

Salmon Sans Borders

Fishing for salmon along the Deatnu or Tana river has long been fundamental to the culture of the indigenous Sámi people along the Finland-Norway border

Fishing for salmon (*Salmo salar*) along the over 200-km watercourse on the border of Finland and Norway, called Deatnu (in the Sámi language) or Tana (in Norwegian), has been going on for at least 7,000 to 8,000 years, or for as long as human existence after the last Ice Age. The Tana river valley is situated in an area in which the Sámi are the oldest known ethnic group. Sámi culture, as it exists in northern Scandinavia and the northwestern parts of Russia, is at least 2,000 to 3,000 years old. Salmon fishing remains a fundamental part of Sámi culture on both sides of the Finland-Norway border.

The first written sources from this river district date to the end of the 16th century. They show that none of the surrounding States had gained sole

Danish-Norwegian jurisdiction. This had consequences for the territorial division of the Tana river valley too.

From then until the present border was drawn in 1751, Denmark-Norway had exclusive jurisdiction over the lowest 30-40 km of the river. Juridical and clerical jurisdiction over the rest of the valley belonged to the Swedish realm. But the Sámi still had to pay taxes to Denmark-Norway.

Until 1809, Finland belonged to Sweden. Then it became a Grand Duchy under the Russian Tsar. The border along the Tana watercourse became the border between Finland and Norway. Neither this change, nor the separation of Norway from Denmark in 1814 and its union with Sweden, had any obvious impacts on the salmon fishing carried out by the predominant Sámi population of the Tana river valley.

Through an additional paragraph to the border treaty of 1751 '*1ste Codicil og tillägg*' (The first Codicil with Additional paragraphs), later called the Lapp Codicil, the Sámi—from mid-Scandinavia and northwards—were accorded the right to continue to use the land and waters on both sides of the new border.

The States that drew up this extensive document of rights, consisting of 30 paragraphs, acknowledged the Sámi as a people of their own with fundamental rights and a right to a future. They, therefore, agreed to create rules to secure the future of '*den Lappiske Nation*' (the Sámi nation), even though a border had been drawn straight through their areas of use.

Reindeer herding

Most of the regulations in the Lapp Codicil are related to reindeer

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supremacy of the Tana river valley or the Sámi who lived there. Fishing and hunting, especially of wild reindeer, were important. By the start of the 17th century, the Sámi had established an ownership-like grip over the salmon fishery.

Soon after 1595, Russia stopped demanding taxes from the Sámi in this area. After the Denmark-Norway and Sweden-Finland wars in 1611-12, it was agreed, at peace talks in 1613, that the coastal and fjord areas of what is now the northernmost part of Norway should be exclusively placed under

This article, by **Steinar Pedersen** (Steinar.Pedersen@samiskhs.no), Principal at the Sámi University College, Norway, builds on the following of his earlier works: *Laksen, allmuen og staten—Fiskerett og forvaltning i Tanavassdraget før 1888. Die ut nr. 2, 1986. Kautokeino, and Lappekodisillen i Nord 1751-1859—Fra grenseavtale og sikring av samenes rettigheter til grensesperring og samisk ulykke. Die ut nr. 3—2008. Kautokeino*

husbandry. This is probably because the reindeer-herding Sámi was the group of Sámi who most needed to get their access to grazing pastures secured on both sides of the border. Sámi salmon fishery was not explicitly mentioned in the Lapp Codicil. Yet the traditional salmon fishing in Deatnu continued, as if the border had never been drawn. Among other things, new co-operative forms and methods of fishing were developed, with the Sámi on both sides of the river fishing together, indifferent to the borderline or which country they belonged to.

This is in line with the structural principle of the Lapp Codicil, namely, that it should secure the material foundations of Sámi culture. There are many other examples of the Lapp Codicil playing an important role in securing both rights and administration within the salmon fishing sphere. The Danish-Norwegian authorities argued, at the end of the 18th century, that the 1751 regulations were central juridical fundamentals for the salmon fishing rights of the settled Sámi on the Norwegian side of the border.

