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Special issue: Gender equality in the Arctic and North

A peer-reviewed open access journal

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with the TUARQ network

## NJOLAS

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UMEÅ UNIVERSITY



# Nordic Journal on Law and Society

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The Nordic Journal on Law and Society (NJOLAS) is a peer-reviewed open access journal that publishes critical and interdisciplinary socio-legal studies of particular relevance for the Nordic region (Denmark, Finland, Iceland, Norway, Sweden, and political and geographic entities including the Faroe Islands, Greenland, Sápmi and Åland).

Its aim is to provide an intellectual space and meeting-place for critical and socio-legal scholars and to develop critical approaches to law and society in its broadest sense, for example from feminist, intersectional, post-colonial, critical race, historical, socio-economic and everyday life perspectives. The journal welcomes a variety of approaches and scholarship such as theoretical papers, results of empirical studies, methodological work, reviews and work dedicated to didactics in legal education.

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## EDITORIAL

# Welcome to the Nordic Journal on Law and Society!

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Nordic Journal on Law and Society (NJOLAS) is a new, peer-reviewed, open access journal published online and hosted by Umeå University, Sweden. The journal publishes, in two annual issues, critical and interdisciplinary socio-legal scholarship of particular relevance for the Nordic region.

NJOLAS aim to provide an intellectual space and meeting-place for critical and socio-legal scholars and to develop critical approaches to law and society in its broadest sense, for example from feminist, intersectional, post-colonial, critical race, historical, socio-economic and everyday life perspectives. The journal welcomes a variety of approaches and scholarship such as theoretical papers, results of empirical studies, methodological work, reviews and work dedicated to didactics in legal education.

The journal is administered by Umeå Forum for Studies on Law and Society. NJOLAS adopts a rolling content format which enables us to post the articles as soon as they are ready for publication. The aim is to improve research communication and make research on Law and Society in the Nordic countries widely available.

This first issue, edited by professor Eva-Maria Svensson and professor Åsa Gunnarsson, is dedicated to the theme of gender equality in the Arctic. Researching gender equality in the Arctic region produces unique knowledge with the potential to have an impact among stakeholders with an interest in how this geopolitical area is governed and developed. The issue contributes with some insights on the importance of integrating gender equality policies in the future challenges for welfare and sustainability programs for the region. Together, the articles form a socio-legal contribution to fill an identified knowledge gap about gender equality in the Arctic and in the geopolitics of Arctic.

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We hope this journal will bring new academic insights and promote the evolution of interdisciplinary socio-legal studies. Please spread the message about the journal, and send us your work for consideration for future issues.

SPECIAL ISSUE

## Gender equality in the Arctic and North; socio-legal and geopolitical challenges

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Gender inequality and infringements of women's human rights are problems in all Arctic states and the geopolitics of the Arctic is gendered (CEDAW country reports; Nymand Larsen and Findahl 2015). Much of the economic gains have not been re-invested in the Arctic region, suffering under what has been conceptualized as the 'Paradox of Plenty' (Lahey, Svensson and Gunnarsson 2014). The concept, also called the resource curse, aims to capture the exploitation of economies that rely heavily on natural resources. It was already recognized in the 1950s that low- and middle income countries, living on natural resources such as fossil fuels and minerals had comparatively low economic growth, low levels of democratic development, and large public deficits. However, the syndrome is not isolated to developing economies. Irrespective of the level of wealth and welfare structure in a state or a region, the abundance of natural resources seems to fuel the economy with quick cash that drains long-term social investments and under-develops sectors that are irrelevant for the natural resource industry. Consequently it drains public budgets and creates increased inequalities, and is particularly devastating for the progress of gender equality between men and women (Lahey 2015).

The Arctic as a geopolitical space is formed in a nexus of conflicting interests, supposedly balanced by intergovernmental bodies established by the affected states (Dittmer et al. 2011). Koivurova has described the area as "an extension of existing political, economic, and environmental systems" (Koivurova 2014). It is a subject for international cooperation between eight states, and defined in intergovernmental bodies that also have included NGOs, IPOs and observers. The public governance is consolidated by policies, agreements, soft law and legal regulations.

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The Arctic has become increasingly interesting for the international community as an area of economic importance due to natural resources and increased access to sea and land (Ebinger and Zambetakis 2009) resulting in climate, economic, social and legal implications for people living in the region. These interests expose the Arctic to a huge load from economic activities, activities that at the same time produce wealth and revenues for society. Economic interests of the extraction industry, as well as of the nation-states, risk colliding with the interests of the people living in the region. Human development can even be contradictory to economic development (Einarsson et al. 2004). Human development has clearly not been in the forefront in the Arctic region, but rather adaptive to other interests (Svensson 2017). The Arctic space has been characterized as a representation of a masculine fantasy of adventure and exploitation (Dittmer et al. 2011). Men and women are not affected equally by climate change and globalization as well as its impact on economic activities, political systems, education and health care provisions (Naskali et al. 2015). Such aspects, together with rurality, also create a specific context and vulnerability for sexual exploitation and violence against women (Lahiri-Dutt 2006).

The political actors of the Arctic, among which the Arctic Council is a key actor (Heininen 2012; Nord 2016b), form the politics but are also producers of knowledge-based discourses and representations of the Arctic. Central in this project is that multi-level governing bodies exercise power and are as knowledge-producers forming the Arctic, gender and gendered structures, for example in the scientific reports of the Arctic Council (Sinevaara-Niskanen 2015; Kankaanpää 2012; Heininen 2012). Left aside in the AHDR I (Einarsson et al. 2004) were for example the intersections of different power structures such as gender and indigeneity or gender and rurality.

The governance of the Arctic has for the past three decades been of central concern for research (e.g. Koivurova 2012). The interest in outlining the needs and principles around which a system of governance for the Arctic should be constructed has expanded (Nord 2016a). The studies show that even if the concerns regarding national security and natural resource exploitation have been prioritized, environmental protection and sustainable development (the 'twin pillars' of the Arctic Council) have gained increased interest over time (Nord 2016b), a development asked for by some scholars (Keskitalo 2004). However, gender equality and women's human rights law and policies are blind spots in the geopolitics of the Arctic (Lahey, Svensson and Gunnarsson 2014). The political actors have ignored these issues (Lahey, Svensson and Gunnarsson 2014; Svensson in this issue). This includes Sweden, when holding the Chairmanship, despite explicitly expressed ambitions (Nord 2016a). As Arctic states, the Nordic countries,

not the least Sweden with its feminist foreign policy with high ambitions when it comes to gender equality, could be a driving force in putting human development at the forefront of Arctic geopolitics.

This first issue of the Nordic Journal on Law and Society (NJOLAS) is dedicated to the theme of gender in the arctic, which is our contribution to the initiative of Umeå University (UmU) to announce the Arctic as a priority for 2017. The initiative of this special issue is the result of research carried out by members of a transnational, socio-legal and interdisciplinary network on gender studies on women's every-day life in Arctic and Northern Regions. The name TUARQ, represents the first letters of the university cities to which the network researchers are now affiliated; Tromsø, Umeå, Arkhangelsk, Rovaniemi, and Quebec. The network was initially built around a three-part collaboration between UiT the Arctic University of Norway (UiT), UmU and Northern (Arctic) Federal University named after M. Lomonosov (NArFU). The network has received strategic funding from UiT and UmU on several occasions for its relevance to internationalisation of research and Arctic collaboration. Funding has also been granted by the Nordic Arctic Co-operation Program monitored by NordRegio.

In May 2011 the first workshop on Nordic regional aspects on gender, taxes and social security was arranged by UiT in Tromsø. It was followed by a second workshop on Gender Law in September the same year, also held in Tromsø, in connection with a conference on legal systems in the Barents Euro-Arctic region. The third network meeting was arranged in the form of a conference in Archangelsk, hosted by NArFU at end of June 2012, about cross-disciplinary comparative studies of public mechanisms for gender equality. Gender and Arctic Directions was a workshop which took place at UmU between 6 - 8 May, 2013. The fifth meeting was held as a conference on the topic Arctic/Northern Women: Situating Law and Justice in Development and Equality. It was arranged by Feminist Legal Studies Queen's at Queen's University, Canada, and took place at the end of February in 2014. UmU hosted the last meeting on Gender and everyday perspectives in the Arctic, 7-8 May 2015, and will also host the upcoming meeting in October 2017 arranged in collaboration with the research project 'Advancing Elderly People's Agency and Inclusion in the Changing Arctic and Nordic Welfare' monitored by Päivi Niskali at the University of Lapland. The articles in this special issue are outcomes of all these events arranged by TUARQ. Manuscripts have been presented and reviewed as a part of the academic discussions.

One of the initial ambitions of TUARQ has been to identify legal, socio-economic and cultural barriers to gender equality faced by people living in the geopolitical areas of the High North or the Arctic region. How public



governance through regulation, organization, policies and actions acknowledges gender inequality and promote gender equality related to welfare and sustainability are central research topics concerning these barriers. The network furthermore aims at providing analysis of the interaction between gender equality law and policies, welfare politics and sustainable development, and the relation between gender equality and indigenous rights in the region.

This socio-legal research takes as its starting-point a firm conviction that, in order to promote social sustainable community development in the Arctic, a rethinking of the prioritization and relation between economic interests and social and environmental interests is needed. The legal obligations of multi-level governance of the Arctic must be considered in a broader context, addressing presumptions about the geopolitics of the Arctic as a space in which gender equality, along with the human development and social sustainable development, seems to be considered as a consequence of other concerns rather than a starting-point for governing concerns (Lahey, Svensson and Gunnarsson 2014; Svensson 2017).

Researching gender equality in the Arctic region produces unique knowledge with the potential to have an impact among stakeholders with an interest in how this geopolitical area is governed and developed. The aim is to contribute with some insights on the importance of integrating gender equality policies in the future challenges for welfare and sustainability programs for the region. A quite immediate interest was shown by the Arctic Council when inviting representatives of the network to the Arctic Council's open seminars in Kiruna, May 14, 2013, in a panel discussion about challenges in the Arctic from a gender perspective. An outcome of this discussion was a new invitation to a conference on *Gender Equality in the Arctic: Current Realities and Future* at Akureyri, Iceland, October 30-31, 2014. Eva-Maria Svensson was specially invited from the network as a plenary speaker regarding gender dimensions of political representation and participation. The speech is published in the conference report (Svensson 2015).

Other conferences where the network researchers have presented results are:

- the Law and Society Association annual conference in New Orleans, 2-5 June 2016, in which network members presented texts of which some are part of this special issue,

- the Polar law symposium on *The role of law in Polar governance* at Akureyri and Reykjavik, Iceland 5-9 October 2016,<sup>3</sup>

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<sup>3</sup> (Burman, Svensson and Wennberg.) forthcoming.

-the Nordic Law and Gender Conference in Turku, 11-12 May 2017, and  
-ICASS IX People and Place, at Umeå University, 8-12 June 2017, in which  
a session was organised by TUARQ on *Toward a gender equal human  
development in the Arctic*.

The first contribution in this issue is a good example on what new knowledge a gender perspective on the governance of the Arctic region can bring. The initial article by Eva-Maria Svensson explores the lack of gender equality commitments in the regional governance structures of the Arctic Region. She considers how the obligations to take measures to eliminate gender inequality and to promote gender equality following the ratification of the CEDAW treaty, which apply to all dimensions of government action, including any actions states take in international cooperation with other states, have affected governance of the Arctic region. Svensson provides a comprehensive survey of the regional governance organizations, but focuses on The Arctic Council, established by the Ottawa Declaration in 1996 by the eight circumpolar states. The aim of the Arctic Council, as a high level intergovernmental forum for the Arctic region in all, was to “provide a means for promoting cooperation, coordination and interaction among the Arctic States, with the involvement of the Arctic Indigenous communities and other Arctic inhabitants on common Arctic issues, in particular issues of sustainable development and environmental protection in the Arctic.”<sup>4</sup> However, as Svensson points at, the Arctic Council has taken very few steps to ensure that women “represent their Governments at” and “participate in the work” of the Council “on equal terms with men” as required by CEDAW (art. 8). As a consequence, gender-based analysis used to identify relevant issues and knowledge specific to the region in order to promote sustainable development are almost non-existent and, what is more, human sustainable development (and also environmental protection) is constructed as reactive in relation to economic development in the geopolitics of the Arctic.

Hanne Petersen uses a gendered and also personal perspective in an attempt to bring together links and similarities in the societal challenges the Arctic region is so rapidly facing. The experienced-based research she presents about this development is based in Greenland and China. To compare links and similarities in the conflicting interests and influential elements that change social infrastructures, gender relations, norms and geo-political landscapes in such divergent parts of the world, Petersen uses the essay as a genre. Petersen reflects on whether (gender) justice and morality, in a globalized and commercialized world, will be considered as important in the Arctic as stability, harmony and security.

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<sup>4</sup> Arctic Council, *Declaration on the Establishment of the Arctic Council*. September 19, 1996: art. 1(a), [https://oarchive.arctic-council.org/bitstream/handle/11374/85/EDOCS-1752-v2-ACMMCA00\\_Ottawa\\_1996\\_Founding\\_Declaration.PDF?sequence=5&isAllowed=y](https://oarchive.arctic-council.org/bitstream/handle/11374/85/EDOCS-1752-v2-ACMMCA00_Ottawa_1996_Founding_Declaration.PDF?sequence=5&isAllowed=y)

How mobility practices are changed, and how these changes have an impact on gender contracts in the High North of Norway is in focus for Siri Gerrard's article. Based on data collection from Gerrard's lifelong engagement with gender issues in fishery villages, and combining perspectives from gender research, anthropology and geography, the article contributes to a greater understanding of the interrelations between structural, material and cultural changes in the context of small-scale coastal fishing environments. She addresses the question of whether changes in mobility practices related to restructuring of the fisheries by means of a quota-system, Norway's agreement with the European Union (EEA), and other changes in the Norwegian context, have had impact on gender contracts and in what way. Gerrard concludes that, overall, mobility patterns that had previously been driven by male choices now appear to be decided by men and women together. The previously important link between settlement and work is weakened. At the same time fisheries have become even more male dominated, and gender relations overall have become more varied and multicultural. What is also observed are the increased demands for flexibility between the spouses, as they face greater variation in organization of daily life compared with earlier years. Despite these crosscutting changes, however, she concludes that men's incomes and wealth continue to form the core of household support in these communities, with no variation based on mobility or migration patterns.

The following two articles also deal with gender equality issues in the High North of Norway, concentrating on multicultural cross border marriages between Russian women and Norwegian men. Natalia Kukarenko addresses the segregating consequences of those normalization processes that the Norwegian gender system impose on Russian migrant women. As the gender systems of Soviet and Post-Soviet radically differ from the Norwegian system in terms of gender equality policies, the social identities of Russian women marrying Norwegian men face the risk of being lower ranked in a societal hierarchy. This process defines Russian women as the "other" women, that are characterized as less gender equal, less independent, and also morally questionable, which can become a trap for this minority group.

The focus in Hege Brækhus' article is on the legal situation for those many migrating women crossing the borders from North-West of Russia after the fall of the Iron Curtain through marriage in the northernmost county in Norway, Finnmark. The study explores how legal commitments to gender equality have shaped the status of women in situations of multicultural marriages or migrating families. Brækhus analyses the question of when and how Norwegian law applies to Russian women who emigrated to Norway and married Norwegian men, and how their immigration status and the lack of bilateral agreements between Norway and Russia as to

matrimonial and parental issues affects their rights on separation, divorce, or bereavement. Brækhus identifies gender-specific legal barriers that arise from the structural impact of their situation, such as a prohibition on work permits for three years after arrival causing economic dependency in marriage, and the lack of agreements concerning children of transnational marriages. The conclusion is that intersecting and interlocking hierarchies perpetuate non-immigrant Norwegian privilege.

An interesting parallel to the studies on the vulnerable social and legal situation for Russian women in the High North of Norway is presented by Tatiana Zykina and Ekaterina Sazanova in the article on the labour rights of Russian women. While the principle of gender equality is widely incorporated in Russian law, Zykina and Sazanova reveal that, in reality, Russian women suffer many forms of discrimination and are unable to realize their right to equal opportunities in the labour force. Current research findings show that the situation for women when it comes to employment and income levels, specific to the Arkhangelsk region, is deteriorated. There is a general tendency, the authors state, to consider women as a secondary labour force or as a reserve. According to patriarchal traditions, men are perceived as the main breadwinners and women are something additional to their husbands and it is also considered that the size of a woman's salary should reflect this prejudice. The prejudice justifies discrimination in working life, both in private and in public sector even though discriminatory practices are a greater problem in the private sector. Zykina and Sazanova concludes with several detailed recommendations on points of change needed at the firm and individual employee levels as well as in the overall regulation of paid work.

Gender equality policies and law are integrated parts of welfare state programs, so when the welfare state confronts new societal challenges, it is important to consider the effects that will bring on gender equality concerns. Lena Wennberg shows in her article how transformations of the welfare state as well as social and demographic changes affect the wellbeing of aging people and their living conditions in the most northern county of Swedish, Norrbotten, that is a part of the Barents Euro-Arctic region. The welfare state is transformed into an anti-regulative welfare society that increasingly privatizes formerly public services. At the same time, in Sweden, new statutory pronouncements of rights to live in dignity and wellbeing are introduced as a means of steering of the management of care services. They are meant to clarify the fundamental normative and ethical values for elder care and guarantee older people equal care services throughout the whole country to live in dignity. However, the values do not form a legal basis to assess whether a person is entitled to the welfare services or care needed for a reasonable standard of living. There are

differences in how the municipalities choose to organize, prioritize and perform welfare services, in public or private regime, depending on the financial situation and political will in each municipality. Wennberg reflects upon whether human rights and discrimination law, presupposing and strengthening individual autonomy, could be a tool for strengthening the wellbeing and gender equality of elderly people in northern and Arctic contexts. The conclusion, stated by Wennberg, is that national welfare systems need to be subjected to further socio-legal and interdisciplinary analyses in the context of the various local and specific conditions in which people age/grow old.

The relation between national gender equality policies and indigenous rights is the topic of Monica Burman's article. She approaches a set of Nordic equality expectations in the form of the view that men's violence against women is one of the highest priority gender equality issues in Sweden. At the same time, men's violence against Sami women is a blind spot, according to Burman. She uses the example of Sami women's lack of equal legal status under the Reindeer Herding Act, and postulates that the combination of unreconstructed colonial policies and failure to recognize the realities of Sami women's lives under these policies leaves little room for addressing Sami violence against women in any meaningful way. In order to fill the void she maps out applicable human rights treaties and laws, government policies, research studies, Sami organizations, and domestic laws, and identifies what needs to change in order to put this silent and invisible issue on the social, policy, and legal agenda. Grounding her examination in the provisions of both international gender equality and indigenous peoples rights documents, Burman points out that Sweden has repeatedly been urged by the CEDAW Committee to address this problem, but has not yet done so in the context of the wider recognition and protection of indigenous women's rights. Nor has the Sami Parliament. In addition, she posits the responsibility that must be taken by the researcher. Research relating to indigenous peoples performed by non-indigenous researchers can be a form of colonialism in itself. Understanding and acknowledging the colonial process and the Sami experiences that are marked by colonialism are essential in trying to avoid doing more harm than good. And, in research on violence against Sami women, Sami women themselves and relevant Sami organizations must be the priority stakeholders and involved as experts in the project in ways that give them real possibilities to impact on the research.

Together, the articles form a socio-legal contribution to fill an identified knowledge gap about gender equality in the Arctic and in the geopolitics of Arctic.

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# Gender Equality in the Governance of the Arctic Region

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Gender equality is a fundamental political and legal obligation for most of the world's states. The public governance of the Arctic, performed by democratic institutions established by the Arctic states, has the obligation to meet the needs of all. This article presents an analysis on whether the structure of the governance meets the needs of all equally. The analysis of the organisation's rhetoric and activities shows what interests and whose which are maintained, as well as those who are not prioritised. Gender equality and other social sustainable considerations are treated as reactive in relation to economic development. Gender equality, as well as equality between different ethnic groups, have not, so far, been prioritised within the public governance of the Arctic despite far-reaching obligations for the concerned states.

**Keywords:** Gender equality, public governance, social sustainable development, arctic region, legal obligations

## Introduction

Gender equality is a fundamental political and legal obligation for most of the world's states. The significance of gender equality has been reaffirmed and strengthened through the global review of state obligations to eliminate gender discrimination and through the adoption of the United Nations Sustainable Development Goals in 2015 (Economic and Social Council 2014; United Nations 2015). According to the World Bank "(a) central element of good governance is the responsiveness of policies and public institutions to the needs of all citizens. Policies and institutions must represent the interests of women and men and promote equal access to resources, rights, and voice" (The World Bank 2006). Obligations to promote gender equality and the interests of the indigenous people are obviously interlinked (United Nations 2007). For these reasons, it is relevant to expect public governance by states within the Arctic region to recognise and promote gender equality,

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in order to meet the needs and interests of all citizens and promote equal access to resources, rights and voice.

Government's objectives can be achieved through regulatory policies, administrative and budgetary planning as well as through formal laws, constitutional provisions, and domestic acceptance of international legal obligations grounded in treaties. The international basis for state obligations to promote and attain gender equality is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Beijing Declaration and Platform for Action from 1995.<sup>2</sup>

This article sketches the nature and agendas of the regional public governance that have taken responsibility for various aspects of Arctic. It addresses how gender equality is understood (the rhetoric aspect), how it is done (the strategic aspect) and whether gender equality is achieved (the implementation aspect). Not surprisingly, these bodies have formed in response to the growing interest internationally in the Arctic as an area of economic significance due to its increasingly exploitable natural resources. Although some of these bodies have come to be concerned also with the climate, social, and Indigenous dimensions of increased economic and political interest in this part of the world, gender equality issues continue to be marginalised by most of these bodies.

The eight states in the Arctic region represented through various regional bodies are Canada, Denmark (Greenland), Finland, Iceland, Norway, the Russian Federation, Sweden and the United States. Additional states and international organisations are also involved in the governance of the region as observers or permanent participants. As yet, however, none of these regional bodies have taken steps to extend their members' governance obligations to gender equality or Indigenous rights to their own actions in any substantive or binding ways.

The focus in this chapter is on public regional bodies that have been established by the states and governments with territories within the Arctic region. Private governance bodies are of immense importance for the development of the region, but the main issue here is the obligations of the state concerning gender equality, and how these obligations are met within the state-initiated bodies empowered to govern the Arctic region. Far-reaching international political and legal commitments lead to the expectation that these bodies, as representatives of the states, are obliged to take comprehensive, appropriate and efficient measures to achieve the democratic goal of gender equality within their scope. This article examines the extent to which these obligations remain largely unfulfilled.

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<sup>2</sup> The full texts of the Beijing Declaration and the Platform for Action are found in United Nations (1995). See also Lahey (2010, 27-106); Philipps (2006, 143-168).



Figure 1. Map of Thule.

Source: [https://upload.wikimedia.org/wikipedia/commons/4/44/Thule\\_carta\\_marina\\_Olaus\\_Magnus.jpg](https://upload.wikimedia.org/wikipedia/commons/4/44/Thule_carta_marina_Olaus_Magnus.jpg) (Accessed 2017-02-08).

In classical European literature and maps such as in Figure 1, the region in the far north, often considered to be an island, was called Thule (with variations in spelling). There are different interpretations of what was meant by Thule; Norway, Scandinavia (sometimes including the Orkney and Shetland Islands), Iceland, Greenland or Saaremaa in the Baltic Sea.<sup>3</sup>

### ***Material and method for the study***

The study of how gender equality is understood and how it is done in the public governance of the Arctic has been carried out by means of a reading

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<sup>3</sup> The name Thule can be controversial, combined with Ultima (meaning beyond the borders of the known) it is sometimes used today as an ideological concept for ultra nationalist groups.

of the governing bodies' own statements in the webpages and documents reachable from the same pages. The search words gender\*, gender (in)equality, woman/women\* and man/men\* have been used, to find direct statements and/or discussions relevant to gender equality. The search was mainly performed at the beginning of 2014 (February), but there was also a follow-up in 2015 (June) to check what has happened since February 2014. The study has been possible because of the limited number of hits. More detailed information relating closely to the questions mentioned above is given below.

An external source has been used with reference to the question of whether gender equality is achieved. Seven of the Arctic States have ratified the most important legally binding document regarding gender equality, the CEDAW. Every four years, the state parties are expected to report to the CEDAW Committee about the conditions in the country. The Committee comments on the reports, and follows development over time based on previous reports. The comments apply to the situation in the whole state, but some issues are highlighted as especially concerning the conditions in the northern region (the Arctic) and other issues relevant for this region. The comments can, of course, be criticised for not giving the whole picture as they are based on what the states themselves address in their country report, respectively. However, there are additional non-governmental reports which are also read by the Committee, and moreover, the issues raised in the comments do not differ to any degree from other international bench-marking initiatives such as Gender Gap Indexes. The criticism from the CEDAW Committee is used here as a tool with which to scrutinise the public governance bodies of the Arctic. The study was performed in 2015, when the most recent reports were from the years 2006-2009, considered by the committee in 2008 and 2010. Since then the three countries chosen here, have submitted new reports considered by the committee in 2015 and 2016, respectively. Only the comments on the Swedish report have been considered in this article.

Moreover, during the spring of 2012 I contacted the Swedish foreign ministry to ask what Sweden intended to do during its chairmanship of the Arctic Council on gender equality. The background for the question was a statement that gender equality was important for the Swedish chairmanship, but at the same time there was no information about any activities what so ever. This initial contact led to further contact - during the open seminar closely connected to the Ministerial meeting in Kiruna in 2013 and through participation in the gender equality conference in Akureyri, Iceland, in October 2014. Some of the insights gained through this contact are also a part of the study, and could also be seen as part of the method.

## **What is “the Arctic”?**

The demarcation of the region denoted to as “the Arctic” remains contested by states with territorial and economic interests in the circumpolar region, and by the various bodies that claim to govern all or part of this area. The specific boundaries identified for the region depend on the purpose for which researchers, states, or organisations define those boundaries. No matter which demarcation is used, however, transnational governance of the region is made up of many overlapping governing bodies.

The Arctic is the northern part of the northern hemisphere, and much of the region consists of the large Arctic Ocean. The simplest demarcation of the Arctic is the Arctic Circle (drawn at roughly 66° 34’north). This geographical definition is shown as a blue line in Figure 2. Alternatively, the region can be defined by reference to the tree line or by locations where average daily temperatures for the warmest month (July) remain below 10 degrees Celsius. The red line in Figure 2 shows this way to define the area. None of these definitions include all eight circumpolar countries that claim segments of the Arctic in territorial terms; the latitudinal definition exclude Iceland, while the tree line and temperature definition includes Iceland but excludes Sweden and Finland.



Figure 2. Map of the Arctic.

Source: [https://upload.wikimedia.org/wikipedia/commons/3/31/Arctic\\_circle.svg](https://upload.wikimedia.org/wikipedia/commons/3/31/Arctic_circle.svg) (Accessed 2017-02-08).



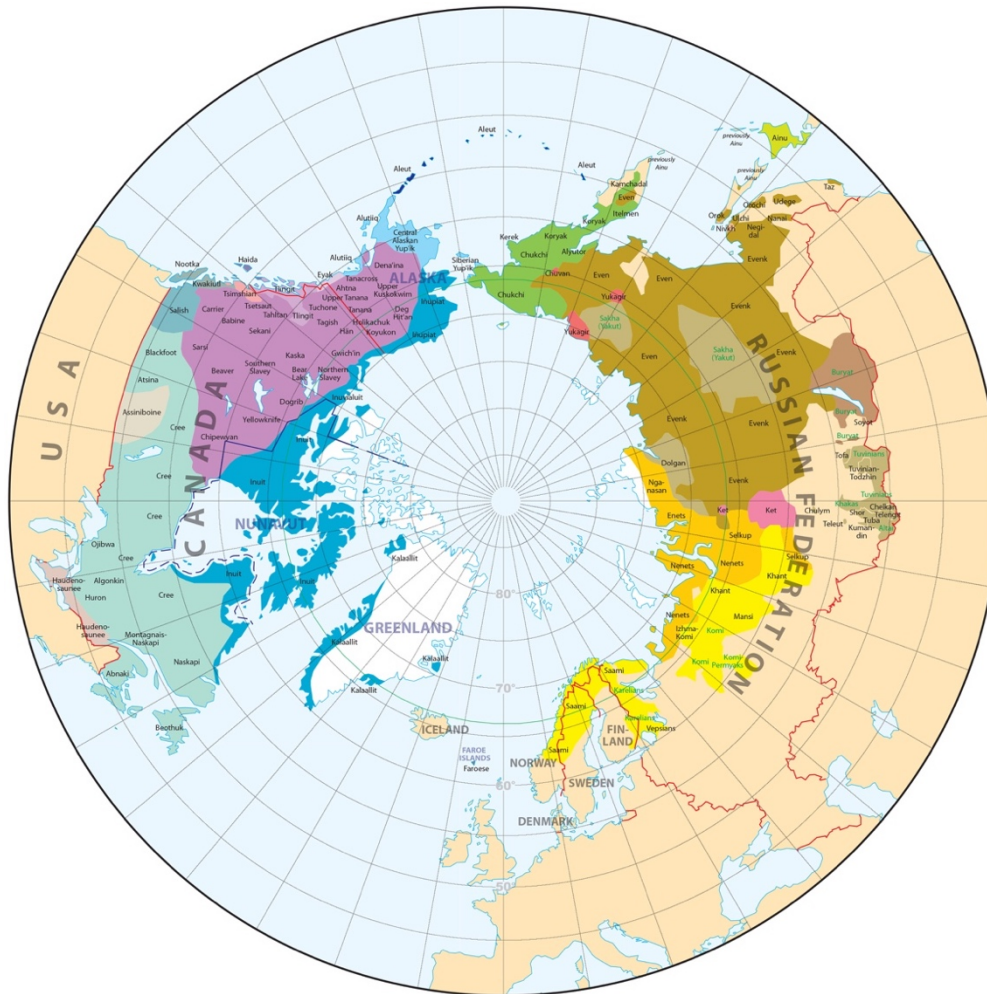
Administrative definitions of the Arctic are also unique, depending on the purposes for which they are identified. For example, the Arctic Council has created boundary lines on the circumpolar map relevant to its mandates. The various working groups have slightly different demarcations as shown in Figures 3 to 5.



Figure 3. Map of Arctic administrative areas.  
Source: Arctic Council Secretariat (Winfried Dallmann), [http://www.arctic-council.org/images/PDF\\_attachments/Maps/admin\\_areas.pdf](http://www.arctic-council.org/images/PDF_attachments/Maps/admin_areas.pdf) (Accessed 2017-08-10).



Figure 4. Map of Arctic administrative arenas, including Nunavik.  
 Source: Arctic Council Secretariat (Winfried Dallmann), [http://www.arctic-council.org/images/PDF\\_attachments/Maps/admin\\_areas\\_wNunavik.pdf](http://www.arctic-council.org/images/PDF_attachments/Maps/admin_areas_wNunavik.pdf) Accessed 2017-08-10).



### Indigenous peoples of the Arctic countries

Subdivision according to language families

<b>Na'Dene family</b>	<b>Eskimo-Aleut family</b>
Athabaskan branch	Inuit group of Eskimo branch
Eyak branch	Yupik group of Eskimo branch
Tlingit branch	Aleut group
Haida branch	<b>Uralic-Yukagirian family</b>
<b>Penutian family</b>	Finno-Ugric branch
<b>Macro-Algonkian family</b>	Samodic branch
Algonkian branch	Yukagirian branch
Wakasha branch	<b>Altaic family</b>
Salish branch	Turkic branch
<b>Macro-Sioux family</b>	Mongolic branch
Sioux branch	Tunguso-Manchurian branch
Iroquois branch	<b>Chukotko-Kamchatkan family</b>
<b>Indo-European family</b>	<b>Ket</b> (isolated language)
Germanic branch	<b>Nivkh</b> (isolated language)
	<b>Ainu</b> (isolated language)

**Notes:**

For the USA, only peoples in the State of Alaska are shown. For the Russian Federation, only peoples of the North, Siberia and Far East are shown.

Majority populations of independent states are not shown, not even when they form minorities in adjacent countries (e.g. Finns in Norway).

Areas show colours according to the original languages of the respective indigenous peoples, even if they do not speak these languages today.

Overlapping populations are not shown. The map does not claim to show exact boundaries between the individual groups.

In the Russian Federation, indigenous peoples have a special status only when numbering less than 50,000. Names of larger indigenous peoples are written in green.

compiled by W.K. Dallmann  
 © Norwegian Polar Institute



Figure 5. Map of indigenous peoples of the Arctic countries.  
 Source: Arctic Council Secretariat (Winfried Dallmann), [http://www.arctic-council.org/images/PDF\\_attachments/Maps/indig\\_peoples.pdf](http://www.arctic-council.org/images/PDF_attachments/Maps/indig_peoples.pdf) (Accessed 2017-08-10).



The Barents Euro-Arctic region encompasses physiographic Arctic parts of Finland, Norway, Russia and Sweden, and also include substantially more southern areas of these countries, see Figure 6.



Figure 6. Map of the Barents Euro-Arctic region.

Source: Arctic Centre, University of Lapland, [http://www.ramsar.org/sites/default/files/documents/pictures\\_2013/news/europe/Norway/bear\\_map\\_web.jpg](http://www.ramsar.org/sites/default/files/documents/pictures_2013/news/europe/Norway/bear_map_web.jpg) (Accessed 2017-08-10).

The European Union Northern dimension policy area is even more expansive, including the whole of Norway, Iceland, Sweden, Finland, Estonia, Latvia, and Lithuania, as well as the Russian Kola Peninsula and northwestern Russian areas, and parts of Belarus, Poland, Denmark, and Germany. This demarcation enables the EU and Russia to address cross-border relations and sea routes through the Baltic Sea and the Arctic Ocean, see Figure 7.



Figure 7. Map of the European Northern dimension policy area.  
Source: Northern Dimension Policy Institute, [http://eeas.europa.eu/archives/delegations/russia/images/content/c\\_dimension01.jpg](http://eeas.europa.eu/archives/delegations/russia/images/content/c_dimension01.jpg) (Accessed 2017-02-08).

Administrative regions of the Arctic recognised specifically for purposes of Indigenous governance are also demarcated in various ways. No one administrative body considers itself to concern all Indigenous peoples located in or near the Arctic Circle. The most inclusive demarcation is Sápmi, the cultural region traditionally inhabited by the Sami people, see Figure 8. The geographical territory of Sápmi is not precisely defined and has changed over time. Lapland is sometimes understood to be the same as Sápmi. The name Lapland refers to the land inhabited by the Sami people, but the name is used only in Finland and Sweden for the provinces in the north. Sápmi, according to the Samis, is a nation without state or country borders but with a common language, culture and history (Samiskt informationscentrum 2017). The area is comprised of the northern parts of Fennoscandia, and stretches over the four countries of Finland, Norway, Russia and Sweden (Kent 2014). Sápmi is also increasingly recognised as an administrative region, and the Samis participate in public governance of the Arctic. This participation is not as a state, but as a specific group with legitimate interests in the region entitled to membership as permanent participants of the Arctic Council.

The Sami do not constitute the majority population in Sápmi. One estimation is that the total population is 80,000, with Norway having the

biggest Sami population (50,000 - 65,000), Russia the smallest (2,000) and the other countries in between (Sweden 20,000 and Finland 8,000).



Figure 8. Map of Sápmi.

Source: Samiskt informationscentrum, <http://www.samer.se/4314> (Accessed 2017-02-08).

As a consequence of the various demarcations, there are diverging data on the population of the Arctic regions and countries. According to one report (Einarsson 2004, 27) the population was in 2003 approximately 4 million. According to the Arctic Center, also using the circumpolar North as the boundary, the population is a little more than 13 million, of which 10 percent belong to one of 40 indigenous groups (Arctic Centre, 2015). Almost all of these people live as a minority within the borders of contemporary nation states. There is considerable diversity among Indigenous peoples, their legal and constitutional status, and their roles in national or regional governance. Only in Greenland are the Inuit in the majority, constituting 88 percent of the population. In Canada half of the population in the northern regions is indigenous, in Alaska around 20 percent. In the Nordic countries and in north Russia indigenous peoples comprise only 4-5 percent of the population in the region (Arctic Portal 2015). Iceland (if included in the Arctic region) is the only Nordic country without indigenous people.

The population in the Arctic grew rapidly in the 1950s and 1960s due to improved healthcare for indigenous people and a large influx of immigrants resulting from the discovery of vast natural resources located in the region. Recently the population growth has slowed and, between the years 2000-2010, even declined in many parts of the Arctic (Nordregio 2017a). The net-

migration pattern among females is stronger than for men, more women than men out-migrate from the north, and the number of females per 100 males in age group 15-64 years is fewer than 100 in strikingly large parts of the Arctic (Nordregio 2017b).

As discussed in both the Arctic Human Development Reports from 2004 and 2015 there is much to say about defining the Arctic; the question of how the area is defined requires further research and consideration (Einarsson 2004, 17; Nymand Larsen and Findahl 2015, 218). As shown, there are several demarcated regions defined from a variety of aspects and interests. Here, the term Arctic is used for the area of land, named as the Arctic region, which is subject to regional governance through various, partly overlapping, bodies, forming the geopolitics of Arctic (Keskitalo 2004; Geopolitics in the High North 2017).

### ***International interest in the Arctic is growing***

The international community, with both public and private stakeholders, is intensifying its interest in the Arctic as an area of economic importance due to its natural, and increasingly accessible, resources. The Arctic is a region with immense amounts of natural resources such as petroleum and minerals, as well as fish and other animal products. These resources are progressively forming the base for expanding economic activities due to the melting of the ice. Moreover, the more the ice melts and the sea opens, the more the Arctic is used through as a transportation route.

It is not only the Arctic states that are interested in the Arctic, states in other parts of the world are also drawn to the natural resources and to access to the region. For example, twelve non-Arctic states have been admitted as observers to the Arctic Council, the six latest in 2013 (Arctic Council Observers 2017). Most of the states are situated far from the Arctic, but the observer status recognises that their interest is significant enough to sit in on meetings. The fear of military interests in the area has been raised, but it is presumed that the main attractions are economic development and trade (New Scientist 2015). The UN Convention on the Law of the Sea (UNCLOS) allows anyone to use shipping lanes on the high sea. Northern passages are very interesting for many states as they shorten distances. An increase in trade will at the same time impact on the ice.

The international interest in the Arctic and its resources is not always consistent with the interest of the people living in the region. The Arctic is subject to climate change and contamination due to human activity in the world and more specifically in the region. Economic activities have impacted on sustainability in several ways; both as a condition for living in the north and as something that has negative effects on the environment.

Indigenous people are often more affected than others due to their specific connection to the land, inhabited and integrated as it is in their living conditions. Climate change, thus, poses a new threat for indigenous people.

The interest for the Arctic has flourished in the last 30 years and, in the 1990s, several governance bodies were established, as will be elaborated in the section on public governance bodies in the Arctic presented below. When these bodies were established, the CEDAW was already adopted and ratified by most states of the world and, moreover, in the middle of the 1990s the Beijing Platform sharpened the states obligations further. More recently, in 2007, UN adopted the Declaration on the Rights of Indigenous People (UNDRIP). This Declaration recognises the wide range of basic human rights and fundamental freedoms of indigenous peoples such as the right to unrestricted self-determination and inalienable and collective land and resource right. The chronological rise of UN instruments promoting gender equality and human rights for indigenous people coincides with the flourishing governance of the Arctic, a region in which many people belong to various indigenous groups and in which gender equality is not achieved. The governance mechanisms of the Arctic seem to be based rather on an economic rationality than on a gender equal and human rights rationality. I will return to this aspect in the conclusion.

### **Public governance of the Arctic**

Public governing bodies are obliged to meet the needs and interests of all inhabitants. However, formal national state structures with constitutionally embedded governance responsibilities and powers do not exist in relation to this part of the globe. At the same time, the circumpolar states themselves, non-Arctic populations in those states, other countries, and large investment, shipping, and development corporations have interests in the Arctic that do not always correlate with the interests of Indigenous or non-Indigenous peoples living in the region. And among Arctic residents, gendered social, economic, and political structures create personal and gender hierarchies that further complicate questions of how gender and social equalities generally can be promoted.

#### ***What is public regional governance?***

The conventional usage of the concept of governance is for formal and public governance, and is often valued in terms of 'good governance'. Although governments often play a central role in governance, using formal tools such as budgeting, policy and legislation, governance may also include less formal arrangements in meeting the demand for governance in many

settings. The distinctions between formal and informal as well as between private and public can be used to identify different modes of governance. Governance can also be studied as multilevel vertically and/or horizontally (Söderbaum 2004).

For the purposes of this chapter governance is close to the conventional definition and usage of the term. As in the Arctic Human Development Report from 2015 (Nymand Larsen and Findahl 2015) governance comprises political systems and geopolitics, but the focus here is on the public governance in the political systems, as the main objective for the study is to explore and to analyse how obligations, taken on by and/or imposed on the states (by international players such as the UN and by the states themselves through legislation and policy) involved in the regional public governance of the Arctic, are expressed in the rhetoric of the governance, performed in their strategies and activities by the governing bodies and met in their outcomes (regarding the last, it is restricted to what is expressed by the UN body, the CEDAW Committee). Political systems include the structures, processes, and actions taken by actors involved in public decision-making for a political community. Geopolitics is the term used to describe international relations among political communities.

Starting with this meaning of public governance, regional governance is a process by which people through governing bodies such as states determine and pursue their collective ends, means, and values within a certain region. How the governance is institutionalised is covered by the concept of government, which lays down which bodies are present in constructing the governance of a region. The governmental bodies can be both public and private. If established by the states or given legal recognition, regional bodies in this article are defined as public. If, for instance, an NGO is legally recognised it is in this sense a public body. The normal public body, however, is an organisation established by several national states for purposes of co-operation in specific issues. Governance can also be private or a combination of public and private. In this article, the bodies established by the states, part of public governance, are of special interest, because when it is a matter of gender equality policy obligations and to considering the interests of indigenous people, these bodies are obliged to follow the ambitions of the states, which established them. These states can, of course, have different levels of ambition and different legal instruments to follow. However, with regard to legal obligations concerning gender equality and indigenous rights there are several internationally binding instruments (at least there are if the states have ratified them).

The Arctic Governance Project speaks of governance in the Arctic context as “a social function centered on steering human societies away from bad outcomes (...) and toward good outcomes (...)” (The Arctic Governance

Project 2015). By definition, however, Arctic governance can only be organised by state bodies and non-state bodies with interests and jurisdiction in parts of the region. Arctic governance, if established by states, is obliged to follow the same ambitions and values in regional governance as in the rest of the individual states' governance structures. One of these obligations is to promote gender equality and to take all appropriate measures to eliminate discrimination on the basis of sex, and the other is to respect and protect the rights of Indigenous peoples living within their borders or treaty areas. Thus multiple dimensions of public governance call for realisation consistent with each state's constitution and international obligations, and realisation of gender equality rights as well as the rights of Indigenous peoples (Nymand Larsen and Findahl 2015, 194).

The public governance in this chapter, comprises certain bodies established by the Arctic state governments to secure certain interests within a specific geographically demarcated area i.e. the Arctic (cf. the various demarcations shown in section 2). The Arctic encompasses human settlements with particular physical, social, cultural, economic, political, and functional characteristics. The governance of this region is organised in state bodies and non-state bodies with interests and jurisdiction in (parts of) the region. The governance, if established by states, is obliged to follow the same ambitions and values in the regional governance as in the rest of the state governance. One of these obligations is to promote gender equality and to take all appropriate measures to eliminate discrimination on the basis of sex. The bodies are often a combination of representatives from the states concerned and those from indigenous people's organisations (NGO) living in the region.

