

# Skogsbruk och renskötsel på samma mark

En rättsvetenskaplig studie av förhållandet  
mellan äganderätten och renskötselrätten

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Skogsbruk och renskötsel på samma mark – En rättsvetenskaplig studie av äganderätten och renskötselrätten. Forestry and Reindeer Husbandry on the Same Land – A Legal Study of Land Ownership and Sami Reindeer Herding Rights.

### **Abstract**

In the northern parts of Sweden forestry and Sami reindeer herding are exercised on the same land and there is an ongoing land use dispute between the land users. Land ownership and reindeer herding rights, based on immemorial prescription and customary law, are parallel property rights to the same land. Studies have concluded that the legal framework does not sufficiently reflect the property rights perspective of the land use conflict. This study examines the legal framework that regulates the relationship between forestry and reindeer herding from a property rights perspective. Starting points of the study are basic aspects of property rights, such as the right to use, decide on and benefit economically from property and the legal protection required in relation to others. Comparisons are made with the legal frameworks that regulate other relationships within real estate law, including e.g. neighbors, easements, joint facilities and utility easement.

The study concludes that the relationship between land ownership and reindeer herding rights can be understood only against the background of historical events such as colonization and demarcation. The rights are more independent of each other than other legal relations and can be compared to a double ownership. It is further concluded that the Forestry Act is based on the assumption that reindeer herding is primarily a public interest that needs protection. Land owners have a far-reaching right to use forests that causes damages to reindeer pasture lands that is not in accordance with the legal nature of the reindeer herding right. Further, central elements usually used to regulate property rights relations are missing, e.g. mutual consideration, damages and judicial review.

The study also examines if the legal framework is in accordance with the constitutional protection of property in Chapter 2 Section 15 of the constitutional Instrument of Government and Article 1 of the First Protocol to the European Convention on Human Rights. It is concluded that the legal framework has several deficiencies in this respect. Elements are discussed that can be implemented in law to appropriately reflect the property rights studied.

### **Keywords**

forestry, reindeer herding, sami, reindeer herding rights, land ownership, immemorial prescription, customary rights, private law, property rights, traditional land use, real property law

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