In 1852, the most important provisions of the Lapp Codicil were disregarded, and the border between Norway and Finland was closed for reindeer crossings. There were several reasons for this: the growth in the population of reindeer owned by Norwegian Sámi who used Finnish territory during winter; restrictions imposed by Norwegian authorities on fishing by Finnish citizens in the fjords and coast of northern Norway; diplomatic pressure from Britain on Sweden and Norway not to give undue concessions in negotiations with Russia and Finland; and growing Norwegian nationalism, which led to greater disregard of the Sámi rights laid down in the Lapp Codicil. Salmon fishing, however, remained unaffected, and writings from the 1880s indicate that the Lapp Codicil remained a juridical fundament for Sámi salmon fishing in the Tana river.

In 1775, the king in Copenhagen introduced the Land Acquisition Resolution, which soon gained legal force and allowed the people living

along the Tana river to claim, for the first time, private land properties.

Paragraph 6 of the Land Acquisition Resolution is of special importance as it evolves around the juridical rights to salmon fishing in the Tana watercourse: “The goods which have so far been common to whole districts or

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to the general population, be they fish in the sea or the great rivers, as well as docking places and such, will remain available for general use.”

This meant that salmon fishing was secured and could be carried out as before, without being hindered by private land claims along the watercourse. It also meant that the general principle in Norway, by which a landowner along a lake or watercourse also owns the fishing rights adjacent to his or her property, would not be applied in this case. This was clearly in favour of the common Sámi fishing methods used then.

In 1888, however, the Norwegian parliament passed an act which tied the fishing rights to land ownership.

KJELL SAETER



A salmon caught more than 200 km from the river mouth. Salmon fishing is a fundamental part of Sámi culture on both sides of the Finland-Norway border

KJELL SAETER



Kjell Saeter, the mayor of Karasjok, Norway. Laws have ensured that fishing is not hindered by private land claims

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The act accorded sole fishing rights in the Tana river to those living in the river area, either on their own or on leased land. These were the so-called ‘entitled owners of fishing’. Additionally, it was laid down that the bailiff could allow others to fish with rods, for a fee.

Nonetheless, this did not mean that the old principle of collective fishing rights for the inhabitants of the Tana river valley was broken. The collective principle was emphasized in the preparatory work for the act. It was pronounced that salmon fishing until 1888 had been carried out in accordance with the regulations of 1775, and that the right to fish had been “...considered

Common for the general population along the river, in the Valley, from the Mouth of the River to its Outflow”.

Why then did the authorities regard it necessary to approve a new law concerning fishing rights in the watercourse, and link it to land ownership? It was due to the felt responsibility to protect the fishing rights of the population in the valley—mainly Sámi—against large and uncontrolled competition from newly established fishers. Much of this new competition was due to a major immigration to the lower parts of the watercourse from Finland and the southern parts of Norway, which took place in the decade before 1888.

Such protection could come about only through rules and regulations on settlement and land ownership that favoured the inhabitants of the valley. Extensive land reforms had taken place along the entire Norwegian side of the Tana watercourse in the years before 1888. The people living in the area had thus already fully formalized their land ownership. It was to avoid injustice against anyone that the new

law was passed, also to ensure that any possible rights of which the Norwegian parliament was unaware in 1888 should remain.

The permission to allow ‘others’ to fish with rods for a fee brings up the question of ‘others’. Were these the remainder of the valley’s inhabitants who did not own land, or were they visitors? Written records indicate that the ‘others’ were people who travelled in the region, namely, visitors, those who did not belong to the Tana river valley. Neither in the law of 23 July 1888 nor in the Royal Resolution of 4 May 1872—when, for the first time, it was officially stated that the bailiff could grant permission for angling—is the right of the rest of the valley’s inhabitants to fish with rods mentioned. The regulations were only meant to secure the admittance of the few anglers (tourists) who visited the area.