The governance of the Arctic region was established for a certain purpose. In short, the governance of the Arctic region was established as a result of conflicting economic interests in the natural resources of the region. Several states claim access to these resources. The governance also has additional purposes, which are to balance these interests with the interests of the people living in the region, i.e. the indigenous people, and with environmental interests.

### ***Public governance bodies in the Arctic region***

There are several public bodies for governance of the Arctic region on different levels. The broadest level of governance is the pan-Arctic level, with the Arctic Council and the Conference of Arctic Parliamentarians as forums for interstate co-operation. There are also several indigenous Arctic Organisations, and a sub-national collaborative body, the Northern Forum, gathering subnational or regional units from both Arctic states and non-



Arctic states. The EU has also evolved an Arctic policy (European Commission 2016) and is a partner in The Northern Dimension.

Examples of regional collaborations between countries or counties situated in the region are the Barents Euro-Arctic Council, the Barents Regional Council, the Council of the Baltic Sea States, the West Nordic Council, The Nordic Council including the Nordic Council of Ministers. The last two are bodies concerned with co-operation between the Nordic countries in a wide range of areas including research, the environment, welfare and culture. All the Nordic countries are partly situated and have interests in the Arctic region.

There is a co-operation council, the Sami Parliamentary Conference and Council, for the Sami parliaments in Norway, Finland and Sweden. Other indigenous regional collaborations are Gwich'in Council International and the Arctic Athabaskan Council.

Apart from the public bodies there are several co-operation enterprises between companies, such as BarentsNova (Barentsnova 2015), an innovation co-operation between Norway and Russia, and SIVA IM (Siva 2015), a Norwegian state-owned company for promoting innovation and business abroad. The key markets for SIVA IM are the Baltic states, north-west Russia and the Balkans. The Arctic Governance Project, is also a non-public initiative, gathering preeminent researchers, indigenous leaders, and members of the policy community to frame the critical issues of governance in the Arctic and devise innovative responses for a sustainable future (The Arctic Governance Project 2015). There are also some non-governmental organisations, one example from the Scandinavian countries being the Sámi Council (Saami Council 2017). The Council has Sámi member organisations in Finland, Russia, Norway and Sweden. It was established in 1956 and its primary aim is the promotion of Sámi rights and interests in the four countries. The objective can be achieved through agreements between the states and the Sámi Parliaments in each country.

Below, the most important public bodies and their purposes are presented briefly. Co-operation seems to be key for purpose. Each body has co-operation as its own aim, however, the bodies also see co-operation between themselves as important. All Northern regional councils, with their different memberships, identify needs for development and co-operation in their respective areas and support project implementation in different ways. What is also notable is that topic buzzwords such as sustainability and human development are frequently used.



### *The Arctic Council*<sup>4</sup>

The Ottawa Declaration of 1996 (Declaration on the Establishment of the Arctic Council, art 1) formally established the Arctic Council (AC) as a high-level intergovernmental forum to provide a means for promoting cooperation, coordination and interaction among the Arctic States, with the involvement of the Arctic Indigenous communities and other Arctic inhabitants on common Arctic issues, in particular issues of sustainable development and environmental protection in the Arctic. The aim was also to oversee and coordinate certain programs for conservation and protection of for instance flora, fauna and marine environments, and to adopt terms of reference for as well as oversee and coordinate a sustainable development program. Finally, the Arctic Council was to disseminate information, encourage education and promote interest in Arctic-related issues. The Declaration identifies who can be a member, a permanent participant and an observer. Decisions are to be by consensus of the Members. The permanent participants play no part of the decisions having only the right to participate and to be consulted.

The Arctic Council comprises eight Arctic states, Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden and the USA. Six international organisations representing Arctic Indigenous Peoples have permanent participant status. The organisations are the Arctic Athabaskan Council (AAC), Aleut International Organisation (GGI), Gwich'in Council International (GGI), Inuit Circumpolar Council (ICC), Russian Arctic Indigenous People of the North (RAIPON) and the Saami Council (SC).

The geographic area covered by the Arctic Council is the Arctic region. In this region the population is, according to Arctic Council, 4 million (cf. above) of which approximately 10 percent is indigenous.

The Arctic Council provides a valuable platform for discussions on all issues of relevance to the Arctic and the people who live there. The focus is on environmental protection, climate change, arctic and circumpolar biodiversity, marine and shipping activity in the oceans and of the Arctic peoples, and the work around these topics take place in the various working groups. For the Arctic peoples, the focus is on health and well-being as well as the cultural heritage and the preservation of language.

The common objectives for the chairmanship of Norway, Denmark, and Sweden 2006-2013 were concerned with climate change, environmental protection, circumpolar observation and the monitoring of change in the Arctic, integrated management of resources, indigenous people and local living conditions. The prioritised objective for Canada's chairmanship the following period of 2013-2015 was to promote economic development, even if the Declaration of the Arctic Council from 2013 explicitly highlighted the

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<sup>4</sup> Arctic Council (2015).

improvement of both economic and social conditions. Business is given a special role in the development of the Arctic and the Arctic Council intends to increase the co-operation and interaction with the business community in order to advance sustainable development in the Arctic (MM08-15 May 2013-Kiruna, Sweden, Kiruna Declaration).

Additionally, there is the Conference of Arctic Parliamentarians (CPAR) and the Standing Committee responsible for work between conferences (Conference of parliamentarians of the Arctic region 2015) which started in 1993 as a forum for legislative branches originally with one of its main priorities being to support the establishment of the Arctic Council. Since then the Standing Committee has worked actively to promote the work of the Council and participates in the meetings of the Arctic Council as an observer. Today the Committee is engaged in issues as shipping possibilities, education and research, human development and climate change.

*The Barents Euro-Arctic Council (BEAC) and the Barents Regional Council (BRC)<sup>5</sup>*

The Barents Euro-Arctic Council (BEAC) and the Barents Regional Council (BRC) were established by the Kirkenes Declaration in 1993 to promote co-operation on governmental and regional level. Denmark, Finland, Iceland, Norway, Russia, Sweden and the European Commission are members of the intergovernmental BEAC. The chair rotates between Finland, Norway, Russia and Sweden. The interregional BRC unites 13 member counties and a representative of the indigenous peoples in the northernmost parts of Finland, Norway, Sweden and northwest Russia, i.e. the Sami, the Nenets and the Veps. The indigenous People play an advisory role in relation to both Councils. The International Barents Secretariat is situated in Kirkenes, Norway.

The objectives for BEAC and BRC are to support and promote co-operation and development in the Barents Region, with sustainable development as the overall objective. There are several working groups focusing on economic co-operation, the environment, transport and logistics and rescue co-operation and energy, and also on indigenous people, health, education, culture, tourism and youth and research.

The underlying premise for the establishment of the co-operation is that close co-operation secures long-term political stability and reduces possible tensions, based on the experiences of a region that was the scene of military confrontation during the Cold War.

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<sup>5</sup> Barents Euro-Arctic Council (2015).

### *The Northern Dimension*<sup>6</sup>

The Northern Dimension (ND) is a joint policy between the European Union, Russian Federation, Norway and Iceland. It was initiated in 1999, renewed in 2006, and aims to provide a framework for promoting dialogue and concrete co-operation, strengthening stability, wellbeing and increased economic co-operation, and promoting economic integration, competitiveness and sustainable development in Northern Europe.

In addition to the four ND partners, the regional councils the AC, the BEAC together with the Council of the Baltic Sea States and the Nordic Council of Ministers, financial institutions and some other partners also participate. Several partnerships are also connected to ND, including the ND Environmental partnership and ND Partnership in Public Health and Social Wellbeing.

The renewed ND policy from 2006 is expressed in two documents, the ND Political Declaration and ND Policy Framework Document. The Northern dimension is an EU initiative regarding the cross-border and external policies covering the Nordic countries, Baltic States and Russia. The Northern Dimension addresses the specific challenges and opportunities arising in those regions and aims to strengthen dialogue and co-operation between the EU and its member states, the northern countries associated with the EU under the European Economic Area, Norway and Iceland, and Russia. The Northern Dimension is implemented within the framework of the Partnership and Co-operation Agreement with Russia. A particular emphasis is placed on subsidiarity, and on ensuring the active participation of all stakeholders in the North, including regional organisations, local and regional authorities, the academic and business communities, and civil society. Several key priority themes for dialogue and co-operation under the Northern Dimension have been identified, including economy, business and infrastructure, human resources, education, culture, scientific research and health, the environment, nuclear safety, and natural resources, cross-border co-operation and regional development and justice and home affairs.

The Northern Dimension is intended to promote security and stability in the region, as well as help build a safe, clean and accessible environment for all people in the north. It aims to address the special challenges of regional development in northern Europe. These include cold climatic conditions, long distances, and wide disparities in standards of living, environmental challenges including problems with nuclear waste and wastewater management, and insufficient transport and border-crossing facilities. The Northern Dimension is also intended to take advantage of the

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<sup>6</sup> Northern Dimension (2015).

rich potential of the region, for example in terms of natural resources, economic dynamism, and a rich cultural heritage.

A new dimension to this complex relationship is emerging with the melting of the Arctic ice as a result of climate change. Many resources have become newly accessible and this could lead to a power struggle.

The Northern Dimension also has the objectives of addressing the challenges arising from uneven regional development, and helping avoid the emergence of new dividing lines in Europe following EU enlargement. The importance of the Northern Dimension has increased considerably with the enlargement of the Union on 1 May 2004 to include Estonia, Latvia, Lithuania and Poland: eight EU Member States (Denmark, Germany, Poland, Lithuania, Latvia, Estonia, Finland and Sweden) now surround the Baltic Sea, and the EU's shared border with Russia has lengthened significantly.

#### *The Council of the Baltic Sea States*<sup>7</sup>

The Council of the Baltic Sea States (CBSS) is a general political forum for regional inter-governmental co-operation. Its long-term priorities in all its activities are, according to the Riga Declaration and the vision for the region set out in the Vilnius Declaration, regional identity, a sustainable and prosperous region and a safe and secure region. There are objectives mirroring these priorities and a variety of strategic activities within these priorities, such as co-operation concerning transportation, sustainable development, social exclusion, criminal exploitation and human trafficking and children's rights.<sup>8</sup>

The CBSS was established in 1992 by the region's Foreign Ministers in Copenhagen in response to the geopolitical changes that took place in the Baltic Sea region with the ending of the Cold War. Eleven states of the Baltic Sea Region are Members of the Council: Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russia, and Sweden. The European Commission is also represented.

The role of the Council is to serve as a forum for guidance and general co-ordination among the participating states. The foreign minister of the presiding country is responsible for coordinating the Council's activities and is assisted in this work by the Committee of Senior Officials (CSO). The Council does not have a general budget or project fund. Members are responsible for funding common activities and/or for seeking and coordinating financing from other sources. Since 1998, the CBSS Member

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<sup>7</sup> The Council of the Baltic Sea States (2015).

<sup>8</sup> The Council of the Baltic Sea States, Priorities (2015).

States have jointly financed the Permanent International Secretariat of the CBSS.

*Nordic Council of Ministers and the Nordic Council*<sup>9</sup>

The Nordic Council (NC) is the official inter-parliamentary body in the Nordic region, encompassing the Nordic countries of Denmark, Finland, Iceland, Norway, Sweden, the Faroe Islands, Greenland and Åland. The co-operation occurs in a wide range of areas such as research, the environment, welfare and culture. One of the themes for co-operation is the Nordic region in the Arctic.

The Nordic Council was formed in 1952 and a permanent treaty on Nordic co-operation, the Helsinki Treaty, was ratified in Helsinki in 1962. The co-operation covers a wide range of areas. It is built on common values and a willingness to achieve results that contribute to dynamic development and increase Nordic competencies and competitiveness. Several councils, under the generic name The Nordic Council of Ministers (NCM) founded in 1971, are responsible for specific areas, one of them being the Council of Ministers for Gender Equality MR-JÄM established in 1980. The present co-operation programme runs from 2015-2018.

The Nordic welfare model is one of the areas in which long-term trends are shown by indicators of sustainable development (Norden, Sustainable Development 2015). The Nordic welfare model is defined as being based on the shared ideal of equality, social solidarity and social security for all (Nordic Welfare 2015). The other areas are viable ecosystems, changing climate, sustainable use of the earth's resources, and education, research and innovation.

*The European Union*

Apart from its involvement in The Northern Dimension (Northern Dimension EU 2015) the EU also is engaged in an Arctic Policy for the EU, the most recent launched in 2016 (European Commission 2017). The Arctic is an area of growing strategic importance, and the EU has an important role to play in supporting the successful Arctic co-operation and in helping to meet the challenges that confront the region. The policy is based on three main policy objectives, protecting and preserving the Arctic in collaboration with its population, promoting the sustainable use of resources and international co-operation (EU Arctic Policy 2015).

In 2010, The EU Arctic Forum started as a cross-sector and cross-party platform in the European Parliament. It soon became the driving force

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<sup>9</sup> Norden (2015).

behind the European Parliament's "Report on a Sustainable EU Policy for the High North". The Forum is said to be "a meeting point for discussions about Arctic issues in Brussels within a broader European context involving not only core EU institutions such as the European Parliament, the European Commission, the European External Action Service, regions and politicians, but also prominent actors, institutes, companies and networks of science and business both from within and outside the Arctic region" (Arctic Forum Foundation 2015). Among the partners, participants and friends are oil companies.

The EU's Arctic policy was the topic for a hearing in Rovaniemi in February 2013, and in the press release from this hearing it was stated that the Arctic attracts global players in a number of policy areas such as energy, transport and the environment (On an Arctic Policy for the EU 2015).

#### *The Sámi Council and Saami Parliamentary Council (SPR)<sup>10</sup>*

The Saami Council was established in 1956 by Sami member organisations in Finland, Russia, Norway, and Sweden. Its primary aim is the promotion of Sami rights and interests in the four countries. This is done by reaching agreements between the four states and the Sami Parliaments in each country, respectively. The Sami Parliaments in Finland, Norway and Sweden (established in Norway 1989, Sweden 1993, Finland 1973) cooperate in a cross-border democratic collaboration organisation called the Sámi Parliamentary Council (Samiskt parlamentariskt råd, SPR). It was established in 2000 with the Norwegian and Finnish Sami parliaments as members, and the Swedish Sami Parliament joined in 2002. The main objectives of the organisation are to strengthen the cross-boundary collaboration between the Sámi people and to speak for all Sámi in an international context, especially in relation to other indigenous groups. Prioritised areas are Sámi research, Sámi language infrastructure and development, and youth issues.

The Council has been active in promoting the 2007 adoption of The Declaration on the Rights of Indigenous Peoples in the United Nations, as well as the Nordic Sami Convention. The Council also represents the Sámi people in the EU, and has been engaged in various Arctic collaborations. However, the Council is not involved in the Arctic Council, where the Sami Council, a nongovernmental organisation, is a permanent participant.

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<sup>10</sup> Saami Council (2017).

## **Obligations to strive for gender equality and to eliminate discrimination against women**

Gender equality is a value codified in political and legal obligations throughout the world. One of the most important international legal documents is The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). All the states participating in the regional governance bodies of the Arctic, apart from the USA have ratified this document with the objective of eliminating discrimination against women and gaining full equality between men and women. Countries that have ratified or acceded to the Convention are legally bound to put its provisions into practice. Article 2 of the Convention condemns discrimination against women in all its forms and signatories agree to pursue, actively, by all appropriate means and without delay, policies capable of eliminating discrimination against women. Legislation is an important part of the eliminating process. Member states are obliged to take active measures to eliminate discrimination. That is; the obligation goes far beyond recognising equal formal rights, the states are obliged to take all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men in all fields, in particular in the political, social, economic and cultural fields (CEDAW Art. 3).

State parties are committed to the submission of national reports, at least every four years, on measures they have taken to comply with their treaty obligations. The Committee is empowered by the Convention to make general recommendations directed to the state parties. The recommendations to the state parties participating in the governance of the Arctic will be discussed below in relation to the section on the “doing” of gender equality.

CEDAW state parties can also be bound by regional documents, such as the European Convention on Human Rights (ECHR), which is binding on all the European states. The ECHR has a general prohibition on discrimination. While it does not explicitly impose obligations to take active measures to eliminate sex discrimination, it does require that the enjoyment of any right set forth by law shall be secured without discrimination based on specific grounds that include sex. EU Member States are also bound by the Charter of Fundamental Rights of the European Union. Article 21 of the Charter prohibits discrimination on the basis of sex, and Article 23 obligates states to ensure the enactment of measures to achieve gender equality. The Treaty on the Functioning of the European Union (TFEU)<sup>11</sup> and the Treaty on

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<sup>11</sup> TFEU states that in all its activities the Union shall aim to eliminate inequalities and promote equality (Art 8, cf. Art 153, 157).

European Union (TEU)<sup>12</sup> also contain the non-discrimination principle and demands for active measures.

International Conventions and Treaties bind the state parties not only legally but also politically. However, neither the non-discrimination principle nor the obligations to maintain active measures are very clear and may be difficult to interpret. This is particularly true regarding the active measures.

### ***The rhetoric, practice and outcome of gender equality in the public governance of the Arctic region***

Gender equality and non-discrimination could be expected to be axiomatic in society, due to the emphasis put on these principles all over the world. The reality however, is that this is not the case. Feminist scholars have used the distinction between rhetoric and practice, political and legal goals and social reality, to scrutinise and point out the gap between those. What is said to be a political goal, a legal principle and a behavioural norm, is not the same as what is put into practice. The difference between rhetoric and practice when it comes to gender equality in the governance of the Arctic will be discussed further.

Taking gender equality as a political and legal commitment as the starting-point, the way gender equality is spoken of (rhetoric) by the governance bodies, the way gender equality is put into concrete activities (practice), and some examples of the critique raised by the CEDAW Committee directed to three of the CEDAW member states in the Arctic region (outcome), will be discussed here. Because of the limited focus on gender equality it seems to be possible to give a comprehensive presentation of all gender equality measures of the region, but it could be that I have missed some minor measure.

Gender equality and indigenous issues are interrelated within the governance of the Arctic, especially with regard to (indigenous) women. Therefore, any discussion on how gender equality is spoken of and put into practice must also include discussion of how indigenous issues are talked about and put into practice.

### ***The rhetoric of gender equality in the governance of the Arctic***

The public bodies governing the Arctic are obliged to follow the political and legal commitments mentioned above. How do the government bodies

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<sup>12</sup> TEU states that the Union shall combat discrimination and promote equality (Art 2 and 3).



express these commitments? How are the commitments understood? How is gender equality talked about?

As already mentioned, the material used to answer these questions includes webpages and various documents adopted by the bodies. There is special focus on the Arctic Council as the main governance body for the Arctic region. The results from both searches, February 2014 and June 2015, will be presented. When figures are used the first refer to 2014 and the second to 2015.

### *Arctic Council*

On the homepage of the intergovernmental forum *The Arctic Council* the word *gender* had 9 hits in 2014 and 11 hits in 2015. The hits refer to three activities, one in 2014 (see below) and one statement on gender. The member state Sweden explicitly stated, during its chairmanship (early spring 2013) that, regarding indigenous people, it “highlights the human dimension and the gender perspective in the Arctic Council” (Sweden’s strategy for the Arctic region 2011). There is no further explanation of what this means.

The eight members of the Arctic Council have adopted their own national strategies for the Arctic region in recent years; so too has the EU. The strategies have many similarities, but the prioritisations seem to be somewhat different.

The reasons for a strategy for the Arctic, expressed in the Swedish strategy, are said to be several. Three basic goals touching on Indigenous peoples and gender issues have been identified (Nord 2016a, 61 and 65). The first thing that is mentioned is climate change. Climate change affects the Arctic region in a dramatic way, which in turn has a gradual impact on the living conditions of the indigenous populations living there. Their traditional industries and cultural practices are threatened by the changes. Even more disturbing is the effect on the ice cover. An increase in the melting of the ice opens the way for more sea transport in the area, and for greater access to the natural resources. Activity in the region is becoming more intense.

Gender is mentioned within two frameworks in the Swedish strategy. The first is divided in two general statements, the first of which is a statement of common values within the Nordic countries. One of the values is the promotion of gender equality (Sweden’s strategy for the Arctic region 2011, 15). The other general statement is that Sweden will work to bring the human dimension and the gender perspective to the fore in Arctic-related co-operation bodies (Sweden’s strategy for the Arctic region 2011, 6). When Arctic natural resources are exploited there must be measures to counteract

the negative health and social impacts of climate change and pollutants. The right of indigenous people to maintain and develop their identity, culture, knowledge transfer and traditional trades must also be upheld.

The second framework within the Swedish strategy in which gender equality is mentioned is in relation to specific measures to increase the participation of Sámi women in political processes. It is said that the Sámi Parliament has been working actively on the issue. The Sámi Parliament has also begun an exchange of experience with Finland, Norway and Russia regarding gender equality, men's violence against women, sexual harassment and abuse (Sweden's strategy for the Arctic region 2011, 41 and 45). Gender equality in the Arctic region is done through measures directed to the Sámi population by the Swedish Government.

The specific group 'women' is mentioned in relation to mercury pollution in the Arctic. Human populations are adversely affected by such pollution because traditional diets often include species of marine mammals and fish that can contain high levels of mercury. Pregnant women, mothers, and children are especially sensitive. 'Men' are not specifically mentioned at all, as far as I can see.

The human dimension, one of the three top priorities in the strategy, is in my view exposed in this setting as being a reaction to the other two top priorities, especially the first one, climate and the environment, but also to economic development. Climate change, an effect of the way we live and political and economic prioritisations, and the economic development seem to be things that happen without human actors. The human dimension is affected by an unquestioned development, it seems and, moreover, the humans in this context are mostly understood to be the indigenous populations in the region. This says two things, no one is responsible for the development and indigenous people are constructed as the others. Activities and prioritisations by non-indigenous populations affect the indigenous population, but the activities and prioritisations by the non-indigenous population are not questioned.

The Arctic Council published the Arctic Human Development Report (AHDR I) during the Icelandic chairmanship in 2004 in collaboration with other bodies, such as the United Nations Development Program, in order to initiate the process of developing a knowledge base for the Arctic Council's Sustainable Development Programme (Einarsson 2004). The report has a broad scope. "Gender issues" are considered in a special chapter (Einarsson 2004, chapter 11) which addresses several critical issues but does not provide an overall assessment of gender issues in the Arctic.

To begin with it highlights different notions of feminism and also the variety within specific communities. Western feminism cannot be placed in opposition to a non-western or an indigenous feminism, and western, non-

western or indigenous feminism are also not coherent. There are variations between different groups but also within the same group.

The relation between feminism and gender equality is not explicitly discussed but the presumption seems to be made that gender equality and western feminism (i.e. liberal feminism) are synonymous. Even though “defining power relationships” is mentioned without signifying any specific power relationship, it seems to be understood that gender equality is contrary to traditional gender roles, or even to the new ways of organising indigenous couples’ lives, with a man at home and a women in paid work. I would like to emphasise, that gender equality, according to political and legal perceptions in e.g. CEDAW and in a Swedish context, is more about equal value, rights, duties and power in both private and public life, rather than about all doing the same thing. When independence is emphasised with regard to gender equality, it is in the meaning that independence may protect individuals from exploitation, abuse and discrimination. It must not mean that people are not free to choose to be mutually independent of each other. Gender equality as a legal principle can be understood as protecting individuals from negative dependence (as when somebody is not able to leave if he/she wants to) but encouraging positive dependence (to choose to live in relations based on free will and not coercion). Putting gender equality as a western concept with a certain meaning in opposition to traditional or new ways of living in indigenous groups, as the AHDR I does, strengthens the dichotomy between indigenous and non-indigenous groups. This is obvious in the following quotation:

(t)oday, one might find among younger couples a situation where a mother holds a job outside the home while the husband is the homemaker with three or four children at home. ... These observations demonstrate that gender equality issues have to be understood from a uniquely Arctic perspective, different from the typical idea of power imbalance between males and females (Einarsson 2004, 189).

Men’s changing roles in Arctic society and how they affect social problems are also highlighted. There is a devaluation of men’s traditional roles, the welfare of men is jeopardised and at risk much more than that of women, and furthermore, modern development in the Arctic is in fact systematically disenfranchising Arctic men (Einarsson 2004, 191). This is said to be in contrast to the assumptions of feminist discourse on gender issues. This statement is problematic in several ways. Firstly, the poorer outcome for men compared to women in modern society is a highly focused issue. Secondly, the presumption is that women are the winners. Instead there might be groups of men who are gaining power and influence on the behalf

of those men who are losing their foothold. Thirdly, men's social problems often have consequences for women. Men's violence against women does not decline when men are devalued.

A pattern of disproportionate out-migration by young women in combination with a higher rate of female marriage to outsiders plays a significant but under-studied role (Einarsson 2004, 192). Education seems to be one reason for women leaving the Arctic, but there is a complex of individual and structural push and pull factors. Many of the factors mentioned seem to be connected with a lack of influence and power to act. What kind of activities, jobs, educational possibilities, future scenarios are there in the region? Are these interesting enough for the women? It seems that women are better off if leaving the region than men.

One thing mentioned in the report is the relatively low representation of women in politics but also in the management of the natural resources and in emerging issues including climate change and contaminants (Einarsson 2004, 200). It is not that women are not interested; at the grassroots level women are prominent but they are less likely to attain decision-making positions. The discussion on the representative issue is a good example of moving beyond the gender roles of women and men. Here it is about the power and the influence of all citizens. I highlight this issue because of its importance for governance bodies within the region. I will return to some criticism from CEDAW Committee below.

There are several other issues raised in the report and one might have expected that the Arctic Council to take the report more thoroughly into account, but that did not happen.

The second Arctic Human Development Report (AHDR II) was published in 2015. The goal of this report was to provide an update to the first report, just over 10 years later, in terms of an assessment of the state of Arctic human development. The major trends and changes are unfolded, in order to identify policy relevant conclusions and key gaps in knowledge. The "new and emerging Arctic success stories" are also told. It is said to address critical issues and emerging challenges in Arctic living conditions, quality of life in the North, global change impacts and adaptation, and Indigenous livelihoods (Nordic Co-operation 2015).

A persistent knowledge gap can be noted in the report. Men and women, it is said, are not affected equally by climate change and globalisation, and their impacts on traditional and non-traditional economic activities in the Arctic, on political systems, on education and healthcare provision, etc. There is also a lack of knowledge about the gendered dimensions of contemporary cultural practices and expressions, including the (re)negotiation of cultural and other identities, the gendered dimensions of domestic violence, the gendered characteristics of decision-making

regarding resources at different levels, the gendered nature of aging in the Arctic, the gendered experience of food and other (in)securities and the gendered nature of Arctic geopolitics (Nymand and Larsen 2015, 24, 493).

A comparison between the two reports regarding gender is made more difficult due to the fact that gendered dimensions are mainstreamed throughout the report (Nymand and Larsen 2015, 13). Mainstreaming gender accords with the globally accepted strategy for promoting gender equality adopted by UN in 1995 through the Beijing Declaration and Platform for Action. However, the strategy has its pros and cons, and there is a risk that gender mainstreaming can make gender equality invisible and prevent it being reflected on. In this case, not mainstreaming the 'gendered dimensions' could have facilitated a comparison between the situations in 2004 and in 2015.

However, searching for the problems raised by the first report in the second report shows that the situation has not changed in any significant degree. The same problems are still there and the lack of knowledge requiring more research is also pointed out in the second report but has not been met to any serious extent. It is striking that the statistics in the report, generally speaking, do not show the figures for men and women separately. The female out-migration, raised as a problem in AHDR 2004, is also highlighted in the second report (Nymand and Larsen 2015, 69).<sup>13</sup> The reasons mentioned are the male-dominated labour market, women's wish to get an education and the permanence of women's migration. The relatively low representation of women in the governance of the region is still a problem (Nymand and Larsen 2015, chapter 5). There are still huge gaps in health status between indigenous and non-indigenous people in many parts of the region. The statistics in the report show the figures for different ethnic groups. There are gaps in the knowledge relating to 'violence in families'. Women and children, as well as the elderly, are pointed out as being particularly at risk (Nymand and Larsen 2015, 335). This is also confirmed by the CEDAW Committee, see below. The conclusion of the second report concerning gender issues is that much remains to be done.

The need for a system for tracking trends in human development in the Arctic was already noted in AHDR I. A set of indicators were identified in the first report, and in 2010 the Arctic Social Indicators (ASI-I) presented were; health and population, material wellbeing, education, cultural wellbeing, contact with nature, and fate control. Arctic Social Indicators II (ASI-II) is a follow-up activity to ASI-I (Nymand Larsen, Schweitzer and Petrov 2015). ASI-II contains five case studies. Gender imbalances and differences are also noted in this report, but the figures are not shown

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<sup>13</sup> Figures concerning Greenland, also raised by Hamilton and Rasmussen (2010).

separately for men and women. The report concludes with the argument that the long-term monitoring of human development in the Arctic would be greatly facilitated by the regular and frequent collection and reporting of relevant data, including those required for the proposed small set of ASI indicators (Nordic Co-operation, ASI II, 2015).

*The Barents Euro-Arctic Council (BEAC) and the Barents Regional Council (BRC)*

The BEAC seems explicitly to be more concerned with gender equality explicitly than the Arctic Council, 30 hits on 'gender equality' were found on the homepage of BEAC in 2014, 26 in 2015 (the same as 2014).

At the first meeting of Barents parliamentarians - the Barents Forum - in Kirkenes in 1997 and at the first conference in Alta in 1999 (both places in Norway) gender equality was already on the agenda together with transport, communications and social wellbeing (Barents Region, 2015). What was meant with gender equality is not specified.

On 14 November 2012 BRC adopted new Terms of Reference for co-operation within BEAC (Terms of Reference, 2012). The document summarises the existing practices and procedures and reiterates the principles of the co-operation, but it also introduces some novelties. The novelties are provisions concerning common values (Art 4) and gender equality (Art 5) as well as the role of youth (Art 6). Art 4 states that "(t)he Barents co-operation is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, including the rights of persons belonging to minorities and physically challenged persons" (4.1), and "(t)hese values are common to all the participating regions in a society in which pluralism, non-discrimination, tolerance, justice, solidarity, and equality between women and men prevail" (4.2). In addition, Art 5 states that "In line with the principles of the Barents co-operation, the participating regions will strive to ensure an equal gender representation when appointing their members of the RC and of the working groups."

In the introductory part of the joint communiqué from the XIII session in Kiruna, Sweden, 12 October 2011, the BEAC reaffirmed its strong commitment to improving the conditions for gender equality as a common democratic value (among others) in the Barents region. In the latest joint communiqué from the XIV Session in Tromsø, Norway, 29 October 2013, it is only said that gender equality is key to economic growth and prosperity. In earlier joint communiqués (the 9<sup>th</sup> session 2003 in Umeå, Sweden, the 10<sup>th</sup> session in 2005 in Harstad, Norway, the 11<sup>th</sup> session in 2007 in Rovaniemi, Finland and the XII session in 2009 in Murmansk, Russia) the

Council also points to the importance of gender equality in the Barents Region, but not in the introductory part. The communiqué from 2003 (Art 25) calls for special efforts in close co-operation with the BEAC to safeguard gender equality and “...develop women’s, including indigenous women’s, employment opportunities, entrepreneurship and representation in political fora.”<sup>14</sup>

Gender equality in 2005, 2007 and 2009 is set in the section about Human and Social Development. The Council (in 2005) calls for efforts to safeguard gender equality and strengthen women’s, including indigenous women’s, employment opportunities, entrepreneurship and representation in political fora (Art 21). The Council (in 2007) highlights the importance of gender equality “... and the strengthening of women’s, including indigenous women’s, employment opportunities, entrepreneurship and public representation.” (Art 27). In the communiqué from 2007 the Council also calls for regular Barents Forums on Education and Research, working as platforms for education and research connected with other Barents activities and issues, such as gender issues (article 23). In 2009 (Art 12) the Council underlines the importance of ensuring gender equality and improving the situation of women, including indigenous women, with regard to employment opportunities, entrepreneurship, education and public representation.

It is interesting to compare the terms used for the ambitions regarding gender equality over the years. In 2003 and 2005 the Council *calls for* efforts to *safeguard* gender equality. In 2003 efforts is complemented by *special*. Was the mainstreaming strategy not yet acknowledged in 2003? In 2007, the Council *highlights* the importance of gender equality. The choices of words is different in 2009 and 2011, and it seems the ambition for activities that impact on living conditions is strengthened. In 2009, the importance of *ensuring* gender equality and of *improving* the situation of women are *underlined* by the Council. In 2011, the Council *reaffirms* its strong commitment to *improve* the conditions for gender equality. And, in 2013, the word conveying obligation on the part of the BEAC has disappeared totally.

### *The Northern Dimension and EU Arctic Policy*

In the Policy Framework Document for the Northern Dimension it is stated that the Northern Dimension

(w)ill be based on the internationally recognized principles, such as good governance, transparency and participation, sustainable

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<sup>14</sup> See for all the joint communiqués, BEAC Ministerial meetings (2015).



development, *gender equality*, the rights of persons belonging to minorities, cultural diversity, social cohesion, fair working conditions and corporate social responsibility, non-discrimination, the protection of indigenous peoples and supports the further strengthening of civil society and democratic institutions (emphasis added), (Policy Framework Document 2015).

In the Political Declaration, nothing is said about gender equality (Political Declaration 2015).

The EU Arctic policy *An integrated European Union policy for the Arctic* (European Commission 2016) focuses on advancing international cooperation in responding to the impacts of climate change on the Arctic's fragile environment, and on promoting and contributing to sustainable development, particularly in the European part of the Arctic. The European commission expresses its will to engage with Arctic indigenous groups, but nothing is said about gender equality.

#### *The Council of the Baltic Sea States*

The Annual Forum of the EU Strategy for the Baltic Sea Region and the Baltic Development Forum Summit in Turku in 2014 had promotion of gender equality on the agenda (CBSS Events, 2015). “The work of the CBSS should reflect the principles of democracy, social inclusion, sustainability, cultural diversity and non-discrimination, including gender equality; and that these principles should be mainstreamed in all its work” (The Council of the Baltic Sea States, Priorities. 2015).

#### *The Nordic Council and the Nordic Council of Ministers*

There is a Nordic gender equality co-operation program within the general co-operation. The program for 2006-2012 said that the scope of the work to promote gender equality was quite broad (Focus on Gender - Working Toward an Equal Society 2006). The prioritisations in these years were gender and power, and gender and young people. The prioritisations mentioned in the programme for 2011-2014 were mainstreaming of the gender and equality perspective and active participation by men and boys (Gender Equality Creates Sustainable Societies 2011). In the current programme, running from 2015-2018, there are two overarching themes; the public sphere and welfare and innovation. In addition, there are two horizontal themes: sustainable development with a focus on diversity and participation by men and boys in gender-equality work. Gender mainstreaming is part of the strategy to implement the programme (Nordic Council of Ministers 2015).

The Swedish Presidency of the Nordic Council of Ministers in 2013 focused on the prioritised action areas of gender equality in the labour market and gender equality in education (Sector programme Gender Equality 2013), while the Danish Presidency in 2015, prioritises the same things as in the general programme; the public sphere and welfare and innovation. More specifically, under welfare and innovation the sexually segregated educational choices and the differences between the sexes when it comes to moving to bigger cities are noted. Under the public sphere, four sub-themes are identified; representation and democracy, sexualisation, antifeminism, and the media (Sektorprogram Ligestilling 2015).

Interestingly, on the homepage of the Nordic Council and Nordic Council of Ministers news has been published of a call for a revision of the equality concepts. Equality should not only embrace gender but also disability, age, religion, sexual orientation and ethnicity. There is a risk, it is said, of political crisis if equality policy ignores diversity and only deals only with gender. (Warning: Equality must no longer be confined to gender 2013).

#### *The Saami Parliamentary Conference and Council*

Nothing is said about gender equality (Saami Council 2017).

#### ***The practice of gender equality***

The doing of gender equality in the governance of the Arctic is concerned with gender equality put into practice. Is gender equality implemented, and if so how, in the governance of the region? Which activities have taken place? What is the outcome of such activities?

There have been very few activities directed to gender equality within the work of the *Arctic Council*. I have found three (!) such activities: a conference held in 2002, a project proposal for another conference planned for the autumn 2014, and the same conference that took place in October 2014. Moreover, the two reports on Arctic Human Development (AHDR I 2004 and ADHR II 2015) and the Arctic Social Indicator Reports (ASI-I 2010 and ASI-II 2015) can also be listed as activities, activities that themselves call for more activities on gender equality.

The conference held on 3-6 August 2002 in Saariselkä, Finland was entitled *Taking wing - Conference on Gender equality and women in the Arctic*.<sup>15</sup> It was organised by the Gender Equality Unit at the Ministry of Social Affairs and Health in Finland, in co-operation with the Arctic council and the Nordic Council of Ministers. The goals were to raise the awareness

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<sup>15</sup> Noticeable is that information about the conference seems to have been published on the website in July 2012, 10 years after the conference.

of decision-makers about the situation of women in the arctic, and to act as a vehicle for getting actions supporting gender equality onto the agendas of the relevant existing bodies in the Arctic (the Arctic Council, Nordic Council, Nordic Council of Ministers, national and regional authorities and local and indigenous governments and indigenous peoples' organisations).

The conference was divided into three themes, Women and work, Gender in the Self Determination of Indigenous Peoples, and Violence against women. The first theme embraced women as entrepreneurs, use of land and land rights as well as living conditions. The second theme included leadership in the communities and in legislative practices. The last theme also included health issues, trafficking in women and prostitution.

During the Icelandic chairmanship, the Arctic Council, in collaboration with other bodies such as the United Nations Development Program, published the ADHR I in 2004. The report addressed critical issues including men's changing roles in society and how this affects social problems; women's security, job opportunities and out-migration; and women's positions of leadership and representation in decision-making bodies. A second Arctic Human Development Report was published in 2015 (ADHR II). The Stefansson Arctic Institute in Akureyri, Iceland was responsible for the reports.

During the first meeting of the Arctic Council Senior Arctic Officials under Canada's Arctic Council chairmanship in Whitehorse, Yukon on October 21 to 23, 2013, a project proposal entitled: Gender Equality in the Arctic: Current Realities and Future Challenges, was considered and granted funding. The project's objective was to

(p)romote extensive, policy-relevant dialogue on gender equality issues in the Arctic region in the context of current realities in terms of economic and social development as well as current and future challenges, inter alia relating to climatic and environmental changes (Whitehorse 2013).

A conference that gathered government representatives, policy makers, academics and a wide range of other stakeholders such as people from the business community, resource managers and users, community leaders and NGO representatives, was planned for the autumn of 2014, in order to facilitate and strengthen this dialogue. The main focus was thought to be on the diverse and differential situations of women and men throughout the circumpolar North and how to meet these societal challenges in the region. The conference, together with a comprehensive follow-up report, was expected to lay the foundation for a co-operation network including the various stakeholders researching, teaching and discussing and promoting gender equality issues in the Arctic.

The conference held in October 2014 in Akureyri, Iceland ‘Gender Equality in the Arctic: Current Realities and Future Challenges’, according to the SWDG, laid the foundation for a formal co-operation network of stakeholders focused on gender equality in the Arctic. The conference brought together government, policy-makers, academics, business, community members, non-governmental organisations and others to address key issues in gender equity including access to and control over resources and political participation. The presentations at the conference were made available on the webpage of the conference (Gender Equality in the Arctic 2014), and a report was published (Gender Equality in the Arctic 2015).

The proposal to the latest conference was probably initiated during a public seminar event closely connected to the Arctic Council meeting in Kiruna in May 2013. The background for the initiative is a story that can only be told by those who participated in the process. During Sweden’s chairmanship, in June 2012, I approached the Swedish chair and asked about their statement that "Sweden highlights the human dimension and the gender perspective in the Arctic Council." The reply was that there had been no activities had been made and no plans had (yet) been made. During the rest of the year 2012 we were in contact several times and finally in January 2013 a first conversation appeared in a panel discussion in relation to the Minister meeting in Kiruna in May 2013, the day before the last day of Sweden’s chairmanship. A seminar day was arranged and as the final activity a panel discussion was held on gender equality in the Arctic. During that discussion, a proposal for a conference was made; the conference that was to take place in October 2014.

This story is interesting because it shows the prioritisation given to the gender issue within the work of the Arctic Council. I would not say that there is no interest, but it is not an exaggeration to say that gender equality is not a prioritised question.

The outcome of the commitments of the other bodies, such as the BEAC and BRC, two bodies that have been more explicitly outspoken on gender equality on the webpages, also seems to be very humble. Gender equality has been on the agenda twice (1997 and 1999). The more specific outcomes of those agenda items do not appear on the homepage.

According to an instruction for a project description it seems to be an advantage if the organisation of the project has a *gender equality factor* and that this appears in the description (International Barents Secretariat 2015).

### ***The outcome of gender equality in the regional governance reflected through CEDAW state reports***

The rhetoric and the practice of gender equality within the regional bodies is studied under the presumption that the powers behind the bodies are states (or parts of states) that have political and legal obligations to achieve gender equality. When acting in bodies (established by the same States) they still have to fulfil the obligations. If regional bodies co-operate with private or semi-private stakeholders the accountability of the public bodies remains. Even if private corporations take social responsibility (framed as Corporate Social Responsibility) it is still the democratic institutions that bear the responsibility towards all their citizens and, also, have the (legitimate) power to act.

This is the background to why the CEDAW Committee's comments on some of the arctic states are used here as a mirror for what has been presented above, the rhetoric and the practice of gender equality within the regional governance of the Arctic. The comments are directed to the state parties which have within their territories and jurisdiction have the Arctic and the task of governing the Arctic.

All of the arctic states have ratified the CEDAW except the USA. Ratifying the Convention means that the state party is obliged to report to the CEDAW Committee every four years. However, it seems quite common to report less often. Two reports following on each other are not seldom combined and submitted at the same time. In addition to the state reports there are shadow reports from women's organisations and women's lobbies. These shadow reports have a certain impact on the CEDAW Committee's response to the state report, The CEDAW Committee considers the report at its meetings and responds to it. In the responses the Committee addresses both positive and negative points. The comments to different states vary and relate to the specific conditions in each state. Here I will give three examples, Sweden, Canada and The Russian Federation. I have chosen these three countries from among the eight arctic states because of their expected variations regarding conditions and the level of gender equality achieved. The other Nordic countries are considered to be comparable to Sweden and the USA has not ratified the CEDAW.

#### *Sweden*

The Swedish combined sixth and seventh periodic reports were submitted in 2006. The state party was requested to respond, in the next report, to the concerns expressed in the concluding observations on the reports from

2006 given by the Committee in January 2008.<sup>16</sup> Some of the concerns of the Committee regarding the 2006 report and relevant in this context are presented below (CEDAW/C/SWE/CO/7, 8 April 2008).

It is striking that Sweden with its self-image as one of the most gender equal countries in the world has a constitution that is gender-blind (this has also been pointed out in a government report on the constitution, SOU 2007:67). Also, the concept of equality is not in line with the constitution (paragraph 14). In relation to this comment the Committee calls for the CEDAW to be incorporated into domestic law, including the concept of substantive equality. Such an act could also enforce the obligations regarding Sweden's governance of the Arctic. This can be considered, together with the comment from the Committee on the lack of effectiveness in monitoring and accountability mechanisms, including sanctions for non-compliance, for gender mainstreaming at the municipal, regional and governmental level (paragraphs 20-21). The lack of effectiveness is not on the rhetorical level but on the practice level, in the same way as described above in the sections on public governance of the Arctic region.

