



On April 22<sup>nd</sup> 2008, Cand. agric. **Øyvind Ravna** successfully defended his dissertation “Rettsutgreiing og bruksordning i reindriftsområder. En undersøkelse av om reindrifts-samenes bruksrettigheter kan gjøres mer tjenlige ved bruk av jordskiftelovens virkemidler” [“Clarifying legal relations and prescribing rules of use in reindeer husbandry areas. A study regarding use of land consolidation procedures”] for the degree Dr. juris at Tromsø university, Faculty of law, Norway. 487pp.

His supervisor has been professor Dr. juris Kirsti Strøm Bull and professor Dr. juris Aage Thor Falkanger. The evaluation committee consisted of judge of the Supreme Court, Dr. juris Jens Edvin A. Skoghøy (leader and first opponent, The Norwegian Supreme Court, Norway, professor Dr. juris Annina H. Persson (second opponent), Örebro University, Sweden and associate professor Dr. juris Endre Stavang, Oslo University.

## Thesis

Land consolidation procedures have been used for a long time to facilitate rational use of pastures in farming areas. For Sami Reindeer herders, their user rights have been considered to be of a peculiar character falling outside the provisions of The Land Consolidation Act. In 1996 there was adopted an amendment to the act, opening for land consolidation between reindeer herders and farmers. The legislation has only been applied in a very limited number of cases, despite the fact that the rights to use of pastures are unclear in many reindeer husbandry areas.

The aim of the thesis has been to investigate if land consolidation procedures like prescribing rules of use, are applicable in areas with Sami reindeer husbandry.

The rights of use for the Sami people engaged in reindeer husbandry have traditionally been considered as collective. In the thesis it is shown that this has created problems for legislators attempting to craft rules on reindeer husbandry and land consolidation. By recognising the Siida (joint husbandry) as a legal entity for the pastures, it is not obvious that the collective nature of reindeer husbandry rights poses obstacles for land consolidation procedures. What is decisive for whether rights of use can be the object of land consolidation in this connection is whether the groups’ members, who are the subjects of legal rights, constitute a certain group with rights tied to certain areas, as the siida does.

The survey of the current legislation in the thesis, which encompasses prescribing rules of use between reindeer owners and other stakeholders, has shown that The Land Consolidation Act does not contain rules that provide sufficient predictability for reindeer herders. Reindeer owners and sheep owners have grazing rights based on different legal authorities, and their animals also use the grazing land differently. This creates problems when the different rights are considered up against each other and the basis, or share ratio, for consolidation is to be established. Establishing the conversion factor for grazing use for reindeer and cattle, which has to be present to allocate access to

grazing, is not treated in the legislative work.

In prescription of rules of use between reindeer husbandry herders, which is not currently included in the legislation, problems connected to different legal authorities and varying grazing use will not arise. Consequently, it will be easier to establish the basis for consolidation and evaluate whether a loss is inflicted on one party in such cases. It follows from this that prescribing rules related to use within the reindeer husbandry does not pose the same problems as in relation to farming.

Increased purposefulness in connection with reindeer husbandry can be a clarified legal situation on its own. Further on rules for allocating or distributing areas proportionally between the right holders might be necessary. To be able to issue such rules, it will be necessary to establish consolidation on the basis of the parties' size of property or pasture rights. For reindeer owners, the only measurable size of the legal rights is the number of animals that have used the grazing land. As a consequence, it is proposed in the thesis that the basis for consolidation is established according to customary use, measured by the number of animals which the parties undeniably have led to the pastures over time. Within the reindeer husbandry, such a basis can be used, not only to regulate access to grazing inside the siida or between siidas, it can also be used to establish grazing periods or particular grazing areas, or to divide costs of investments such as fences and road building, as well as work contributions.

The legislator has currently not managed to provide predictable set of laws for land consolidation in reindeer husbandry areas. With improved rules, where the legislation also encompasses internal relationships within the reindeer husbandry, my opinion is that using land consolidation procedures can be a beneficial contribution for more rational use of land in reindeer husbandry areas. A precondition for this is that reindeer husbandry's perception of usage, and the distinctive character of

the reindeer husbandry, is taken into consideration. Such cases would also demand particular knowledge of the issues at stake, a fact that has led me to support The National Reindeer Husbandry Board's proposal to establish its own reindeer husbandry courts.

The fact that the Norwegian state is founded on two peoples' territories, and that reindeer husbandry is equally future-oriented and equally important for the country as farming in the areas where it is practiced, implies that the legislation should be harmonised. In this way, the Sami who earn their living from reindeer herding can decide for themselves whether they want assistance from an independent court of law when addressing legal uncertainty and formulating rules for use of pastures.

### **Short biography**

Øyvind Ravna is educated Cand. agric. from the Norwegian College of Agriculture (now Norwegian University of Life Sciences) Ås, 1987. He has been working as a judge and head of court at the Finnmark Land consolidation court since 1991. Ravna has published several books from the northern areas, among them books about indigenous peoples culture. His publications in law include Sami law, indigenous peoples law, property rights and land consolidation. A book based on the doctoral thesis "Rettsutgreiing og bruksordning i reindriftsområder. En undersøkelse med henblikk på bruk av jordskiftelovgivningens virkemidler" is recently published as a book (Gyldendal Akademisk, Oslo 2008, 592pp.). Øyvind Ravna is associate professor Dr. juris at the Faculty of law, University of Tromsø, where he also is the head of the research group in Sami law.

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