in RNL – Acts of 1928 and 1971 – to be appended to herding) which the lack of Sameby membership prohibits many Saami from practicing is now, at least according to Parliament, founded on a collective rather than an individual right. The legal struggle to reinstate immemorial rights in practice – the recognition of exclusive Saami hunting and fishing rights in certain areas – has thus become embedded in yet another layer of injustice, collective definition, which if uncontested might well bar in the international courts the admissibility of all Saami cases against State confiscation of their land rights. While collective definition might indeed be favorable for many indigenous peoples *per se*, its benefits or disadvantages to the Saami in Sweden relate to the context of Saami rights as defined in previous Swedish law and to the criteria of admissibility by the international courts.

In short, if one is to argue in international court that Saami immemorial hunting and fishing rights (along with their expression in the Crown's Land Survey, "avvittring", reserving the region west of the Agriculture Line and on the Taxed Lapp Mountains for the sole disposition of the Saami) have been violated, one must do this as an individual, and to do this one must automatically attack the new (false) premise that these rights are collectively owned by "the Saami population". The international courts demand a plaintiff uncompromised by questions of representativity. Who, it might be asked, can be said to represent "the Saami population"? In fact, the Supreme Court of Sweden in the Taxed Lapp Mountain Case verdict of 1981 ruled that the Saami population cannot act as plaintiff.

The Swedish standpoint is contradictory in this aspect since its Parliament has newly legislated its purported definition (rather a redefinition) of Saami immemorial rights as a collective Saami right, while its Supreme Court in the Taxed Lapp Mountain Case 1981 expressly refused to entertain "the Saami" as a

jural person. Only individuals and Lappby/Samebys were able to litigate against the State.

Cramér in Case I argues that this position by the Swedish Supreme Court with regard to the Saami collective in the Taxed Lapp Mountain Case has exhausted national court instances on that point. Moreover, the Case I Saami position argues that the law prohibiting non-Sameby members from exercising their immemorial rights, formalized for the first time in the Reindeer Grazing Act of 1928, constitutes an enduring crime which has also finally been contested through the so called Tage Östergren Case, resulting in a verdict of the Supreme Court 1985. The Supreme Court maintained that the hunting of moose by Östergren, a Saami with immemorial rights in the area, was unlawful since he was not a Sameby member. Östergren was fined and sentenced to a month in prison. National court instances have also thereby been exhausted in this case.

The Östergren Case was deemed inadmissible by the European Commission in 1991 with the dubious argumentation that too much time had elapsed between the supposed injustice and the matter being taken to Strasbourg. (The European Commission applies a six-month rule in such matters.) The Östergren Case was trapped in a legal circular argument: According to Strasbourg, Östergren should have contested the Reindeer Act of 1971 (which maintained the closed-shop Sameby construct from 1928) within six months. However, at this time the Taxed Lapp Mountain Case 1966-81 supposedly resolving the issue was in full swing, and if he had brought his case to Strasbourg then, it would have been declared inadmissible because the national court process had not been exhausted. The new government hunting and fishing regulations provide a fresh infringement of Saami rights by which one might gain admissibility in Geneva where there is no time limit (since the case was never tried in Strasbourg), reopen the old arguments combined with the new, and finally put Swedish Saami policies on the stand internationally.

For the sole disposition of the Saami

As noted previously, Case II has been submitted to the Swedish Supreme Administrative Court, and both attorneys have requested negotiations with their opponent, the State. The State will probably be represented by its Chancellor of Justice (JK). It is noteworthy that 1988-12-09 JK and Cramér (then representing individuals in the southern Taxed Lapp Mountains, "Skattefjällen") reached a settlement out of court in the so called Sveg case. In this settlement (*published in SOU 1989:41, p. 356*) the State agreed that State action involving the region in question should always bear in

mind that it was reserved for the sole disposition of the Saami according to the Crowns Land Survey (avvittning) of 1841. Yet this very same region has been open to general hunting and fishing by the new regulations under the false construct that the Crown as a land owner holds a parallel hunting and fishing right. This is hardly in agreement with the terms of Saami sole disposition. Nor for that matter is it in agreement with the ruling about Saami contra Crown land ownership in the Taxed Lapp Mountain verdict (See Bertil Bengtsson in this volume). Admittedly, the Sveg Case settlement does not automatically apply to all the regions west of the Agricultural Line, but it certainly must apply to the Taxed Lapp Mountains involved in the Sveg Case, and it might well be argued that it definitely *should* imply a precedent for all regions designated by the Crown Land Survey to be for the sole disposition of the Saami ("Lappallmogen"), that is, also the areas west of the Agriculture-Line. The Sveg Case has been removed from the list of pending cases, so the settlement with JK is in effect.

With respect both to the improper reformulation of immemorial rights from an individual right into a collective right for the Saami population as a whole and to the improper confiscation of Saami exclusive hunting and fishing rights, one should bear in mind the statement of the Swedish Supreme Court in its Taxed Lapp Mountain verdict:

Regarding the right of use of the Saami, the following can be added. A continuing right of use founded upon civil law of the type concerned here is according to chapter 2:18 of the Swedish constitution protected against open or covert expropriation without compensation to the same extent as the right of ownership. The circumstance that this right is in this case regulated by statute does not mean that it lacks such protection. The right can be removed by legislation, but so long as it is practiced, it cannot be taken from its practitioners, either through legislation or by other form, without compensation according to chapter 2:18 of the constitution. (NJA 1981 s.1 p.248).