The comment and drive for improvements when it comes to women in top management positions and on the boards of private companies (paragraphs 24-25) are relevant to the governance of the Arctic, because of the focus on natural resource management and business development. Women and men participate to almost the same extent in political representation, but when it comes to private companies and sectors relevant to the Arctic, especially in the field of natural resources and transportation, women "shine in their absence". This should make the governing bodies adopt an active strategy with such measures as quotas (suggested by CEDAW) to improve the number of women in high-ranking positions in the region. Gender segregation on the labour market is also relevant in this context. The Committee urged Sweden to take proactive concrete measures to eliminate occupational segregation (paragraph 27), a segregation that is pointed out in the AHDR report as also being problematic in the Arctic.

Saami women continue to suffer from discrimination within their communities and in society at large, and the CEDAW Committee urged Sweden to intensify its efforts to eliminate such discrimination (paragraphs 38-39). The kind of discrimination the Saami women experience is not described, but the statement can be analysed with help from the statements in the AHDR. There seems to be a presumption that indigenous women

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<sup>16</sup> After this study was finished, the eighth and ninth reports were delivered in November 2014, and the Committee expressed its concern in the concluding observations CEDAW/C/SWE/CO/8-9 in March 2016. Unfortunately, nothing much has been changed to the better. One of the issues mentioned here, that has been changed, is the gender-blind character of the constitution. The language of the constitution has been changed to gender-neutral in 2011. Still, the concept of substantive equality has not been introduced.

suffer from double discrimination, both within their communities and in society at large, in contrast to non-indigenous women. Constructing a contrast in this way between different groups of women can be questioned and understood as a stigmatisation of indigenous women.

Finally, regular and comprehensive studies on discrimination against indigenous women are also required. This fits in well together with the AHDR recommendations.

To sum up, using the comments of the CEDAW Committee as a tool with which to analyse Swedish participation in the regional governance of the Arctic could provide the governing bodies with valuable insights and could also form the basis for more proactive strategies.

### *Canada*

Canada submitted the combined sixth and seventh periodic reports not long after Sweden (CEDAW/C/CAN/CO/7).<sup>17</sup> The state party is requested to respond to the concerns expressed in the concluding observations on the sixth and seventh report given by the Committee in November 2008 in the next report. Some of the concerns of the Committee regarding the report and relevant in this context are presented below.

One of the Committee's main concerns is a presumed unwillingness to act on the part of the Federal Government and the lack of an efficient mechanism to ensure that the provincial and territorial governments establish legal and other measures to fully implement the Convention in a coherent and consistent manner. The unwillingness was also pointed out in the comment in the previous report (2003). The Committee urged the state to use its leadership and funding powers to set standards and establish an effective mechanism to implement the Convention at all levels of government. This reiteration of the urge reveals the Committee's disapproval (paragraph 12).

As expressed by the Committee; if the Convention is not fully implemented in the lower levels of government, the resistance can of course also characterise the governance of the Arctic. Combined with the fact that social assistance funds are at the discretion of the provinces and territories and there is no federal accountability mechanism to ensure minimum standards across the country, the Committee is concerned that there may have discriminatory effects (paragraphs 13-14). There have also been cuts in many social assistance schemes, with consequences for women who rely on social assistance for an adequate standard of living. Aboriginal women are one group that suffers from these cuts. The establishing of minimum

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<sup>17</sup> The most recent reports, the eighth and ninth CEDAW/C/CAN/CO/8-9, were delivered in late 2014 and the concluding observation by the Committee was adopted 25 November 2016.

standards applicable at the federal, provincial and territorial levels, is called for. The AHDR states that many residents in the Arctic would not receive outstanding Human Development Index (HDI) scores. Yet, many of those residents, among them many indigenous people, would not think of themselves as lagging behind (AHDR p. 16). A good life can be achieved without a high material standard. However, when the CEDAW talks about women *relying on* social assistance in order to survive it moves beyond the question of a good or bad life. Poverty among women is also pointed out as a problem (paragraphs 39-40).

The problem with formally discriminatory legislation is a problem that is unknown in the Swedish context, a context in which substantive equality but not formal equality is lacking (paragraphs 17-20). In Canada, the Indian Act continues to discriminate against, for example, descendants of Indian women married to non-Indian men and descendants of Indian men married to non-Indian women with their respect to their equal right to transmit Indian status to their children and grandchildren. It is a matter of urgency to eliminate this and other discriminatory provisions.

Employment of women and their participation in public life should also be promoted according to the Committee (paragraphs 23-24, and 35-36). This impacts on the governance of the Arctic. Both women and men are important as participants in the shaping of society. One of the worst things pointed out by the Committee is the many cases of missing and murdered aboriginal women neither being neither fully investigated nor attracting priority attention (paragraphs 31-32). Presumed racialised patterns should be investigated. Concerning the governance of the Arctic, it is of course urgent to take this into account, governance is about constructing good conditions for all citizens and, not the least, any business development requires an infrastructure that supplies the industry with labour, labour that is healthy and does not get murdered.

Aboriginal women suffer from multiple discrimination (paragraph 43). In contrast to the comments in the Swedish report, The Committee spelled out the kind of discrimination, namely access to employment, housing, education and healthcare. The Committee encouraged the state party to eliminate *de jure* and *de facto* discrimination against aboriginal women (and other groups of women), both in society at large and in their communities.

To sum up, the situation in Canada is not completely different from that in Sweden but there seems to be more formally discriminatory legislation remaining, bigger differences between various groups of women and the same kind of problems (maybe to a different degree) with a lack of women in high positions in the society.



### *Russian Federation*

The sixth and seventh periodic report from the Russian Federation was considered by the CEDAW Committee in August 2010 (CEDAW/C/USR/CO/7). The Committee started its response by reiterating the obligation of the state party to systematically and continuously implement the Convention. Even if the Government has the full responsibility for the complete implementation of the obligations of the Convention, the Committee stresses that the Convention is binding on all branches of the government (paragraphs 8-11). The criticism here indicates the risk of a lack of awareness of the Convention also when it comes to the governance of the Arctic. In addition, the institution for complaints about discrimination, the Ombudsman of the Russian Federation, has not received any complaint from women concerning discrimination. This may indicate that the state party does not have a comprehensive or effective (paragraphs 16-17) legal complaint system for women, according to the Committee.

Neither the constitution, nor other appropriate legislation, contains a definition of discrimination or expressly prohibits discrimination on the grounds of sex (paragraph 12). There is, at this time (2010), a draft federal law on gender equality but no adopted law. The Committee is seriously concerned and urges the enactment of such a law. Awareness about the Convention seems to be low in the Russian Federation, and the Committee therefore urges the state party to ensure a sufficiently knowledge about it and its optional protocol (paragraphs 14-15).

Women are not equally represented in all spheres of life and stereotypes of women seem to be a hindrance (paragraphs 18-21). The state party should establish an effective national machinery for the advancement of women, in political and public life (paragraphs 30-31), as well as a strategy for eliminating traditional practices and stereotypes that discriminate against women. The stereotypes are linked to a patriarchal structure, which in turn is linked to the problem of men's violence against women. The infrastructure for protecting women is not well developed, especially outside the larger cities (paragraphs 22-23). Nothing is said about indigenous women in particular; instead women in some specific areas are pointed out as being more exposed to violence (paragraphs 24-25). The situation of rural women (paragraphs 42-43) and ethnic minority women (paragraphs 44-45) is problematic and the Committee asked for measures to improve the situation and to eliminate multiple discrimination (paragraphs 46-47). The high and increasing prevalence of trafficking and prostitution was pointed out (paragraphs 26, 28).

The recommendation for the next report (expected to be delivered in 2014) was to include women's NGOs in the process. The recommendation added the image of the Russian Federation, presented in the statement of

the Committee, as a society in which women are in general subordinated and in which a patriarchal structure is very dominant.

### **Conclusion: Taking gender equality seriously?**

Governance in the Arctic, according to a statement in the ADHR II, pushes the edges of governance innovation (Nymand Larsen and Findahl 2015, 185). This is certainly not true about governance in relation to gender equality. On the contrary, gender equality seems to be almost absent in the rhetoric, the activities and in the outcomes of the governance, or, if present, mostly as statements about lack of knowledge or figures without any in-depth analyses and strategies for what could be done. There is a serious lack of systemic knowledge about gender realities and needs that should be addressed (also pointed at in Nord 2016b, 84). The conclusion is, unfortunately, that the Arctic governance bodies have, so far, not given their attention to any greater extent to gender equality and the impacts of economics, policies and governance on women, despite the fact that it is legitimate to have expectations of such measures. Governance in the Arctic is not “taking gender equality seriously”<sup>18</sup>.

The living conditions in the Arctic and the situation of the governance of the Arctic are not gender equal. Women are at a systemic disadvantage in terms of the representation of men and women, meeting the needs of all citizens, or building a society that promotes gender equality. Therefore, the need to take gender equality seriously is quite evident. What is lacking is domestic, regional, and, even global lack of political awareness or will to focus on women in Arctic and northern regions. It is also clear that Indigenous peoples’ interests remain secondary to other interests, even when compared with concerns regarding women as a general class.

The study of how gender equality is expressed, how gender equality is practiced within the governance, and the considerations of the CEDAW Committee, shows that there is a lack of awareness and an absence of activities that could meet the needs of all citizens in the Arctic. It also shows, even though this has not been the main focus in the chapter, that indigenous people’s interests are secondary to other interests. How can the lack of interest be explained?

One aspect to start with is the purpose of the governance of the Arctic. The governance is based on conflicting interests, the interest in access to natural resources and trade, the interest in protecting the environment, the interest in balance between the majority population and the indigenous

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<sup>18</sup> The title of a United Nations Development Programme in 2006 with the objective to help nations to build democratic governance and to fulfil the Millenium Development Goals, especially the third “to promote gender equality and empower women”, Taking Gender Equality Seriously (2006).

populations which often depend on nature for survival (in several respects) in a more direct way. Governance of the Arctic is, or should be, the democratic response to and balancing of conflicting interests, but one problem is that the governing bodies also have economic interests in the Arctic and/or are impregnated by an economic rationality. The interest of exploitation of natural resources seems to be the most influential and the other interests are perceived as something we must protect from the inevitable development. The conclusion is that the governance mechanisms of the Arctic are based on an economic rationality rather than on a gender equal and human rights rationality, despite far-reaching obligations to mainstream gender equality in every activity and to promote the human rights of indigenous people.

Whose interests and which interests are given priority in the balancing between conflicting interests can be understood through the way the governance is organised. The Arctic Council, for instance, has eight member states, with a rotating chairmanship. The chairman state will set the agenda for the term. All decisions are to be made by consensus. The indigenous people are represented as permanent participants, which means that they have full consultation rights in connection with the Council's negotiations and decisions. It is said that they make valuable contributions to the Council's activities in all areas. What is more, non-arctic states with interests in the Arctic (probably economic interests) have observer status. They have no influence formally, but they have access to information about the work of the Council and there is a risk that they may use that information for their own ends.

The organisation tells us about whose interests are maintained. It also tells us about which interests are given priority. The task for the working groups is to "react to the use" of the Arctic. Exploration of natural resources and increased access to trades impact on the environment and on people living in the area. Implicitly, this means that the exploration and use as such, is not an issue which can be questioned. It is self-evident that *WE* (the member states majority population?) need to use the region, but when doing so *WE* have to be responsible and try to reduce the negative impact.

The governance, as a democratic institution, has (should have) the obligation to meet the needs of all. The question is whether the structure of the governance meets the needs of some more than others? Gender equality (as well as equality between different ethnic groups) is not prioritised in this governance. One might expect it to be because of the obligations of the states.

The importance of active states in promoting gender equality is obvious, but the states must have legitimacy and be able to govern powerfully, both with reference to the government and to other stakeholders. There seems

to be a problem, or at least a risk, in states with a federal structure, such as Canada and the Russian Federation, that not all levels of the government will embrace the obligations in the Convention. The Committee calls upon the state party to use its leadership and funding power to set standards and establish effective mechanisms to ensure accountability and implementation of the Convention throughout its territory, at all levels in which government participates. The comments on Sweden are about the effectiveness of the mechanisms but not about the lack of leadership and funding powers.

The following final reflections are about gender equality and the importance of considering the meaning of gender equality. It is obvious that gender equality involves both rhetoric and practice. The experience of feminist scholars is that gender equality is more talked about than acted on. This study confirms that perception.

Another concern is the importance of both formal and substantive gender equality, and moreover, the connection with (general) equality. Formal gender equality is a necessary condition, but not sufficient, condition. Active measures are needed to achieve substantial gender equality. Such an achievement seems to be facilitated by a general of equality in society.

The last reflection concerns the importance of a critical examination of the conditions when it comes to issues of power and representation, as well as risks involved in being dependent on others for support (both individuals and state), lack of wellbeing and stereotypes, unequal structure of society and the problem with not being open to different perceptions of identity (what is male, what is female) or to different definitions of feminism. Persistent stereotypes and structures often seem to stigmatise women and indigenous groups, but also men. The focus must be on participation and active governance based on gender equality and human rights for indigenous people to construct a society for all, as well as on the responsibility that democratic institutions have to organise such participation and construction.

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## **“Even if a sparrow is small, it still has all organs”. Chinese and Greenlandic Gendered Perspectives on the Global Arctic.**

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This essay is an attempt to bring together experiences and research by the author related to the fields of gender, the Arctic, especially Greenland, and China. Comparison of these very divergent and different parts of the world in scale, population and size of the economy as well as legal and normative cultures is hardly possible. Nonetheless a gendered - and personal - perspective reveal similarities in development especially in relation to rapid social change, urbanization, globalization and climate and environmental challenges. The use of the essay as a genre has seemed to me particularly apt for this purpose of looking for links and similarities.

**Keywords:** Similarities, myth, environment, fears and dreams

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All deep sowing, as the Taoists said, is in empty space. And all sowing makes us tremble... When Electra thought she'd given birth to a dragon, she saw that the monster was crying to be nursed; she gives it her breast without hesitation and the milk comes out mixed with blood. Even though she had given birth to a monster, something which must have disconcerted her, she knew that her response had to be to keep it from dying of hunger, because the greatness of man consists in his ability to assimilate what's unknown to him. To assimilate in depth is to give an answer. (Jose Lezama Lima: *Paradiso* 1968/2000, 247).

### **Prelude - on Changes, Ways and Links**

One of the most important Taoist books is *I Ching or book of changes*, which was published in a quite famous German translation in 1924 by a German sinologist, theologian and missionary, Richard Wilhelm. In 1992 I acquired a version rendered into English of this book, and brought it with me to the European University Institute in Florence in Italy, where I spent the year of 1993-94 as a Jean Monnet Fellow-with time to study the overwhelming artistic heritage of the city-and time to read the *I Ching* from beginning to end. Having first visited China as a member of a group of Danish lawyers in 1979, I had become interested in Chinese culture and civilization. Perhaps because of the recent end of the Cold War I was fascinated by the focus of the *I Ching* on the constancy and permanence of change. Another attraction was the unfamiliar and to me peculiar approach of a clearly normative book, which focused upon how to solve dilemmas and difficult questions formulated by the user of the book. These questions were to be answered by way of an accidental but procedurally organized selection of a section of the text, which would include an image and its connected interpretation. This random section would thus provide an 'answer' to the question posed. It is described as an ancient book of divination (more than two and a half millennia) used amongst others for moral and practical guidance.

I grew up as not quite a foreigner (belonging to a Danish minority) in a country which no longer exists (Western Germany) in a century and era long gone (post-World War II and the Cold War). It was characterized by gender identities, which are no longer as irreconcilable as they seemed to be then - however, they have since been replaced to some extent by other contested identities since. I thus belong to the many, who have experienced waves of change as part of everyday life over more than half a century. The reverence of a past stability and harmony goes hand in hand with major and sometimes monstrous changes. In 1994 my informal mentor, professor Agnete Weis Bentzon (1918-2013), a lawyer and woman, who had gone on the Legal Expedition to Greenland in 1948-49 with her husband, Jewish

lawyer Verner Goldschmidt (see Petersen 2014a), suggested to her second husband that he might ask me (and my husband) if we would be interested in moving to Greenland to work there. The miniscule University of Greenland in Nuuk suffered from internal conflicts as had often been the case, and was in need of a teacher and professor - preferably in economy. They were however in short supply in Denmark and not necessarily motivated to leave for arctic mixed economies. With my interest in legal pluralism-and women's law-Agnete expected that I might be interested. I was-but I was also highly insecure about what moving to "the end of the world" would imply.

I brought the *I Ching* with me to Greenland, and I now began consulting it "properly" by way of "random" references on several occasions, where I encountered situations, conflicts and dilemmas, which I was not sure how to handle, and where I had a clear sense that my formal education and former experiences would not necessarily be very helpful. I was oftentimes surprised to observe how helpful and valuable its outlandish language and archaic images were in opening up for unexpected and imaginative interpretations of concrete situations. Before going to Greenland I had spent almost two decades dealing with women's law and feminist issues. While in Florence I had rewritten my Danish dissertation on informal law into a book in English, and due to my transfer to the Arctic and Greenland I ended up calling it *Home Knitted Law. Norms and Values in Gendered Rule-Making* (1996). At that time it was not easy to find a publisher for a book of such non-black letter nature. But after 1989 things were gradually changing and I managed.

Coming to Greenland in 1995-and living and working there until 1999-I experienced a peculiar situation regarding my earlier involvement in gender and law. Here I was-a privileged female white professor of law-representative of a field of knowledge of limited or ambivalent value in a post-colonial society ruled by Home Rule authorities since 1979. For my students it took a short while to overcome the ambivalence against yet another foreigner suffering from culture shock in the Arctic. For me it took some time to adjust and assimilate my experience and knowledge to something useful in a context, which for me was in several ways quite unfamiliar. The delight of encountering a group of (primarily female) students and of developing a mutual interest in each other's knowledge turned out to become a gift. After a considerable period, I realized that I could not just transfer my Nordic and European experiences and views on gender relations, norms and legality from primarily agricultural and industrial legal cultures to a post-nomadic society. Here to some extent, a tradition of gender complementarity (had) prevailed and women's work

and participation had always been a condition for survival of families and communities.

In 1998, the Danish Ministry of Foreign Affairs asked if I was interested in going to China for a weeklong seminar with Chinese and EU participants on Women's Human Rights. The "real" meeting on Human Rights had taken place the week before in Beijing. It was only five years after the acknowledgment at the Vienna Human Rights Conference that women's rights were also human rights and only three years after the big UN conference on Women in Beijing in 1995. The West was openly acknowledging its considerable interests in trading with and investments in China about a decade after the Tien An Men "event" as it is now called in China. Things were returning to "normal" in the Western-Chinese relations. In the lobby of the hotel, where the delegation I was part of stayed, a lot of primarily American couples were meeting and "collecting" Chinese girls, which due to the One Child Policy (policy! not law) initiated from 1979, had been given up for adoption. This practice has since been abandoned, as has recently also the One Child Policy. During the One Child Policy (and perhaps also now) Chinese parents and hospitals practiced "voluntary" and "forced" sex selective abortions in high numbers due to explicit economic sanctions following a second - now third - pregnancy and child in China. Greenland has seen very high percentages of abortions, maybe due to implicit economic pressures combined with more relaxed sexual mores and a high traditional value of children in some parts of society (Bjerregaard ed, 2001). Present Danish abortion law allows for abortions due to potential present or future handicaps of the child. A large majority of the Danish population generally supports this.

My Greenlandic students convinced me to go to China in 1998-and told me "to talk about us". That taught me that in world society everybody is a minority, although of course a country with a population of 1.4 billion people is a highly significant minority. In 2015 a young male Chinese lawyer taught me a Chinese saying "*even if a sparrow is small, it has all organs*". It seemed like a good description of the viability of the small communities of the world. Now that the ice cap in the Arctic is melting, we are again learning that the species are interrelated. The melting ice cap is opening up the North West and North East Passages allowing for risky sea travel and shorter sea routes between China and Europe. Higher sea levels may influence the limited arable land for the world's big Chinese minority, which comprises 20% of the world's population but has only 8% of arable land.

After stopping to work intensely with Greenland from 2006, I was asked to do work on gender, law and religion in the Mediterranean and Middle East with its indispensable energy resources upholding increasingly unsustainable lifestyles and its contagious and explosive mix of religion,

law, gender conservatism and neo-liberal economies. Following a longer visit to China in 2009 for the conference on international philosophy of law - on *Global Harmony and Rule of Law* - I published an article on comparisons of global legal cultures including Chinese legal culture (Petersen 2011). In the summer of 2012 the then president of China, Hu Jintao visited Denmark - the first state visit ever since the establishment of the PRC. Expectations for Danish market opportunities in the huge Chinese market were massive. Other Chinese ministers already had paid visits to Greenland a few months earlier, and at the end of 2012 I was contacted by young Chinese lawyer working in a major Danish (business) law firm particularly focusing on Chinese investments in resource extraction in Greenland/Denmark and Danish investments in China. Together we taught the first course at the University of Copenhagen on *Chinese legal culture and business law* in the fall of 2014. In the spring of 2015, I went on two research trips to Greenland and China respectively primarily financed by the Sino-Danish Center.

On June 2<sup>nd</sup> 2015 I returned to Copenhagen to be able to participate in the celebrations on Constitution Day, June 5, on the occasion of the 100 years anniversary of the voting rights granted to Danish women-and men without their own households. During World War I in 1915 women, the poor, and the dependent males - but not Greenlandic men and women - were granted voting rights. They had to wait for constitutional changes in 1953 before they got voting rights for the parliament of the Danish Kingdom. In 1949 *Greenlandic* women had been granted voting rights for local elections, several years later than Greenlandic men. *Chinese* women were granted voting rights with the enactment of the constitution of the People's Republic of China from 1954 - but they have had little opportunity to participate in free elections in the period ever since. Denmark had to wait for its first female prime minister ever until 2011. Helle Thorning-Schmidt led a centre left coalition government, where female chairs initially led all the parties. She managed to celebrate the centenary for women's vote but her coalition lasted only one term, as it lost the elections very narrowly on June 18, 2015. A new minority government supported by three small centre right parties - all led by male leaders took over ten days later. Voters at this election were divided along gender lines and according to educational levels and urban/rural lines to an up till then unseen degree.

### **On Voices and Votes**

Blackbirds are small birds with strong voices. They select a high position especially in the morning and evening at sunrise and sunset to be sure to have an overview and to be heard. Their vistas may not be democratic, and they will have no votes-but sometimes they will be heard-and loved-

nonetheless. In Greenland the "snow sparrow" is the most common Greenlandic bird. One to ten million couples breed in the summer before the birds on the West coast migrate to North America and those on the East coast to Siberia during the winter. These migratory routes also indicate the geostrategic and geopolitical position of Greenland between the two big powers of the 20<sup>th</sup> Century, the United States and the Soviet Union, which has been of importance for the status of this society for a considerable period. The geopolitical landscape has been changing after the collapse of the Soviet Union, as has the importance of the poles for global society. Population density in the Arctic is low and the Greenlandic community of humans is indeed a small one, about 56,000 people, of whom 85 percent are indigenous. 48,000 of the population now live in towns, and about 16,000 in the capital of Nuuk. Percentagewise this demonstrates the global tendencies of urbanization as everywhere else in the world. Greenland experiences other global tendencies such as increasing demand for resources as well as the impact of climate change. The Arctic is becoming the global Arctic.

China is the new player in the global geopolitical landscape and has long had interests in the Antarctic, but from the 21<sup>st</sup> Century, its interest in the Arctic has been growing (on global change and geopolitics see Smith 2012, McCoy 2015 and Moisi 2009). As a "near Arctic State" it was vying for status as an observer state in the Arctic Council (established in 1997) at a meeting in 2009, and gained status as permanent observer in 2013 with rights to voice the Chinese perspective, but without voting rights. The doors for the global hunters of resources-including China-had already been opened in Greenland. Chinese interests in an iron mine in Isua, had been well known for several years. Greenland has some of the world's biggest deposits of rare earth elements, used in communication technologies. These are strategically important metals in which China has a near monopoly. Former Premier Hans Enoksen visited China in 2005 followed by a number of later Home and Self Rule ministers. China's Minister for Land and Resources Xu Shaoshi visited Greenland in April 2012. In September 2012, South Korean President Lee Myung-bak's visit to Greenland showed that China was not the only Asian power to look at Greenland (Degeorges 2013).

These Asian visits and the Greenlandic preparations for legislations on investments which would possibly imply import of a couple of thousand Chinese male mining workers gave rise to hope for a more self-sufficient economy in Greenland, perhaps leading to full independence. It also arose fear of loss of influence over Greenland in Denmark-and probably also a less explicitly voiced fear of loss of influence of a minimized Denmark in world society. The geopolitical aspects of the Asian interests in the Arctic are probably a sign of a changing geopolitical landscape after the end of the Cold

War and the financial crisis, which hit especially Iceland very fast and hard, while Greenland was hit somewhat later. The Greek economic drama in the Mediterranean also illustrates aspects of the growing global interests and investments of China.

What are the gendered consequences of such geopolitical shifts and changes? The present period is witness to refugee movements of a scale not experienced since the end of World War II, which also raises issues of gender. Especially young men embark on long and dangerous journeys, while women seem to move more readily from the countryside to urbanized areas in many parts of the world for education, paid work and better living conditions - including in Greenland and China.

In early May 2013, elections in Greenland led to one such woman becoming the first female prime minister in Greenland. Aleqa Hammond was born 1965 in Southern Greenland. She grew up in Northern Greenland as a daughter of a hunter. Her father died, when she was very young, she traveled the world and was educated amongst others in Canada. She had been a member of the Greenlandic leading party, Siumut, and became a member of government from 2005. Her charismatic personality and highly controversial and populist leadership style divided the population. She declared as her dream and one of her important goals that Greenland would become an independent nation acknowledged by the UN. One of the tools for this goal was increased authority over and exploitation of mineral resources in Greenland including "rare earth". The coalition government formed after the May elections had decided to lift the ban on exploitation of uranium resources in Southern Greenland as part of their foundation. After long debates in Inatsisartut, the Greenlandic Parliament, at the end of October 2013 a narrow majority of 15 votes against 14 decided to abandon the zero tolerance policy on uranium mining, which first the Home Rule government and from 2009 the Self Rule government had inherited from Denmark. This was a very controversial decision, which gave rise to several demonstrations in Greenlandic cities, especially in Southern Greenland, where the uranium resources exist. It gave rise to internal conflicts in Greenland and amongst Greenlanders-as well as in relation to Denmark, which had already been alarmed at the prospects of "large scale" Chinese investments in Greenland. After a corruption scandal, Aleqa Hammond resigned in October 2014 as leader of the Greenlandic government, and new elections took place. In 2015 she was elected as one of the two Greenlandic members of the Danish parliament.

One of the strong voices to rise after the uranium decision was that of a young female Greenlandic artist, Bolatta Silis Høegh, born in 1981 in Qaqortoq, Southern Greenland, close to the mountain, Kvanefjeldet, where uranium was to be mined. Bolatta Silis Høegh is the daughter of the most



well-known Greenlandic national artist Aka Høegh. Her father, Ivars Silis, is initially from Latvia and originally trained as an engineer. He moved first to Denmark and then on to Greenland to work amongst others with nature photography. Bolatta has been living in Denmark for several years, but still has strong family ties to Greenland. In several interviews she mentioned her severe physical reactions to the decision to lift the ban on uranium mining in 2013. She felt sick for several days as if from a strong hangover or headache. Then she got up and painted a series of dramatic oil paintings called *Lights On Lights Off* (Nordlund 2014; Schultz-Lorenzen 2014; Vahl 2014)). She exhibited the series of paintings in a run-down place in Copenhagen (a former royal apartment used for hunting trips) in August 2014. Seeing them reminded me of Goya's Black Paintings painted between 1819 and 1823. Both series portray intense, haunting themes. Bolatta uses her own naked body in stark paintings, one of them with the bloody head of a horse replacing her own. The injured bodies and the dark ominous landscapes in her paintings both reflect violence, death, and a fear of the consequences of the political decision, as well as repressed emotions related to experiences of brutal deadly events in her childhood in the small and in some ways idyllic city, where she grew up. She told that some Greenlanders had condemned her for her critique of the uranium policy-also because she did not live in Greenland, and thus was not entitled to voice a criticism. Violence and tragedy are part of recent history in both Greenland and China not to speak of Europe in the 20<sup>th</sup> century. Traumas and taboos are linked, and are only sometimes given voices. As for instance in the Greek and Greenlandic myths-and probably also in Chinese myths and sayings.

After the Danish elections on June 18, 2015 a completely new party, Alternativet [The Alternative] was voted into the Danish Parliament, much to the surprise of most political commentators. The party is led by an openly gay long time local politician, who served as a minister of culture for a short period after 2011, but chose to step down, when he was accused of corruption in 2013 due to a number of representative activities by the ministry carried out at the institution, where his partner was employed. The accusations were later refused. Even if the press considered the party a bunch of frivolous performers not to be taken seriously, Alternativet managed to mobilize a considerable number of young people and its 10 point program listed the following priorities: a sustainable society; an entrepreneurial society; a safe society; a holistic society; a practical society; a wild society; a reflective society; a curious society; a vital society; a society of equal worth. Only three out of the nine elected candidates for the parliament (with 179 seats) were women. A fourth woman ran for election but was not elected. She was also the only candidate with an immigrant

background from a part of Copenhagen, with a high number of immigrants, where the party received an extraordinarily high number of votes. In the public debate the party is primarily identified with a focus on transition to a sustainable society.

### **“Under the Dome”<sup>2</sup>**

On February 28, 2015-on the Saturday preceding the meetings of the National People's Congress and Chinese People's Political Consultative Conference-a female Chinese journalist, Chai Jing, who had earlier worked for Chinese State Television (CCTV) for a decade released a 104-minute long video called *Under the Dome*. The film dealt especially with air pollution in China and particularly in Beijing. It was initially streamed on major internet platforms without interference from censors, and it was accessible on the Internet for about a week. According to different sources it drew around 200-300 million views within this period. After it was censored, it was removed to less accessible platforms (see Fearon 2015, Fox-Learner 2015).

Chai Jing had traveled to the US to give birth to her daughter in October 2013, and this led to an outrage among Chinese netizens, who branded her as a ‘birth tourist’. In the video, she tells that she learned that her daughter had a tumor, and had to undergo an operation. She feared the tumor might be due to air pollution, and following her daughter’s birth and operation, she undertook a yearlong self-financed investigation following up on some of her earlier work as an investigative journalist. She explains in the video how she had never cared about air pollution before she got pregnant and had never worn a mask. After she became pregnant, she became much more concerned with these issues. I had only managed to see a little bit in Chinese before my visit to China in April and May 2015. However, a group of young Chinese high school students quickly got together to produce English subtitles for non-Chinese audiences. The video has since been available in sections on YouTube (<https://www.youtube.com/watch?v=MhIZ50HKIp0>). During my visit to China, I gave a couple of lectures to Chinese students, and I asked them if they had seen the video. In a small Human Rights class in a Beijing University where the professor was not present, everybody had seen it. In a class of demography students at another Beijing University, where the professor was present hardly anybody but the professor admitted to have seen it. In a big class of master students of law at a University in Shanghai, where the teacher of the class was not present only a couple of students had seen it. In one of the Beijing classes a young student, who I later learned was also a party member, criticized Chai Jing for being rich

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<sup>2</sup> The sources for this section are my own interviews and the videos. I have on purpose kept the interviewees in the whole article anonymous.

and out of tune with popular concerns and needs for growth. A professor who had worked with victims of pollution for several years told that the validity of the data in the video had been questioned by the powerful coal and oil industries, which Chai Jing criticizes severely in the film.

The video displays the difficult balance between economic development and environmental protection which was also at stake in the Greenlandic change of policy on uranium exploitation. But even more it demonstrates the strengths and weaknesses of the environmental bureaucracy and the lack of coordination, which leads to a considerable distrust in public and party authority especially in China. A frustrated environmental bureaucrat at some point says that “the Environmental Protection Bureau is like a cat raised by the government. Our ability to catch mice and the number we catch is determined by the government.” The air pollution is produced both by factories and by transportation including trucks with counterfeit certificates. Coal accounts for 70 percent of total energy consumption in China and quality standards of fuel are dictated by the petrochemical industry. The whole energy sector is fraught with corruption. In the video the present president Xi Jinping is quoted for saying that, “the dignity of law lies in its execution.” Only one percent of environmental disputes in China reach the courts according to the video. Even if one of the well-known Chinese environmental activists in the film claims “We have the right to know, the right to participate and the right to justice”, and Chai Jing finishes saying that “We have no right to consume without self-control. We have no right to complain without building anew”, she also concludes, “Government can’t solve pollution on its own. It must rely on ordinary citizens like you and me. On our choices. On our determination... information transparency is necessary for public participation.” In a One Party state practicing political censorship Chai Jing has demonstrated that it is possible to have a very powerful voice. As in the case of Bolatta Silis Høegh, hers is not a democratic voice nor a voice in a democracy. Theirs are strong and concerned voice, which express worries and fears shared by many.

### **“Unprecedented materialistic advancement” and “an atmosphere of hypocrisy”?**

When the American poet Walt Whitman (1819-1892) wrote his *Democratic Vistas* in 1871 few countries in the world were democracies, and many cared little about the welfare of their populations:

For my part, I would alarm and caution even the political and business reader, and to the utmost extent, against the prevailing delusion that the establishment of free political institutions, and

plentiful intellectual smartness, with general good order, physical plenty, industry, &c., (desirable and precious advantages as they all are,) do, of themselves, determine and yield to our experiment of democracy the fruitage of success. With such advantages at present fully, or almost fully, possess'd - the Union just issued, victorious, from the struggle with the only foes it need ever fear, (namely, those within itself, the interior ones,) and with unprecedented materialistic advancement - society, in these States, is canker'd, crude, superstitious, and rotten. Political, or law-made society is, and private, or voluntary society, is also. In any vigor, the element of the moral conscience, the most important, the verteber to State or man, seems to me either entirely lacking, or seriously enfeebled or ungrown.

I say we had best look our times and lands searchingly in the face, like a physician diagnosing some deep disease. Never was there, perhaps, more hollowness at heart than at present, and here in the United States. Genuine belief seems to have left us. The underlying principles of the States are not honestly believ'd in, (for all this hectic glow, and these melodramatic screamings,) nor is humanity itself believ'd in. What penetrating eye does not everywhere see through the mask? The spectacle is appalling. We live in an atmosphere of hypocrisy throughout. The men believe not in the women, nor the women in the men. A scornful superciliousness rules in literature. (Whitman 1871 - see also Petersen 2014b).

This could almost describe the present situation in China - and to some extent in the Arctic and Greenland. Whitman wrote this essay during the period Mark Twain called "the gilded age". Writer Evan Osnos, who lived in China for more than a decade compares the Chinese development after the 1990s with this gilded age in his book "*The Age of Ambition*" (Osnos 2014). After Mao's death in 1976 Deng Xiao Peng started a period of considerable and far reaching economic reform in China, which has led to unprecedented growth rates in the Chinese economy. This "growth fetish" has so far kept the population content, but that may not go on forever (Petersen 2015). A young well-educated Chinese woman told me after a long conversation that "obsessive materialism can no longer give meaning to people." In Greenland, a period and process of considerable political reform started from the mid-1970s, which first led to Home Rule in 1979 and later to Self-Rule from 2009. Both Chinese and Greenlandic processes were driven by strong ambitions and strong hopes for quick and easy fortunes, and both were probably skewed. Perhaps due to its geopolitical importance to Denmark there was limited interest and little emphasis in both Denmark and Greenland on *economic* reforms in Greenland. The strong interest of the

One Party State to continue its hegemony, has given little leeway and motivation for *political* reform in China. Double standards are strong in China where "core socialist values" are expected to coexist with market principles. And double standards are perhaps also at stake in a Greenlandic society, where political leaders announce a goal of political independence, while politically and economically they are not able and/or willing to break a paternalistic relation to the former colonial power.

The level of trust is generally quite low in China, perhaps also in gender relations. In Greenland a certain watchfulness exists towards especially highly educated bilingual Greenlandic women, both societies-different as they are-having in common that developments since 1979 have led to a skewed gender balance. In Greenland and in the Arctic in general this is due to increased immigration of primarily male labour with higher and more specific qualifications than the local (male) labour force. A Danish poet in 1980 described this as a situation of "The three genders": Greenlandic women, Danish men and Greenlandic men-the last group was almost described as "left-over men" (Sven Holm in Arnfred 1991). In China the combination of a One Child Policy and an opening up towards market forces has led to a situation, where the son preference, which can be found in most patriarchal societies in the world has led to more boys being wanted and born than girls. Female fetuses may be aborted by early "voluntary" sex selective abortions following prenatal tests to determine sex even if these tests are not legal. If couples do not have the economic means to pay for an extra child, the woman may be forced to perform an abortion. Kay Schaffer and Sidonie Smith (2014) describe a case where such a forced abortion went viral giving rise to a pressure on the state to compensate the woman forced to abort. In Greenland abortion figures have been very high since abortion was legalized in 1973, and more pregnancies end in abortions than with the birth of children. This has been explained as a situation, where abortion has become a widespread form of contraception (Bjerregaard 2001). The reasons may be combinations of a high number of 'unwanted' pregnancies (owing to economic conditions and needs to finalize educations) in a society which values the status of children and grandchildren highly, and which is characterized by a lifestyle, where contraceptive practices are relaxed also amongst women, and where alcohol consumption is widespread. It is also well known that fertility rates drop in many countries, when economic conditions deteriorate. This was particularly clear in the post-communist states in Europe after 1989, and has also been noticed in Denmark after the financial crisis.

In traditional Chinese society the son was the one to carry on the family name and to take responsibility for securing the welfare of old age parents-something which has again become important in a de facto market society.

Post 1979-China has witnessed a reintroduction of Confucian hierarchical values and one of the consequences has been a reintroduction of a (re)traditionalized gender hierarchy. Women with high educations are not expected to want to or be able to adapt to this gender hierarchy. Such women have been considered unmarriageable and they are described as "left-over women". At the same time fewer women in shorter supply for marriage has led to a rise in the economic demands for future male spouses. Chinese middle class men (and their parents) now have to provide well-furnished expensive apartments and cars to be considered as interesting suitors. All over the world women have got easier access to (higher) education during the last part of the 20<sup>th</sup> century. This has allowed them to access some of the privileges related to education, which has for hundreds of years been a monopoly of the male (elite) parts of societies worldwide. In Greenland it means that bilingual women with higher education have moved with relative ease from the old society to the new—"repressed and sought after in both" (Holm in Arnfred 1991). Given the gender and ethnic composition of Greenlandic society, ethnically mixed marriages may often mean that Greenlandic women marrying non-Greenlandic husbands may be economically and materially better off. Not everybody is benefitting from the 'unprecedented materialistic advancements' in a world, which has also witnessed increasing economic disparities over the last several decades in the Arctic as well as in Asia.

During my visit to Beijing I went to see a modern Chinese drama, which I chose because of its intriguing (bilingual) title. It was called "*I hate therefore I marry.*" I relied on my earlier experiences from Florence and Greenland, which had taught me that 70 per cent of all communication was non-verbal, and thus hoped to make sense of this play. The audience was full of young women, and the actors conveyed strong tensions and depressive moods. The description of the play in the internet version of *Global Times* (a newspaper close to the Communist Party) was as follows:

If you're Chinese and in your mid-20s, there's a certain question you're bound to start hearing with increasing frequency from parents, extended family and even friends: "So, when are you going to get married?" This phenomenon has come under the spotlight in recent years with the rise in popularity of matchmaking TV programs and pejorative terms such as "leftover women." All this is indicative of the truth that, in China, marriage is not a personal thing between two people, but a social concern that puts huge pressure on not only young people but also their parents and relatives. This phenomenon gave Edward Lam, the famous Hong Kong theater director and writer who has 55 productions under his belt, the inspiration for his new work *I Hate Therefore I Marry*. The play... follows the story of a large

family as it gathers on the eve of the eldest daughter's wedding. The mother of the family has been driven literally crazy after being left by her husband after she gave birth to four girls and no boys. The oldest daughter works very hard to become a CEO amidst the guilt of not being born male, but deep inside she thirsts to be loved; the second daughter is looked down upon because of her frivolous attitude; the third submerges herself in books; while the youngest marries at a very young age in the hope of finding love in another family. The evening, which is supposed to be full of blessings and happiness, turns to a disaster for the family, after they are trapped together in the venue because of flooding. This is when the seething conflicts and differing natures that underlie their relationships start to unravel. "What I'm interested in is why a woman would still want to get married when she knows there is the possibility for divorce someday? What kind of man would she choose to marry? Where do her values, on which she bases her choice, come from?" said Wong Wing-sze, who wrote the play. Speaking of the play's title, Lam said, "Hatred emerges when love reaches extremes, so people who desperately want to get married probably also 'hate' marriage. "The word 'hate' implies that if a woman can't find a marriage partner, her worth will not be noticed or realized," said Lam. The situation comes from the pressures on single women when they reach the "proper" age for marriage, even if they have already achieved a lot in their career and other areas of their lives. (Global Times 2015-4-19, Love, Hate and Marriage).

These tensions are probably especially felt in relatively wealthy middle class families, where divorce is also stigmatized. During the Mao era welfare for individuals was provided by the work place. Now it is being privatized and increasingly costly for society and individuals. This probably puts considerable pressure on especially women to provide care and welfare for both children and parents-both their own and first of all those of their husbands. The Chinese "unprecedented materialistic advancement" might together with the retraditionalization of gender relations be seen as a curse for some women. The so-called "core socialist values" which were celebrated on Labour Day, May 1st, during my visit, are not surprisingly under strong pressure also in a professed "socialist market economy." Trust is in short supply in many relations-probably including in gender relations. Spouses avoid divorce and instead live apart or live with the presence of mistresses and lovers. To my surprise, very few people knew anything about divorce statistics, and I was not able to get reliable statistics about the divorce rate in China during my stay-in spite of good contacts with demographers. In a society almost obsessed with stability, instability and divorce in family life seemingly may become a sensitive issue. Greenland is

seeing slightly higher divorce rates recently, as family structures are becoming 'modernized'. Women have a higher say in families due to economic income and higher educational levels. They also have a higher political representation under Home and Self Rule, where especially white men have been "defeated" politically. But in a market society and market culture it is again becoming clear that the dominant actors in business life and international investment are still white men, as aptly demonstrated in an extensive English language magazine on investment in Greenland on Air Greenland in February 2015. Hardly any women or Greenlandic men were featured.

### **Kaassassuk - and other monsters?**

Greenlandic women are not under as strong a pressure as Chinese women to marry, and they have a considerably bigger say in terms of sexuality. But young women are often expected to get pregnant and have children early. They do not count on the relations to fathers of the children to last. As in China the family has always been a source of support, which is however weakened due to urbanization and longer distances between family members. At the same time the Nordic style welfare state is waning due to economic pressure. Some of the young female students I spoke to voiced their hesitation towards establishing a family. They had heard and read a lot about failed families and mistreated children who were not cared for, and for the time being they avoided having children in order not to neglect them. A researcher in gender and social welfare said that the present conditions in Greenland was reminiscent of descriptions of social change in post-communist and war affected societies in relation to violence and gender relations. It is well-known that men-and especially young men-have suffered from very high levels of suicide all over the Arctic. Orphans here as elsewhere have historically always been in a very vulnerable situation. An important example of this is the story of Kaassassuk, which was used by the Home Rule government in the beginning of the 21<sup>st</sup> century as a symbolic orientation for the fight for more self-rule.