Clearly, the ‘others’ clause was introduced only because the authorities considered the fundamental rights of the valley’s inhabitants as already established. There was no contradiction between Paragraph 6 in the Land Acquisition Resolution of 1775, and the stipulation of land ownership to obtain fishing rights in the law of 1888.

Over a hundred years have passed since the law of 1888 and it is, therefore, likely that both customs and conceptions of justice have changed. The true growth of the local hook-and-line rod fishing occurred at the end of the 19th century, after the law of 1888 had gained legal force. At the beginning of the 20th century, large parts of the local population fished with rods. In 1909, the local police chief wrote: “There is no fun fishing in Tana, where Lappish rod-fishers are everywhere, day and night”.

Fishing rights

Around then, the future Minister of Foreign Affairs, Arnold Råstad, wrote: “This fishing is mainly carried out by the youngest members of the family, who do not have fishing rights of their own. This kind of fishing is considered free across the whole river for the inhabitants on both sides. Foreign (English) anglers, who rent the river,

pay, on the contrary, a fee on both the Norwegian and the Finnish sides”.

Statistics on fishing fees or fishing permits show that the locals paid none or minimal fees for rod-fishing, which was very common. In the 1920s, during a salmon session on the Finnish side, it was mentioned that the rod-fishing right should be limited to two persons in each family. We can find such statements from different parts of the Norwegian side of the Tana valley: “Those with no weir fish with rod”. “...fished with rods everywhere in the river, without considering the border”. “Rod-fishing is, after weir-fishing, the most important”.

In 1938, negotiations with Finland, which led to the Convention on Fishing in the Tana watercourse, considered a fee for people with no fishing rights. This was probably prompted by the introduction of modern fishing tourism, which increased the number of visitors to the area.

Entitled fishers did not have to pay a fee. Those with no fishing rights were divided into two categories depending on payment of fees: settlers in the Tana river valley without land, and ‘everybody else’. The first group would pay two Norwegian crowns per season, while the visitors would pay the same amount for 24 hours, or 50 Norwegian crowns per season. This schedule remains to date, with the additional proviso that those with the right to fish with nets also have to pay a fee now.

All available historical written source materials indicate that the fishing rights of the watercourse have been common property for all the inhabitants of the Tana valley. At no time have there been any juridical or other moves to exclude anyone from the fishing. While one group has its right to fish with nets guaranteed by law, the other has a customary right to fish with rods.

In 1997 the Sámi Rights Committee suggested legislating rod-fishing. The Norwegian parliament did not, however, explicitly consider the suggestion when, in 2005, it passed the act of management of land and natural resources in the county of Finnmark—the Finnmark Act. The 28th paragraph of the Act states that the local


community “...holds special rights to fishing on the basis of statutes, immemorial usage and local customs”. This is a very relevant section of the Act which recognizes the historical development of the rights to fish salmon in the Tana watercourse.

A representative committee worked for two years to prepare additional regulations, based on

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the abovementioned intentions of the parliament. The committee put forward its proposals on 22 September 2009. They are very constructive and in accordance with old traditions in the Tana river valley. The right of angling for the local population should be made statutory, and a common, local co-management institution, consisting of landowners having the right to fish with nets, and those having the right to fish with rods, should be established.

In conclusion:

- The Tana river is still the only watercourse in Norway where fishing rights are regulated by a separate act.
- It is the only area where extensive, traditional salmon fishing with nets still exists.
- It is also one of very few watercourses where the landowners do not own the fishing rights to their adjacent fishing grounds.
- It will be the only area where local rod-fishing rights, built on traditional custom and practices, will be given statutory status.
- In sum, the old Sámi salmon fishing traditions and rights are safeguarded by ordinary legal provisions, without separating the local population on the basis of ethnicity. 

For more

www.eng.samer.se/servlet/GetDoc?meta_id=1214

Sámi Information Centre

www.galdu.org

Resource Centre for the Rights of Indigenous Peoples

www.samediggi.no/artikkel.aspx?Aid=884&back=1&MId1=270

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