It is hard to imagine that the State can defend its new hunting and fishing regulations even with the vaguest of "obvious clauses", and since such a clause does not exist in the international context, it is even harder to believe that the State can avoid international reprimand and the obligation to restore Saami hunting and fishing exclusive rights.

A comparative view

Developments in other Nordic countries concerning the Saami will undoubtedly come to affect the situation for the Swedish Saami as well. Publication of a doctoral dissertation by Kaisa Korpijaakko in 1989 on the legal rights of the Saami in Finland during the period of Swedish rule has had some effect on Finnish

committee reports which, should they ever come to affect Finnish state policy, might inspire ripples in Swedish and Norwegian Saami policies as well. Since her research deals with the period when Sweden and Finland were one country, it is plain that her results bear upon the legal rights of the Swedish Saami too. Her research shows that the Swedish/Finnish government recognized that Saami people owned their lands as witnessed by taxation records. Thus, at that time the Saami were not simply considered landless nomads but rather their land titles were incorporated into the State's land tenure system. While the Skattefjäll verdict in Sweden ruled that such ownership was not the case for the Saami with regard to the Skattefjäll lands in Jämtland, it stated clearly the possibility that ownership title could be substantiated for the Saami elsewhere. This has now come to pass. Korpijaakko's work in Finland, following upon the trail blazed by Cramér in Norway with the Altevavn Case 1965 and in Sweden with the Taxed Lapp Mountain Case 1981 (See "Samernas Vita Bok", volumes 1-25) has documented Saami land claims to an extent which can no longer be ignored. It is hard to imagine that herding rights falsely based on privilege can long stand against immemorial rights and outright ownership rights.

In 1978, Finland's Advisory Board on Saami Affairs decided to establish a section to evaluate which rights should be transferred to the Saami over the natural resources administered by the State. Korpijaakko was appointed secretary to the section in March 1990. This legal section of the Advisory Board is sometimes referred to as the Finnish Saami Rights Commission in the spirit of harmonization with the commissions in both Norway and – until 1991 – Sweden. In June 1990 the section proposed a Saami Act which would reinstitute the collective Saami Ownership to the lands formerly owned by the Saami and which now constitute so-called State forests. The proposed Act would also confirm the rights of Saami to herd reindeer, hunt and fish. The Saami Homeland was to be divided among Saami villages (*Lapinkylä*) for the administration of these traditional Saami livelihoods. This arrangement would not infringe on the property rights of the non-Saami local population nor their traditional rights to fish, hunt and move freely. The present Saami Delegation (*Saamelaisvaltuuskunta*) would be replaced by a new representative organ, the Saami Thing (*Saamelaiskäräjät*).

During the hearing procedure (*lausuntokierros*) when State and local authorities as well as organizations and associations were asked to present their views on the proposed Act, the Majority of the written opinions were in favor of it. Eight opinions were unconditionally in favor; twelve had limited, clearly specified conditions; and sixteen wished for additional studies. Fifteen written opinions were negative toward the whole proposed Act. The present government has

been somewhat reluctant to push the matter through, while the Finnish Parliament has been more positive toward the proposal. Currently the situation is the following: The question of Saami land rights has been referred for further studies to the Saami Parliament, whereas the organizational and administrative issues are under investigation by the Finnish Ministry of Justice. Norway too, through the continued work of its Saami Rights Commission is investigating the vital issue of Saami land title, although it is yet unclear with what result. Sweden would apparently prefer to ignore the historical study of Saami property rights, confiscating them just the same, but through the legal action taken by Saami individuals and organizations in both national and international courts the Swedish State is being pressed to confront the matter.

Also outside the Nordic countries recent settlements with Nation-States have given indigenous peoples vastly increased powers of self-determination. One can note the developments in aboriginal land ownership in Australia with the Mabo Case. The establishment of Greenland Home Rule is a prime example, but there are also other examples which demonstrate an expansion of Native *internal* self-determination for groups which (like the Saami, but unlike the Greenland Inuit) are *not* considered a people under CCPR Article 1. The creation of Nunavut in Canada and even previously the creation of the Inuvialuit Settlement Region (ISR) in the Canadian Northwest Territories provide inspiring examples of resource co-management among Native and non-Native groups. In the ISR, for example, a Joint Secretariat, consisting of members from both Native local governments and non-Native (local and federal) governments has been established to co-manage renewable resources. Resource management is firmly based on ecological principles; a Total Allowable Catch (TAC) which cannot be exceeded is established for each harvestable species. How the TAC is distributed is a matter for co-management. Within the ISR, the Inuvialut are given, for many species, a so called "preferential quota" based upon their subsistence needs. Should this need meet or exceed the TAC, all harvesting is limited to Natives of the settlement area. If not, quotas are distributed to others to the extent possible within the TAC. At each step of negotiation of quotas and also in the evaluation of the TAC, local Native expertise is decisive. Fundamental distinctions are made between subsistence, sport and commercial utilization of resources. Against the background of international comparison, the new Swedish hunting and fishing regulations are anachronistic, reverting as they do to a bygone age of colonialism and patronage. □