Kaassassuk is an orphan, who moves from family to family because nobody can cope with him. He is sick, he cannot keep food in his stomach and can't control his urine and stools. He doesn't grow. Finally his maternal grandmother takes care of him. The paternal grandmother rejects him. He is harassed by children and grown-ups, who lift him into the snow hut in his nostrils. He is given food so difficult to chew that he can hardly eat. He is then told to contact a super-natural force in the inland, which is called The Possessor of Strength, or the Master of Power, sometimes presented as a mixture



of a huge fox-like creature with a human face. After a couple of meetings, the boy has gained sufficient strength to carry out great deeds. This new gained strength must not be revealed to others immediately. During the night, when nobody sees it the boy removes a big log of driftwood or an umiak (a women's boat). Later three polar bears turn up. Kaassassuk asks his grandmother to borrow him her kamiks, because he does not have any himself. He runs off, mocked by everybody, kills the bears, throws out the baby polar bear to the rest of the settlement, following the rules of sharing food, and brings back the rest to his grandmother to be used for meat and fur for clothing. From now on ridicule changes to fear. His enormous strength makes his fellows in the settlement follow his smallest wish. Soon the humiliated orphan turns into a brutal avenger. He starts hugging and then choking the small girls, who bring him water, and he continues humiliating and later killing former persecutors and tormentors.<sup>3</sup>

There are many versions and interpretations of this story, and my outline above relates to one of the early ones. Later versions influenced by Christianity tend to have "softer" endings. In my abbreviation of this version Kassassuk turns into a monster. But the myth can clearly be understood as a cautionary tale warning listeners and readers to take care of the weak, the small and the vulnerable, as they may otherwise ally with super-natural forces and turn into tyrants and against their former oppressors. The myth can also be interpreted as a kind of David and Goliath story, where the small David defeats the grand Goliath. With this interpretation the sympathy of the audience will mostly go to David-the small and subdued. This was the background for the use of an image from the myth representing the fox-like Master of Power as a logo for the reports of the Self Rule Committee before 2009.

Arctic communities fear that sons, lovers, friends and other young men may suddenly commit suicide or that they may turn into uncontrollable monsters. China is according to a short study on the future implications of China's gender imbalance the only country in the world in which the suicide rate among women is higher than among men. Chinese families fear that "over-educated" women may be left-over, and the Chinese One Party State fears that young highly educated but underemployed young people-the so-called "ants" who live under ghastly conditions-may at some point become a threat to political stability. All of these fears probably relate to significant changes and instability in economic, social, political and gender relations. Similarly Europe and Western societies have come to fear young males-first

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<sup>3</sup> This resumé is my own. I have included two different versions of the *Kassassuk* myth in my book *Retspluralisme i praksis. Grønlandske inspirationer*. (2006)

and foremost Muslim fundamentalists and terrorists, but also the sorts of Breivik, and the many, many school shooters primarily in the US. Does this indicate the violent consequences of "left-over" men in many parts of the world?

### **Creative assimilation?**

In the Lu Xun Park in Shanghai one early Sunday morning in May 2015 I witnessed a lively show of mainly middle aged and older people dancing, fencing, practicing Tai Chi and Qi Gong. There were probably thousands of people. Later in the morning a crowd of a similar size would seemingly spontaneously team up and sing songs which were clearly well known to the big chorus directed by a volunteer director. The noisy amusement park for children attracted grandparents, parents and the highly revered grandchildren. Somehow it felt like a breathing place in a stark urban and commercialized culture. Lu Xun (1881-1936) was a favorite author of Mao and highly influential during the Mao era, I learnt later (Hua 2012). On the surface of a low wall was written in golden Chinese signs and latin letters THE WORLD LITERARY GIANT SQUARE. There were bronze sculptures of ten of these literary giants in front of the wall, which people used as pegs for their bags, and other stuff they could not carry while dancing, fencing, singing. These were the literary giants: Dante (1265-1321); Shakespeare (1564-1616); Goethe (1749-1832); Pushkin (1799-1837); Balzac (1799-1-850); Victor Hugo (1802-1885); Dickens (1812-1870); Tolstoy (1828-1910); R. Tagore (1861-1941); M. Gorki (1868-1938). All were male, most lived before the 20<sup>th</sup> century, and most were from the so-called Western world.

I came across the concept of *creative assimilation* at some point in the beginning of this century, as a concept used by the Cuban author, José Lezama Lima, to describe the situation of writers of the Americas. I read his fantastic baroque novel *Paradiso* (originally from 1966) during a visit to Cuba with all of my family after Christmas in 2004-the year of the Tsunami in Asia. Gustavo Pellon (1989), whose intention is to study Lezama's role in world literature, writes that "(A)s participants in European culture only through the illegitimate inheritance of colonization, American writers are, in Lezama's view, free to partake of any cultural tradition that attracts them without committing themselves." I remember from other articles about Lezama that his idea was that all world literature would be part of a common heritage available to everybody-that humans would not be limited to their local or national literature, but be part of a tradition of world literature and cultural heritage.

Since the enactment of the Monroe Doctrine in 1823 the then United States of America considered Greenland as belonging to the US sphere of interest.

The traditional and transnational Inuit culture has a home both in Russia, Alaska, Canada and Greenland. One may say that much of the Arctic culture has also taken the liberty to partake in the cultural traditions that attract them. The freedom to draw upon other traditions beyond one's closest and to re-cycle them may have a liberating effect on much of the world. Lezama was trained as a lawyer, he was gay, and he was an eclectic reader and lover of literature. In a no longer accessible online encyclopedia of gay, lesbian, bi-sexual, trans-gender & queer culture a longer article by professor of literature Francisco Soto states that: "Internationally, the novel [*Paradiso*] was immediately recognized as a masterpiece. However, the novel's total lack of political commitment to the Cuban Revolution, as well as its explicit descriptions of male homosexual relations, was met with resistance in Cuba and placed Lezama in a precarious situation. As early as 1965, the new Cuban socialist regime had been conducting systematic purges of homosexuals whose conduct was considered to be at variance with revolutionary morals."

In 2014 a young female Greenlandic author, Niviaq Korneliussen, published a novel called *HOMO Sapienne* in Greenlandic and translated it herself into Danish. In the Danish version the five chapters have the following names: *Crimson & Clover-FIA*; *Home-INUK*; *Walk of Shame-ARNAQ*; *Stay-IVIK*; *What a Day-SARA*. The words in capitalized letters are names of the shifting protagonists, who feature in the specific chapters—they are all interlinked as siblings, friends, foes and lovers, as well as linked via the music (videos) indicated in the first part of the names of the chapters. Homosexuality features prominently in the lives of the protagonists, who are gay, transsexual, bisexual and lesbians (Korneliussen 2014). Young people in Greenland speak a mixture of Greenlandic, Danish and English and are strongly influenced by North American and European culture. The texts are peculiarly decontextualized or perhaps globalized even if the novel takes place in Nuuk, Greenland. The author claims that she is writing a realist novel in terms of its focus upon individual problems, but she is not writing social realism, focusing upon problems of alcoholism and incest or upon the role of nature very often associated with and described in contemporary novels about and from Greenland. The novel may relate to a globalized adolescent identity in a world of text message communication—also presented in the novel and in a world of changing gender identities, where heteronormativity seems to be slowly losing its monopoly—at least in some subcultures. This process of dissolution and change of gender norms has been viewed with anxiety all over for a long period, and still is in many parts of the world. Paradoxically the return of gender stereotypes seems to go hand in hand with their dissolution in many cultures.

On the eve of International Women's Day March 8, 2015, five young Chinese feminists from Beijing and Guangzhou in southern China were detained by the authorities on suspicion of "picking quarrels and provoking trouble" (Zeng 2015). They were seemingly planning a multi-city protest aimed at bringing an end to sexual harassment on public transportation (similar to activities in Cairo after the Arab Spring). Some of them were part of the Chinese LGBT-movement, and they had often protested by way of performances as well as by using the censored Chinese internet. They belong to a post-Tian An Men generation, who may not feel so traumatized by that "event" even if (or because?) the memory of it has been strongly repressed in China. They were released on bail on April 13, 2015 but stayed under constant surveillance. I had several conversations with Chinese people about these young women, trying to understand how they would come to present a threat to a seemingly strong One Party State. Why would such a feminist action be considered more "political" than those of environmental activists? A professor who had worked with victims of pollution for several years claimed that feminism was considered more political than environmentalism by the government. Perhaps this was due to government fear of foreign funding and foreign revolutions such as the Orange Revolution in Ukraine, the Jasmine Revolution (or Arab Spring), a Sunflower movement by students in Taiwan and the student movement in Hong Kong. I heard reactions describing a return to a traditional gender culture and questions asking whether China was seeing an anti-feminist return to "core family values" similar to the religious "right" in US/Europe that is questioning women's empowerment/right. I also experienced young (male) lawyers, who had never heard about the case express disbelief that people would be detained for something like this.

A woman with closer knowledge of the Feminist Five described the context in this way:

Gender issues have become politicized. The ACWF (All China Women's Federation) stood for a form of 'national feminism' from 1949. After the Cultural Revolution in 1978 and in the 80s there was some debate on women's issues. What was better—a good husband or a good job. They did not emphasize gender differences before 1979. The discussion on the commercialization of women's bodies started in the late 80s. The late 90s saw spreading feminist issues. From 1995-2005 most women were not really involved in women's rights. The majority of women in China were not involved. Women become more marginalized during the economic globalization. Women's strategies changed over the last 5 years—now there are educated activists in grassroots movements. The Feminist Five (age between 25-30) are well educated, well trained, educating and doing

grassroots work all over the country—several of them are in the LGBT-movement. They focus on national laws, cases, implementation and education. College entrance exams require higher marks from women (a direct discrimination). They look at state accountability. (Quote from anonymous interviewee.)

In 2002 women's representation increased from 19 percent to 36 percent in Greenlandic parliament. A women's party "Arnat partiiat" had participated for the first and so far only time. The party did not get elected, but it succeeded in calling attention to different aspects of gender inequalities and not least to the lack of female candidates in the different parties (Poppel 2015). The establishment of the party was inspired by discussions before the establishment of Nunavut in the late 1990s about a female quota among the representatives, which were rejected at a local referendum. The LGBT-movement is quite recent and very internationalized both in China and in Greenland. However it may seem to present less of a direct challenge and threat to Greenlandic Self-Rule government, which is already strongly influenced by Western culture than to the One Party Chinese state. Perhaps both indigenous people and many women around the world have become more marginalized during economic globalization and thus feel less threatened by other marginalized movements and more prone to political action?

During my visit to Greenland in February 2015 passengers on several transatlantic flights were stuck for two nights in Kangerlussuaq, the international airport originally built as an American military base in another geopolitical era. The reason was as always rough weather in the coastal cities, but this time also very instable weather in Kangerlussuaq itself. Originally the place was chosen for a site for a military airport because of its constancy of weather conditions, now reduced in the era of climate change. The involuntary intermission gave me the opportunity to speak to several Greenlandic politicians, who were also trapped. A female politician spoke of the problem (!) of Greenland having too many highly educated women, and a former prime minister was very concerned that Greenland should not "sell itself too cheaply" when he spoke about the Chinese interest in investments in Greenland. In his view the Chinese were concerned about image in this respect. He and other Greenlanders I spoke to found Chinese people very agreeable, but he feared this might become a pretext for doing nothing. He was also very interested in knowing more about Chinese policies of collaboration and Chinese morality. Concerns about selling oneself to the highest bidder may be part of a process of assimilation to a global market culture not only for indigenous people but for many other groups around the world. Not least in a situation where young people have a future of precarious jobs and under- or unemployment to look forward to.

Will (gender) justice and morality be considered as important as in a globalized and commercialized world-in the Arctic and elsewhere, as stability, harmony and security in some form?

### **Postlude - Chinese and Arctic Dreams?**

One of my early culture shocks when I moved to Greenland was to be asked by a female student at a Christmas party, what I thought about dreams. I was baffled, and did not know what to answer. I hadn't been particularly interested in Freudian and Jungian dream analysis, and nobody discussed dreams in my professional environment. Not so in Greenland. In winter my students would show up and discuss their dreams and interpret them, politicians would refer to them in their speeches in Parliament, and talk about them in the meetings in one of the sub-committees on Self-Rule, where I was a member for a period. I began studying this phenomenon (Petersen 2006).

A female politician and member of parliament Asii Narup, who has for several election periods been and in 2017 still is a mayor in Greenland's most populous municipality, which includes the capital, Nuuk, wrote in an article in 1991:

I think that all humans are full of aspirations-dreams-fantasies and visions about our personal lives, about the lives we live with and in our families, and about the lives we live in common with all of society. I think that dreams and visions have their roots in strong wishes for improvements both for ourselves and others, and fundamentally express the will to create a better life. They are a resource-they are the ones, who "move the world." Not as long as we keep them to ourselves, but the moment they are declared and made a subject of discussion with others and later transformed into collective actions. (Narup 1991)

Present Greenlandic dreams are most likely diverse as elsewhere in the world. The first female Greenlandic prime minister clearly dreamt of an autonomous Greenland "independent" of Denmark-perhaps as a result of the strong Greenlandic focus during the last half century on political reform-and linked to the hopes of a mining economy due to amongst others Chinese demand. Some dreams may seem as nightmares to others as visualized in the dark paintings of Bolatta Silis Høegh. How will people in a globalized Arctic get a better life in an interdependent world?

French presidents tend to have museums built as mausoleums for their time in office, when they step back. In 2006 Musée du Quai Branly opened to celebrate President Jacques Chirac. It features indigenous art and

cultures of Africa, Asia, Oceania, and the Americas-which means that both Inuit and Asian including some Chinese art is to be found in this meandering building. Recent Chinese presidents use slogans as their tools of direction, and the tool of former president Hu Jintao was the Confucian concept of *harmony*. Countless articles events etc. relating to harmony were produced, amongst them a book on human rights and harmony, which included an article on "Women's Rights and a Harmonious World" (Xiaolin Zhang 2007). A female European Human Rights worker in China described the government approach as "fake harmony", producing a "moral straitjacket". In Greenland another Greenlandic-Danish artist, Julie Edel Hardenberg, has used photographs of the Greenlandic and Danish flag-sown as physical strait jackets and called them "A Break from the Danish Realm". Is globalization producing a feeling of being locked up in a straitjacket, no matter whether it takes the form of economic or political reform?

The slogan of the present president Xi Jinping is "*The Chinese Dream*". Xi began promoting the phrase as a slogan in a high-profile visit to the National Museum of China in November 2012 after taking the office of general secretary of the Communist Party. It has become an ever more important slogan since 2013. In 2015 a lot of posters in Chinese cities portrayed images and texts about this dream. Exhibitions and discussions have taken place at all levels in society not least in primary schools and universities. It has been proclaimed as a guiding principle for the policy of the present government. Wikipedia writes that "The China Dream has been defined as sustainable development. Peggy Liu and the NGO JUCCE coined the phrase "China Dream" as a movement based on sustainability, which was later popularized in China through a New York Times article and adopted by Xi Jinping."

Peggy Liu wrote in June 2012 in *The Guardian*

I lead a non-profit JUCCE that seeks to accelerate China's sustainable development. Together with partners around the world, we're promoting a new, aspirational lifestyle called the China dream. The China dream realigns success with a healthy and fulfilling way of life – living more, rather than just having more. It promotes a sustainable lifestyle, but is not explicitly green. It offers a compelling alternative to the American dream that enshrines conspicuous consumption. The movement is not a moral-imperative campaign with rational arguments for energy savings; it offers a way of life that taps into consumers' desires and aspirations.

As with the myth of Kaassassuk the myth of the Chinese Dream can and will be interpreted in many as well as conflicting and competing ways. However, some of these dreams and some of their interpretations may not be as far away from each other as one might think in this inter-dependent world

developing towards new geo-political landscapes and often unbalanced relations. It may take considerable efforts by both small sparrows and monster birds to realize such fuzzy dreams.

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# Mobility Practices and Gender Contracts: Changes in Gender Relations in Coastal Areas of Norway's High North

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This article addresses the relationship between gender contracts and mobility practices in fishery communities of Norway's High North, mainly Skarsvåg, Finnmark. By combining perspectives from gender research, anthropology and geography, the aim of this article is to contribute to a greater understanding of the interrelations between structural, material, and cultural changes in the context of a small-scale coastal fishing environment. My main question is whether changes in mobility practices, related to restructuring of the fisheries by means of a quota-system, Norway's agreement with the European Union (EEA) and other changes in the Norwegian context, have had impacts on gender contracts and in what way. Emphasis lies on the period after World War II and until today. The data collection are based on a lifelong engagement on gender questions in fishery villages, reading newspapers and using registers as well as interviews and participant observation through several research projects.

**Keywords:** Mobility, gender contracts, fishery, Norway's High North

## Introduction: Gender Contracts, Mobilities, and Place

My interest in fishery and gender-related research began in the 1970s and has continued until today (Gerrard, 1975, 1983, 1995, 2008, 2011, 2013, 2015, 2016).<sup>2</sup> It was Ina's marriage that induced me to look closely at the phenomenon of gender, gender contracts, mobility, and place. Like most other young women from fishing villages, Ina had moved away from Skarsvåg to go to school and then get a job for which she had been educated. When the time for marriage came, Ina and her future husband arranged for a Saturday morning wedding in the Skarsvåg church in which she had been baptized and confirmed. Immediately after the wedding ceremony, the couple and some of the guests drove in private cars to Alta, where they

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<sup>2</sup> This article builds on Gerrard (2011) and Gerrard (2015).



boarded a plane to Oslo Airport. The rest of the guests were waiting in a banquet hall for the newly wedded couple to arrive. The long travel, first 240 kilometres by road across one of Norway's northernmost island and then more than 1200 kilometres by air to a place nearby Oslo, the capital of Norway, did not seem to be an obstacle to a successful wedding celebration lasting until early Sunday morning.

This event is one example that illustrates the complexity of mobility practices. The wedding and the wedding party exemplifies perhaps "a once in a lifetime" experience, but behind the wedding event one can find a wide array of mobility practices including national emigration, immigration, and commuting practices that can be related to many sectors of life.

The main question examined in this article is how to determine the extent to which changes in mobility practices related to restructuring of the fisheries by means of a quota system and other changes of the 1990s have affected gender contracts in small-scale fishery communities or villages in Finnmark, an area of Norway's High North. This includes examining how structural, material, and cultural conditions related to mobilities have contributed to changes in local gender contracts, a concept developed and used by the Swedish geographer and Professor Gunnel Forsberg (2001).

To approach the relationship between mobility practices and gender contracts, this article draws on empirical data from Skarsvåg and other fishing communities in coastal Finnmark. Mobility practices related to fisheries, reindeer herding, and public services have 'always' taken place in Finnmark. However, this article mostly concentrates on the post-war period and the period after The Ministry of Fisheries stopped the cod fishing in 1989 and introduced the boat-quota system north of the 62<sup>nd</sup> latitude to regulate fishing to sustain the stocks of cod, haddock and saithe in 1990.<sup>3</sup> The introduction of the quota system ended the long tradition in which coastal fishers could take as many tonnes of cod, haddock, and saithe as they could manage and sell to a fishing plant. From that time on, the amount a fisher could catch during a year was dependent on decisions made by others. This period coincides with the introduction of the principles of New Public Management and privatization in the public sector where support to the municipality mainly is based on the number of inhabitants, resulting in financial problems for many municipalities (Hansen 2014). Some years later, in 1994, Norway together with Iceland and Lichtenstein signed the European Economic Area Agreement (EEA) with the European Union (EU)

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<sup>3</sup> In 2004, the Ministry of Fisheries changed to Norwegian Ministry of Fisheries and Coastal Affairs and in October 2013, the Norwegian Ministry of Fishery and Coastal Affairs was merged with the Ministry of Trade and Industry. The quotas are determined in consultation with Russian and Norwegian marine researchers and decisions made by the Russian-Norwegian Fishery Commission, since Russia and Norway together manage the natural resources within the 200 nautical miles zone of the Barents Sea. Formal meetings and, since 2006, informal meetings with fishers, fish-workers, unions, and other organizations are arranged before final decisions on distribution of the quotas are made.

that gave access to EU's Internal Market and the application of EU's four freedoms: free float of capital, goods, services and people. Since 1994, the citizens of the 31 EEA countries have many of the same rights as Norwegian citizens. They can establish themselves in Norway and for example start as fishers, following the Norwegian regulations. Another reform that took place was the expansion of compulsory education that implied more years of schooling (NOKUT n.d.). Such decisions made from outside are all agreements and reforms with implications for fisheries, fisheries villages and fishery families.

This article therefore focuses on changes in one small corner of Norway's High North dependent on fish stocks, climate and policies decided upon from outside in a specific period of time and examines the effects of these changes on gender contracts and mobility practices. This kind of research on gender and mobility included fishery does not only take place in Norway, but also in other countries, for example Canada.<sup>4</sup> Norwegian mobility research focuses mostly on immigration, emigration, and commuting separately (Sandanger 1979; Sørli 2005; Langørgen 2007; Engebriksen og Nordbert 2006; Aure 2008; Brockman and Kjeldstadli 2008; Hjorthol 2008, Munkejord 2009, 2011). However, studies that focus on Norwegian and foreign immigrants, emigrants, commuters and fishers that perform mobile work within the same localities are rather unusual. Studying mobility practices within a specific geographical site, like a fishing village, makes it possible to consider diverse forms of mobilities in relationship to each other to highlight how they relate to gender contracts in structural, material, and cultural terms. This approach is inspired by Ingrid Rudie's work (Rudie 1984; 2008). She described "practice" as "the routinization of events that people participate in," engaging social organization, experience, and "the ongoing sequence of ever-changing confrontation with new challenges" (Rudie 2008, 81). The concept mobility practices is used in this article to encompass routinized actions of people moving themselves from one place to another resulting in myriad changes depending on distances, relationships, the textures of interests, and feelings of belonging. Mobility practices can thus be understood in light of women's and men's relationships, their knowledge, various aspects of the place of which they are a part as well as different national policies. The relationships, knowledge, and feelings of belonging can be inscribed in the bodily movements as well as in the cultural baggage that women and men carry with themselves when actions such as mobility practices are performed.

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<sup>4</sup> See for example: Arctic University of Norway (n.d.) and the Canadian research program On the Move Partnership (n.d). [www.onthemovepartnership.ca](http://www.onthemovepartnership.ca) (accessed 29.5.2017).

Women and men's actions and their identity management vary with time and place (Friedman 1998). Thus, fishery and coastal communities set their marks on female and male identities and livelihoods (Gerrard 1975, 2003; Davis and Klein 1988; Porter 1993; Gerrard and Balsvik 1999; Neis et al 2005). While the concept of identity management often is related to individuals, the concept of gender contract can be especially useful in trying to understand what is going on among couples or other gendered relations within the frames of specific places. Gunnel Forsberg (2001, 161) defines gender contracts as the informal rules of women and men's everyday actions related to local or regional structures, but also to the cultural and social circumstances to which people relate. She emphasises that the spatial analysis of gender relations contributes to making feminism spatial as well related to patriarchy, gender regimes, and gender negotiations, and shows how they can be very dependent on various urban, agricultural, and industrial localities.<sup>5</sup> Feminist oriented research has also demonstrated the importance of bringing the intersection between gender, class, race, ethnicity and other dividing categories into the discussion (Crenshaw 1989; Lykke 2003). Such perspectives are also relevant for studies in small fishing villages.

The informal rules that guide women's and men's actions in relation to the specific material, social, and cultural conditions of a place, or a region, focus on a person's individual, social, and organizational actions, and, in essence, deal with gender aspects of social norms. These norms can be negotiated and renegotiated particularly when there are imbalances of power or changes in circumstances surrounding gendered relationships (Forsberg 2003, 161-63). In this way, Forsberg's perspective considers women as an active partner in gender relations, thus opening up possibilities for change within the tight relationships between gender, place, and its structure and culture. This is particularly useful in studies of fishing villages, in which various kinds of power structures between women and men are well documented (Gerrard 1983, 1986, 1995, 2008, 2009; Neis 1993; Porter 1993; Munk-Madsen 1996).

### **A Place in the High North, and Key Aspects of Traditional Gender Contracts**

Skarsvåg is one of the many small fishery villages in Finnmark. Since the 1990s when the quota-system was introduced, the filleting production stopped and the need for workers decreased. The population in the village also decreased: from 217 inhabitants in 1980 (Statistisk Sentralbyrå 1981) and

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<sup>5</sup> In this approach, Forsberg builds on notions on gender and power developed by Hirdman (1988, 49-63).

157 in 1990 (Statistisk Sentralbyrå 1991) to about 30-40 more or less permanent inhabitants today.<sup>6</sup> Most of the population who lives in the village all year around consists of middle aged and elderly people. There are no households with children or youth.

Up to the 1970s, the community hosted more than 50 households with several household members plus special dormitories for the workers at the fish processing plant (Gerrard 1975). Most of today's households consist of one or two persons spread over less than 30 households. No residential houses have been constructed in this millennium. Some of the residential houses belong to the migrants, children of migrants and persons who also have houses in the municipal centre. Sami reindeer families, immigrants from abroad, and fishing tourist companies have also purchased houses sold by emigrants. Thus, many of the houses are often empty during the winter months.

The decrease of the population has also brought changes in the local and voluntary associations. They have merged into Skarsvåg Community Association (bygdslag), also including emigrants. Skarsvåg Fishermen's Association is today a part of Nordkapp Fishermen's Association including fishers from all the fishery villages in the municipality.

The changes in the population and the social organisation of the village are reflected in the materialities of the place, first and foremost due to changes in the market situation, the cod stock, and the catch of Kamchatka crabs. Kamchatka fishery is a relatively new kind of fishery that first started in the eastern part of Finnmark and has expanded further west.

The fish filleting factory with about 20-30 local and migrant workers, mostly from Norway, but also from Finland, reduced the number of employees after the fishing moratorium and then the launch of the quota system in the 1990 (Gerrard 1995). The public kindergarten closed its doors when the number of children decreased and the municipal budget deteriorated. The same happened to the school in 2012. The school building with classrooms, sport facilities, and empty swimming pool function now as a community house. Since 2004 immigrants from abroad have also bought fishing boats. Today the fish plant employs a few local workers plus some from the EU countries especially during the winter season. Other facilities consist mainly of campgrounds, a hotel with a restaurant open in the summer months, a café in combination with a souvenir shop, Julehuset, a bar in combination with a tour business, and foreign-owned tourist fishing companies.

There were between 30 and 40 fishers in Skarsvåg in the 1970s (Gerrard 1975). Now there are about 20 - about ten active registered Norwegian

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<sup>6</sup> Data collected in Skarsvåg summer 2016. When nothing else is mentioned, I base data on fieldwork in 2016 and 2017.



fishers, seven from EU countries who are formal residents in the village, and three, including a skipper, who commute from Honningsvåg, 25 km away.<sup>7</sup> After the quotas were introduced, some Skarsvåg women also registered as fishers. They worked together with their husband either at sea or on land. Later also women from abroad have registered (Gerrard 2016).

There are still boats moored in the harbour, storehouses, and rooms to prepare the nets and do the other maintenance tasks needed in Skarsvåg's fishery industry. The well-established fishers who were born in Skarsvåg possess the fishery knowledge that has been transferred from generation to generation and for the youngest fishers, also from special marine related education. Annually seasonal fishers come with their boats, especially in the spring when the cod stock is on its way to the Barents Sea. The fishers deliver the catch at the local fish plant that has had many owners the last 30 years. In June 2016, Norway Seafoods, a subsidiary of Aker ASA, sold most of their fish plants to Lerøy Seafood Group, one of the largest salmon producing corporations in Norway (Nordstrøm 2016). However, the Skarsvåg plant was sold to Johan B. Larsen AS, an established fish company from Sørvågen in Lofoten islands. The Skarsvåg plant now consists of facilities of processing, receiving, weighing, packing, and sending the fish on trailers often bound for other processing plants or the fresh fish market in Europe. Good roads to the North Cape tourist area and to the municipal centre, Honningsvåg, where shops and other services are concentrated, are now open all year due to improved snow removal and political decisions. The area has also access to high-speed internet that connects the village to the world outside.

### **Traditional Coastal Gender Contracts**

Traditionally, both women and men in fishing villages worked long hours, men as active fishers at sea and on shore to earn household cash, and women doing the household work, cooking, caring for children and elderly people, knitting, sewing, repairing clothing, and tending domestic animals. Women also helped family or neighbourhood fishers with shore tasks related to fishing, like baiting the long line, gutting fish when catches were big, washing boats at the end of the season. Some women also worked as salters in the busiest plant times. Some of these roles were gender specific work roles (Bratrein 1976; Flakstad 1984). Women were also more actively connected to the local community and were members of several community associations. Researchers termed them as "the fishing industry's ground crew or the shore crew" (Gerrard 1983; Porter 1993). Women's domestic work did not qualify them for government social benefit rights such as

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<sup>7</sup> Own observations, summer 2016, but these number changes quickly.

pensions, holiday allowances, or public health funding connected to employment. Their tasks were performed as a longstanding informal and silent agreement taken for granted without much discussion. The lack of social rights can be explained by the fact that the fishing households, often in combination with agriculture, were peasant households where only men's fishing was paid work (Brox 1966). The social rights, often called welfare rights were mostly connected to wages and paid work (Kuhnle 1983).

One of the consequences of these gender patterns and this unspoken gender contract was that there were more paid jobs for men than for women both in fishing and at the fish plant (Rudie 1969/70). Therefore, unless young women married and established a household after finishing seven years of schooling and staying home to help their mothers or other local women, young women often left fishery communities to find paid work or continue their education. The fact that more young women emigrated (Nyseth 1983) and men stayed behind was also a feature of the gender contract of that time, seldom problematized by young women, men, fathers, or mothers (Gerrard 1975). Many of the fishers' wives therefore came from other communities. They were in other words immigrants. Households thus settled in the husband's place of origin or where he was fishing, a form of settlement referred to as patrilocal settlement. People have recounted how whole households moved to Skarsvåg from other places because of the availability of the fish. The advantage of living close to fish stocks was that the fishers often could return home in the evening, and thus keep the household in proximity to the fishing boat (Bratrein 1976; Brox 1966). Such organizational structures formed the unit on which gender contracts were based. They were also the basis for women's and men's knowledge, experiences, and the local fishery culture. These contracts were woven into the fishery culture, silently accepted, seldom discussed or negotiated and independent of the coastal village they came from. Such contracts can also be considered as the glue in the relationship that existed between fishery work, mobility practices, and gender contracts in many coastal fishery villages.

When the fishers' wives, included women with small children from Skarsvåg and other fishing villages along the Finnmark coast, in the 1970s started to commute several times every semester during four years in order to attend higher education in order to be a teacher, they did so despite their husband's own mobile work. This form of adaptation also implied a new gender contract that in the short run implied being away from the household and the village, but in the longer run would secure paid work for wives. This form for attending higher education was made possible for those students who were mothers because the husband took over some of the

household work, but also because other women, relatives or friends, helped caring when the husband was at sea and the wife at school. When new possibilities turned up like decentralized educational opportunities for students to live at home and attend class three to five weeks every semester, new contracts were developed.

### **Newer Trends in Mobility Practices and Gender in Norway's High North**

Demographic research shows that during the last 25 years, both women and men emigrated from rural as well as coastal areas (Sørli 2005), and especially when gaining higher education (Foss 2009). At the same time, immigration has taken place. Mai Camilla Munkejord (2009, 2011) found that more than half the population in Finnmark are immigrants from other municipalities in Finnmark and the rest of Norway as well as from abroad, coming there to work or to marry. Commuting has also increased, especially during the latest decades (Walsh 2016).

Particularly since the fishing quota system was introduced in the 1990s, fishers seem to have become more mobile on a daily basis. With stronger boat motors and sometimes a longer trip to go to deliver the catch, living close to the fishing fields seems to be less important compared to earlier decades. Especially since 2000, families emigrate to town centres where women can find work and high school students can live at home while the fishers commute from town to boat mooring, often to the village they had lived earlier.

Elderly women and men are also increasingly migrating to other locations. One interviewee, Kari, told me in the summer of 2007 that "Now we are also moving to Tromsø, where two of our kids live." Since 2012, at least five households with members above age 70 years migrated to urban areas to rent flats, access health care and maintain contact with friends and family members. This is a new resident and migration pattern. Until recently, elderly people stayed in their own house and migrated only when they needed care in municipal nursing homes.

Younger fishers also move away, and other fishers move in. In Skarsvåg, after many years of rather low recruitment to fisheries, six local young men, born in the late 1980s or early 1990s, decided to go into fisheries. All have bought houses or hired flats in Honningsvåg or nearby, some of them together with their girlfriends who have their employment there. The young couples have begun a pattern of young families settling where there are workplaces for women, kindergartens, and schools. When such public facilities do not exist, younger women and men may find small villages less attractive. As a result, when they form couples, the young men move with

the women even if they then have to commute to their boat mooring. There are also examples of people moving back to small fishery villages. One elderly woman I interviewed, resettled in Skarsvåg when her husband passed away. One of the six young fishers who migrated away from the village with his middle-aged parents some years ago moved back to the village when he became a maritime trainee. Registering as a citizen residing in Skarsvåg in the municipality of Nordkapp enabled him to fish and also to catch Kamchatka crabs, rights fishers have when they live and have fished east of the 26<sup>th</sup> latitude close to Skarsvåg. After ending his training period, he had charge of a boat moored in Skarsvåg, then later bought his own boat and became an active coastal fisher. Another young fisher told me that when he was 19 years of age, he worked on a boat because he liked to fish, but did not think he should invest in a boat. But then the skipper and owners of the fish boat he worked on purchased a new and highly modern boat--something they would never have done unless the younger fishers had demonstrated interest in fishing. Despite these improvements, entire well-established as well as new households migrate away.

When active fisher families and young fishers move away to other towns, there are, as already mentioned, many examples that the men continue to fish on a boat, often his own boat that is anchored and has its port in Skarsvåg. The fishers have commuted or commute either by car, by air, or by the coastal steamer, depending on where the family has settled. Commuting from home to the boat mooring for these men is a new adaptation to small-scale fishing in Finnmark. Earlier, the local fishers lived in the fishing village where the boat belonged. An exception is the fishers that bring their boats for the season. One fisher, still living in Skarsvåg, said in 2004, "Look at Ronald and his crew. They have for several years and every morning travelled every day from their home in the municipal centre to Skarsvåg in the cod season when they are fishing with the nets. It's just the weather that could stop them, and it does not happen often". Ronald and his family had lived in Skarsvåg, but when they built a new house, they moved to the municipal centre. He and his family were pioneers in this form of commuting in Skarsvåg (Gerrard 2013). In this way the fishing village become a place for fishers and others related to fishery, while the household work is carried out in the place where the household is established. However, when Ronald bought a larger boat some years ago, his boat now is moored close to where the family lives in the municipal center.

Along the coast of Finnmark and thus in Skarsvåg, reindeer owners and herders have long maintained traditional mobility practices. In earlier days, the entire family would stay inland during the winter and migrate to live at the coast from May to September. The Sami reindeer families' commuting practices have been changing. Now the Sami male reindeer owners and

herders accompany the reindeer from inner Finnmark to the coast in the spring, but women and children come later to the coast by car when school holidays start, and go back when school begins, unless the women have specialized in making and selling handicraft products (doudji) to tourists (Utsi 2010). Some of the herders go back to inner-Finnmark and return to the coast only when there is a need for their labour.

Emigrants also perform commuting practices. Women and men born in Skarsvåg or their children and grandchildren return more or less regularly to spend their holidays, celebrate birthdays, anniversaries, or participate in festivals and related events like Ina's wedding. There are many examples of migrate women helping organize summer festivals or other events. In the *Verdens nordligste bryggefestival* (The World's Northernmost Wharf Festival) of 2015, 2016 and 2017, women migrants between ages 22 and 50 took the lead. For a local village like Skarsvåg, emigrants contribute to sustain the community by helping with voluntary work and sharing the feeling of still belonging to the village.

### ***New Trends in Out-commuting***

Since fish plant work reduced its staff and the kindergarten and the school were closed, there have been few employment facilities for women in small-scale coastal villages. In order to get stable work, some women had to work in the public health, social and private service sectors. Women then commute from the fishing village to the municipal centre or to the neighbour village, which had been made possible by better roads, and even a child as young as three commuted to kindergarten with his working mother. There are also couples who do not live in the same place. In order to meet, one of them has to commute. If a man lives in Skarsvåg, he commutes to the place where his female partner lives or the woman visits her partner in Skarsvåg. This arrangement is considered to be "living apart together," (Levin 2004). Couples can meet during weekends, monthly, or during holidays, and may spend varying degrees of their everyday lives together.

Travel to and from school sites is still happening and to a greater extent than before because compulsory schooling lasts several years. This form of commuting is carried out by high school pupils and during some years, also by adult students. As already mentioned the adult education that local women performed must be understood in the light of the possibilities of living at home while attending specially organized courses during the semester. When the local school closed in 2012, the two school children who now have moved, had to commute to a school more than 25 km away. Similarly, in Loppa, one of the smallest coastal municipalities in Finnmark,

both kindergarten- and school children from one of the villages commute every day by bus and ferry to the municipal centre Øksfjord.<sup>8</sup>

Another type of mobility practice related to out-commuting is exhibited by persons or families formally settled in Skarsvåg who go away to cabins or to second homes elsewhere, and commute back and forth between home and their leisure site. In Skarsvåg, several of the households have made such an adaptation and some of them have their holiday homes near the birthplace of the wife (Gerrard 2009). This means that many are away for weekends or holidays, and that much of their leisure activities are carried out elsewhere. Similarly, elderly women and men also started in the 1990s to travel to southern Europe for some weeks or months. This reflected secure incomes, but also the desire to escape to a warmer climate during the hard winter months.

In 2004, Solrun, an elderly woman who often travelled to the Mediterranean countries, described leisure travels that revealed the geographic complexities of their lives: “We both go to the south, but we must get home before the fishing season starts in the springtime. There I have participated in several courses and in the choir. My husband has attended painting courses. We’ve also got friends from other places who visit us here. The stay is good for your health, but I will have Christmas at home. Asle, my husband, must also return to fishing in April.” During the 1990s about 10% of the population, or four to six families, travelled away during the winter. As they grow older, or as spouses die, this form of mobility practice may change. Solrun and Asle still went to the south of Europe in 2016, but they did not stay as long as they once did. Younger employed villagers take two to three week long holidays, and annually, about 10 to 20 women and men living in Skarsvåg gather at one of the Canary Islands at the same time.

Finally, since the local shop closed down in the 1990s, shopping-commuting is another new mobility practice necessitated by having to obtain “everything from food to clothing and parts to the boat engine” from stores in the municipal centre or larger towns. Small stores in many fishing villages closed when big grocery chains expanded, causing centralisation of many retail services; the same is also the case for public services such as health services. Such changes imply more travelling. In previous times, doctors and nurses used to travel to villages once or twice a month, but many municipalities, like Nordkapp municipality, no longer provide that type of services, so patients travel to them. The health staff argues that they can give better service in their offices. Such changes took place after New Public Management principles were introduced as leading principles in the municipal economy.

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<sup>8</sup> Fieldwork in the municipality of Loppa 2014.

### ***New Trends of Immigration from Abroad***

When the filleting factories started and developed after World War II, young women and men from places in Norway with scarce employment for women and from Finland and many years later from Sri Lanka found filleting work at the fish plants, for example in Hammerfest, Kjøllefjord, Mehamn, Båtsfjord, Berlevåg, and Vardø (Brox 1966; Bersvendsen 1998; Høgmo 1998). When the filleting factory started in Skarsvåg migrants also arrived. Especially in the summertime (Gerrard 1975). Some stayed for a period, some married, and many left.

In the 1990s fish plants in Båtsfjord hired Russian workers through special arrangements (Aure 2008). Because of the quota system and the changes in the production system, when the filleting of fish took place in China, the number of national and international workers was reduced. In this way, even a little fishing village like Skarsvåg has a history of migrant workers. When countries from the former Eastern Europe entered the EU and the EEA agreement came into work in 2004, immigrants from some of these countries came as workers seasonally at the fish plant while others baited long lines in organized baiting centres or for single boats or were hired by the owners of the fishing tourism firms. Now foreigners from the Nordic and EU countries also buy fishing boats and register as fishers.

In Skarsvåg, one couple from the Baltic area came to work at a fish plant, but when the industry dismissed the workers, they were hired to bait long lines for the fishers. After some years, the husband was recruited as a crew-member and registered fisher for one of the local boats. After some time, he got his own boat, and the couple bought their own house. The year after the school closed down the wife and the children went back to the couple's home country. The husband now returns during the less busy seasons or when one of his children is ill. The wife have also returned to Skarsvåg to help her husband fish while her mother took care of her children in their home country. In the winter season of 2015, they hired another woman from their country who lived with them and took care of the youngest children while the couple went fishing. The wife's father and sister have also come along as seasonal workers at the fish plant when needed. All have stayed together in the couple's house. In this way, they commute between the fishing village and their home country. At the same time, the male partner maintains Norway as his formal place of residence in order to be licensed to fish as a professional and registered fisher.

Another couple and their adult children emigrated to Skarsvåg from another of the new EU countries. The husband came as a manager of the fish-tourism company owned by fellow-countrymen. After a while, he

rented a little boat and registered as a fisher. Until recently, each member of the family bought a small boat and were registered fishers. Single men and women have also arrived, bought houses and established businesses in construction, tourism, and fisheries. As one of them explained, "I really feel at home in Skarsvåg. Even though the climate is cold and the fishing is hard, this is a good place to live. Because of my health conditions I might stay in my house in the South of Europe during the winter." Recently he married a woman from the municipal centre and moved, but commutes to his professional activities in Skarsvåg.

Among immigrants in Finnmark, women from Asia, Russia, and other countries have married men from fishing societies (Munkejord 2009, 2011). Some of them have lived in Skarsvåg for a period, but some migrate with their husbands to other locations in Norway. While they lived in Skarsvåg, the immigrants, independent of where they came from, travelled to their original homes frequently to visit family and friends. This form of living is called circular migration, enabling the migrants to maintain regular contact with their original homes and families (Constant and Zimmerman 2011).

In a fishery village like Skarsvåg, some of the fishing tourists from other countries in Europe literally commute, coming year after year and several times every year. Fishing tourist companies owned by foreigners seem to recruit customers mainly from their home countries, and many who fish all day long every day for a week so they can take large boxes of filleted fish to their home countries. Compared with other types of migrating groups, these fishing tourists have little or no contact with the local community and do not participate in the local life.

These examples of the fishers, the fisher's wives or partners, as well as women and men from abroad, illustrate that different forms of mobility practices are intertwined and even circular in their character. Some practises are widespread, but serve diverse purposes such as work, shopping, education, health services, leisure, or family continuity. Others are more seasonal, like the Sami reindeer herders, fishers from other areas, and seasonal workers.

Women and men's mobility practices are many and vary by job, age, health conditions, nationality, family and friendships. When the migrated women and men born in Skarsvåg return to their parents' houses for the holidays or participation in festivals or special occasions, the fishing villages become a common meeting place for community or family reunions as well as for locals and well-established foreigners. Still, mobility practices appear to remain gendered because men engage in fishing mobility both for purposes of leisure and as a fishing professional. Among established couples, middle age, and elderly women support the idea of moving away (Gerrard 2013). Both women and men commute, and Norwegians, Sami



reindeer owners, and women and men from abroad all practice circular migration for different reasons.

The examples from Skarsvåg give an understanding of the various practices of mobilities. These practices are related to national and international agreements like the quota system, the EEA agreement, new standards as well as new principles for the municipal budget and longer compulsory schooling. However, material conditions like fish resources, boats, and buildings are also important, as are structural conditions like the organization of various forms of work. Such circumstances are also connected to cultural understandings, values, and knowledge of women's and men's work and travelling, including women's locational wishes.

### **Changing Mobility Practices and Gender Contracts**

Changing mobility practices also have impact on the gender contracts. Since women now play significant roles in deciding where and when couples or families will settle or resettle, the patrilocal settlement pattern is changed to a unilocal pattern. Wives and female partners in agreement with their husbands or male partners choose to move to a town or a centre and seem to have a desire for wellbeing, proximity to a job that might not exist in a fishing village, but also proximity to schools in order to avoid commuting for their children when they go to school. Desires for a life outside the fishing village may be based on their own experiences, but also on the expectations or future thoughts about the fishing village's development in relation to their own and their children's needs. As local job options for women have diminished or disappeared, migration for the family and commuting for the husband are considered as possible solutions enabling both partners to maintain incomes. However, husbands usually continue as the main breadwinner of the family.<sup>9</sup> But women's own paid work and wishes in relation to where the men in their lives work seem to play just as an important role. New settlement choices demonstrate new agreements between partners, and in today's situation, the contract terms are more diverse and more complex, enabling both men and women to realize personal goals and goals for their families in relation to employment and accessing other resources. The difference now is that men are not only mobile at sea, but also on land. In the cases where the family settles far away from the fishing village, both must accept longer separations and digital contact. This is not new in itself, but the greater distances commuted on land by the fishers born in Skarsvåg is new.

Also new is that several Skarsvåg women have become registered in the National Register of Fishers since the quota system was introduced. One of

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<sup>9</sup> Tax rolls for fisher families before and after the emigration.

them fished with her husband; she was one of the first women to practice fishing as a registered fisher in Skarsvåg and thus performed mobile work at sea. The others carried out fishing related work on shore as they always had done. Earlier, registration for women had not been so easy (Munk-Madsen 1996). Neither women nor men thought of women's fishery related work on land as fishing although men doing the same were registered as fishers (Gerrard 1975). In the new situation, the most active couples obviously came to an agreement that it was important to register. One of the reasons for this was that the economy of the household was better when the fisher did not need to hire people outside his household. In some cases, wives with long experience in baiting also did more of the work than men had done earlier. At the same time, fishery administration recognized women's fishing related work with the result that women were registered. Foreign-born immigrant couples without much experience in fishing some years later come to an agreement of how they want to organize their fishing. These cases demonstrate that a new system decided upon from outside combined with new agreements among the fisher and his wife can lead to new practices and new agreements and thus to new gender contracts.

The new kind of gender contracts can also be found among the elderly couples going to the Mediterranean area regularly in the winter months and to cabins in the summer months. In many of these cases, the wives' wishes for a "sunny winter" are fulfilled, but under conditions that they return in due time for the husband, the fisher, to be able to fish during the spring season that he considered to be the best and more suitable for an elderly fisher. This was the case with Solrun and Asle. Similarly, the way the couple with small children from the Baltic area practice circular migration, coming to Norway and going back to their home country, can also be understood in the light of new gender contracts within the coastal fishing village. Obviously, they came to an agreement to settle in Skarsvåg, when they bought a house, a boat, and the husband registered as a fisher, but agreed that the wife would move back to her country and to her relatives. The husband would visit the family when one of the children was hospitalized and during holidays. They created their own unique contract consisting of many complex elements to meet their own needs.

The changes of mobility practices of fishing villages have taken place and become more diverse. Such changes can be understood in the light of the changes of the local gender contracts where the women's motives have greater weight than they did before, especially when work and settlement-related questions count. Gender contracts are connected to new mobility practices in the form of new travel patterns, better economy, better communications and changes in the households' social organization. They create new experiences and new knowledge. In this way, juridical, material,

structural, and cultural elements are intertwined in the negotiation of flexible new relationships and contracts. How the couples form their contracts seem therefore to be influenced by the intersection between gender, class, ethnicity, nationality and age.

### **Conclusion: Flexible, Diverse, and Multicultural Gender Contracts**

What type of knowledge has this discussion focusing on the relationships between mobility practices and gender contracts enhanced? One thing is clear: When mobility practices change, the terms of gender contracts also change.

Gendered division of labour and gendered mobility practices still exist. Young women continue to move away, but now elderly women, young as well as elderly men also represent larger groups of emigrants. It is no longer only men and men's employment that seem to influence the gender contracts related to a household's settlement and decisions of where to live. Patrilocal settlement principles have changed into unilocal settlement principles. Couples settle in places that benefit both parties, and both parties agree. Mobile practices from small fishing villages do not only include work and education related mobilities, but also mobility practices like shopping, medical service, vacation, and leisure, and commuting, representing relatively new gendered practices. Behind such patterns one can find new as well as steadily repeated gender contracts.

Returning to Ina and her family, I met her again in July 2015 when she together with other young and middle age migrants and inhabitants in Skarsvåg was one of the active committee members arranging *Verdens nordligste bryggefestival* in Skarsvåg. She had also visited Skarsvåg some years before when the family gathered for a big family reunion where her twins were baptized and her relatives celebrated important anniversaries. In 2015, she came with her twins, now young schoolgirls, while her husband stayed home to care for the youngest. Ina's case, but also all the other emigrants coming home for various reasons, illustrate how the fishing village has become a place for leisure, family reunion, and holidays as a contrast to their everyday working life in other parts of the country. These examples also show women's influence on family affairs and holiday mobility. In this way the emigrated women and men and their families confirm their belonging and may even strengthen the identity to their place of birth, elements that also seem important in gender contracts. Activities like participating in local festivals may also be interpreted as a continuous and long-lasting identification with a specific place, in this case Skarsvåg.

For those who still remain in the fishing village, the village becomes a place where work is performed, but also a place where they keep the houses, the social infrastructure and other important links so that emigrants can return, like in Ina's case. The residents, on their side, leave in order to work and spend more of their holiday and leisure time in other places. Often such travels are because of women's wishes. These are also practices that can be observed among the immigrants from abroad. Both women and men seem to return to their home country in their leisure time and stay in Skarsvåg when they work. In this way women and men who have migrated from Skarsvåg together with some of the residents as well as the immigrants from the EEA countries can be said to practice circular migration and multi-place belonging.

All these processes create new gender relations and new gender contracts. The gender relations seem to have turned into more balanced and symmetric relationships with regard to where to reside, where to have a job that the women are educated for, and where children can attend school without commuting and stay away from home. The same can be said about where to go for holidays and where and when to carry out many other everyday practices. Thus, gender contracts are more balanced, also for the residents who have lived in the villages for many years. This might be due to the way the household members succeed in creating a household organization that includes fishery work as well as work outside fisheries, leisure time activities and accept norms and cultural expressions coming from outside the fishing villages.

At the same time, it is within the fisheries that gender asymmetry is maintained. The quota system seems to have led to an even more male-dominated industry with a sharper division between household activities and fishing boat activities, especially for the locals (Gerrard 2008, 2016). Fishery women and men are also embedded in national and international networks and agreements that have undergone major social changes. The fishermen's unions are still male dominated. Gender and women's rights are still seldom problematized and discussed in the fishery media, except in the silent summer months (Fiskeribladet/Fiskaren 2013 a and b). In fishing institutions, men and men's perspectives seem to maintain their power. There are still few female fishers, few female boat owners, and few women holding positions in fishers' unions (Gerrard 2016).

Gunnel Forsberg argued that women's and men's negotiations are important in order to understand what has been going on. Discussions and direct and indirect negotiations seem to have taken place more often in the fishing families than in the fishermen's associations, the Ministry of Fishery and Coastal Affairs, and the Directorate of Fishery. So far the foreign women and men have not engaged in the formal organized and institutional life of

fishing. That can be one explanation of the way they are related to the fishing.

Within the same fishing village, I would therefore say that focusing on women's and men's mobility practices related to gender contracts opens up what we may call diverse, complex, multicultural gender contracts. Nevertheless, with several and varied gender contracts in which gender is intersected and intertwined with national, ethnic, age related, and multicultural aspects, it might also be more difficult to speak about common and local-based gender contracts.

What is interesting is that mobility practices and new gender contracts also seem to have brought changes in the local fishery culture. The Norwegian fishery literature from the 1970s focused on strong interdependencies between the fishing boat, the household, the processing plants, and cultural institutions such as schools (Wadel 1980; Gerrard 1983). Today, when household members establish themselves other than where the boat is moored, the relationships between the boat, a specific fish plant, and the household are "broken." When the fisher family moves away, they might also settle in neighbourhoods where there are few other fisher families and thus represent a minority in their neighbourhood.

When the important link between settlement and work is weakened, an important prerequisite for coastal fisheries culture based on the fishers and the families living nearby the fishing grounds has changed. This may be understood in relation to economic and political processes also taken place outside the fishing villages. Privatization of fishing rights in the form of quotas, but also new technology, fishers from abroad, and increased market orientation by fishers constitute different frameworks for the fisher populations' actions and thus for gender contracts. One can also observe the increased demands for flexibility between the spouses as they face greater variation in organization of daily life compared with earlier years. Nevertheless, men's higher incomes and greater wealth, which still form the core of the household's economic support, seem to maintain a gender asymmetry in income that the spouses silently agree upon. This is the case whether the household still resides in a small fishing village, in towns, or centres, and whether the male and female household members come from Norway or from the other countries.

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### **Notes on contributor**

Siri Gerrard's research interests are related to fishing, fishery-plant work, fishery villages and fishery cultures. Most of her contributions focus on women and gender relations in various contexts and situations. Analytically she builds on and develops interdisciplinary gender perspectives. Her main method is participant observation. The research has taken place in coastal area since the 1970s, mostly in Finnmark, Northern Norway. She has written chapters in books, articles in feminist journals and been a co-editor of several books.

# Whose Gender Equality Counts? The Case of Russian Migrant Couples in Norway

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The article addresses the problem of “normalizing” migrants within a nation state by means of a gender system. The example of Russian immigrants in Norway shows how crossing a physical border moves people across different gender systems. In this transition migrants (re-)negotiate their gender identities and understandings of gender equality. At the same time, trying to integrate into the host society, they problematize the normalizing power of gender systems functioning in a particular society. The article is arranged in three parts starting with an overview of Russian migrants in Norway as a group. The second part describes different gender systems, which Russian immigrant couples cross. The third part shows how Soviet, Post-Soviet and Norwegian gender systems affect the experiences and expectations of Russian migrants in Norway and how gender intersects with nationality and a nation-state gender system. In conclusion, the potential for changing a nation-state gender system and integrating diversity is discussed.

**Keywords:** gender equality, gender systems, Russian migrants in Norway.

## Introduction: Crossing Borders, Changing Gender Systems

Like many western countries today, Norway is facing increased immigration flows. Acknowledging itself as a multinational country, it has had to reshape the language of democracy and immigration policy focusing on the inclusion of diversity. On one hand, encouragement of cultural diversity challenges any uniformity or homogeneity associated with what it means to be Norwegian (Gullestad 2006; Berg, Flemmen and Gullikstad 2010) while creating an indirect demand on the “Others” to be the “same” and “like us”. On the other hand, integration of diversity policies has led to debates on tolerance and tension between different cultural values, norms, rules (Okin 1999; Young 2007; Parekh 2008), and demands that differences be taken

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beyond the binary oppositions of “superior/civilized-inferior/barbarian” cultures. In the context of these debates, gender equality has become a demarcation line between cultures, nationalities, and ethnicities setting them in a binary opposition of uncivilized/equal vs. them/barbaric/unequal. “Normalizing” logic is applied to immigrants and “locates” “them” as (non)compliant with the host society’s values. At the same time, gender equality evolves into “a concept the main purpose of which is to maintain the sense of ‘us’ as a national community” (Holli 2003, 19). In Young’s terms, a “funny inversion” happens to gender equality when it comes to the politics of cultural diversity and debates on tolerance: from being a marginal topic in public debates, it suddenly becomes a central and universal value (Young 2007, 87).

Norway is considered to be one of the most gender-equal countries in the world. Yet even Norway is confronted with the equality/diversity dilemma when the inclusion of migrants comes up as an issue (Lotherington 2008). The migrants and their behavioral patterns come to be measured against Norwegian norms in terms of how they comply with the “Norwegian” version of gender equality.

Immigrants from Russia started to arrive in Norway in larger numbers after the fall of the “iron curtain” and the ensuing collapse of the USSR. The circumstances of the early 1990s migration and the following debates led to stigmatization of Russians, both men and women, as well as to a general perception of them as “not understanding” the value of gender equality (Stenvoll 2002; Leontieva and Sarsenov 2003; Flemmen 2007).

This article addresses the problem of “normalizing” migrants within a nation state by means of a gender system. Taking the example of Russian immigrants in Norway, I show that when Russians cross the Norwegian-Russian border, they also move across different gender systems. In this transition process, Russian migrants (re)negotiate their identities, understandings of gender equality, femininity, and masculinity. At the same time, while trying to integrate into the host society, they problematize the normalizing power of gender systems functioning in this particular society.

This article starts with an overview of Russian migrants in Norway as a group and the way empirical data for this study of migrations and gender was collected and analysed and then describes the different gender systems that Russian immigrant couples cross. The bulk of the analysis examines how Soviet, Post-Soviet, and Norwegian gender systems affect the current experiences and expectations of Russian migrants in Norway, and how, in their discussions on gender equality, gender intersects with nationality and a nation-state gender system. The conclusion considers how such nation-state gender systems can be changed to integrate diversity through providing spaces allowing migrants’ self-expression.

## **Methodology**

Russian immigrants do not constitute the biggest migrant group in Norway, but Russian migration is distinctive. First, Russian migration is highly gendered with women making up almost 70% of all adult Russian immigrants (Nadim and Tveit 2009) who migrate to study, work, or, as in the majority of cases, get married (Lotherington and Fjørtoft 2007; Brækhus this volume). Second, Russian migrants have higher levels of education than other migrant groups and the Norwegian population generally (Daugstad 2008; Nadim and Tveit 2009). Third, the facial complexion of Slavic Russians makes it easier for them not to be taken as “others” at first glance. This puts them in a different position with respect to migrants of colour and to the majority population as “different whites.” The constellation of education level, whiteness, and gender makes their situation in the Norwegian context particular. Lotherington and Flemmen give examples of Russian female immigrants finding themselves in the “in-between and nowhere” position: Norwegian immigration rules and the technicalities governing marriage migrants in the settlement process make Russian women dependant partners and subordinate citizens. They live in Norway but are not part of the society (Flemmen and Lotherington 2009). Recent studies on images of Russian women in the mass media in Norway in the 1990s show that Russian immigrants were not only categorized through nationality and gender but also that their sexuality was perceived as dangerous and threatening to Norwegian society and especially to its gender equality regime (Stenvoll 2002; Leontieva and Sarsenov 2003; Flemmen 2007).

Movement from Russia to Norway is limited by national and international regulations and allows long-term stay only for purposes of education (time limited), work (contract restricted), or family reunion/ marriage (Flemmen and Lotherington 2009; Brækhus in this volume). Large numbers of Russian marriage migrants are women who marry men with no immigrant background, and these women had predominantly lived in Russia before they entered Norway and got married (Daugstad and Sandnes 2008). Few Russian male migrants marry resident women, so they tended to marry women from the same national background (Flemmen and Lotherington 2009; Daugstad and Sandnes 2008).

This article uses empirical data based on semi-structured interviews with Russian-Russian couples residing in North Norway to explore and illustrate these dynamics. While the interview material does not allow the presentation of a general picture of Russian-Russian couples in Norway, it does allow examination of the specific situations and experiences described

by informants and sheds light on their particular integration into Norwegian society.

There are not many Russian-Russian couples in Norway. Six couples agreed to be interviewed for the project; in four cases both spouses were present in the interviews, and in two cases only the wife was present. All the interviews were carried out in Russian. All the informants arrived from the northwest of Russia. All the respondents were recruited through the snowball method (Biernacki and Waldorf 1981; Heckathorn 1997) and recommendations from a network of personal contacts. The age of the respondents in this case-study is essential for an understanding of their mentality as they were all born in the Soviet Union. The youngest respondent (a woman) was twenty-four at the time of the interview. This means they were all raised and socialized within the Soviet gender system and its gender values and norms. Out of ten respondents only one woman and two men did not have a higher education diploma; instead they had professional education diplomas. In four cases, one of the spouses was invited to Norway as a specialist; in one case a woman came as a marriage migrant but later divorced and brought over a new husband from Russia; and in one case a man came on family reunion grounds as his mother had been married to a Norwegian man. In all cases, the informants said that one of the main reasons they moved to Norway and wanted to stay there was the wellbeing of their families, income stability, and a high standard of living.

The interviews with the Russian-Russian couples residing in Norway are of particular interest as their interaction with the majority society is in many respects different from those Russian migrants who have family relations with Norwegian residents. Lacking “native” door-openers within the family, they have to rely on other sources of information about Norwegian society, its public services and bureaucracy such as personal networks, language courses, and media information. The analysis in this chapter uses the theory of the gender system suggested by Yvonne Hirdman (1991) to show that a gender system not only produces power imbalances between genders, but also creates new forms of exclusion and new hierarchies within genders and in a society generally through ideology/ representations of that society and its values. The term “gender system” is used here to mean a combination of institutions and social interactions ascribing normative models and behaviour patterns to genders. A gender system maintains certain models of masculinity and femininity, gender ideology-structuring behaviour patterns, and expectations creating asymmetric power relations.

## **Gender Systems: Soviet Legacy, Norwegian Context**

The gender system of a nation state disciplines its citizens via gender ideology to perceive it as something “natural” and how being part of it creates the feeling of “belonging.” The very same mechanism, when applied to immigrants, also “normalizes” them to affiliate with the state gender equality ideal if they want to become a part of the host society. In the USSR, the state became the main actor creating and maintaining the new gender system regulating relations between the state and its male and female citizens in the Soviet era. The state etacritic<sup>2</sup> gender politics limited opportunities for individual agency. The Soviet gender system was based on a “gender contract” (Hirdman 1991) that involved both genders and intruded at all levels of institutional, social, and symbolic practices, including formal and informal rules, norms, and images defined by place, tasks, and roles of the genders in society.

The Soviet gender system applied a gender-neutral approach to the political sphere and constructed women and men as formally politically equal citizens denying existence of any gender differences. The emancipation project, however, was combined with the absence of actual equality: while they had *de jure* rights, people lacked actual or *de facto* rights (Aivazova 1998; Kukarenko 2000). The gender contract in Russia included gender stereotypes and maintained gender-marked roles, rights, and duties for citizens, placing women and men in different everyday realities with different opportunities, rights, and duties (Zdravomyslova and Temkina 2004; Kukarenko 2006). Men were placed in the public realm, while the contract between the State and Soviet women made the latter responsible for the family. Public gender-neutral practices thus did not preclude traditionalist expectations regarding gender behaviour. The normative masculinity and femininity patterns followed traditional lines when men were presented as warriors, defenders, and workers, and women were offered the option to be working mothers with active life positions (Aivazova 1998). Thus the position of Russian women was quite contradictory as they had greater freedom and more equality than women in most other countries, but views on women and their position in society were traditionalist (Temkina 1997).

The current post-Soviet gender system is characterized as neoliberal (Temkina 2004). The role of the state has diminished as has social provision and ideological support for the “working mother.” Nevertheless, economic independence for women as “working mothers” is still mostly achieved though both maternity and work, provision for which has ceased to be a

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<sup>2</sup> Zdravomyslova and Temkina (2004) define “etacritic” as a pro-statist politics supported by a particular regime of citizenship when all Soviet citizens are granted rights and obligations to be used by them only for building socialism and proving their loyalty to the government.

civic duty for the State and is now either a matter of individual choice or a result of necessity.

At the same time, the Soviet legacy in post-Soviet Russia implies the acknowledgement that equality between men and women has been achieved, but continues to allow gender stereotypes. The recovery of “true” femininity and masculinity in Russian women and men was seen as part of the transition from Soviet socialism to a new capitalist Russia. In the post-Soviet period, the mass media and politicians placed great emphasis on female specificity and differences in men’s and women’s “natural” missions. Part of the post-Soviet change was the presumed freeing of women from the compulsory duty to work and to be active in the public sphere. The problem, however, was that in reality, most of Russian families could not afford for women to stay at home. Nevertheless, the image of “true” femininity as developing its “nature” within the realm of the family and through care was one of the strongest messages sent to the public (Rotkirch and Temkina 1997; Zdravomyslova 2007). This image was constructed in contrast to the “false” Soviet idea of femininity. The Soviet way of understanding women’s roles and missions was condemned as it was claimed to have deprived Russian women of their “true” feminine nature in the name of the State. The Soviet equality between men and women was also condemned as the Soviet state was accused of hypocrisy: the real reasons for introducing the most advanced gender reforms were purely economic, not of respect for individual freedoms and rights (Temkina 1997; Aivazova 1998, Kukarenko 2006). It is interesting that in this context women’s “strong” role in the private sphere became the basis for their political and social activism. “Responsible motherhood” provided women with some access to public arenas, such as “soldiers’ mothers” or “mothers of children with disabilities” (Zdravomyslova 2007).

The contradiction between the new neoliberal thinking and everyday reality has also led to the situation in which both Russian men and women, when assess whether their family practices are equal or not, describe it in terms of men “helping” women with the household and especially with reference to the kitchen (Kukarenko 2002). Thus the paradox is that women working for a salary is not perceived as a problem for family relations, but the active involvement of men in family and household chores results in their being characterised as “henpecked” and less masculine (Kukarenko 2007).

The Nordic welfare states, and Norway in particular, are considered to be woman-friendly states (Hernes 1987) because of the high numbers of women in politics and education, advanced gender equality legislation, developed systems of public child care and parental-leave schemes, all of which taken together facilitate women’s integration into paid work. Since the 1970s,



state feminism in the form of the institutionalization of gender equality has implied women-oriented policies and practices. In the 1970s, the predominant discourse in assessing the reforms for women was the universal breadwinner model, which posited sameness of men and women (Hernes 1987). Reality, however, showed that, despite success in politics and increased numbers of women in education, the labour market remained strongly gender segregated, the gender gap in wages continued to exist, and women were still responsible for most of the housework and care provision (Skjeie and Teigen 2005; Borchorst, and Siim 2008). In the 1990s, the strong women's political movement and feminist rhetoric of difference changed the articulation of the discourse of gender equality. The difference rhetoric shifted the focus from the "sameness" of men and women to recognition of the differences between the genders and the specificities of women's contribution, and, consequently, to equality of opportunity (Skjeie 1992).

Since the mid-1990s, the mainstreaming of gender equality as a tool for integrating gender perspectives in all public policies has been systematically implemented in Norway, including in the form of gender budgeting (Rönblom 2005). The recognition of differences between genders has also led to wider discussions about men's inclusion into care work and strategies aimed at changing men. The close link between family and gender equality policies, which sought to give both women and men equal opportunities to combine work and parenting, resulted in Norway's investments in improving conditions for families with young children. Norwegian parental leave schemes and day-care are considered to be among the best in the world, and in recent years, the focus has been on strengthening the role of fathers. To this end a paternity quota was introduced in 1993, reserving four weeks of the parental leave period for fathers. Although men had been entitled to paternity leave since the late 1970s, few had used it. However, the number of men taking advantage of the paternity quota is currently growing rapidly (Duvander, Lappegård and Andersson 2010).

Although Norway is called a "heaven for gender equality" concerns are still raised about gender discrimination and inequalities in economic decision-making, violence against women, prostitution, and the rights of immigrant women (*United Nations 2003*). Gender gaps still remain in paid work; "women still earn 86 per cent of a man's wage. Women make up 71 percent of the public sector and 34 percent of women work part-time, compared to 14 percent men" (Brother 2015) - all of which leaves Norwegian women with high-paid but mostly part-time jobs. What is more, Norway remains a country with a highly gender segregated labour market "with respect to both sectors and occupations" (European Commission 2013, 13). None of this is to criticise Norway for these shortcomings in implementing the ideals of gender equality, but rather to demonstrate that the gender

system ideology encourages gender equality as a set of specific practices and the Norwegian gender system assesses immigrants according to this, the newest Norwegian “gender equality” ideals. The normalizing logics, implicit in any nation state, sets limits to diversity and accepts little tolerance of the differences of “others” (Young 2007). Thus this chapter seeks to contribute to the developing the integration of diversity policy within a nation state by shedding light on the complex intersections of gender equality, migration, nation-state gender systems, and diversity inclusion discourses.

### **In-between Gender Systems**

Gender equality is a familiar concept to Russian immigrants coming to Norway. At the same time, gender equality is often presented as a particular mark and value of Norwegian society (Siim and Skjeie 2008). Family lifestyles and the practices of Russian-Russian couples in Norway are measured against it and, on the basis of these experiences, respondents in this study make claims about national differences, gender equality, femininity, and masculinity.

Interestingly, equality in the family has become a sign of “Russianness” or “Norwegianness.” In all but one of the families interviewed, the men claimed that they live in a “matriarchy” with the wife being in charge and the leader, while the women said that they have equal relations and make a good team that is able to sort out any problems. The contradiction in the responses is interesting as the couples further explained that, first, it used to be this way back at home in Russia, but, second, they mentioned that life in Norway forced men to get more involved in household chores (especially if the wife had a job and the husband did not). Moreover, all the female respondents claimed that their family relations were equal and of the usual Russian type, while at the same time stressing that as a couple they were not typical of Russia.

Katya, 31: And we used to have a family in the Norwegian way back in Russia! The feeling in Russia was that he was “a rare bird”, and here... At home his friends were constantly saying that he was a “henpecked husband”... Though his family resembles our family like we have now, it was not just his mother, I mean his father also cooks and everything. I mean he was already prepared in his family, though all his friends were saying... This did not bother him, but the main point - it is not true! Still I think he is more comfortable here in the sense that the lifestyle of our family is more Norwegian, not Russian. I mean “Russian” where they consider that the woman’s place is in the kitchen.

The informant, on the one hand, says that the family relations between her and her husband have not changed because even the family Katya's husband comes from used to be like their own family is now. On the other hand, the informant uses "Norwegianness" as an attribute to describe their family life, stressing the difference in their family setup from the average typical family in Russia. It seems that she uses "Russianness" and "Norwegianness" as markers: traditionalism versus modernity; patriarchy versus gender equality. This is where I argue that the legacy of the Soviet gender system, with its dubious and contradictory gender roles, has an effect. As I see it in the passage above, Katya actually says that "his friends" do not question women having paid work, but they do make an issue of a man entering the kitchen and see it as a sign of male subordination. The image of the "kitchen" in Russian culture is exclusively and self-evidently connected to the private sphere and is seen as a predominantly "female" domain. For Russian women, seeing a man in the kitchen symbolizes actual gender equality in family life and relations.

The interviews show that moving to Norway also involved a process of changing as couples reflected on the effects of living in Norway on their relations within the family. Negotiations and discussions within families on equality in the division of tasks, in fact, took a new direction in Norway. In all the families, both partners were in waged work back in Russia. In Norway, only one couple arrived with jobs waiting for both partners from day one. Femininity and masculinity, the naturalness of women's expertise concerning house, children, and male participation in housework as being conditioned on his main work and willingness to help - all of this was challenged in the process of adaptation to a new living reality. Women's waged work and careers are still never an issue of a discussion. The attitude to men's participation in the housework and care provision seemed to be rationalized in the light of two major circumstances. First, change in routines, duties, and obligations happened in all of the couples' daily practices as a result of their moving to Norway. Second, they experienced the influence of Norwegian gender equality ideology as a very strong public issue.

Coming to Norway was a very serious change in itself. A new welfare system, new language, different culture - all affected small daily routines. In all couples, irrespective of who had the job first, the second partner immediately started looking for employment too, meanwhile taking the main responsibility for the household chores. This is where female respondents state that their couples became real teams in Norway due to the circumstances of their new life.

Nastya, 36: On many, many things it is Igor who decides. On many it is me who makes decisions. We are like a team, everything solves itself, smoothly. But it was like that back at home. We used to live in a twelve-meter room in a hall of residence. We got used to each other then.

Igor, 36: Yes, if there is something... We both understand this is not worth quarrelling about. We always try to work things out by discussing them, looking for solutions....

At the time of the interview this couple had lived in Norway for two years with their daughter, who had been born in Russia. They both came as specialists with the same educational background. They claim that without the help of their Norwegian friends, their life would have been harder as they had many things explained to them and helped with a lot of practical issues. Later on they also became acquainted with other Russians living in Norway who served as further sources of information about Norwegian society and the practicalities of living there. At the time of the interview, they were both taking language courses and had participated in a summer school where they studied the Norwegian language and culture.

Family wellbeing and harmony at home became the driving arguments for men's greater involvement in family life. What is more interesting is that some Russian men said that they did not consider increased involvement in housework as a sign of them being deprived of their masculinity, but that still, the position of house-husband was unacceptable to all of them. Regarding the female respondents, like Katya above, they all stated that their husbands were different from the majority of Russian men initially.

At the same time, female informants stated that loving and respectful relations were of the utmost significance for equality. The images and stories of "good" Russian husbands are constructed on the border of traditional and modernized men. The "good" ones are represented as civilized, democratic, tender, helpful. They are different from "other" Russian men who are traditional machos. Most women-informants consider living with traditionalist men unacceptable and the relations in such marriages are perceived as lacking respect and freedom and forcing women into the position of serving men.

While stating that "good Russian husbands" are not like Norwegian, or more generally any foreign men, because they all lack (cross-)cultural understanding, Russian women-respondents articulated the view that the greatest value of Norwegian men lay in their active involvement in childcare.

Marina, 32: Have you seen their fathers who come to the University with baby prams; they bring babies to their moms for breast-

feeding... I think to be a woman in Norway is very beneficial... if you are a woman - you are already officially good, "exclusive"! I think it is the general mentality, although perhaps not all Norwegians think the same. Of course, the state and its policies demand that a certain number of women are to be directors, politicians or something else. From time to time I hear Norwegians, men, when they talk, they say, "Oh she is stupid, but because she is a woman we had to employ her!" I mean that there inside they do not completely agree. Still it is all so different from Russia. In Norway even those men who are not so much happy with the way women are in Norway, nevertheless, they do not treat women as badly as men in Russia do. Speaking of professional skills, women will never be equal to men, because, I do not know but she is a female. She has different instincts, children anyway... I do not know how to say that....

This part of the interview serves as an example of being in-between different gender systems in experiencing the transformations of masculinity and femininity they dictate. Marina was the one in her family who got the job offer in Norway and took her husband and daughter with her. Her husband spent almost a year as a house-husband before he got his first job in Norway as a low-skilled worker. Their communication with Norwegians is mostly restricted to working contexts and meetings with other parents at their daughter's kindergarten.

In this part Marina articulates her understandings of both masculinity and femininity. Making claims for women's natural mission and professional incompetence, Marina, on the one hand, articulates the stereotypes inherited from the Soviet/post-Soviet gender system with women being traditionally responsible for care work, while, on the other hand, her real life situation contradicts her statements. Her life situation forces her to be a "breadwinner" while her husband has to do the care work, and the inherited images of "true" femininity make her uncomfortable with both their current roles. At the same time because of this confusion she has developed new markers of gender equality and become sensitive to the issue in new ways. In fact it is not only Marina who notices that men in Norway take parental leave and bring babies for feeding to mothers who continue their studies at the University. Both female and male respondents mentioned that, unlike in Russia, men in Norway spent a great deal of time with children and family, and, because it is a general practice accepted in society, they do not look any less masculine to the Russian immigrant women and men, but are accorded appreciation and respect for it.

In her interview, Marina also discusses the importance of the gender equality issues for Norwegian society and the impact of the gender equality policies on the situation of women. At the same time, she claims that

attitudes and practices concerning gender equality vary in Norwegian society and among Norwegian men in particular, despite a very strong public gender equality discourse. She actually says that there is a difference between the ideal and everyday reality in Norwegian society that allows ambivalent attitudes toward the Norwegian gender equality ideal on the level of attitudes and everyday practices.

As mentioned above there is extensive research showing that the Norwegian gender system, although the most advanced in many respects, is not perfect or fully achieved. More than that, the normative gender equality ideal is understood and practised differently by individuals, and the way couples negotiate it inside the family quite often depends on their relations and attitudes to each other, perceptions of fairness, and respect, number of children in the family, level of education of partners, level of family income, etc. (Bernhardt, Noack and Lyngstad 2008; Jakobsson and Kotsadam 2010). What is of relevance for this analysis, however, is that the Russian respondents articulated stereotypes that they have about Norwegian gender equality on the level of assumptions.

Vera, 35: Women are financially independent here and in Russia... The general attitude is like she is a thing. Most of the men in Russia are chauvinists.... Norway is a strong country because they respect women.

Misha, 36: So why don't you live like a Norwegian woman?

Vera: What do you mean?

Misha: I mean that you criticize Russia but at the same time you do not want the equality like they have at home. You remember we said that...the attitude between a man and a woman here, it is like between two men, you do not want me to treat you like Norwegians: like a man to a man.

Vera: But that is why I am not married to a Norwegian man.... Anyway I do not think it is such a privilege to have the door held for me when I am going through it.

Misha and Vera got acquainted when Vera visited Murmansk. At the time of the interview, Vera had lived in Norway for eleven years, arriving via marriage with a Western man who worked in Norway and from whom she was divorced after some years. During this first marriage, Vera learnt the Norwegian language, started to get a Norwegian B.A. (since her higher education diploma was not approved by the Norwegian authorities), was granted permanent residence, gave birth to a child, and got a job. For Vera's husband Misha, it is also a second marriage. He sends money and clothes to his two children from his first marriage in Russia. At the time of the interview Misha had lived in Norway for five years and the couple had a

daughter in Norway. His professional technical education had not been approved at the time of the interview because he had a problem figuring out which authority should approve his diplomas. He was unemployed for quite a long time and in order to make ends meet instead of continuing to “fight” the system, he started to work as a semi-skilled worker, a handyman.

They claimed that as a couple they do not have many Norwegian friends, but Misha in his capacity of handyman visits different houses. He is critical of what he observes in the families as “it is not clean” in the houses with “many clothes and things on the floors,” etc. All of this makes him uneasy at work, as in one place where there was female underwear lying on the floor he perceived it a sign of both disrespect toward outsiders and to him as a man personally because the employers knew that “the handyman booked” was a man.

The vision of Norwegian gender equality that Russian immigrants articulate is that it is about the “sameness” of women and men in every respect, issue, or arena. Even though the gender system in Norway is seen as positive and beneficial both for women and society itself, the ideology of gender equality is experienced as strong, Russian immigrants see that practices of equality in Norwegian society vary, and they are critical of the gender system for being a very radical project aimed at eliminating all differences between men and women. Vera’s comments are interesting here as, in her statements, we can observe how gender stereotypes about traditional femininity and masculinity clashed with the new possibilities offered by the Norwegian gender system. In fact, both Misha and Vera say, in slightly different ways, that for them it is natural for women to take responsibility for housework. For Misha, expertise and responsibility for running the house is as an integral part of being a woman. If they do not perform this function, women become masculinised for him. Vera says that she did not marry a Norwegian man because she does not want the “sameness” attitude. Her understanding of the link between femininity, masculinity, and gender equality is confused, but at the same time she does actually question why a person cannot have the best from different gender systems. It is exactly on this point that she is confronted by her husband. The Russian gaze is also gendered in its views of gender equality within Norwegian society.

Russian couples cross borders of states, cultures, and gender systems, and that is why what they actually negotiate in their families is experiences of being/living in the Norwegian society that are the result of exposure to the Norwegian gender system ideology and control. The peculiarity of their position is being in-between gender systems, in-between national cultures: they live in Norway but they do not experience themselves as “Norwegians.” They do not feel comfortable any longer with the Russian

gender system, and femininities and masculinities maintained by that system, but they still have that “baggage” with them. They feel that they are expected to do a “mimetic performance” of a “Norwegian” gender equality ideal with which they do not totally affiliate. Their “being on the margin” position (Braidotti 1994) allows them to see positive and negative features in all gender systems they have had experiences of, and, like Vera does, to actually question the necessity of choosing “either/ or” of the Russian and/or Norwegian gender systems. Vera and Misha combine practices that they both feel comfortable with as a couple. Thus, this last example shows that immigrants are situated in a position from which they, if being allowed, can challenge the nation-state gender system, and, consequently, transform it.

### **Conclusion: National Gender Systems as Traps Between Diversity and Homogeneity?**

A number of recent studies on migration have called attention to the complexity of the impacts of migration, diversity inclusion, and gender equality policies on the situation of those on the move (Passerini 2007). In the context of Nordic countries, critical researchers have pointed out a sophisticated tendency in gender equality and ethnicity research to distance those countries’ pasts from historical colonialism, to stress the homogeneity of their societies, and to present Nordic countries as having achieved gender equality (Gullestad 2006; Siim 2007; Flemmen and Lotherington 2009; Mulinari et al. 2009).

Gender equality functioning as a discourse and as a practice (or a set of practices) creates different expectations and allows different possibilities for native citizens and immigrants. Immigrants are confronted with the ideal and are required to interiorise it in a way the native population is never asked to (Gressgård and Jacobsen 2003; Lotherington 2008). At the same time it is important to keep in mind that a gender system not only produces power imbalances between genders, but also creates new forms of exclusion and new hierarchies within genders and in a society generally through ideology/representations of that society and its values. So both women and men experience the “normalizing” power of certain gender systems on their behaviour and choices irrespective of whether or not they cross borders.

Showing the impact of the Norwegian gender system on Russian immigrant couples’ self-perceptions in Norwegian society is important because the peculiarity of situation of the Russian-Russian couples in Norway lies in the fact that their interaction with the majority society differs from the situation of immigrants in mixed marriages where one partner is



Norwegian. Without a “native” door-opener within the family, they have to rely on available public sources of information in shaping their knowledge of Norwegian society, their visions, experiences, and understandings of what it means to be Norwegian. Furthermore, unlike refugees who are able to obtain useful knowledge about the everyday functioning of Norwegian society through refugee introduction programmes, Russian immigrants, if they intend to stay in Norway, are obliged to take courses in the Norwegian language and culture in order to do so. Thus, language courses, the internet, and social networks of Russian and Norwegian friends and colleagues were mentioned in the interviews as the most important sources of information about Norwegian society and Norwegian gender equality.

Gender system ideology promotes gender equality as a set of “certain” practices, and the Norwegian gender system assesses Russian immigrants according to the Norwegian “gender equality” ideal. This produces complex intersections of gender equality, migration, and diversity inclusion discourses. Immigrants are expected to follow feminine and masculine roles, modes of behaviour, and expectations that are shaped by the Norwegian state through its gender system. The nation-state gender system, applied to immigrants, limits their right to be different and actually expects them to choose the host society values, gender roles, and behaviour and actively affiliate with them. At the same time, this does not happen to native citizens who have the right to act out their individuality through affiliating or deviating from the “Norwegian” gender equality ideal in a variety of everyday practices, without admitting it in front of the eyes of “others.” This happens because of the two simultaneous moves made by the Norwegian state: firstly, as a multicultural society, Norway tries to integrate diversity, but, secondly, it also promotes values, such as gender equality, as essential to Norwegian society. Taking the latter action, any nation state actually falls into the trap of homogeneity - diversity as “gender equality” becomes the constitutive element of the national community.

Gender systems are not rigid. However, it is possible to say that the history of Norwegian gender equality shows that it is a continuous process of creating gender hierarchies despite all the significant reforms for women. At the same time, it also shows that gender systems and contracts are subject to negotiation, renegotiation, and change. Through negotiation, gender inequalities linked to nationality/ethnicity within households, communities, the market, and the state are challenged. These negotiations might result in cooperation or in conflict, depending on the willingness of the participants to cooperate or escalate antagonism.

When social, political, cultural, and economic rules change, the gender system creates new segregations and hierarchies in society. Therefore, a gender system in itself is open to intervention and change if and when

various actors have the right to question it (Asiimwe 2009). The nation state, articulating itself through national values, will always end up by excluding and/or assimilating someone. Norway as a multicultural country and Norway as a country of and for Norwegians are two different and opposite projects for understanding and planning the future. A diverse society is possible only when “others” have a place and a voice (Braidotti 2007; Siim and Skjeie 2008). This in turn suggests the urgency of creating new ways of defining participation and public spaces, a different way of constructing the collective social imaginary (Taylor 2003) that permits various forms of belonging, is inclusive of “other” lifestyles and participation, and yet at the same time allows the “normalizing” power of any gender system to be questioned.

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# Transnational marriages in the north: Legal issues of Russian women married to Norwegian men

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This article is about the legal situation for the many women who immigrated to the northernmost county in Norway, Finnmark, from North-West of Russia after the fall of the Iron Curtain. Their way of immigration was mostly through marriage to Norwegian men. To be foreign and new in a country could be difficult. How is their legal situation as newcomers? The complexity of problems will increase if they get children, divorce or move from Norway to Russia or the other way. Which authorities are to decide for them and which country's laws are to be applied? The article also covers the legal situation for children born in such marriages such as status, custody, support and child abduction, and the situation when one of the spouses dies.

**Keywords:** International private law, marriage, equality, immigration

## Introduction: Choice of Spouses and Laws at the “Top of the World”

Finnmark, the northernmost county in Norway, shares a border with Russia. This border was strictly closed during the Cold War, but after the fall of the Iron Curtain in the early 1990s, it was opened to some extent, and those living in Finnmark became able to get in contact with their neighbors in the northwest of Russia. This has influenced the relationship between the two countries in many ways, among them in relation to immigration.

In the early 1990s, the Finnmark-Russia border represented one of the deepest welfare divides in the world. In the post-Soviet society, there were periods when workers were not paid and had to live with shortages of daily necessities (Flemmen and Lotherington 2009, 33). Although cross-border immigration was to be expected under these circumstances, it quickly became controversial. The first issue to erupt was community reactions in

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Norway to Russian women crossing the border allegedly to offer prostitution services in the sparsely populated areas of Finnmark. This was more than these communities could bear, according to some newspapers (Flemmen 2009, 39). The owner of a camping site was even convicted of procuration in the Supreme Court.<sup>2</sup> Many of the women, however, could be described as “nonprofessionals;” some were housewives trying to make ends meet, others were looking for Norwegian husbands (Flemmen 2009, 45).

Given the realities of the time and place, marriage clearly offered women a more secure way to move across this border. By 2008, 1.54 percent of the population in Finnmark was found to be Russians, 82 percent of the Russian immigrants to Finnmark were women, and most women had obtained their resident permits through marriage to Norwegian men (Kvidal, Lie and Nygaard 2008).

This gender-specific form of immigration appears to be motivated by differences in gender roles of both men and women on both sides of the Finnmark-Russian border, with Russian women seeking Norwegian men whose attitudes toward gender roles are more modern than Russian men’s, while at the same time significant numbers of Norwegian men seeking Russian women whom they think have more traditional views of marriage and gender roles than Norwegian women (Flemmen and Lotherington 2009, 33). Age and economic imbalances may also be factors. Divorce decisions in five appeal cases and one county level case where age was mentioned, showed an age gaps on average of 15.75 years. The average Norwegian age gap is three years.

Even if the situation for people in Russia has improved substantially since the early 1990s, there are still huge political, cultural, and economic divides between Norway and its large neighbor in the north, Russia. Emerging research has begun to examine how Russian wives cope with these differences, especially with regard to gender roles (see Kukarenko in this special issue). In general, the Russian wives appreciate their Norwegian husbands’ participation in parenting their children, but expectations of gender equality mean that gender roles are uncertain and have to be negotiated with Norwegian husbands. Norwegian society in general also have different normative expectations, such as shorter periods of leave from paid work after giving birth than is common in Russia (Lotherington 2009).

In addition to cultural and normative complications, legal regulation of family life in these trans-border marriages is exceedingly complex. Some couples marry in Russia, live there for several years, and then move to Norway. Which laws regulate their relationship? Other couples married in

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<sup>2</sup> See decision from the Supreme Court in Rt-2004-331.

Russia have children who will go with them from Russia to their new homeland. Alternatively, they may have children born in Norway but want to move with them back to Russia upon divorce or bereavement. Can they take their children with them? In addition, what are divorcing parents' economic rights in such a situation?

International private law principles regulate choice of the courts in which such issues are decided and the laws that courts apply in relation to transnational questions. Family law is subject to these international private law principles. Norwegian courts or administrative bodies<sup>3</sup> are authorized or have the jurisdiction in cases where the connection to Norway is sufficiently close. The question then becomes how they are to determine when that connection to Norway is close enough. Even if Norwegian courts are authorized to hear a specific case, the choice of law principles may nonetheless determine that a court must apply the law of the country in which the couple have the most connections. As a practical matter, it is very challenging for a court in one country to apply the law of another country correctly. However, there is a tendency for Norwegian courts to choose to apply Norwegian law and not Russian law; even if on the facts of the case there might be good arguments for use of Russian law. Unfortunately, international private family law cases do not produce uniform approaches to any of these choice of law issues. The jurisprudence of each country will be unique. This article is about how Norwegian international law regulates international marriages. If a parallel situation has to be resolved in Russia, then Russian international family law would be applied, but that is outside the scope of this analysis.

Questions of legal regulation of Norwegian-Russian marriages are of great importance for the families concerned, and, especially in cases concerning children, the outcome of specific cases can be dependent on cooperation between the two countries. How is child custody determined in both countries? Do they follow the principle of the best interests of the child, or do they prioritize the best interests of the parent who is a citizen of that country? To regulate this, international bodies have worked out international conventions or treaties, which adds another layer of legal issues to the determination of the overall rights and obligations of courts in each country.<sup>4</sup> This article will present family law in a broad sense, because it will include not just decisions on issues occasioned by separation or

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<sup>3</sup> In addition to the courts, the county administration is authorized to make decisions in most family cases in Norway, which in general is a cheaper and faster track in such cases. See Marriage Act, 1991, § 25a.

<sup>4</sup> See e.g. the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, 20 May 1980, ETS 105 [Convention on Custody of Children], and the Hague Convention on the Civil Aspects of International Child Abduction [International Child Abduction], 25 October 1980, 1343 UNTS 89.

divorce, but encompasses children's law more generally, included inheritance and succession rights.

The cases considered in this article include reported and unreported decisions from Norway generally and from district courts in Finnmark specifically. The main focus of this article is thus on the impact of family law on Russian women who have moved to Norway and married Norwegian men. This begins with choice of law for determining the validity of marriages, and includes detailed consideration of rights and obligations pertaining to marriage, divorce, legal parental status, child custody, and inheritance or succession rights to matrimonial property.

### **Validity and Economic Rights of Marriage**

The practice of traveling abroad to marry is well established in modern life. Couples travel, for example, to places like Las Vegas and expect to be able to marry there even if neither party is a citizen or resident of either the United States or Nevada. No doubt couples from abroad travel to Norway or happen to decide to get married while in Norway. In Norwegian law as in other countries, marriages are valid regardless of where they are contracted so long as the jurisdiction in which the marriage is performed permits such marriages under its own laws.

As a general principle of private international law, being married is an incident of personal status that they carry with them wherever they are. Domestic laws can restrict that capacity to get married for specific policy reasons. For example, Norwegian marriage law was amended in 1994 to forbid marriages involving a party who is in the country illegally.<sup>5</sup> This was done because being married is an argument for staying in Norway.

Most women who move to Norway from Russia immigrate through marriage. Until 2010, even marriages motivated purely by the desire to immigrate to Norway were perfectly valid, even if the parties never intended to live together and agreed to divorce as soon as possible.<sup>6</sup> After 2010, the Immigration Act prohibited entry into Norway if the only reason for marrying was immigration.<sup>7</sup>

It is important that the marriage is also valid according to the law of the country from which the parties have come and to which they often may intend to return. For this reason, two or three legal regimes have to be considered before a marriage is performed in Norway - the Norwegian legal requirements, and the conditions for validity of marriage according to the

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<sup>5</sup> See Marriage Act, § 5a.

<sup>6</sup> In an old case before the Supreme Court a Russian baroness paid to marry a Norwegian man just to get Norwegian citizenship. According to the Supreme Court the marriage was valid. See Rt-1926-426.

<sup>7</sup> Immigration Act, 2008, as amended, § 40(4).

laws of each of spouses' homelands.<sup>8</sup> If, for example, it is prohibited for second cousins to marry in one party's country, the Norwegian authority should not permit second cousins to marry in Norway even if such marriages are allowed in Norway. The same is true of age; the couple has to be old enough to marry in each of their home countries as well as in Norway.<sup>9</sup> On the other hand, if a marriage performed in another country is sought to be recognized in Norway, it must be formally valid in the country in which it was performed, and must not be contrary to *Ordre public* in Norway.<sup>10</sup>

Couples marrying in Norway must also follow the formalities of Norwegian law. It is increasingly recognized in Norway that legal obligations by spouses to support each other economically create dependence on the part of the spouse receiving support thus contravene the idea of equality between spouses.<sup>11</sup> However, in Norwegian law, as long as a couple lives in Norway, Norwegian law regulates their right to support, and spouses still do have the formal legal obligation to provide economic support to each other. Unfortunately, the support rules are not very specific. It is understood that this obligation requires something more than providing bare subsistence support, but what that might mean in any specific relationship is not clear.<sup>12</sup> In practice, there is no way to enforce this right if the husband does not want to comply. For this reason, most Norwegian women choose to have an income of their own.

For Russian wives entering Norway, the Norwegian spouse has to guarantee to provide economic support for three years. Only after that period can non-Norwegian spouses obtain permanent residence and work permits.<sup>13</sup> During that three-year period, the sponsoring spouse has to guarantee to provide support. One of the complexities of this provision is that during this period of time, immigrating spouses, particularly women, are more vulnerable to economic domination, emotional abuse, and physical violence by the sponsoring spouse. The situation may be surprisingly poor for these women because matrimonial property law in Russia is much more equal as between spouses. In Russia, all property,

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<sup>8</sup> Marriage Act, § 7(h).

<sup>9</sup> Of less interest in the Norwegian-Russian marriages is that Norway does not recognize forced marriages even if this is common in the spouse's home country. This is because of the general rule in international private law called *Ordre public*. *Ordre public* is a general standard in international private law. The standard allows exceptions from the general solutions derived from international private law if the solution will contravene the moral standards of the country.

<sup>10</sup> Thus, Norway will not approve bigamy or payment for the bride. To deny marriage for religious reasons or because of divorce will also be contrary to Norwegian *Ordre public*.

<sup>11</sup> See "Innstilling til ny ekteskapslov del II [Recommends new Marriage Act, Part II]," *Norges Offentlige Utredninger* [Official Norwegian Reports], 30 (1987): 32.

<sup>12</sup> See Marriage Act, § 38.

<sup>13</sup> See Immigration Act, §§ 55(1), 60(1) and 62(1).

including income acquired by one spouse during the marriage, is the couple's joint property.<sup>14</sup>

However, property rights are not normally the main concern of women during the first three year of marriage, because if they are divorced within these three years, they have to leave Norway and return to Russia.<sup>15</sup> In the light of these considerations, it appears that the Norwegian government continues to use immigration and spousal support rules to avoid its economic obligations to financially distressed women. Many Russian wives are well educated and qualified for work, and, after obtaining permanent residence in Norway, they are supporting themselves through paid work (Flemmen and Lotherington [eds.]. 2009, 101).

Marital property rights are also complicated in Norwegian-Russian marriages. Most countries have special rules concerning property ownership rights during or arising from marriage. Norway is no exception, although marital property rules have become less constraining than in the past.<sup>16</sup> However, the rules are more complicated for cross-border marriages. Basically, property rights follow the law in the country the couple first lived in after marriage (Thue 2002, 398).<sup>17</sup> This is because it was probably under the premises of this law that they first entered into marriage. If their first domicile was Russia, their rights concerning property will be determined by Russian law even if they move to Norway. And, if they first lived in Norway, their property rights will be governed by Norwegian law even if they move to Russia.

One common question is whether a couple married and living under the matrimonial property law rules e.g. of Russia and then moves to Norway can agree that they will be governed by Norwegian property law instead of by Russian property law. This question has been discussed quite extensively in Norwegian international family law (Thue 2002, 423-428). The most reasonable answer seems to be that if both spouses agree to this change in matrimonial property regimes, and if they both have the proper connection to the country whose system they choose, they can do so (Holmøy and Lødrup 2009, 159). The agreement ought to be formally correct in ensuring that the spouses make legally effective agreements under the law. The law concerning property rights also determines the validity of contracts made by spouses. In Norway, the rules for such contacts are spelled out in the Marriage Act.<sup>18</sup>

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<sup>14</sup> See Family Code of the Russian Federation, 1995, arts 33-34.

<sup>15</sup> There is an exception from this if they have been exposed to violence, but this of course may not be easy to prove, especially if the spouse has no other immediate sources of support. Immigration Act, regulation, § 11(4)(c).

<sup>16</sup> The main effect of these property rights is however upon divorce, see below.

<sup>17</sup> See also Rt- 1995-1415.

<sup>18</sup> See Marriage Act, § 54.

Not surprisingly, however, there are exceptions to the situation in which all property rights are governed by the system of one country. If third parties such as creditors have claims against either spouse, then the law of the country of the third parties' residence should apply even if the spouse or spouses owing the obligation are subject to the laws of a different country. Creditors cannot be required to seek remedies under foreign legal systems with which they are not familiar (Thue 2002, 407).

Other exceptions apply to the legal basis for the recognition of marital property rights. In Norway, spouses can acquire property rights in property owned by the other spouse through performing unpaid childcare and housework.<sup>19</sup> As long as the couple lives in Norway, property can be earned this way regardless of which laws may apply more generally to their marital property rights (Thue 2002, 409).

If the couples legal system is Norwegian law, the fundamental principle to ownership are individual rights, which means that married persons' earned property remains individual property.<sup>20</sup> Thus, if the couple moves into a home in which one of them has lived for many years prior to the marriage that person retains ownership of the home despite the fact of the marriage.

### **Divorce, Alimony, and Property Rights**

If a divorcing couple has been residing in Norway, then Norwegian laws and procedures apply. Even if only one spouse lives in Norway, or if both spouses are Norwegian citizens living elsewhere, Norwegian courts can accept the petition for divorce. Norwegian courts also have jurisdictional authority to hear petitions in cases in which one spouse has only a slight connection with Norway but divorce would for some reason be difficult to obtain in the couple's country of residence.<sup>21</sup> If couples living in another country are divorced there, Norway will acknowledge the validity of that divorce if the parties had sufficient connection with that country at the time the decision was made.<sup>22</sup>

If the parties want to remarry, foreign divorce decrees must be domesticated by the correct Norwegian authority. The State Department is entitled to decide on this issue.<sup>23</sup> The authority to make such determinations is delegated to County Governors.<sup>24</sup> The County Governor will not in general acknowledge private agreements about divorce; these have to be decided

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<sup>19</sup> See Marriage Act, § 31(3).

<sup>20</sup> See Marriage Act, § 31(1).

<sup>21</sup> See Marriage Act, § 30(b).

<sup>22</sup> See Act on Recognition of Foreign Divorces and Separations, 1978, § 1.

<sup>23</sup> See Act on Recognition of Foreign Divorces and Separations, § 4.

<sup>24</sup> See Regulation March 27, 1992, nr. 292.

by the authorities in the country concerned. Any such proceedings also have to be fair, give both parties the right to be heard, and treat both parties consistent with gender equality. For Russian divorces, registration in the Russian register for civil status, the ZAGS, is generally the proof required.<sup>25</sup>

The legal regime that regulates a couple's property rights will also regulate the settlement of property rights on divorce. In Norway, the general rule is that the value of communal property earned during the marriage is divided equally between the spouses, meaning that property owned on entering into marriage can be kept out of the division.<sup>26</sup> Property kept separate according to a marriage agreement, gifts, and inheritances acquired during the marriage are also exempted from the property to be divided.<sup>27</sup> Creditors' rights that is still governed by the law of the country where the debts were established in the case of divorce, even if the property rights are governed by the law of another jurisdiction. Consequently, in the division of property upon divorce, it is important that creditors' claims are treated in accordance with the law of the country in which the debts were established.

We have seen that spouses remain individual owners of their own property acquired before or during marriage. On divorce each spouse does have a right to keep those specific items of property each owned during the marriage. There are some exceptions to this rule, however, with reference to the family home and necessary equipment and furniture in the home.<sup>28</sup> The rule here is that either title or use rights to the family home can be awarded to the spouse who will have the day to day care of the children. However, the main asset in most marriages is the family home, and may have depended on two incomes to support this asset. Thus maintenance of the family home may be too expensive for one parent to afford, particularly if ownership or rental rights are awarded to the wife. The award of use or ownership of the family home is treated as a right granted on social grounds like the award of alimony (see below) under the law that applies to the location and use of the property. This jurisdiction may differ from the jurisdiction in which the rest of the couples' property rights will be decided. Household effects for everyday use will be treated as subject to the same rules applying to the house itself.

In almost all the cases concerning Russian-Norwegian marriages, the husband already owned the common family home before the marriage took place. In these marriages, the husband was considerably older than the Russian wife and was well established in the local community. The wife on the other hand was a foreigner, probably without much property of her

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<sup>25</sup> See Directive Q-19/2004, appendix 5.

<sup>26</sup> See Marriage Act, §§ 58-59.

<sup>27</sup> See Marriage Act, §§ 42(1) and 59.

<sup>28</sup> See Marriage Act, §§ 66-68.

own. When the family home is owned by the husband before marriage, its value is not divided between the spouses on divorce. This makes it very difficult for the wife to buy out the husband.

The imbalance between husbands and wives in claims to the family home are illustrated in several cases before the Court of Appeal, Hålogaland lagmannsrett, and County Courts, Øst-Finnmark tingrett and Indre Finnmark tingrett. In each case, the husband was awarded the right to take over the common home after divorce.<sup>29</sup> In one of the appellate cases, the husband's right to the home was contested, but the judgment was in the husband's favor.<sup>30</sup> All these couples had one child together; the father was awarded custody in only one of the cases before the Appeal Court<sup>31</sup> and in both cases in the County Courts. The right of the parent with custody for the child to keep the family home seems not to have been followed in these cases. Russian wives face many challenges in Norway as foreigners, and not having equal rights to the use of the family home upon divorce - especially when having custody of a child - means that upon divorce, they need to move themselves and any children out and find a new home.<sup>32</sup>

Rights to support after divorce proceed on different principles than are applied to distribution of matrimonial property rights. Support rights or alimony will be awarded on the basis of social and actual economic needs. Social and economic needs will differ from country to country, because they will be affected by access to and costs of childcare facilities, social systems, labor market opportunities, and other diverse factors. From a legal perspective, Norwegian international law states that support after divorce should be determined under the law of the country in which the person in need lives (Thue 2002, 388). This means that if a Russian woman returns to Russia after divorce from a Norwegian man, it is Russian law that will determine whether or not she is entitled to alimony - even if the decision is to be made by a Norwegian court.

## Parents and Children: Status, Custody, Support, and Abduction

Almost all countries adhere to the ancient rule that the husband of the woman giving birth is the father of the child. Norwegian international family law recognizes fatherhood decided abroad on this basis.<sup>33</sup> The only question

<sup>29</sup> See LH-2001-1034, LH-2001-1079, LH-2005-174121, LH-2005-47480, LH-2006-73627, 10-169137TVI-OSFI and 06-068019TVI-INF1.

<sup>30</sup> See LH-2005-174121.

<sup>31</sup> See *ibid.*

<sup>32</sup> One case was different in the sense that the Norwegian man had formally transferred the property to his Russian partner with whom he had a child. He later claimed that this was done only to keep creditors away, but the court did not accept this explanation. See LH-2000-429.

<sup>33</sup> Children Act, 1981, § 85(1).



that can occur in this situation is whether or not the marriage is valid. Beyond this, Norwegian authorities can make determinations of paternal status on the basis of Norwegian law, if the child lives in Norway and the guardian of the child (in most cases the mother) wishes it. This is also the case if a putative father lives in Norway and the mother lived in Norway when the child was born.<sup>34</sup>

When questions of fatherhood are determined outside Nordic countries on the basis of facts other than the existence marriage, the validity in Norway of such a decision has to be decided on a case by case basis by Norwegian authorities. In general, Norway will recognize determinations of paternity made outside the Nordic countries as valid if it is made by a competent public body.<sup>35</sup> Acquisition of parental status by adoption is decided on international legal principles. In general, a Norwegian couple adopting a child from abroad has to meet all the requirements of Norwegian law. In addition, the child's status will also depend on whether all the legal requirements pertaining to adoption in the child's homeland are satisfied correctly.

Once parental status is established in relation to a child, then each parent has full parental responsibility in relation to the child. In Norwegian law, parental responsibility is the legal concept that gives parents the right to make decisions in relation to their children regardless of where the children live. Parental responsibility differs from the legal concept of custody, which is concerned with the parent who has day-to-day care of the children.<sup>36</sup> Parents with parental responsibilities have to take care of the child and raise it according to its needs and abilities. The use of physical aggression and punishment are strictly forbidden to parents and other caregivers.<sup>37</sup> For children living in Norway, Norwegian law regulates the terms of parental responsibility even if one or both parents are from another country, the child is born abroad, or parental status has been established under the law of another country such as Russia.

According to Norwegian law, both parents have parental responsibility for their children as long as they are married or live together.<sup>38</sup> If the parents separate or divorce, both continue to have the full rights and obligations of parental responsibility until legal authorities decide otherwise. In most cases in which custody is disputed, the nonresident parent retains parental

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<sup>34</sup> *ibid.*, §§ 81(1) and 84.

<sup>35</sup> *ibid.*, § 85(2). The law says that the King decides either by general administrative regulation or on a case by case basis. The case by case decision is delegated to the Norwegian Labor and Welfare Service, per Ministry for Children, Equality, and Social Inclusion, Letter to the Norwegian Labor and Welfare Service (Mar. 30, 2011). (NAV).

<sup>36</sup> Children Act, §§ 30 and 36.

<sup>37</sup> Children Act, § 30.

<sup>38</sup> Children Act, §§ 34 and 35(2).

responsibility.<sup>39</sup> A father with parental responsibility can forbid his children to move abroad even if the mother has custody of them.<sup>40</sup> If, in spite of this, the mother does move with the children to another country such as Russia, this act is considered to constitute child abduction. In contrast, if the parents never lived together or if there is a decision saying that only the mother has parental responsibility, she could move with the children wherever she would like.<sup>41</sup>

A parent can also be excluded from parental responsibility if the parties were married or lived together in another country where parental responsibility does not exist or is not shared after parental separation or divorce. In a County Court, Øst-Finnmark tingrett case, the parents had lived together in Russia and then the father moved to Norway. He sued the mother for shared parental responsibility but the Court found that the level of conflict was high and refused to support the father's claim.<sup>42</sup> The opposite situation can also occur. If a Russian wife is divorced from a former Russian husband and wants to take the children with her to Norway, the father with parental responsibility has the right to prevent his children from moving abroad even if the mother has custody. This was the situation for a Russian mother who married a man in Finnmark. The Norwegian Directorate of Immigration denied her son permanent residence because his Russian father had not approved the boy's moving to Norway. Oslo City Court deals with such cases and found the Directorate's decision invalid according to the European Convention on Human Rights, article 8, the right to family life.<sup>43</sup>

Jurisdictional disputes on parental responsibility or custody are subject Norwegian law if either the defendant in the case or the child live in Norway.<sup>44</sup> This rule has been criticized because under the general rules of international law, courts or administrative bodies in the country where the child has its habitual residence have jurisdiction over these issues. This rule is considered to be in the best interests of the child, because it makes it easier for courts and investigative authorities to obtain accurate and full information on the wishes of the child and the adequacy of its living conditions (Kvisberg 2008, 79).

If the mother has returned to Russia after divorce and taken the children with her without the consent of the father, it may be a question of child abduction. If that is the situation, the children should be returned, and while away, will still have their habitual residence in Norway. If the child is

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<sup>39</sup> Children Act, § 34.

<sup>40</sup> Children Act, § 40.

<sup>41</sup> Children Act, § 35(1).

<sup>42</sup> See 08-152773TVI-OSFI.

<sup>43</sup> TOSLO-2003-5175.

<sup>44</sup> Children Act, §§ 82(1) and 84.

not returned the custody case still comes under Norwegian jurisdiction and follows Norwegian law.<sup>45</sup> However, if the child is in Russia for a long time, possibly for several years, a Russian court might consider that it has acquired jurisdiction to handle the case. In cases in which a parent has agreed to the children being moved from Norway to Russia, and if no decision was made about parental responsibility or custody before they moved, but he still wants to contest the case, he will have to do so before a Russian court. In one case heard by the County Court, Øst-Finnmark tingrett, both parents were Russians. The father had moved to Norway after divorcing. He sued the mother for joint parental responsibility, but his petition was denied. In its decision, the court did not discuss whether it had jurisdiction over this case,<sup>46</sup> Norwegian law states that courts cannot handle such cases unless either the child or the defendant is living in Norway. In this case, neither did. This suggests that there may be an advantage to filing cases concerning parental responsibility or custody in their own country of residence.

However, international law tends to make it difficult for a parent to retrieve a child from another country. If a Russian court has made a decision about custody, the role of a Norwegian court depends on whether there is a treaty between the countries in question. The relevant conventions in these cases are the Hague Convention on the Civil Aspects of International Child Abduction and the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children, both from 1980. Norway has ratified both; Russia has adopted the Hague Convention, but not the European Convention. There is no agreement between Norway and Russia because each country has to accept every single signatory to the treaty, and Norway has not accepted Russia, probably because of procedural weakness in the Russian implementation of the treaty.<sup>47</sup> This means that the treaty cannot be used in these situations. Thus, a father who has a court decision in his favor or who wants to alter a Russian court decision has no recourse as long as the mother and the children stay in Russia. If the children or the mother return to Norway, however, the case can be tried again in a Norwegian court because decisions on parental responsibility and custody in general are limited regarding legal validity. According to Norwegian law, such cases can be reopened at any time if there are good reasons for doing so.<sup>48</sup> Child custody and visiting rights are normally determined as part of divorce proceedings.

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<sup>45</sup> That was the situation in a case before the County Court, Indre Finnmark tingrett, 06-068019TVI-INF1.

<sup>46</sup> See 08-152773TVI-OSFI.

<sup>47</sup> Information provided to author from the Norwegian Ministry of Foreign Affairs.

<sup>48</sup> Children Act, § 64(2).

In most of the marriages between Russian women and Norwegian men, both parties will stay in Norway after the divorce and will take legal action before a Norwegian court if there is a dispute concerning custody of the children. In two out of three custody cases in the Court of Appeal, Hålogaland lagmannsrett, the Court upheld the Russian mothers' custody claims.<sup>49</sup> In two cases before the County Courts, Øst-Finnmark tingrett and Indre Finnmark tingrett, the Norwegian father gained custody.<sup>50</sup> In all these cases the mother had moved out of the family home, often to a more urban area. Due to age and health, all the fathers were permanently or temporarily unemployed while the mothers were active in education and work. The Russian origins of the mothers made these cases different from other cases typically heard in these courts. Some of the mothers argued that the child needed to learn the Russian language and stay in contact with their Russian family and culture. The mothers who had moved to more urban areas argued that they could offer the children leisure activities and education not available if with the father. Some also argued that the fathers were old and in bad health. Fathers emphasized their ability to offer the children stability and family relations. The courts tended to emphasize the importance of learning the Russian language, becoming comfortable with Russian culture, and staying in contact with the Russian family.

In visiting rights cases, there is a presumption in Norwegian law that visiting an absent parent is a child's right.<sup>51</sup> Most parents make agreements about this question during divorce proceedings.<sup>52</sup> If the parents do not agree, visiting rights can be decided by the Norwegian authorities if the defendant or the child resides in Norway.<sup>53</sup> The decision will then follow Norwegian law.<sup>54</sup> Thus, if a Russian mother returns to Russia after a divorce and leaves the children behind, she can be awarded visiting rights by a Norwegian court. If a Russian mother takes her children with her to Russia after a divorce and there is no agreement or decision about contact between the father and the children, a Norwegian father cannot go to a Norwegian administrative body or court to claim visiting rights; the father then has to claim visiting rights before a Russian court.<sup>55</sup>

In most cases, both parents remain in Norway after divorcing. Because mothers and fathers tend to view themselves as being able to offer the children very different qualities, courts consider that contact with the parent without custody is very important because it will supplement and complete the children's lives. Many cases decide on both custody and

<sup>49</sup> LH-2001-1034, LH-2005-47480 and LH-2006-73627.

<sup>50</sup> 10-169137TVI-OSFI and 06-068019TVI-INFI.

<sup>51</sup> Children Act, § 42(1).

<sup>52</sup> Children Act, § 43(2).

<sup>53</sup> Children Act, § 82(1).

<sup>54</sup> Children Act, § 84.

<sup>55</sup> See Family Code of the Russian Federation, 1995, art 66.

visiting rights in the same proceeding.<sup>56</sup> It seems that the parents in most of the cases were in favor of extended visiting rights especially if they were successful in their custody claim. One reason could be that being in favor of the child's contact with the other parent is an argument for being awarded custody.<sup>57</sup>

Child support after divorce also falls to the same courts. If the child or one of the parents live in Norway, then the Norwegian authorities are authorized to make decisions about child support,<sup>58</sup> and decisions will be made in accordance with Norwegian law.<sup>59</sup> This approach differs from that taken to choice of law in deciding alimony after divorce. In alimony cases, it is the law of the country where the claimant lives that should be applied, because the needs will differ according to cost levels and the social system in place in that country. This argument will certainly apply to child support and is in accordance with Norway's international commitments through the ratification of the Hague Convention concerning maintenance obligations.<sup>60</sup> Norwegian law is obviously in breach of this convention. This is to some extent taken into consideration. According to the preparatory works for the law, the support for a child living abroad could be less than if the child lived in Norway if the cost of living abroad is lower than in Norway.<sup>61</sup> As a result of less generous social services in Russia, however, living expenses in Russia might easily be higher than in Norway; a situation for which the preparatory works do not provide any solution.

If children are taken out of Norway leaving behind a non-consenting parent with parental responsibility or custody, that act of moving the children is considered to be child abduction and is classified as a crime in Norwegian law.<sup>62</sup> The important thing for the parent who remains in the country where the child used to live is, however, how to get the child returned to their country of origin.

In Norway, there is a special law governing the civil aspects of child abduction.<sup>63</sup> Unfortunately, the relevant provisions of the law apply only to countries that have accepted the Hague Convention on child abduction.<sup>64</sup> As discussed above, the Hague Convention does not apply in cases between Norway and Russia. Thus the relation between the two countries will then

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<sup>56</sup> See LH-2001-1034, LH-2005-47480, LH-2006-73627, 06-068019TVI-INFI, 10-16913TVI-OSFI.

<sup>57</sup> In one case before the Appeal Court, Hålogaland lagmannsrett, the case was about gradually increasing visiting rights until the decided level was reached.

<sup>58</sup> See Children Act, § 83(b).

<sup>59</sup> See *ibid.*, § 84.

<sup>60</sup> See Convention of 2 October 1973 on the Law Applicable to Maintenance Obligations [Maintenance Obligations], 2 October 1973, UNTS 209, arts 1 and 4.

<sup>61</sup> "Lov om barn og foreldre [Act on Children and Parents]," *Norges Offentlige Utredninger* [Norwegian Official Reports], 35 (1977): 107.

<sup>62</sup> General Civil Penal Code, 2005, § 216.

<sup>63</sup> Child Abduction Act, 1988.

<sup>64</sup> Convention on Custody of Children, and the International Child Abduction.

be treated in accordance with customary diplomatic practices. The Ministry of Foreign Affairs will assist parents in this situation with advice and contacts, enabling the entitled parent to negotiate with the abducting parent. If this is not successful, legal action in a Russian court can be the next step. During the trial in Russia, the Norwegian embassy might support the plaintiff parent.<sup>65</sup>

Such procedures are much less effective than those established under the Hague Convention procedure. This is illustrated in a case before the County Court, Indre Finnmark tingrett,<sup>66</sup> in which both parents had parental responsibility but the Russian mother had been awarded custody by the Appeal Court. Both parents lived in Norway after the divorce, and were subject to the rule that parents are not allowed to move abroad with a child.<sup>67</sup> Shortly after the decision from the Appeal Court, the mother nevertheless took the child with her when she moved to Russia. In response, the Norwegian court awarded custody to the father, but because no agreements existed between the two countries, enforcement could only be obtained through protracted litigation or diplomatic intervention. When there is a risk that something like this might happen in a custody or parental responsibility proceeding, Norwegian courts can order restriction of parent and child exit permits.<sup>68</sup> In an Appeal Court decision from Hålogaland Lagmannsrett, a Norwegian father sued the Russian mother in order to obtain an exit permit restriction. The mother provided evidence that she was returning to Norway for paid work and that the child went to kindergarten there. On the basis of this evidence, the court found that there was no real danger of child abduction and thus denied the application for restriction of exit permits.<sup>69</sup>

## **Bereavement and Spousal Inheritance**

It is a general rule in international private law that the administration and division of a deceased's estate is carried out in and follows the law of the country in which the deceased had his or her habitual residence at the time of death (Thue 2002, 510). Therefore, if a spouse has died in Norway, the Norwegian authorities are in charge and Norwegian law has to be followed. If a spouse dies while living in Russia, Russian authorities and Russian law would process the estate.

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<sup>65</sup> See web document "Barne bortføring [Child Abduction]," Regjeringen [Government], <https://www.regjeringen.no/no/sub/barnebortforing/id468120/> (accessed Dec. 20, 2015).  
Barne bortføring - regjeringen.no.

<sup>66</sup> O6-068019TVI-INFL.

<sup>67</sup> Children Act, *supra* note 47, § 40.

<sup>68</sup> *ibid.*, § 43(a).

<sup>69</sup> LH-2003-24.

When a spouse dies in Norway, Norwegian law determines the inheritance, including division of the estate. Before the inheritance can be estimated, there has to be a division of the communal property between the spouses. This will be done according to the law that regulates their property rights during life, which is determined by Russian law if the couple's first permanent residence was in Russia. According to Norwegian law there is a statutory portion assigned to the deceased's children that has to be adhered to and which cannot be reduced or eliminated by will.<sup>70</sup> From time to time, questions about fatherhood arise in relation to the settlement of the deceased's estate. The spouse of the deceased will also inherit according to Norwegian law, but here a will combined with information about it can reduce or nullify this right.<sup>71</sup> There is however a minimum inheritance for a spouse based on social grounds that cannot be reduced by a will and which can reduce the statutory portion for the children.<sup>72</sup> If the spouses are divorced or legally separated at the time of death, the surviving spouse is not entitled to any inheritance or other rights connected with the death.<sup>73</sup>

In most countries, there are requirements about the form of a will required for validity. These requirements can differ from country to country. Questions about choice of law pertaining to both validity of the will and the testamentary capacity of the deceased can arise. The general rule in both cases is that the law of the country where the will is made regulates the requirements (Thue 2002, 533 and 537). According to Norwegian international law, the requirements regarding form of the will are to be found in the laws of the country in which the will was executed or where the testator was a citizen or was habitually resident. If the will involves real estate, it may also have to meet the legal requirements established by the law of the country in which the property is situated.<sup>74</sup> For Russian-Norwegian couples living in Norway, there could easily be a choice because they need not move their habitual residence to make a will according to Russian law. A visit to Russia is enough to render it valid. But this is only true about the form for the will. As the legal regulation still follows the law in the country where the deceased had her or his habitual residence at the time of death, the statutory portion for children according to Norwegian law has to be respected if the spouse dies in Norway, even if these rules were different from those governing Russian law.

According to Norwegian law, a spouse can take over communal property as an entire estate by virtue of survivorship of joint interests. This happens independent of dispositions by will. But, this will not happen if any intestate

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<sup>70</sup> Inheritance Act, 1972, § 29.

<sup>71</sup> Inheritance Act, §§ 6-7.

<sup>72</sup> Inheritance Act, § 6.

<sup>73</sup> Inheritance Act, § 8.

<sup>74</sup> Inheritance Act, § 54.

successors are children of the deceased but not of the living spouse.<sup>75</sup> It has not been settled whether the rules concerning the matrimonial estate operate by virtue of the law of the country in which the deceased was last habitually residing, or whether it is subject to the law of the country applied in regulating the spouses' property rights (Thue 2002, 558-563). If the spouses are married and have lived in Norway throughout the marriage until the first death of either spouse in Norway, there is of course no problem. The problem occurs if the spouses' first habitual residence was in another country, such as Russia, but they had moved to Norway by the time of the death. Or the other way around; the spouses' first habitual residence was in Norway, but at the time of death they lived in Russia. The right to keep the communal property entirely is closely linked to the nature of the communal or matrimonial property. The close link supports the view that the right should follow the law of the country where the couple had their first habitual residence (Thue 2002, 562). If a surviving spouse wishes to claim the right to keep the estate undivided, this right must be claimed with 60 days after death, according to Norwegian law.<sup>76</sup> This means that the surviving spouse has to know about this right in order to be able to benefit from it. That could be a problem if the surviving spouse is not familiar with Norwegian legal issues or has problems understanding Norwegian. That was the situation in a case before the Court of Appeal, Hålogaland lagmannsrett, where the Russian wife had brought her claim to court after the deadline for claiming an undivided estate. In that case, however, the court accepted her claim on procedural grounds.<sup>77</sup>

## **Gender Equal Policy Recommendations**

It is not easy to move to a foreign country. Russian women who move to Norway to marry will experience all the challenges of immigration. But in addition, they will encounter gender-specific barriers that arise from the structural impact of their situation. Many of these problems could be resolved if Norway and Russia could agree to sort them out as good neighbors. This chapter concludes with some pragmatic recommendations on changes to legal policies that can produce more equitable outcomes in the future.

The vulnerability of women is most intense during the first three years they spend in Norway as sponsored wives. The nature of these challenges can be quite severe, with some concern for personal safety not admitting of easy solutions or safeguards for those charged with their security and

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<sup>75</sup> Inheritance Act, §§ 9-10.

<sup>76</sup> Inheritance Act, § 14.

<sup>77</sup> See LH-201258377.



integrity. These vulnerabilities may well be exacerbated by social isolation reinforced by language, cultural, economic, or gender barriers arising from their circumstances. The biggest legal barrier to optimal integration, however, is the prohibition on work permits for three years after arrival. Economic dependency in marriage for an enforced period of three years is unreasonable, and disparately impacts women spouses immigrating to Norway. Norwegian wives can more or less opt out of this dependence and support themselves through paid work, but for Russian wives are forced into economic dependency because they cannot qualify for work permits. This result is contrary to all Norwegian standards of equality, and can easily be abused by some husbands (Lotherington and Fjørtoft 2009, 14 and 18). Most Russian wives are well educated and want to work. It should be quite easy to make a legal exception to extend temporary work permits to married immigrants both to protect the equality rights of married women and for the sake of good relations with Russia.

The second major barrier arises from the lack of bilateral agreements between Norway and Russia with respect to personal relationship issues. The border between Norway and Russia is quite open and people meet each other across it; some will find their spouse on the other side and will have children together. Norway has entered into international agreements concerning the children of transnational marriages with many foreign countries, but not with Russia. Whose responsibility this is, is an open question. There are surely challenges, but thinking of the situation for children and for ease of family life in this region of Norway in particular should be a priority.

Most parties in transnational family cases will regard it as an advantage that their case can be decided by the authorities in and according to the law of their own country. As we have seen Norwegian international family law has a preference for the application of Norwegian law to cross-border relationships and family structures. Coordination of private law regimes is however desirable in relation to matters affecting children. Most countries say that they prioritize the best interests of children over other considerations. Thus, in cases affecting important questions in children's lives such as those involving parental responsibility, custody, visiting rights, support, and alimony, it is important for deciding authorities to know the actual conditions under which children are living or may go to live, and, for older children, their opinions on the options in question. This might best be done if the case is heard where the children have their habitual residence, as a matter of family security as well as of coordination of conflicts of laws issues. The preference for the application of Norwegian law in most of these contexts is at odds with good practices in international relations, and

diverges significantly from international legal norms that provide that the law of the country where the child lives should be applied in such cases.<sup>78</sup>

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<sup>78</sup> Hague Conventions, Maintenance Obligations, arts 1 and 4.

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Hege Brækhus was born in Oslo in 1949. She is Cand. Jur. from the University of Oslo in 1975, Dr. Juris at the University of Tromsø in 1995 and Professor at the Faculty of Law, University of Tromsø from 2005. Her works are on women and the law, discrimination law, social security law and family law with special emphasis on legal questions in the private sphere.

## Russian women's labour rights: theory and practice

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Labour in Russia remains highly segregated by gender, both across occupational spheres and within the employment hierarchy. Certain spheres that are female-dominated, such as education, healthcare and accounting, also have the lowest wage levels. Within each profession, women are concentrated at lower levels of the hierarchy, which is reflected in lower salaries. Additionally, large numbers of women, especially young women without educational qualifications, are employed in the informal sector, which leaves them at risk of violations of their labour rights.

**Keywords:** Russian labour law, gender equality, discrimination, gender statistics

### Introduction

Russian labour law is an evolving area of law, which reflects the economic and social challenges of Russia's society, given global trends in labour relations and taking into account the processes of globalization of economic, social and cultural life. Legal equality of men and women has long existed in Russia. During its years on the socialist road, Russia realized approaches oriented towards men's and women's equality, based on existing ideological directives and values. Early declarations in the 1918 and 1936 Soviet-era Constitutions<sup>2</sup> that women had rights equal to those of men, later gave way to the modern formulation in the Constitution of the Russian Federation that "the State guarantees the equality of human and civil rights and freedoms regardless of sex. Men and women shall enjoy equal rights

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<sup>2</sup> Konstitutsii Rossiiskoi Federatsii Jul.10, 1918 //SU RSFSR, 1918, No 51, art. 582 [*Constitution of the Russian Federation 1918*] (Rus.); Konstitutsii Sovetskogo Souza Dec.5, 1936 //1936, News of the Central Executive Committee and Central Executive Committee of the USSR, No 283. [*Constitution of the Soviet Union*] (Rus.).



and freedoms and equal opportunities to exercise them.”<sup>3</sup> In 1918 the equality of rights of men and women employees was stated in first Soviet Labour code as basic legal requirement.<sup>4</sup>

Thus, from the formal and legal point of view, for a century there has been no inequality between men and women in Russia in labour life, and no outright discrimination in rights. In formal, legal terms, Russia is one of the leading countries of the world in relation to labour gender equality. But while the principle of gender equality is widely incorporated in Russian law, our assessment in this article reveals that, in reality, Russian women suffer many forms of discrimination and are unable to realize their right to equal opportunities in the labour force.

### **Legal and political issues**

Subsection 3 of Article 37 of the Constitution of the Russian Federation states that all individuals shall have the right to work under conditions meeting the requirements of safety and hygiene, to remuneration for work without any discrimination whatsoever, and also the right to security against unemployment.

Furthermore, Article 2 of the Russian Labor Code (2002) prohibits workplace discrimination and guarantees the equality of rights and opportunities of all employees.<sup>5</sup> As well as the Russian Labour Code, other legal documents including Federal laws, prohibit discrimination against women.

While Russian legislation contains statutory provisions banning workplace discrimination against women, the number of discrimination claims is rather small compared to, for example, claims against unfair dismissal on other grounds.

Gender inequality is one of the most pressing challenges in the political, economic and social life of Russia. In recent years, legislation of the Russian Federation in the field of politics and economics has been aimed at establishing the basis for the development of gender-sensitive and gender-balanced policy. The main goals of such a policy in Russia are to:

- promote respect for women's rights in the rights and freedoms of men;

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<sup>3</sup> Konstitutsii Rossiiskoi Federatsii ot Dec.12, 1993 // RossiiskayaGazeta, Dec.25,1993 [*Constitution of the Soviet Union*] (Rus.).

<sup>4</sup> Kodeks zakonov o trude Rossiiskoi Federatsii. Dec.10,1918. Collection of Laws and Orders Worker and Peasant Government of the RSFSR. 1918; No 87-88. Art. 905. Introduction [Russian Code of Labour Laws] (Rus.).

<sup>5</sup> Trudovoi kodeks Rossiiskoi Federatsii [Labor Code of the Russian Federation], Federal Law No. 197-FZ, 2001, art.

<sup>2</sup> [Labor Code] (Rus.).

- ensure the full participation of women and men in decision-making at all levels of government;
- promote equal rights and equal opportunities in the labour market in the field of business and finance;
- improve health care for women and men, and increase life expectancy;
- create conditions for active participation of men in child-rearing and housework, and
- suppress all forms of violence against women and men.<sup>6</sup>

### ***Gender statistics***

To implement these objectives requires regular, detailed and accurate information that is emerging in an interdisciplinary field of statistics - gender statistics. Gender statistics is statistical data on women and men, reflecting their status in all spheres of society. It is one of the most important tools to consider the characteristics of women and men as specific socio-demographic groups in the development of optimal social and demographic policy, the implementation of the principle of equal rights and equal opportunities for women and men.

### ***Legal and political basis***

Contemporary public policy of the Russian Federation is aimed at achieving equality between women and men in society: overcoming all forms and manifestations of gender discrimination, the creation of political conditions and the necessary social conditions for the fullest realization of the natural abilities of women and men in all areas of employment, and public and private life.

At the heart of this policy are generally recognized international standards. The Russian Federation fully subscribes to the principles of the UN and the understanding of gender equality as an essential condition for sustainable development of the country which creates conditions for the full development of human potential.

From this point of view, priority should be given to the situation of women, particularly in those problem areas where there remain overt and covert forms of discrimination. In the economic and political spheres, special measures should be developed, including legislative measures, to

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<sup>6</sup> O pervoocherednykh zadachakh gosudarstvennoi politiki v otnoshenii shenshchin [On the priorities of the state policy on women] Decree of the President of the Russian Federation. Mar.4,1993. No 337 (Rus.); O koordinatsionnom sovete pri Pravitelstve Rossiiskoi Federatsii po realizatsii natsionalnoi strategii deistvii v interesakh zhenshchin na 2017-2002 [About Coordination Council under the Government of the Russian Federation on the implementation of the National Women Action Strategy for 2017 - 2022 years], Decree of Russian Federation Government Dec.28,.2016 No 1520 (Rus.).

achieve equal opportunities for men and women, and the alignment of their social status.

There are certain situations in Russia where the legal status of women is more favorable than that of men. These situations include, in particular, legal regulations concerning labor conditions and retirement benefits for those women who reside and work in the High Northern regions and equivalent areas of Russia which are situated further north than 60 degrees north latitude, and are closer to the central part of the country than, for instance, Siberia. The working week for all women employed in these regions is four hours shorter than men's working week (36 hours compared with the 40-hour working week established for men).<sup>7</sup> Women living and working in these regions also are entitled to retire and receive pension benefits at the age of 50, whereas men can retire when they reach the age of 55. In the rest of the country, the retirement age is 55 for women and 60 for men.<sup>8</sup>

For an international organization of labor, the biggest challenge is the efficient use of gender mainstreaming in all four strategic objectives: the fundamental principles and rights at work, promoting employment, enhancing social protection and social dialogue, as well as their implementation through projects and programs. Instead of a narrow economic approach, the concept of human development has increasingly been used in the world, developed in the framework of the UN Development Program. Reorientation is performed with equal rights of men and women to equal treatment of men and women in the labor market and in other spheres of life by providing them with equal opportunities in society as a whole and the development in the public mind of a deeper understanding of the links between gender equality and sustainable development.

Human development is the empowerment of human choice. The meaning of the expansion of human capabilities in the development process is to live long and live a healthy life, to acquire knowledge, to gain access to economic resources necessary to ensure adequate conditions of life, at the same time conserving them for future generations, ensuring the safety of human life and aligning the position women and men.

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<sup>7</sup> Trudovoi kodeks Rossiiskoi Federatsii [Labor Code of the Russian Federation], Federal Law No. 197-FZ, 2001, art. 320 [Labor Code] (Rus.).

<sup>8</sup> Trudovoi kodeks Rossiiskoi Federatsii [Labor Code of the Russian Federation], Federal Law No. 197-FZ, 2001, art. 327 [Labor Code] (Rus.); O trudovyh pensiyah v Rossiskoi Fedratsii [On labor pensions in the Russian Federation], Dec.17, 2001 *Rossiiskaya Gazeta*, Dec. 20, 2001 [On labor pensions in the RF], art.28.1 (Rus.).

## Realities

Over the last decade economic and social transformations in Russia have had a significant and multidirectional impact on men and women realizing their potential in the labor, social and political spheres. Population by gender in 2002 and 2016, respectively, is presented in Table 1.

*Table 1. The distribution of population by age in Russia, 2002 and 2016.*

Age, year	2002		2016	
	Female	Male	Female	Male
0-9	49	51	49	51
10-19	49	51	49	51
20-29	50	50	49	51
30-39	50	50	50	50
40-49	52	48	52	48
50-59	55	45	55	45
60-69	60	40	60	40
70-79	69	31	68	32
80 and older	81	19	76	24
Total	53	47	54	46

Source: Russian Federation, Federal State Statistics Services. Men and women.

Russia has formally adopted the principle of gender equality, but in fact in all of these areas, there is a gender imbalance. It should be noted that, in the age groups up to 40 years, the number of men and women is about the same, while in the older age groups the number of women greatly exceeds the number of men. Age and sex structure of population in 2014 is presented in Figure 1.



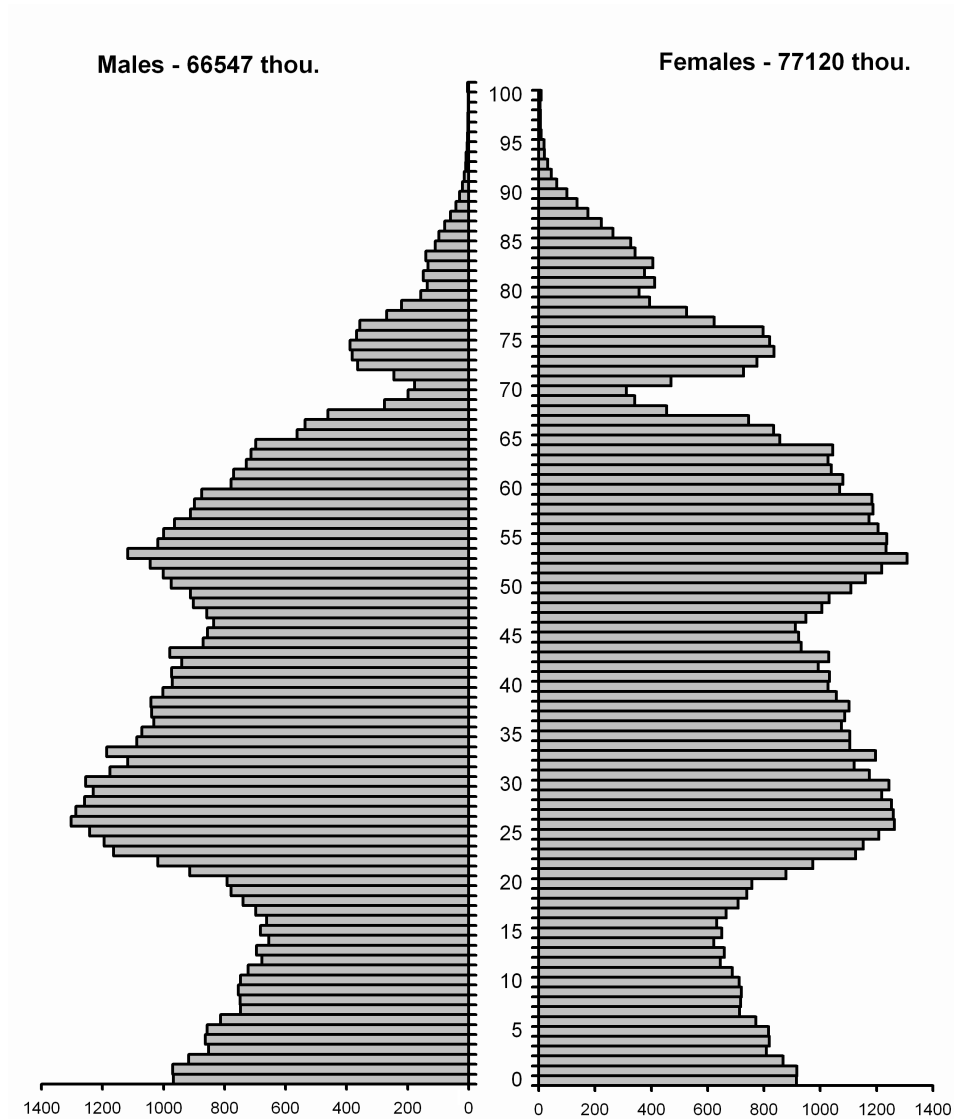


Figure 1: Age and Sex Structure of the Population in Russia as of January 1, 2014. Source: Russian Federation, Federal State Statistics Services. Age and Sex Structure of Population.

For ages 30-34 years, 1,014 women compares with 1,000 men; for ages 50-54 years, 1,180 women compares with 1,000 men; over the age of 70 years, the number of females is 2.4 times more than the number of men. In the Arkhangelsk region in North Western Russia, the situation is similar, with women outnumbering men by an average of 6 percentage points. With the opening of new opportunities for a broad application of human abilities of people requiring high adaptability, there is a significant difference between

men and women. Due to a number of socio-cultural characteristics and traditions, women are more disadvantaged than men.

Differences in life expectancy between men and women are mainly due to socio-psychological and behavioral factors. Because of their social and professional status in society, men are exposed to more, and more varied, psycho-emotional overloads. Men are more likely than women to suffer from chronic nervous tension and stress, leading to deteriorating health and premature aging, and caring less about maintaining health and prolonging life. The process of industrialization has a more negative impact on men than on women.

In the past, many women have achieved social equality by gender, however, women are still disadvantaged in a number of critical areas of life in Russia with insufficient rights, particularly:

- The field of culture takes into account the contribution of women to a much lesser extent than the contribution of men. In addition, there is discrimination against women and the humiliation of their dignity in mass culture.
- In the field of public relations there is a significant predominance of men in public positions at the level of policy-relevant decision-making, while at the same time, the NGOs concerned with addressing the most urgent social problems at all levels are female-dominated.
- In the economy, more men than women are employed in jobs associated with an increased risk to health and life, where salaries are higher. Women are prevented from taking these jobs and are pushed towards the extra-legal "grey economy" where women are paid less than men.

In order to analyze problem situations of gender segregation of the labor market we look at three areas:

1. gender inequality in the labor market;
2. motivational components in gender employment strategies;
3. gender-specific unemployment.

Formation of the gender structure of the labor market is largely due to the influence of traditional stereotypes inherent in the basic subjects: workers and employers. As a result of gender, jobs are divided mainly into male and female roles, and have qualitatively different valuation characteristics. This horizontal occupational segregation contributes to the women being trapped in low-paid occupations and industries. The main areas of women's work are services, education, trade and catering, health, science, and

transportation. When vertical occupational segregation acts as a stereotype of female professions: the idea of women's careers formed in comparing or contrasting with men's careers, in comparison or contrast with the personal life and family.

Unequal opportunities for women and men in the labor market and the prevalence of women in low-paid occupations and industries are in non-compliance with the labor laws. There is an increase in economic activity by both men and women. Female labor force participation in the Arkhangelsk region was 79 percent, for men it was almost 84 percent. The situation in the labor market is determined primarily by two sets of indicators: employment and unemployment, that is, the characteristics of the availability and the type of jobs and wage rates.

The degree of participation in the labor force of women reflects the level of economic activity. On the whole, Russia still has a very high level of economic activity for women. This is because permanent employment for women is still, as in the socialist period, necessary to ensure the family budget. For most households, one working spouse cannot provide for the necessary level of consumption and welfare. In addition, high levels of female employment are supported by historic social traditions and a high level of education. The participation of women in income-generating activities is a socially acceptable standard of behavior.

Women have ample opportunities for employment and access to jobs. Analysis of the factors influencing the level of economic activity, by gender shows some differences. The economic activity of women, unlike men, negatively affects the number of children a woman will have. This result is easily explained, because it rests on women's basic responsibility associated with raising children. For women, more than for men, the level of education has a positive impact on the level of economic activity. This means that women's education brings greater returns in terms of improving their position in the labor market.

For men more than women, the change in the level of economic activity affects health characteristics. Life expectancy for women exceeds the life expectancy of men, with the most significant gap, characteristic of the rural population, being 12 years. A similar situation exists in the Arkhangelsk region, where female life expectancy is 75 years, 12 years more than men, which is shown in Table 2.

Table 2. Life expectancy at birth, years.

Administrative level/region	Female	Male
The Russian Federation	76.3	65.1
North-West Federal District	75.8	64.2
Arkhangelsk region	75.0	62.7

Source: Russian Federation, Federal State Statistics Services. Life expectancy at birth.

The high level of female employment has led to women having decision-making positions on economic activity as well as men. Most men in the labor market depend to a large extent on economic factors, and women on socio-demographic factors.

In addition to the level of economic activity an important characteristic of the economic situation of men and women is the level of unemployment. Accounting and recording of unemployment in Russia began in 1992. The proportion of women among the unemployed depends on the level of unemployment. If unemployment rises, there is a greater impact on the employment of women than of men.

The paradox is that, in Russia, the level of education of women is higher than that of men. That means that a proportion of women would like to have a good career and a position in society commensurate with their education. However official statistics indicate that, across Russia, two out of three unemployed Russians are women.

## Legal practices

In Russia, despite the Russian Labour Code, there is almost an absolute freedom in the workplace for the owners of enterprises. Conditions of work and payment are now a matter of agreement between the employer and the employee (with some minimum standards).<sup>9</sup> Private employers, who are usually male, can do virtually whatever they want and the State does not interfere. Discrimination against women in employment is rife. This imbalance between private employers and their employees has arisen because employees are afraid to lose their jobs, very few employees are members of trade unions, and the state labour inspectorates do not have sufficient staff to undertake their labour compliance functions.

An important feature of Russian legislation is a reference to the common forms and means of protection in disputes about discrimination. Thus,

<sup>9</sup> Trudovoi kodeks Rossiiskoi Federatsii [Labor Code of the Russian Federation], Federal Law No. 197-FZ, 2001, art. 56-57 [Labor Code] (Rus.).

according to Article 3 of the Labour Code, persons who feel that they have been discriminated against in employment may apply to court for redress, compensation for material damages and moral damages.<sup>10</sup> Such claims are subject to review by the district courts, under the rules of action proceedings, in accordance with relevant provisions of the Civil Procedure Code. At the same time the Russian Code of Civil Procedure does not contain any special rules relating to claims of discrimination.

Russia has also established criminal liability for violation of equal rights and freedoms of citizens (Article 136 of the Criminal Code), for the unjustified refusal to hire women or unfair dismissal on grounds of pregnancy, as well as an unjustified refusal to hire or unjustified dismissal of a woman with children under the age of 3 years (Article 145 of the Criminal Code).<sup>11</sup> Thus, an employee who believes that she has been discriminated against may file with the Investigation Committee of the Prosecutor's Office an application for an inspection, and a criminal case.

It is clear that the prosecution cannot be the main way of protecting against violation of employment discrimination rights because of the difficulties in establishing criminal liability for an offence. When considering individual labour disputes, courts have repeatedly refused to consider plaintiffs' claims of discrimination in the actions of the employer, on the basis that the existence of discrimination can be established only in criminal proceedings relating to a specific office or individual.

An example of this is the following court case. In the Decree of 30.07.2009 (Application N 67336/01) in the case "Danilenkov and others v. Russia", the European Court recognized that part of Russia was in violation of Article 14 of the Convention (prohibition of discrimination) taken together with Article 11 of the Convention (freedom of association). The Court noted that a fundamental problem with prosecution is that it, being based on the principle of personal responsibility, requires proof without "reasonable doubt" of the existence of direct intent on the part of one of the key executives of the company for a finding of discrimination towards union members. Moreover, the role of victims of discrimination in the initiation and conduct of criminal proceedings is minimal. The Court thus was not convinced that prosecution, which depends on the ability of the public prosecution to expose and prove the direct intention to discriminate against union members, could create a sufficient and practical redress against anti-union discrimination.<sup>12</sup>

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<sup>10</sup> Trudovoi kodeks Rossiiskoi Federatsii [Labor Code of the Russian Federation], Federal Law No. 197-FZ, 2001, art. 3 [Labor Code] (Rus.).

<sup>11</sup> Ugolovnyi kodeks Rossiiskoi Federatsii [*Criminal Code of the Russian Federation*], Federal Law No. 63 - FZ, 1996, chapter 19, art.136, 145 (Rus.).

<sup>12</sup> Danilenkov and others v Russia, No 67336/01, [2009] ECHR, para. 136.

Furthermore, although there are mechanisms to protect employees' rights through the Federal Labor Inspectorate or courts, employees seldom use these bodies. This is either because they are unaware of their rights, or simply out of fear of losing their jobs.

### **Social realities**

Stereotypes are pervasive in Russian society, resulting in strongly held views about the traditional roles of men and women. Women are considered primarily responsible for childcare and family responsibilities, which has a profound impact on their ability to advance in the public sphere, in politics, in government postings and leadership positions at work, etc. Gender-role stereotypes are reinforced in schools, by the mass media and even by government-led initiatives that focus on women's reproductive functions to the exclusion of other pressing issues.

There are also some demographic factors that increase a woman's determination to improve her position. Many women are divorced and, as a result, are the main breadwinners in their families. They have to earn good salaries in order to survive and raise their children.

There is now a younger generation of women who are well-educated and living in a comparatively open society. This means that they can compare their lives with those of Western women and they want to change their lives for the better, especially if their mothers had bad experiences in the days of the Soviet Union.

There is a significant gender difference in the time it takes for unemployed people to get a job. This lower level of achieving employment by women is associated with poorer opportunities in employment and competition failures in the labour market, reflecting, in particular, discriminatory practices of Russian employers. At the same time, the greater period of searching for employment may reflect more passive behavior by women; they may be less active in finding a job, or may have less incentive to find employment, because of family responsibilities. Given that long-term unemployment leads to great losses in human capital and creates a relatively high cost for households, it can be concluded that, although the scale of unemployment equally affects men and women, the consequences are different for them.

The wage level is one of the most important indicators. Table 3 illustrates the gender wage gap in Russia during 2013. It indicates that the increase in participation by women in employment has not resulted in any significant reduction in the gap between earnings of men and women. At a time when the majority of the employed population is working for hire, wages largely

determine the level of the material well-being of individuals and households, and the economic opportunities of investment in human development. Russian women were paid about 75 percent of the total salary of men in Soviet times. Now, on average, women get about 60 percent. Note however that such statistics are not particularly reliable because of inadequacies in data collection in this field.

In addition, the level of wages shows the effectiveness of the economic impact of human capital. Gender equality of wages in many respects is also the basis for intra-alignment positions of men and women, and provides a more equal ability to pay family expenses, and is the basis for the economic independence of women.

Some groups of women are particularly vulnerable to the inequality in the workplace. This includes women who live in rural areas, migrant women, youth, the elderly and the disabled. Young and the elderly are at opposite ends of the spectrum, but both of these groups are experiencing particular difficulties. Young women have a higher unemployment rate than men of the same age.

Table 3. The average monthly wage of women and men in 2013.

Sector	Wage (in rubel)		Ratio of women's wages to men's wages, %	Share of women in the total number of employees, %
	Female	Male		
Mining and quarrying	38,889	51,054	76.2	21.2
Manufacturing	24,608	33,043	74.5	39.5
Production and distribution of electricity, gas and water	25,872	31,100	83.2	32.3
Construction	31,844	37,680	84.5	18.9
Trade	27,878	34,928	79.8	59.3
Hotels and restaurants	23,505	29,175	80.6	72.5
Transport and communications	28,349	37,719	75.2	35.4
Education	22,031	22,260	99.0	76.7
Medicine	23,208	25,571	90.8	79.2
Total	24,722	33,301	74.2	53.6

Source: Russian Federation, Federal State Statistics Services. The average monthly wage of women and men in 2013.

The difference in earnings between men and women, as a rule, is due to inequality in the distribution of men and women in specific occupations and industries (horizontal segregation), inequality in wages in the occupations and activities (vertical segregation), and a low value being placed on the work being done by women.

If the differences in the quality characteristics of the work of men and women had been the main cause of unequal pay, then one would expect that the same performance level of economic activity would lead to the formation of the same level of wages. However, this is not the case.

Regular wage statistics from a gender perspective did not exist until recently. Only in the last few years has it been possible to estimate the



gender wage gap. In general, the overall gender gap in wages is comparable to the level observed in many developed countries, however an alarming trend is an increase in the gender gap. The ratio of women's wages to men's wages is fairly stable and fluctuates at a level of 60 percent. However, a comparison of the average wage levels, while remaining an important indicator of the relative economic position of women and men, hides the reasons for this difference. The existing gap cannot be attributed only to the inferior position of women in the economy as compared to men, or only to discriminatory factors. The qualitative characteristics of human capital between men and women, their modes of employment may differ materially, and these differences also contribute to the average gap in wages.

Women who have completed or are continuing education in graduate school earn on average less than men with only a high school education. Women with higher education have higher earnings compared to only one category of men - those with an incomplete secondary education.

Women's wages increase with age, reaching a peak at age 44 and then begin to fall. For men, the average decline begins earlier - at age 38. If we examine the available sample as a generation, it can be said that women's earnings vary from year to year, but not as much as the earnings of men. The female age-earnings profile is lower than men and is more subtle. The gender wage gap decreases as a person approaches retirement age (Roschin 2015).

An essential determinant of gender differences in pay is occupational segregation, which accounts for 15 percentage points of discontinuity. In relation to occupational segregation, the lowest returns are observed in those occupational groups dominated by women, the highest returns are in the traditional "male" occupations.

Gender segregation is manifested in an asymmetric distribution of men and women in the different structures: industrial, professional and official. It is usually separated by horizontal and vertical segregation. Horizontal segregation manifests itself in a variety of professional groups, and the vertical of the same job category. Sectoral and occupational segregation can be considered in this case, the horizontal, and the job - vertical segregation.

Currently, statistical data gives only sectoral and occupational segregation by gender. Moreover, occupational segregation cannot be considered only as horizontal. An important area of women's employment is the service industry where nearly 60 percent of employees are women. The expansion of the service sector in the last third of the Twentieth Century stimulated a growth in women's employment, created jobs and demand for female labor, but at the same time contributed to the increased gender segregation in the labor market. The highest concentration of female

employment in this period was observed in sectors such as health, physical culture and social welfare, education, culture and arts and finance, credit and insurance.

In addition to problems related to gender segregation of women in the labor market, discrimination by employers influences the gender gap. Discrimination is unequal opportunities in the labor market for employees with a particular attribute, who have a similar performance capacity as other employees (group discrimination), or unequal opportunities for individual workers compared to workers with similar characteristics of the quality of labor (individual discrimination). In Russia, 54 percent of employers consider women to be less valuable employees, compared with men, and 40 percent of employers believe that their company is not interested in attracting a female labor force (Levada Center 2010).

While women in Russia have a higher level of education than men, women with higher qualifications generally are less competitive in the labor market than men. This greatly complicates the re-employment of unemployed women.

It is thereby possible to identify the following types of discrimination in the labor market based on the scope or the results:

1. Discrimination in hiring (or, conversely, in cases of dismissal). This occurs when particular groups of the population, all other things being equal, are the last to be hired and the first to be fired.
2. Discrimination in access to certain professions or positions. This occurs when any group of people are prohibited from, or have restricted access to, certain types of activities, occupations, positions, despite the fact that they are able to carry out these works.
3. Discrimination in pay. This arises in the case of lower wages for some workers than others for the performance of the same work. That is, when the pay differences are unrelated to differences in efficiency.
4. Discrimination in promotions in a professional career. This occurs when workers as a discriminated group are limited in their upward mobility.
5. Discrimination in education or training. This may be expressed as limited access to education and training, or in the provision of educational services of lower quality. This kind of discrimination cannot be fully attributed to the fact of discrimination in the labor market, because work is usually preceded by obtaining an education.

Numerous studies on the part of employees and employers show that the most urgent kind of discrimination in the labor market is discrimination in hiring and firing. Discrimination in the Russian labor market is not direct but covert discrimination, which is evident in the policy of recruitment and promotion, and reflects the gender preferences of employers in relation to certain jobs or activities. Such covert discrimination contributes to the formation of horizontal and vertical segregation in the labor market.

## **Conclusions**

### ***Social realities***

Increased participation of women in the labor force has not resolved the differences between men and women in employment. While the level of economic activity and type of work activity is relatively similar for men and women, women continue to work in conditions of horizontal and vertical segregation in the labor market and receive less pay on average. Thus, to eliminate the economic basis of gender inequality, it is not enough to ensure equal participation of men and women in the labor force. To achieve this result, it will be necessary to change the structure of demand in the labor market and current practices in hiring and promotion of staff, and to raise the profile and prestige of positions held by women.

Of course, for adult men and women it remains a challenge getting a decent job, supporting their family and taking care of family members, as well as the fulfillment of their obligations to enterprises, communities and society. Women face systematic barriers in almost all areas of employment, depending on: whether they have paid work (on a full-or part-time basis); the type of work they receive or from which they are displaced; the availability of additional income, the amount of their wages, benefits and working conditions; their access to higher-paying "male" professions; the instability of their jobs or businesses; the lack of a pension, lack of time, and resources or information needed to ensure realization of their rights. With regard to changes in the gender division of labor within the household and the transition to a more equitable distribution of responsibilities, men are privileged at a time when both members of a family or a partnership have income, at the expense of a more balanced combination of work and family life, more personal contact with the children and participation in family life, as well as due to less vulnerability to economic shocks.

The core elements of decent work are socially defined in the role of women and men, the biological differences between men and women, as well as the way in which these aspects are mated at work. The role of women and men is determined by social groups and cultural traditions. Much of the

roles of men and women in the workplace are perceived as inherent in men and women. This separation occurs to workers taking into account such features as age, race, ethnicity, religion and culture, and this is affected by the socio-economic classes and political environment.

Significant progress has been made in recent years to move towards gender equality, and the position and activity of a number of governments have demonstrated a positive attitude to the problem. The range of actions taken include the introduction of gender equality in national programs and action plans, including the establishment of national institutions for the promotion of a broader participation of women in development issues. Significant steps have also been taken towards improving women's access to education, employment, productive resources and property rights. Nevertheless, much remains to be done.

### ***Attitudinal realities***

Labour discrimination can take many forms. It may include discrimination on the grounds of sex, religion, race, political opinion, age, medical record, sexual preference, trade union activity, marital status, nationality, disability (physical, intellectual or psychiatric).

In legal practice, sexual preferences are apparent. Women are viewed by employers as "more expensive to employ and less reliable" than men. Russian law extends numerous protections and benefits for pregnant and nursing women as well as women with small children. These privileges (when we discuss the discrimination issue) create problems for women. Employers may not be interested in hiring women if a law protecting women with children is enacted. If we have a law limiting the work week for women with children, today employers will try to fire the women with children, and tomorrow they will fire all the women who might have children.

Television advertising supports the ideology of a woman as a beautiful housewife and you can hardly find a good journal where a women's career and issues of female leadership are discussed. The Levada Center NGO asked 1600 men what they valued most in women. The overwhelming preferences were thrift (56 percent), followed by good looks (39 percent), thoughtfulness (38 percent) and fidelity (37 percent). At the bottom of the list were: independence (6 percent), temperament (7 percent) and the ability to deal with misfortune (9 percent). For the record, only 31 percent of the male respondents thought a woman's intellect was important. The poll also asked what characteristics most women exhibited: beauty and thoughtfulness (both 47 percent) led the pack; logic (7 percent) and a creative mind (8 percent) trailed near the bottom (Levada Center no date).

### *Attitudinal realities and legislation*

Women in Russia need special protection both in the social and legal context. In the law, there are built-in sexual preferences. Women can be viewed by employers as "more expensive to employ and less reliable" than men. Russian law extends numerous protections and benefits for pregnant and nursing women as well as women with small children. These privileges (when we look at the discrimination issue) create difficulties for women seeking employment. Employers tend not to hire employees that they think will cost them more than other candidates for the job.

### ***Realities for women in Russia***

In different Russian cities, some women were asked: "What was the best moment of your life?". They answered: "When my daughter got married, when my son entered the university, or when my husband became a general." And then I would ask again: "But what's the most important thing that's happened in your life?" And they would answer: "That is my life." (Levada Center n.d.).

This reflects the fact that there is a general tendency to consider women as a secondary labor force or as a reserve. According to patriarchal traditions, men are the main breadwinners and women are something additional to their husbands and it is considered that the size of her salary should reflect this prejudice. Of course, some men know that women can be very professional and productive, but the prejudice discussed above justifies discrimination and possibly saves money for the employer. Gender discrimination, then, is pervasive in the hiring and promotion processes in both private and State enterprises in Russia, even if the private sector has a much greater level of discrimination problems which needs State attention and control.

### ***Areas of concern - what is the solution?***

We suggest the following actions:

1. The government has to create a mechanism to fight against discrimination.
2. New legislation is required in relation to gender equality including special procedural safeguards. In Russia, most of the legal norms relating to equality and discrimination are substantive rules and the law clearly lacks sufficient procedural safeguards against discrimination.

3. Adopting procedural safeguards could help to raise the number of discrimination claims which it currently is rather low, for example, claims for unfair dismissal on other grounds.
4. Gender discrimination is pervasive in the hiring and promotion processes in both private and State enterprises. But in the private sector has much more discrimination issues and needs in State attention and control.
5. It is important to teach women how to set up their own businesses and to encourage them to work in the mass media so that they can use their power to change stereotypes. More movies need to be made showing elegant, professional women in positions of power.
6. The Office of the Prosecutor must pay more attention to the issue of discrimination in labour.

In conclusion, it should be noted that Russia's labour law is an evolving area of law, which continues to change and improve. This improvement reflects the economic and social challenges of Russia's society, given global trends in labour relations, taking into account the processes of globalization of economic, and social and cultural life.

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# Wellbeing and gender equality for the elderly in the context of Arctic Sweden

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One theme of importance for gender equality in the Arctic region is the wellbeing of the aging population and how their needs are provided for in private and public spheres –by the family, local communities, the state and the market. In this article, the complexity of the public and private division of welfare provision and care of the elderly in the Swedish Arctic context is addressed and discussed in the light of national, regional and international policy and law. Norrbotten, the northernmost county in Sweden that is part of the Barents Euro-Arctic region, is taken as a frame of reference for critical reflection on wellbeing and gender equality for the ageing population in rural, depopulated and multicultural contexts and the need to develop alternative political and legal interventions that are better adjusted to meet the everyday needs in this specific setting.

**Keywords:** Ageing, gender equality, Arctic Sweden, welfare state policy and law

## Introduction

International interest in the Arctic region has increased with the extraction of natural resources being the focus, but questions about living conditions are also of central interest. From 2011-2013 the Sustainable Development Group (SDWG) initiated projects promoting health and wellbeing in Arctic Activities, such as the Comparative Review of Circumpolar Health Systems Report (CircHSR)<sup>2</sup> and the Arctic Human Health Initiative (AHHI) (Parkinson 2013). The AHHI is an Arctic Council IPY [International Polar Year] initiative that aims to build and expand on existing Arctic Council and International Union for Circumpolar Health's human health research activities. The overall goal of the AHHI is to: "Increase awareness and visibility of human health concerns of Arctic peoples, foster human health research, and promote health strategies that will improve health and wellbeing of all

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<sup>2</sup> Arctic Council's Sustainable Development Working Group [SDWG]. Arctic Human Health Expert Group (AHHEG). 2010. Proposal for a Comparative Review of Circumpolar Health Systems [CircHSR].



Arctic residents”.<sup>3</sup> The latter has increased awareness and visibility of human health concerns; fostered research; and promoted strategies to improve the health and wellbeing of Arctic residents.

Gender equality is also among the issues articulated by the Arctic Council as needing to be taken into account expressed, however, on a more rhetorical level (Lahey, Svensson and Gunnarsson 2014). In reality, equality objectives seem so far to have had little influence on the management of the region although gender equality in the Arctic and the current realities and future challenges were discussed on a conference held in Akureyri, Island, in 2014 (Oddsdóttir et al. 2015).

One theme of importance for gender equality in the Arctic region that is the focus in this article is the wellbeing of the aging population and how the needs of the elderly are provided for in private and public spheres -by the family, local communities, the state and the market. The Nordic welfare state model and its adherence to gender equality has been studied extensively (Gunnarsson 2013; Pylkkänen 2009; Lister 2009, 242-78; Wennberg 2008) but has not been directed to a specific region. The principle of gender equality is mostly dealt with as a nation-state, European and European Union issue. When addressing the international legal objectives of gender equality, research has often taken as its starting point international treaties, such as the CEDAW (Hellum and Aasen 2013).

In this article, the complexity of the public and private division of welfare provision and care of the elderly in the Swedish Arctic context is addressed and discussed in the light of national, regional and international policy and law. The county of Norrbotten, the northernmost county in Sweden that is part of the Barents Euro-Arctic region - Europe’s largest region for interregional cooperation - is taken as a frame of reference for critical reflection on how Swedish welfare policy and the law for older people in need works in this specific context. Being at the center of measures for the redistribution of wealth, welfare state policy and law involve a number of sectors that participate in the construction of generational and gender relations, such as caring within families, healthcare and care of the elderly. Social and health needs, as these are normatively constructed in welfare state policy and law, however, mainly seem to emanate from living conditions and problems identified in urban contexts.

In Sweden, elder law appeared as a legal discipline in its own right later than in the Anglo-Saxon contexts. The Norma Elder Law Research Environment at Lund University in the south of Sweden embraces different approaches with both European Union and Swedish points of reference (Numhauser Henning 2013; Albertson Fineman, Mattsson and Andersson

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<sup>3</sup> Arctic Council. 2009. Arctic Council's Sustainable Development Working Group.

2017). Ageing in specific contexts, such as the northern and Arctic regions, has not previously been an issue in legal studies but, more recently, in interdisciplinary analyses, e.g. by scholars in sociology and social, cultural and critical gerontology. Here, ageing, wellbeing and climate change in the unique Arctic context, shaped by the region's changing climate as well as its nature, local traditions, social relationships and different forms of support for coping with everyday life, which may either support or threaten the wellbeing for ageing people, has been analyzed in a gender-based perspective (Naskali, Seppänen and Begum 2016). Feminist approaches are also active here, aimed at giving voice to under-represented, marginalized groups of women, whose voices are in danger of being drowned by those who represent the values of the majority (Tapio 2010, 2016).

Forms of discourse analysis, cultural studies, feminism and post-modern schools of thought have gained ground within socio-legal research (Banakar and Travis 2005). The socio-legal approach in this article represents “an interface with a context within which law exists” (Wheeler and Thomas 2002, 271). This approach is used to recognize the diversity in ageing and how the application of this diversity to rural locations and ethnic and national minorities forms part of the structural processes of exclusion. The position of human rights and the legal status of national minorities also come into the question. The operation of economic, political and social processes on an increasingly global scale implies that welfare services and care provision for ageing people, in addition to the context of national welfare systems, also has to be seen in the context of regional and international policy and law. The point in the socio-legal approach taken here is that wellbeing and gender equality also need to be seen against the various local and specific contexts in which people age and probably become in need of welfare services and care provided by public as well as private providers. Multi-levelled governance on ageing, such as the Madrid International Plan on Ageing 2002,<sup>4</sup> and CEDAW documents, such as the CEDAW general recommendation No. 27 on older women and protection of their human rights<sup>5</sup>, and the CEDAW general recommendation No. 34 on the rights of rural women<sup>6</sup>, are taken as starting points for highlighting the need to develop alternative political and legal interventions that are better adjusted to meet the everyday needs in this specific setting. The point of departure for reflecting critically on Swedish law and policy for providing welfare services and care for the elderly in need in this region, is that there

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<sup>4</sup> United Nations 2002. Political Declaration and Madrid International Plan of Action on Ageing. Second World Assembly on Ageing, Madrid, Spain, 8-12 April.

<sup>5</sup> CEDAW/C2010/47/GC.1. General recommendation No. 27 on older women and protection of their human rights (2010).

<sup>6</sup> CEDAW/C/GC/34. General recommendation No. 34 on the rights of rural women (2016).

are specific gender-based living conditions and diversity in social and cultural ageing (Jamieson 2002, 7-20) that need to be considered as a gender equality issue.

### **The context - a multi-cultural, sparsely populated and gender-segregated place**

The northernmost parts of Sweden, Norway, Finland and Northwest Russia are part of the Barents Euro-Arctic region. The nature is unique and the environment vulnerable, with wide tundra areas in the north and extensive boreal zones in the south (Barents info.org no date). Historically, this county, located in the Barents Euro-Arctic region, could be characterized by mobility, in ancient times and still often in the east-west direction, and by various cultures and languages: Sami, Swedish and Finnish. Before the border between Finland and Sweden was drawn through the Torne River in 1809, the area was distinctly multicultural. The predominant languages in the Torne River valley - *Tornedalen* - were the Sami and the Finnish-Ugrian minority language meänkieli. The forn-Nordic Swedish language that was spoken during the 14th century, has been retained by people living in the valley of one of the other main rivers in the county - the *Kalix* River - that for many centuries was the only means of communication with the rest of Sweden. This inner part of the county of Norrbotten represents the northernmost Swedish culture in the nation. The very special Swedish dialect spoken here has survived through the centuries and constitutes the oldest relic of the language that was used by the Vikings (Hederyd and Hansson 1982). More recently, in 1999, the Meänkieli-speaking people, together with the Sami and Roma people, were actually recognized as national minorities when Sweden signed up to the European Council Framework Convention for the Protection of National Minorities.<sup>7</sup>

Earlier research has pointed to the creation and preservation of the idea of northern Sweden as consisting of exotic, scenic, but very different and faraway places and to this part of Sweden being viewed as different, idealized but marginalized (Overud 2013, 195). Sparsely populated, geographically widespread and rural Nordic areas nevertheless have their social and gendered structure. These areas share a common problem of maintaining labour market participation for both men and women. Labour markets in such regions are often characterized by a skewed gender balance, strong gender segregation and the offer of few employment opportunities, particularly for women (Overud 2013, 193-213).

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<sup>7</sup> Council of Europe. 1995. ETS No.157. Framework Convention for the protection of national minorities.

During the last century, the extraction of natural resources in the form of forestry and mining has played a crucial role in job-creation and economic wealth in the region, at the same time as the exploitation has led to the deterioration of the environment and living conditions, especially for reindeer herding and indigenous people. Women in this, like in other parts of Sweden, have largely occupied the position of secondary earners, performing un-paid care work in the family, although most women have also had part-time or full time paid work in various private and public sectors of society.

Major structural and demographic changes have taken place in Norrbotten, especially during the last 50 years. Mobility and adaptability were key words in Swedish labour market policy in the 1960s, directing labour geographically from places with high unemployment rates to those with a high demand for labour (Overud 2013). This has led to a shrinking and ageing population as the younger people left the region to earn a living. It is the young women in particular who have left the region (Statistics Sweden 2014). The population of Sweden is projected to grow by 12 percent between 2012 and 2030. The Arctic regions are projected to grow much more slowly, with Norrbotten at 1.7 percent (Statistics Sweden 2014). As claimed by Andrew (2014), projected growth in Norrbotten is dependent entirely on net in-migration, with deaths expected to exceed births throughout the projection period, and population starting to decline from 2028 as net in-migration is insufficient to counter natural population decline. The aging, shrinking and gender-skewed balance implies sparse tax revenues and that the geographically extended and financially "poor" municipalities lack the financial and human/personnel resources needed to meet the statutory local responsibility to provide welfare services and care for elderly people in need. In addition to the shrinking, gender-skewed and ageing population, the increased in-migration of foreign women who come to live with local men (Burman 2012) adds new and future gender-relational and multicultural challenges to be handled in the local communities (SOU series 2012:45).

### **New governance to meet "a tsunami of old people"**

When the demographic shift towards an older population is discussed as a major challenge all over the world the talk is of a silver tsunami of ageing people. The aging of the post-war generation, low fertility rates and rising life expectancy are understood to constitute crucial aspects in restructuring the welfare state and resource allocation between age groups. The fiscal consequences of an aging society attract great political attention since the welfare state in general is understood to play an important role in the

solidarity between generations (Powell and Hendricks 2009). In the restructuring of the welfare state, the perception of old age as a burden on society's economic health is expressed. Moreover, social and demographic transformation is perceived to constitute a threat to collective social welfare and solidarity between generations and social citizenship. This latter concept, which comprehends the rights and duties, including the distributive principles and participatory conditions which enable membership in a society (Wennberg 2004, 36), is a concept commonly and theoretically used as an instrument for analysing gender, equality and welfare regimes (Wennberg 2008; Gunnarsson 2007; Lister 2003; Hirschman and Liebert 2001). Today, the normative Swedish model of social citizenship, i.e. the strong state involvement in the care of children and the elderly, has been put to the test. As argued by Powell and Hendricks (2009) the aging population is understood as participating in restructuring the welfare state and resource allocation between age groups. Since the welfare state is at the centre of the redistribution of resources, the aging society, in this view, involves struggle and competition over scarce resources with fiscal consequences.

Current changes in welfare legislation take place in the context of internationally agreed legal objectives and policies, and economic globalisation, all of which impact on legal regulation and on the discursive ways of representing social reality (Wennberg 2008). Understood as "new governance" it extends deep into nation states, not necessarily through social policies as is conventionally understood, but rather in terms of shaping discourses and processes through subtle patterns of influence on, and the insinuation of, particular values, ways of thinking and agency (Wennberg 2008, 134). Somek (2011, 56-7) challenges the European integration project in his critical writing from a humanist perspective. He claims that new governance is about creating competitive laboratories for the purpose of permanent policy adjustments - a move away from law to management. In his view, new governance strategies differ from a legal regime for the protection of rights. New governance, he claims, defies legality but invites positive initiative with regard to the development of new standards and strategies. In this view, policy and law for ensuring wellbeing and gender equality for aging people in various parts of the northern and Arctic region need not only to be analysed in the context of national and/or local welfare regimes, but also in the context of the commonly agreed objectives and policies on regional and international levels.

The challenge of ageing, identified as a problem all over the world, is approached by new governance as a tool for policy adjustments. In 2002, the United Nations' Second World Assembly on Ageing adopted, as a main

development objective, the Madrid International Plan on Ageing,<sup>8</sup> which includes the recognition that persons, as they age, should enjoy active participation in the economic, social, cultural and political life of their societies. Active ageing as an objective has also become part of the EU agenda, firmly established by the European Parliament's decision regarding the European Year for Active Ageing and Solidarity between Generations 2012.<sup>9</sup>

The concept of active ageing is expressed by the European Commission as "helping people stay in charge of their own lives for as long as possible as they age and, where possible, to contribute to the economy and society".<sup>10</sup> According to the EU Treaty (TEU), and its Article 3, solidarity between generations is one of the Union's goals. Moreover, Article 25 in the European Union Charter of Fundamental Rights,<sup>11</sup> declares that "the Union recognizes and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life". The EU includes the commonly agreed objectives of combating social exclusion and discrimination, of promoting social justice and social protection, and of gender equality Art. 3 (3) Treaty on European Union (TEU). The strategy of mainstreaming gender that is laid down in Article 8 Treaty on the Functioning of the European Union (TEUF) is an important mechanism for promoting these objectives. Overall, the measures taken that mostly have the character of *soft law*, have an impact on national welfare models, ranging from the substantial welfare regimes modelled on the nation state, to anti-discrimination and individual rights claims (Wennberg 2008, 131-217; Somek 2011).

The conceptualization of ageing as active has accordingly become a topic given increasing attention in scientific and policy discussions, although there seems to be no consensus about its actual meaning, and the topic is subjected to critical investigation (Boudiny 2013, 1077-98). The emergence of a dominant discourse and its effects on a policy-based understanding of ageing in international and European policy, is critically analysed as representing a new orthodoxy of ageing subjectivity, restricting the social contribution of older adults to work and work-like activities (Moulaert and Biggs 2012, 23-43).

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<sup>8</sup> United Nations (2002).

<sup>9</sup> Decision No 940/2011/EU of the European Parliament and of the Council of 14 September 2011 on the European Year for Active Ageing and Solidarity between Generations (2012).

<sup>10</sup> European Commission. Employment and Social Affairs. Active Ageing.

<sup>11</sup> Charter of Fundamental Rights of the European Union, Official Journal of the European Union, OJ C 83, 30.3.2010, 389-403.

## **Elder services and care at the intersection of public and private spheres**

The Swedish welfare model is residence-based and gender-neutrally constructed. The system that was originally based in the Social Democrat values of “positive freedom” and equality is founded on general principles of solidarity and public responsibility, rather than individual rights and individual interests. In Sweden extensive welfare policies have projected the impression of overall equality and social citizenship. Gender equality and the notion of social citizenship in the Swedish and the other Nordic welfare models have, as argued by Nousiainen (2001, 25-77) been strongly linked to the consideration of care as a collective public responsibility rather than an individual and private one, expressed in terms of a caring state liberated from conservative and neoliberal hegemony. Nordic welfare states have an extremely high level of social service provision compared to most other countries. Accordingly, the Nordic welfare state is not only a ‘caring state’ and ‘social insurance state’ but also to a great extent a ‘service state’ (Sipilä, Anttonen and Kröger 2009, 181-99). These characteristics have led to the vision of a woman-friendly welfare state, criticized, however, for being based on a market-oriented concept of economic gender equality, which has proved to be a limiting factor as the care economy rationales have not been fully recognized for reforms that involve public budgeting (Gunnarsson 2013, 38-56).

Public elderly care is one of the largest and most rapidly changing welfare sectors in Sweden. It is also one of the most gendered, for several reasons. The expansion of the public care sector was crucial in giving women access to the labour market and care work is still coded as female work and dominated by female workers. Jobs have low status, are badly paid, often performed on a part-time basis and in several aspects are considered precarious work. The home-based ideology has remained dominant within public elderly care. Most care work is performed at the intersection of the public and private spheres: organized and administrated by the public but situated in the context of the private homes of the elderly (Andersson 2013, 170-89).

The new politics of the Nordic welfare states is, in many ways, reflected in welfare services and care provision. Increased means-testing and the introduction of standardized and evidence-based methods for the assessment of needs under the Swedish Social Services Act (SFS 2001:453), characterize the practice of policy and law in the municipalities, especially it is shown, in relation to social services for the elderly (Proposition 2009/10:116). The political ambition to unleash the many new entrepreneurs and providers within healthcare and social welfare services is representative of one of the shifts taking place in the transforming



Swedish welfare state, which is the promotion of social investment calling for an increase in the employment rate and increased investment in human capital (Sipilä, Anttonen and Kröger 2009, 187). In the 2009 Act on System of Choice (SFS 2008:962) in the public sector came into force within healthcare and social welfare services. As a result, in order to meet the political demands for free choice for elderly citizens, many of the Swedish municipalities have increased the scope of private alternatives in the provision of services and care. This new approach in Swedish social policy has also found expression in the introduction of choice in primary care, deregulation of the pharmacy market, freedom of choice in childcare and tax deductions for household services. Privatization in elderly care means out-sourcing, with different care companies competing for contracts, while care provision remains a public matter, financed through tax revenues (Andersson 2013, 170-89).

Informalization and refamilialization of care also come into the picture, especially in the field of services for the elderly. The responsibility for carrying out services which have primarily been a public responsibility is now shifted back to families and from the state to local communities. Within Swedish research on these transformations in the welfare state lies proof of the negative consequences for close persons/relatives who provide care for the elderly within the family: in daily life, in working life and economic position (Meagher and Szebehely 2013). The process of the informalisation of care, however, is not, as a Finnish view claims, concerned as much with the return of responsibility to families and local communities as with the minimization of the costs associated with the ever-increasing burden of care (Sipilä, Anttonen and Kröger 2009, 171).

Another important aspect to reflect on concerning the wellbeing of ageing people in a northern and Arctic context is housing. In the Swedish welfare state, good housing has been a key value since the 1930s and 1940s which has also found expression as a public responsibility in the Swedish Instrument of Government (SFS 1974:152). Recently, the Swedish National Audit Office has pointed out that housing for the elderly in depopulated areas is a problem that government needs to take measures to solve (Riksrevisionen). The Swedish Housing Act (SFS 2000:1383), states that every municipality has the responsibility to plan for housing in order to create good living conditions for everyone in the municipality. The government, however, has not identified housing as being within the scope of Services of General Economic Interests according to EU law (COM (2011) 900 final), which would allow public measures to be taken in an area that is primarily considered to be taken care of by the market and private market investors. According to the National Audit Office, the government has not done enough to tackle the housing problem for older people, shown to be

particularly striking for those living in depopulated parts of northern Sweden. Old people end up in a situation where moving is not an option as there is no alternatives housing available. Elderly people, especially women who live longer than men (Statistics Sweden 2017) therefore end up at risk of having difficulties accessing services important for their well-being since there is no transport to the places where commercial and social services of various kinds could be provided.

### **A reasonable standard of living?**

In Sweden public elderly care is regulated in the Social Services Act (SFS 2001:453). This Act has a framework construction, which means that it is the responsibility of the local Social Service Board to realize and ensure provision of the stated social objectives i.e. living safely and independently and having an active and meaningful existence together with others.<sup>12</sup> Moreover, the social services are responsible for promoting housing of good quality for the elderly and assisting with domestic help and service if needed. It is the responsibility of the municipality to establish special housing for old people who are in need of special support. The older person should, as far as possible, be able to choose when and how housing and other easily accessible services should be provided.<sup>13</sup>

Regardless the above-mentioned objectives, the assessment of whether a person is or is not entitled to services in the home or special housing is made according to Chapter 4 section 1 in the Social Services Act. This section, which could be characterized as a claim right, states that the individual has a right to the various forms of support and assistance needed for being ensured a reasonable standard of living, if the need cannot be met by him or herself or by other means.

New national values for older people, echoing the internationally agreed wellbeing objective for the elderly, were inserted into the Social Services Act in 2010, formulated as living in dignity and having a feeling of wellbeing. These new values were meant to clarify the fundamental, normative and ethical values for elder care and were construed as a means of steering of the management of care services. In the preparatory work for the new legislation, the government indicated the supposition that there would still be differences in how the municipalities chose to organize, prioritize and carry out welfare services. However, the government deemed that elderly people, by means of the new statutory values, should be given equal possibilities throughout the whole country to live in dignity (Proposition 2009/10:116). These values, however, do not form the legal base for

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<sup>12</sup> Social Services Act (SFS) 2001:453, Chapter 5 section 4.

<sup>13</sup> Social Services Act (SFS) 2001:453, Chapter 5 section 5.

assessing whether a person is eligible for assistance and welfare services in order for them to be assured of a reasonable standard of living. Municipal autonomy, different economic/financial conditions and the political priorities made in each municipality, entail a risk of inequality in results and discriminatory practices. There are court cases<sup>14</sup> that show how the concept of a reasonable standard of living is interpreted differently in the municipalities, depending on how the law is interpreted and the political as well as the professional priorities made in each municipality.

In 2010, a new Act (2009:724) concerning national minorities and minority languages came into force, which makes the municipalities in certain administrative areas (*förvaltningsområden*) where minority languages are used, responsible for providing services and care by personnel who have language skills in Finnish, Sami, and Meänkieli. In preparatory works for the Act it was, however, stipulated that the new regulation could not constitute a claim right for those using a minority language. Rather than imposing an immediate responsibility to employ staff with skills in minority languages, the new regulation was merely considered to constitute a qualification/merit at recruitment (Proposition 2008/09:158). The parliamentary Ombudsman (JO) that is appointed by the Swedish Parliament to ensure that public authorities and their staff comply with the laws and other statutes governing their actions, has tested the compliance with this regulation and confirmed the limited reach of this Act (JO 2010:11:JO1).

## **Conclusion**

Transformations in the welfare state as well as social and demographic changes affect the wellbeing of aging people and their living conditions in the north. As well, the paradigmatic shift in social policy and law related to Europeanization and globalization transcend the formation of legal knowledge. This shift implies transformation of the welfare state into the welfare society, with an anti-regulatory ideology as well as shift in the public/private division, moving from state power to individual autonomy. The introduction of national values for elder care in the Swedish Social Services Act is representative of the new balance between legal principles and the protection of substantive equality. These new values, formulated to promote living in dignity and wellbeing, were meant to clarify the fundamental normative and ethical values for elder care and were construed as a means of steering of the management of care services. The Government considered that older people should, by means of statutory

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<sup>14</sup> For example, see Supreme Administrative Court (2007), Yearbook ref. 86; Administrative Court of Appeal, Gothenburg, case 4683-2014; Administrative Court of Appeal, Stockholm, case 1818-14.

values, be given equal possibilities throughout the whole country to live in dignity. However, there will still be differences in how the municipalities choose to organize, prioritize and perform welfare services, depending on the financial situation and political will in each municipality. These new values, however, still do not form a legal basis to assess whether a person is entitled to the welfare services or care needed for a reasonable standard of living. Moreover, standardization of the assessments of needs, based on the notion of evidence, may not take into account everyday life and contextual conditions in rural northern areas.

None of the abovementioned transformations sufficiently seem to take into consideration the living conditions in rural contexts, characterized by an age- and gender-skewed balance in the population, often without family members to rely on as they have left to find work or to study. Poor municipalities lack the financial and human/personnel resources needed to take local responsibility to provide welfare services and care for elderly people in need. At the same time, the market does not see such depopulated areas as profitable enough to invest in. Free choice is not therefore in reality an option for elderly people living in these kinds of rural northern and Arctic areas.

Could human rights and discrimination law, in a welfare state in change, then be a tool for strengthening the wellbeing and gender equality for elderly people in northern and Arctic contexts? In feminist legal studies, it is argued that gender equality, in the formal sense, means assimilation and harmonization based in certain standards that everyone has to adapt to (Davies 2008; Pylkkänen 2009). There is also criticism claiming that anti-discrimination law, even though distributive in its orientation, does not recognize any distributive patterns and therefore, not by accident, is concomitant to neoliberalism (Somek 2011). Among feminist legal scholars, intersectionality is also discussed theoretically in relation to anti-discrimination law, which is often criticized for its inability to influence circumstances in reality, i.e. equality and social justice in the material sense (Kantola and Nousiainen 2009; Pylkkänen and Wennberg 2012, 12-28). In my view, wellbeing and gender equality for aging people in the Arctic, cannot only be seen in the formal sense as a question of equal rights and protection against discrimination, but needs also to link to social rights and responsibilities in the welfare state (Wennberg 2012; 2013, 57-79). In-depth analysis of the intersection of gender, age, ethnicity and social class in the public and private division of welfare services and care in rural, depopulated and multicultural contexts should aid a better understanding of the living conditions of the elderly in northern and Arctic Sweden and contribute to the development of alternative policy interventions on relational, institutional and structural levels.

There are reasons for further socio-legal analysis of elder care and services as a gender equality issue in the context of northern and Arctic regions. One reason is that women in general live longer than men and therefore, probably more often than men, come to need care and welfare services. How women's living conditions and needs for care as they age in northern and Arctic regions are affected by the increased emphasis on active ageing, and by the meaning this concept is given in various social and cultural contexts also need further scrutiny. The concerns over the threats to social solidarity between generations have been understood globally through the generational contract. Some claim that the demographic threat is being used as an ideological platform for a more neoliberal attack on the welfare state in favor of both private insurance and greater personal responsibility for our own and our family's future. If welfare-state support and services erode, there is a greater potential burden placed on family members to provide familial care, but with greater geographical mobility, families are often not there to provide the care provided by children for parents in the traditional extended family that frequently no longer exists in rural and depopulated areas. Furthermore, the burden of family care tends to fall unequally on women, thereby reinforcing gender inequalities.

Being at the centre of the redistribution of resources, which involves a number of sectors, such as caring within families and care for the elderly, the welfare state helps shape and induce gender (in) equalities. Legal and policy discourses play an important role in creating and reinforcing specific sets of social values and expectations attached to gender—a set of norms and relations embedded within the social structure—involved in the ideological process in society. Examining which discourses are dominant, which discourses are silenced, how this happens and what legal strategies are used could reveal the indefinableness in hegemonic interventions and the alternative interventions at the intersection of public and private spheres that could be developed. The gendered dimensions of social power within the structure of welfare state regulations and new governance that are directed towards managing or regulating social practices, are aspects of the balance and boundaries between politics and law. Are old women and men, from various cultures, ethnicities and minority groups, in different parts of the Arctic region, guaranteed a life in dignity and wellbeing? The question is motivated in view of the ideological (and neo-liberal) idea of active ageing; the space there is for local priorities and; the unequal conditions, financially and humanly, that exist in the Arctic region. These above-mentioned power imbalances in policy and law, and their impacts on gender equality, underline the importance of a framework for comparative analyses of services and care in the Arctic. In light of internationally agreed objectives, national welfare systems need to be subjected to further socio-legal and

interdisciplinary analyses in the context of the various local and specific conditions in which people age/grow old.

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# Men's intimate partner violence against Sami women - a Swedish blind spot

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The aim of this article is to map the Swedish context regarding men's intimate partner violence against Sami women and (1) discuss what knowledge and perspectives that dominates that context, and (2) reflect upon possible starting points for meeting the need for knowledge. The outline shows that men's intimate partner violence against Sami women is a blind spot in Sweden. Important aspects, such as human rights and colonialism, are neglected in the policy discourse. At the most, the policy discourse includes abused Sami women in the problematic category "particular vulnerable groups". The author argues for a need to problematize if and how responsibility is taken for addressing and responding to the violence and suggests a postcolonial and intersectional approach that centers around how the imbalance of power and control runs through abused women's experiences. Finally, the author highlights how such an approach also is a matter of indigenous research ethics.

**Keywords:** intimate partner violence, Sami women, indigenous rights, policy, postcolonialism

## Introduction

Men's violence against women has been widely recognized in Sweden in gender equality policy and legal reforms since the mid-1990s. Measures that have been undertaken have to some extent been based on a rhetoric that is influenced by feminist and women's human rights perspectives (Burman 2012).<sup>2</sup> However, men's violence against Sami women is a blind spot in Sweden. Sweden has adopted the main human rights documents regarding men's violence against women as well as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), but the problem of men's violence against Sami women is almost invisible in policies or other official documents.

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<sup>2</sup> See also, for example, Regeringens skrivelse 2011/12:3 and Regeringens skrivelse 2016/17:10.



Moreover, very little has been done to raise this issue or to introduce support services for Sami women.<sup>3</sup>

The aim of this article is to map the Swedish context as regards men's intimate partner violence against Sami women, and (1) discuss the knowledge and perspectives that dominate the Swedish context, and (2) reflect upon possible starting points for meeting the need for knowledge. The Swedish context is mapped in the following respects: (1) Human rights, (2) Policies, (3), Research and other studies, (4) The Sami Organizations, and (5) law, more exactly the Reindeer Herding Act.

The main method used is content analysis of documents and websites. Such an approach entails several limitations, in particular that it cannot capture how the issue is addressed and dealt with within the Sami organizations and the overall Sami community. There is an obvious risk that my mapping exercise will not be able to produce a fair picture in that respect. Nevertheless, I find it important to raise the issue of men's intimate partner violence against Sami women in the broadest possible sense, based on documents, as a first step to break the silence on violence against Sami women in Sweden and to put it on the legal and policy agenda.

## Human rights

The vulnerability of indigenous women to male partner violence is included in the general women's human rights discourse on men's violence against women, and at the same time it is particularly related to immigrant, refugee, asylum-seeking and minority women exposed to male partner violence. In the women's human rights discourse based on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>4</sup>, the situations of these groups of women are often described as similar, for example in how they face and experience problems related to racism, sexism, poverty and other forms of subordination.<sup>5</sup>

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP)<sup>6</sup> addresses indigenous women's vulnerabilities to male violence in a more direct manner than the CEDAW jurisprudence. According to Article 22(2) "states shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and

<sup>3</sup> Special support services exist for abused women in some ethnic minorities, but nothing of that kind exists for Sami women. There is a national, state financed telephone support line called *Kvinnofridslinjen* where interpretation for the northern Sami language is possible, but not in any of the other Sami languages.

<sup>4</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (adopted 18 December 1979, entered into force 3 September 1981) A/RES/34/830 (1980).

<sup>5</sup> See for example General Assembly, Report of the Special Rapporteur on violence against women, its causes and consequences, A/66/215 (2011). In the Council of Europe Convention on preventing and combating violence against women and domestic violence (2011) no attention is paid to indigenous women or women belonging to ethnic minorities. Instead the Convention focusses on immigrant and asylum-seeking women.

<sup>6</sup> United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), A/RES/61/295 (2007).

guarantees against all forms of violence and discrimination". Violence against indigenous women and girls was also the specific subject for discussion at an international expert group meeting in 2012, initiated by the UN Permanent Forum on Indigenous Issues. Among other things the experts called upon the United Nations system, Member States and indigenous people's organizations to recognize the rights and special needs of indigenous women and girls. Further, indigenous communities were called upon to seriously consider the problem of violence against indigenous women and girls in their communities in ways that include the recognition and dismantling of existing patriarchal social relations.<sup>7</sup>

The Special Rapporteur on the rights of indigenous peoples has also addressed violence against indigenous women. In the 2015 report to the Human Rights Council the rapporteur focused on global common themes and patterns of violations experienced by indigenous women, among them domestic violence.<sup>8</sup> The rapporteur highlighted intersecting power structures such as patriarchy and colonialism that leads to specific forms of discrimination and vulnerability for indigenous women. Regarding violence, the rapporteur - among other things - states that indigenous women suffer from both structural violence, victimization based on the realities of everyday life together with exclusion from rights and resources otherwise guaranteed to citizens, and other forms of violence, such as traditional practices, sexual violence, trafficking, domestic violence and gender-based killings.

Sweden has been criticized by the UN system regarding violence against Sami women. As early as in 2001 the CEDAW Committee urged the Swedish Government to collect more data and to continue its efforts to implement and strengthen current policies aimed at combating violence against women, with special attention given - amongst others - to migrant and minority women. This concern explicitly included discrimination against Sami women and the violence minority women face in their own communities. The Government was also encouraged to be more proactive in increasing immigrant, refugee and minority women's awareness of the availability of social services and legal remedies.<sup>9</sup>

In the Swedish report to CEDAW in 2005 (Näringsdepartementet 2005) the Government touched upon gender equality for Sami women, mainly in terms of representation in the Sami parliament. The report also contained of comprehensive information about the Governments' efforts, in terms of law and policy, to deal generally with men's violence against women, with

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<sup>7</sup> ECOSOC, Combating violence against indigenous women and girls: Article 22 of the United Nations Declaration on the Rights of Indigenous Peoples. Report of the international expert group meeting. E/C.19/2012/6 (2012).

<sup>8</sup> General Assembly, Report of the Special Rapporteur on the rights of indigenous peoples, A/HRC/30/41 (2015).

<sup>9</sup> CEDAW/A/56/38 Concluding observations of the Committee on the Elimination of Discrimination against Women: Sweden (2001).

some special attention paid to immigrant women. However, nothing was said in the report about violence against Sami women and there was no response to the issues raised by the CEDAW Committee in 2001. The same is true of the national action plan for human rights that was launched in 2006 (Regeringens skrivelse 2005/06:95). The concerns expressed by CEDAW are mentioned in that document, but no response to them can be found in the action plan.<sup>10</sup> So it is not surprising that similar concerns were articulated in the CEDAW response in 2008. In addition, the CEDAW Committee called upon Sweden to collect statistics on all forms of violence that immigrant, refugee and minority women experience, and to submit such information in its next periodic report.<sup>11</sup> However, the latest report to CEDAW in 2014 (Regeringskansliet 2014) still does not meet the expectations of the CEDAW Committee. The requested statistics is not presented and violence against Sami women is not explicitly addressed, only indirectly by reference to a policy initiative in 2007, described in more detail in the next section. Somewhat surprising, the latest CEDAW response in 2016 pay no attention to this deficiency. The CEDAW committee's response with particular relevance to violence against women belonging to minority groups is restricted to a concern regarding discrimination when it comes to the availability and quality of assistance and protection services.<sup>12</sup>

The UN Special Rapporteur on violence against women was very explicit about violence against Sami women in her latest report on Sweden.<sup>13</sup> She pointed to the fact that no survey on this violence has been conducted in Sweden. Anecdotal accounts she had received from Sami women suggested that Sami women may face significant levels of violence within their communities. According to the rapporteur, many Sami communities retain strong patriarchal structures and divorce to escape a violent relationship is in some communities still not a socially accepted option. Sami women's groups had expressed that Sami women exposed to violence often are hesitant to obtain help from mainstream Swedish institutions and authorities which they consider alien to their culture and language. The special rapporteur recommended the Swedish government to acknowledge the diverse voices within different cultural groups and support those which respect and promote women's rights within their communities. Further the rapporteur recommended that any efforts undertaken should avoid cultural

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<sup>10</sup> Violence against women is briefly mentioned in the latest governmental policy document on human rights, Regeringens skrivelse 2016/17:29, but the document is silent regarding violence against Sami women.

<sup>11</sup> CEDAW/C/SWE/CO/7 Concluding observations of the Committee on the Elimination of Discrimination against Women: Sweden (2008).

<sup>12</sup> CEDAW/C/SWE/CO/8-9, Concluding observations on the combined eighth and ninth periodic reports of Sweden (2016).

<sup>13</sup> General Assembly, Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Yakin Ertürk. Addendum. Mission to Sweden. A/HRC/4/34/Add.3 (2007).

essentialism and stigmatization by promoting gender equality as a universal culture that has emerged in response to a universal history of gender inequality. Finally, the rapporteur recommended the commissioning of a study on violence against Sami women.

The human rights context presents Sweden with strong incentives to strengthen the efforts with regard to men's violence against Sami women. In the next section I will outline how Swedish policies have addressed the issue since 2007.

## **Policies**

The Swedish Government launched an action plan for combating men's violence against women in 2007 covering the period 2007-2010 (Regeringens skrivelse 2007/08:39). The action plan also concerned violence in same-sex relationships and honour-related violence. A few words in the action plan address women belonging to the national minorities. Swedish law recognizes five national minorities: Sami people, Romani people, Jews, Swedish Finns and Tornedalingar.<sup>14</sup> Women belonging to national minorities are mentioned in the 2007 action plan under a sub-heading on "particular vulnerable groups" where they are described as experiencing similar problems as immigrant women, more precisely that people focus more on their foreign background than on the fact that they have been abused. National minorities, other minority groups or Sami women are not otherwise mentioned in the action plan and what is meant by "particularly vulnerable groups" is not clearly expressed. In the government gender-equality document covering the period 2011-2014, men's violence against Sami women or women belonging to the national minorities is not mentioned (Regeringens skrivelse 2011/12:3).

In the latest government policy document on gender equality the concept "particular vulnerability" to violence is related to a diversity of circumstances of life (Regeringens skrivelse 2016/17:19). Circumstances particularly related to Sami women or women belonging to national minorities are not articulated. This policy document is based on three comprehensive reports from official inquiries into violence in intimate relationships (2014), violence against women (2015) and gender equality (2015). Sami women or women belonging to national minorities are not mentioned in the 2014 report or the 2015 report on gender equality.<sup>15</sup> Nor does the 2015 report on violence against women explicitly address violence

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<sup>14</sup> Lag (2009:724) om nationella minoriteter och minoritetsspråk [Act (2009:724) on national minorities and minority languages]. The Act mainly give language rights to national minorities, but there are also a couple of general provisions about public responsibility to support the culture of national minorities and national minorities participation in decision-making.

<sup>15</sup> SOU series 2014:49 and SOU series 2015:86.

against Sami women. However, that report notes that women belonging to national minorities represent a “particularly vulnerable group”, that they are often invisible in research into violence against women and that they are at risk of experiencing discrimination (SOU series 2015:55). Moreover, a definition of “particular vulnerability” is presented in the report:

Particular vulnerability means a higher risk of being exposed to violence or that the consequences of violence are more severe. It can also mean having particular difficulties getting the support needed. Other examples of vulnerability factors are lack of knowledge about rights, inadequate language skills, social and economic dependency, isolation and loneliness, dependency on other people in order to be able to cope with daily life and heavy dependency on the violent person.<sup>16</sup>

In all, violence against Sami women is, if at all, articulated as a gender equality issue for women belonging to national minorities, but not as an issue concerning indigeneity or indigenous women’s human rights. Consequently, the indigenous context is made invisible. Moreover, no measures that can be specifically related to women belonging to the national minorities are proposed in the policy documents.

There has been only one governmental policy initiative specifically addressing violence against women belonging to national minorities. In 2008 the Government tasked the National Public Health Institute<sup>17</sup> with (1) investigating how abused women from national minorities are treated and supported by the authorities, (2) developing an action plan, and (3) conducting activities to improve the knowledge about men’s violence against minority women, issues of treatment and the living conditions of national minorities.

The National Public Health Institute published a partial report in 2010 based on a questionnaire study and in-depth interviews with 24 women belonging to the national minorities that had been exposed to male partner violence (Statens folkhälsoinstitut 2010a). The questionnaire was sent to the police, social services, institutions within the healthcare system and schools. The respondents were asked to express their views on how violence against women belonging to national minorities is and should be dealt with. The aim of the interviews was to describe abused women’s experiences of treatment by the authorities. The questionnaire study did not provide any information specific to Sami women. One finding in the questionnaire study was that there are no special action programs in place for cases when authorities encounter abused women from national

<sup>16</sup> SOU series 2015:55, pp. 317-318 (author’s translation).

<sup>17</sup> This Institute was superseded by the Public Health Agency of Sweden in 2014.



minorities. The Institute's main conclusion based on this study was that the authorities are in need of more information and education on gender-based violence and the treatment of victims in general, as well as in connection with issues of ethnic diversity.

As regards the interview study, the Institute presented, as its most important result, that the overall impression of the support offered minority women was negative and that this perceived negative treatment was very similar to that expressed in complaints made by abused women in general. This means, for example, that the women generally praised the women's shelters and had a critical attitude towards the social services. All groups stressed the importance of being able to use their own language in contacts with support services.

In contrast to the questionnaire study, the interview study presented some results specific to Sami and Roma women. Women from these groups reported the most negative attitudes and comments directed to their minority group by the social services, the police and the judiciary. Sami and Roma women were described in the report as still facing discrimination which impacts on their attitudes towards the authorities. For example, according to the report, a Sami woman said that according to Sami culture, no contacts should be made with the Swedish authorities. The interviews also showed that Sami and Roma women were afraid that their own minority group would find out that they by turning to the authorities for help had revealed their exposure to violence. Many of them also feared that they would damage their family's honour if they left their husband. According to the report some Sami women described a culture in which it is forbidden to talk about the violence and its consequences. The Sami women interviewed identified three main areas for development: (1) language competence for staff in support services, (2) improved knowledge in the municipal social services about reindeer herding, the functions of a Sami community, and the consequences for Sami women if they divorce, and (3) a change in attitudes.

The Institute presented three general areas of development in the action plan: (1) education of staff within the municipal social services regarding gender-based violence and issues of treatment and support, (2) cooperation between the authorities and representatives from the national minority organizations to achieve better knowledge and understanding of ethnic diversity, and (3) spreading information about the minority groups to make these groups, as well as their right to their own language and culture, more visible in society. It was also suggested that support lines for abused women from the Sami and Roma groups should be established (Statens Folkhälsoinstitut 2010a).

The next step in the Institute's mission comprised of activities and projects based on the action plan in cooperation with national minority organizations. Amongst other things, money was distributed to projects carried out by minority organizations aimed at strengthening the ways in which minority groups deal with gender equality and men's violence against women and projects to develop cooperation with the authorities or other relevant organizations. Two projects that received funding concerned Sami women; one, led by the Swedish Sami National Association, did not explicitly deal with violence but instead aimed to strengthen the position of Sami women, especially reindeer-herding women. The other project was led by the Sami parliament and was a pilot study examining the possibilities of establishing a telephone help line for women in Sápmi.<sup>18</sup> According to the Institute's two final reports to the Government, the project led by the Sami parliament failed due to internal difficulties and shortage of staff to implement it (Statens Folkhälsoinstitut 2011, 2012). A general reflection from the Institute was that all projects found men's violence against women to be a very sensitive issue within the minority groups.

Finally, the Institute published three folders directed to the Police, the Social Services and the Health Care Sector respectively. The most important results from the project, as described above, were presented in the folders. A few recommendations were also presented. These are mostly general in the sense that they are independent of what group an abused woman might belong to. Only one recommendation is specific for women belonging to the national minorities. It regards language-rights and what aspects that are important to take into consideration when involving an interpreter (Statens Folkhälsoinstitut 2010b).

## **Research and other studies**

A research overview by the National Public Health Institute in the above-mentioned partial report shows that there is a lack in Swedish research into violence against Sami women. The Institute expressed particular concern regarding the lack of a gender perspective and the invisibility of men's violence against women in public health research into Sami health (Statens Folkhälsoinstitut 2010a). The same conclusion is reached in a report from the Swedish Sami parliament containing a compilation of knowledge regarding psycho-social ill-health among the Samis (Sametinget 2016b). My outline of research and other studies, irrespective of academic discipline or research topic, presents the same picture. Swedish gender studies research

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<sup>18</sup> Sápmi is one of the names used for the traditional Sami homeland, a large area of land that covers four countries: Russia, Finland, Norway and Sweden and stretches across the northern part of the Arctic, from the Russian Kola Peninsula in the east to the Swedish province of Dalarna in the south.

into Sami women does exist, for example, regarding the status and position of Sami women and gender equality in the overall Sami community (Amft 2002) but violence is not a topic in this research. Furthermore, no Swedish research into men's violence against women so far concerns violence against Sami women. Even if the research field is expanded to the Scandinavian countries, research is scarce and limited to a handful publications (Kuokkanen 2007, 2015; Henriksen 2011; Eriksen et.al. 2015; Thallaug Øverli et.al. 2017).

Currently no published research on violence against Sami women exist in Sweden. The only available Swedish study is a master thesis in global political studies with an empirical focus on Norway (Krumlinde 2009). In this study interviews were carried through with two Sami women employed at a crisis center in Karasjok, Finnmark, Norway, which (among others) supports abused Sami women and their children. According to the women who were interviewed, Sami women find it very difficult to reveal the violence and talk about it. One reason they gave to explain this difficulty was that violence against women is a taboo subject within the overall Sami community. Another reason the women suggested was that several implicit codes of conduct come into play, for example that a Sami woman is expected always to subordinate her own individual needs to the needs of the overall Sami community or that she should avoid divorce because a divorce could be economically devastating for her reindeer herding husband. Not following such rules might, according to the respondents, lead to the exclusion of the woman from the community. The respondents also believed that the idea that Sami women are strong prevented them from disclosing violence and also made violence and abuse very shameful for a Sami woman.<sup>19</sup> Similar explanations for why Sami women find it difficult to talk about "unspeakable" issues such as sexual violence is presented in Norwegian research (Henriksen 2011; Thallaug Øverli et.al. 2017).

## **Sami organizations**

The Swedish Sami Parliament has taken initiatives to raise the issue of men's violence against Sami women. The Sami Parliament is both an elected parliament and a State agency whose tasks are regulated by the Swedish Sami Parliament Act (1992:1422). Officials at the main office carry out the daily tasks of the agency and there is a political level with elected politicians.<sup>20</sup> The Sami parliament adopted its first Gender Equality Program

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<sup>19</sup> The idea of Sami women as being strong women and its implications for gender equality is problematized in Sami research, for example Eikjok (2000).

<sup>20</sup> Information about the Sami Parliament is available at <https://www.sametinget.se/english>.

in 2004 (Sametinget 2004). The program aimed at providing for systematized work to enhance gender equality in the overall Sami community. The overarching aim for gender equality reflected the Swedish gender equality policy goal and was formulated as follows:

Sami women and men shall have the same rights, opportunities and duties in all aspects of life, i.e. work and economic independence, influence in the society, unpaid work in the home, caring of children and physical integrity.<sup>21</sup>

Regarding gender-based violence the program stated that work within the Sami Parliament is needed in order to reduce the problem and one specific measure was decided, namely to investigate the need for special Sami support services (Sametinget 2004, 19-20). The so far only activity within the Sami parliament that specifically has addressed violence against Sami women is the abovementioned project financed by the National Public Health Institute. A working seminar was arranged that aimed at formulating proposals to the Sami Parliament on how it could work to prevent and counteract men's violence against Sami women. The seminar resulted in a proposal to apply for money to carry out a pilot study on the need for a specialized telephone help line or women's shelter for Sami women (Sametinget 2008). However, the project did not lead to any application for funding or other activities.

The need for a specialized women's shelter for Sami women was once again highlighted in 2011 in a questionnaire to the Sami reindeer-herding communities<sup>22</sup> carried out by the Sami Parliament as part of a government assignment to strengthen the participation of Sami women in social life. However, violence against Sami women is absent from the project's conclusions and recommendations (Sametinget 2011). Violence was also invisible as an issue in the government initiated gender equality project which ran 2013-2014 and aimed at developing gender mainstreaming strategies for the Sami Parliament. The Parliament chose to focus on other gender equality goals than that targeting physical integrity and violence (Sametinget 2014).

A new Gender Equality Program for the Sami parliament was adopted in 2016 (Sametinget 2016a). The same overarching goal for gender equality as in the previous program is expressed, but is now complemented with three more goals: (1) that Sami women and men, Sami girls and boys, can make

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<sup>21</sup> Sametinget (2004,12) (author's translation).

<sup>22</sup> A reindeer-herding community is an economic and administrative association whose mission is to manage the reindeer herding in a certain geographical area in the best interests of its members. The right to herd reindeer belongs to the Sami people, but according to the Reindeer Herding Act (1971:437) it can only be performed by a Sami who is member of a reindeer-herding community. There are 51 reindeer-herding communities in Sweden.

free choices regardless of sex, (2) that the Sami parliament has a broad scope of practice that appeals equally to and concern both men and women, and (3) that gender equality is an important part of the efforts to decolonize and strengthen the Sami people and Sami community. Long-term work with gender equality is said to contribute to physical and psychological health, a living culture and a stronger Sami community (Sametinget 2016a, 16). Gender based violence is dealt with in the program as closely connected to health and some measures are decided, among them to investigate (once again) the need for special support services, to support preventive work and to provide information about where to turn for support (Sametinget 2016a, 25-6).

Albeit gender based violence and intimate partner violence are articulated by the Sami parliament as gender equality issues for the Swedish Sami community, the measures decided to deal with the violence are few and formulated in rather general terms, for example without specifying how to carry out preventive work against violence. It also seems as if Sami women outside the Sami parliament at the moment are the most active agents in raising the issue. Two Sami women organizations with members from whole Sápmi are publicly engaged in the issue of gender based violence. Sami Nisson Forum (SNF) arranged in March 2015 a seminar in Sweden on "Sami women's right to participation in social life, health and violence prevention".<sup>23</sup> And in August 2016 the organization Niejda - Chicks in Sápmi, published a manifest in which the silence surrounding violence was challenged and everyone in Sápmi were called upon to take action and take a stand for zero tolerance against sexual abuse and violence in intimate relationships (Niejda 2016).

The Swedish Sami National Association (SSR) is also turning its attention to gender equality. So far, the work of SSR has mainly been directed towards issues other than violence but it has nevertheless been important since it has highlighted power positions of Sami women within the Sami community, which impacts on their possibilities to escape or protect themselves from male partner violence. SSR has, for example, initiated discussions on gender inequalities in reindeer husbandry and how regulations in the Reindeer Herding Act are subordinating Sami women (Svenska samernas riksförbund 2012). In the next section I will give a hypothetical example showing how the Reindeer Herding Act may impact in a negative way on Sami women exposed to male partner violence.

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<sup>23</sup> The program for the seminar is available in Swedish at <http://www.sahkie.se/event/seminarium-samekvinnors-ratt-till-delaktighet-betydelse-for-socialt-liv-halsa-och-forebyggande-insatser-mot-vald/> (accessed February 19, 2017).

## The Reindeer Herding Act

Reindeer herding in Sweden is, according to the Reindeer Herding Act, connected with membership in a reindeer-herding community. Such a community is an economic and administrative association the purpose of which is to manage the reindeer herding in a certain geographical area in the best interests of its members.<sup>24</sup> The right to herd reindeer belongs to the Sami people, but it can only be carried out by a Sami who is member of a reindeer-herding community. All important decision making take place in the Sami reindeer-herding community.

There are three categories of membership in a Sami reindeer-herding community.<sup>25</sup> Active reindeer herders have full membership and the right to participate and vote in all decision making. The voting right is heavily restricted for members in the other two categories. One such “minor” or “restricted” membership is afforded to members of the active reindeer herder’s family, i.e. spouses and children. Votes are distributed based on the number of reindeer. When there is a vote on an issue which only full members have the right to decide on, that full member’s vote is based on both the number of his or her own reindeer and on the number of reindeers owned by family members. Since the vast majority of active reindeer herders today are men, the voting system, sometimes termed “reindeer husbandry”, subordinates Sami women and their ownership of reindeer to both their male partners and the reindeer-herding community (Amft 2002; Svenska Samernas Riksförbund 2012; Ledman 2012).

I will present a hypothetical example illustrating one way in which the Reindeer Herding Act may risk impacting in a negative way on Sami women exposed to male partner violence. My example concerns a single woman who owns reindeer but has no practical possibilities of taking care of them herself or with the help of her family. One way for her to solve the problem is to seek help from other reindeer herders. Another plausible scenario is that she starts a relationship with a Sami man who has not previously been an active reindeer herder, but after a while starts to show an interest in reindeer herding. The man moves into her house and takes over responsibility for her reindeer. Quite soon the man start to subject the woman to violence and coercive control.

After a couple of years the man applies for membership in the reindeer-herding community. Such membership for the man poses a significant problem for the woman. Because he is a man and takes care of the reindeer in the household there is a good chance that he will become a full member of the community. If that happens her reindeer will be regarded as his power base, in accordance with the Reindeer Herding Act. Furthermore, if

<sup>24</sup> 9 § Rennäringslagen (1971:437) [Reindeer Herding Act (1971:437), section 9].

<sup>25</sup> 11 § Rennäringslagen (1971:437) [Reindeer Herding Act (1971:437), section 11].



she separates from him, once he is a full member of the community, she would find herself existing beside him within the reindeer-herding community. So, the system of reindeer husbandry makes it possible for the man to make it harder for her to end the relationship. She risks having to leave the community in order to protect herself from violence. In such a case she also risk having to end her engagement in reindeer herding and could lose a very important part of her Sami identity.

This example shows that the woman, because she is not a full member of the reindeer-herding community, would not have any power over her own future. Instead she would be dependent on the votes of the full members of the community, who are mostly men, and would be subject to their powers. If, for example, she had a right to vote based on her ownership of reindeer she would have more power in the situation. If she were the full member and the man a member based on his relationship with her, his membership could be questioned if there was a separation. But the way these issues are currently regulated in law, and sometimes the practices within the reindeer-herding communities, means that single Sami women who own reindeer can be easy targets for men. Moreover, abusive men can use the legislation as a weapon to keep women in abusive relationships.

### **Conclusion: A need for knowledge and approaches to responsibility**

The outline shows that men's intimate partner violence against Sami women is a blind spot in Sweden in many respects. There is an almost unlimited need for research. Knowledge about Sami women's experiences of violence and how the overall Sami community or the Swedish authorities respond to the violence is needed as well as a diversity of theoretical and contextual problematizations of law and policy.

Sweden adopted the UN Declaration on the Rights of Indigenous Peoples in 2007, but so far there is no sign of that in laws or policies relating to intimate partner violence. The Swedish policy discourse on Sami women's exposure to male partner violence, if it is fair to say that such a discourse even exists, does not acknowledge the human rights, or the indigenous and colonial contexts. Swedish policies mainly comprise short and sweeping definitions of "particular vulnerable groups" which include immigrant, refugee and minority women. This is worrying since such victim positions tend to become problematic for women who, in a context of discrimination, racism and colonial practices, are not fully included in a Swedish majority "us" (Carbin 2010). Naming the women as "particularly vulnerable" or "particularly exposed" without acknowledging how they are affected by discrimination and power systems related to gender, ethnicity and

indigeneity puts them in danger of being constructed as deviating from the Swedish norm or risks leading to a culturalization of male partner violence.<sup>26</sup>

The obvious conclusion is that there is a strong need for the development of policies relating to men's violence against Sami women which takes the colonial context seriously. It is also obvious that the patriarchal structure in the Reindeer Herding Act must be challenged and changed. In this regard it is important to recognize that the act does not reflect Sami tradition but is a product of colonialism (Amft 2002; Löf 2014). There is a need to continue and develop analyses of the gendered impact of the Reindeer Herding Act and other laws in many respects (Svensson 2015).

Sami organizations and Sami women have taken important initiatives regarding men's violence against women but, as highlighted in the conclusions from the National Public Health Institute, violence against women seems to be a very sensitive issue. In my view, this is also shown in how the majority of the projects led by the National Public Health Institute did not really address men's violence against women, but less controversial issues of gender equality. It is also shown in how the Sami Parliament has chosen over recent years to focus on other gender equality goals than that targeting physical integrity and violence. Men's intimate partner violence against women is a sensitive and difficult issue in every community or society. However, as becomes clear when the knowledge that exists about violence against Sami women is taken seriously, the colonial context and the specificities that follows from belonging to a subordinated and colonized minority makes it even more difficult.

Against the backdrop of my mapping, I find it important to problematize responsibility regarding men's violence against Sami women. Who takes responsibility for the violence and the situation for abused women and how is responsibility taken? State responsibility in terms of law and policy is of course important, but it should not be analyzed in isolation. It is also important to highlight and problematize responsibility on other levels, i.e. individual, community, regional and global levels. All levels relate to each other and not including, for example, community and regional levels would exclude important contexts and experiences for Sami women. As highlighted by some Sami feminist scholars, the question of oppression within the Sami community should not be disguised (Eikjok 2004; Kuokkanen 2015). Postcolonial power structures and how they impact on violent practices, experiences of violence or responses to violence must be acknowledged, but that starting point is not an obstacle to simultaneously upholding the concept that violent men are responsible agents (Sørensen

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<sup>26</sup> Similar risks arise when immigrant women with insecure residency who are exposed to male partner violence are represented as a "particularly vulnerable" or "particularly exposed" group, see Burman (2012).



2001; Kuokkanen 2015). As argued by Deer (2015, 132) “[t]he challenge, then, is to decolonize rape law by acknowledging this history without allowing perpetrators to minimize personal responsibility”.

What possible starting-points are there for problematizing responsibility? One way is to, as in the general UN men's violence against women discourse, take account of similarities with women belonging to other subordinated groups, for example immigrant women. Some aspects of men's violence against Sami women seem to resemble the exposure of immigrant women to male partner violence. For example, that the violence becomes a very sensitive issue within the minority community, that immigrant women have a strong sense of solidarity with the minority community and that immigrant women are hesitant, for good reasons, to turn to the authorities for support (Lenardt 2008; SOU 2012:45). As a consequence of their subordinate status and experiences of discrimination, domination and persecution, abused immigrant women often feel solidarity with the minority group. Moreover, questions that are regarded as “women's issues” become subordinated to issues relating to the ethnic group as a whole. It has been suggested that similar problems exist in the Sami context. For example, Amft (2002, 193) have argued that a Sami woman cannot be politically active as a Sami and at the same time act from her position as a woman. Therefore, according to Amft, Sami women have to subordinate themselves as women in order to be “genuine” Sami. A more optimistic picture is presented by Ledman (2012). Her study of how Sami women are represented in the Swedish and Sami press provides evidence of a vibrant Sami women's activism.

However, it is also important to acknowledge differences in relation to other groups of women exposed to male partner violence. For example, the myth about strong Sami women is often used against Sami women who advocate women's issues, not least by Sami men (Eikjok 2000). Similar myths impacting on violence against indigenous women exist in other geographical contexts (Davis 2011). Moreover, the particularities that follow from the indigenous and colonizing context must be acknowledged. It is important to note that Sami women are not “minority women” in the sense that concept often is used. Sami women are living in their homeland that - as well as their culture, knowledge, language and faith system - has been colonized by foreigners. It can also be assumed that Sami women often must interact with authorities and officials with insufficient knowledge regarding the overall Sami community, the racism facing Sami women and how colonialism has an impact on violence against women. A postcolonial and intersectional approach which acknowledges both universal and particular social and cultural aspects is thus, from an indigenous perspective, a very important point of departure (Davis 2011; Kuokkanen 2012) since indigenous

women face systemic violations at the nexus of gender and indigeneity (Deer 2015). But such an approach is also important in order to challenge the disinclination in Sweden -for example in policies and research- to acknowledge that Sweden has been and still is a state and a society involved in colonialism and marked by colonial experiences (Keskinen et.al. 2009; Loftsdottir and Jensen 2012).

Another important starting point, I argue, is that gendered power relations should be acknowledged. Research into men's violence against women in socially and culturally subordinated groups, for example immigrant women, suggests that it is not enough to acknowledge diversity, differences and particularities. There is also a need to uphold the idea of men's violence against women as being related to gendered power relations (Sokoloff and Dupont 2005; de los Reyes and Mulinari 2005; Thiara and Gill 2010; Nixon and Humphreys 2010). I have argued elsewhere (Burman 2012) for the notion that men's violence against women always harms women and that the imbalance of power and control that runs through abused women's experiences should be placed at the center of an intersectional approach to law and policy. In my view this is likewise important when taking a postcolonial approach. Such an approach can -amongst other things- serve as prevention against the culturalization of violence. Culturalization risks normalizing the violence and making it invisible. Moreover, it support biased ideas that Sami men are more inclined to domestic violence than men belonging to the majority population or that Sami women are less resilient against violence than women belonging to the majority population. Risks of the culturalization of men's violence against women by relating violence to "others" easily arises when violence in contexts other than a white and western European one is problematized. Such othering processes can be observed today, for example in policies within the European Union (Kantola 2010; Montoya and Rolandsen Augustin 2013).

To conclude, a postcolonial approach is not only an important theoretical and analytical approach, it is also a matter of indigenous research ethics and of the utmost importance (Smith 2012; Porsanger 2004; Löf 2014; Drugge 2016). Research relating to indigenous peoples performed by non-indigenous researchers can be a form of colonialism in itself. The researcher, especially a non-Sami researcher, must have sufficient knowledge about aspects such as Sami history and the way the Sami's have been and still is treated by the Swedish state. Understanding and acknowledging the colonial process and the Sami experiences that are marked by colonialism are essential in trying to avoid doing more harm than good. Further, in research on violence against Sami women, Sami women and relevant Sami organizations must be the priority stakeholders and involved as experts in the project in ways that give them real possibilities to

impact on the research and to benefit from the research. They should have a strong say on, for example, how to carry out the gathering of empirical data on Sami women's experiences and on how to cooperate with the Sami community. The aim must be to carry out research in collaboration with Sami women and the Sami community, not to do research on them.

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