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Do national resources have to be centrally managed? Vested interests and institutional reform in Norwegian fisheries governance

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Abstract

Corporatism -with its privileged access, restricted participation and centralized structures - has a long history in Norwegian fisheries governance. Co-management – understood as a decentralized, bottom-up and more inclusive form of fisheries governance - has not been considered a relevant alternative.. Why does corporatism still prevail in a context where stakeholder status in fisheries governance globally – both in principle and practice - has been awarded environmental organizations, municipal authorities and even consumer advocacy groups? Why then have alternatives to the corporatist system of centralized consultation and state governance never been seriously considered in Norway, in spite of the growing emphasis on fish as a public resource and fisheries management as human intervention in geographically confined and complex ecosystems? We suggest that this may have to do with the fundamental assumptions behind Norwegian fisheries governance that since fish is a national resource, it must be centrally managed. We argue that this is an assumption that may be contested.

Keywords: Fisheries governance; Corporatism; Co-management; Legitimacy; Marine protected areas; Indigenous people; Regionalism; Norway

"It must be considered that there is nothing more difficult to carry out, nor more doubtful of success (…), than to initiate a new order of things. For the reformer has enemies in all those who profit by the old order, and only lukewarm defenders in all those who would profit by the new order…" (Machiavelli, The Prince and the Discourses, 1950, p. 21).

Introduction

The history of Norwegian fisheries governance – its institutions, procedures and participants – is basically one of private-public partnership where policy is the outcome of consultations and negotiations, both formal and informal, between industry representatives and government officials. In this case, Machiavelli's "old order of things" is essentially a system of centralized consultation with an element of power-sharing through corporatist arrangements facilitating the participation (and influence) of a select group of stakeholders (cf. Mikalsen and Jentoft 2003). There have been some attempts at initiating a "new order of things" by including – *inter alia* - environmental groups and regional authorities at the consultative stages of management policy-making. Yet, the essence of fisheries governance

is still one of centralized consultation where the ultimate authority to govern is vested in central government, in close collaboration with industry, notably the Norwegian Fishermen's Association (NFA). This is basically a mode of governance where influence is traded for legitimacy and support.

During the last decade, however, the "old order" has been challenged by proposals for a regionalization (decentralization) of governance structures and management tasks. Initiatives for the establishment and (local) management of marine protected areas and proposals by a government task force for regionally delimited fisheries zones, for example, challenge the idea – reiterated like a mantra by the defenders of the old order – that fish, as a 'first principle" is a national resource and should therefore, as a logically derived, 'second' principle, be managed by central government. Neither the existence of local stocks (scientifically verified), nor the argument that regional variations in stocks, fleet structure and fishing practices warrant delegation, have carried much weight. In that sense centralized consultation (read corporatism), has proved an enduring legacy in Norwegian fisheries governance. Why then, have corporatism and the power and privileges it entails, survived in the face of several attempts at fostering change and reform? What is the essence of these attempts and why have they faltered? Apart from the perception of fish as a national resource, why do key players cling to the idea that the fisheries – regardless of their character and context – must be managed by central government?

We begin by outlining the main tenets of corporatism as a governance system, explaining how it has evolved into a highly institutionalized partnership arrangement between the Ministry of Fisheries and the NFA. Then we discuss some of the main challenges to its corporatist core, attempting to explain its resilience in the face of pressures for reform that may well undermine its corporatist character. More specifically we present three recent reform propositions, which, albeit very different, share a common denominator; the idea of a local fisheries co-management system. The resistance within the corporatist establishment and the political rhetoric to back it up, has proven effective by its reference to the largely intuitive governance principle that since fish is a national resource and property it must be managed at state level. We argue that such a principle and the vested interests and power that support it, stand in the way of new ideas that – taken seriously – could inject an element of genuine co-management into the governance of Norwegian fisheries. Therefore any reform of the "old order" must begin by questioning the logic behind this principle.

Corporatism in Norwegian fisheries

Historical roots

The literature on corporatism is extensive and this is not the place for an extensive review or an elaborate discussion of the concept. Suffice it to say that corporatism, in this particular context, denotes a political arrangement – a system of interest representation - that incorporates the organized interests of civil society into the process of government (cf. Schmitter 1979, 8-9). As such it reflects a symbiotic relationship between interest groups and government, providing access and influence for the former, expertise and legitimacy for the latter. To borrow a phrase from David Arter, the "essential logic of corporatism is legitimization by incorporation" (Arter 2006, 125). More important in the present context, however, is the assumption – or implication - that the groups incorporated often come to enjoy a privileged position that enables them to promote their

interests more effectively and influence public policy within their particular domain. In Norway both the NFA and the Ministry of Fisheries[a] benefit from this arrangement, which probably explains why it prevails despite external pressures for change. The participation (and influence) of key stakeholders secures legitimacy which in turn increases the governability of Norwegian fisheries.

We have in an earlier paper characterized Norwegian fisheries management as centralized and corporatist, a system of centralized consultation based on institutionalized bargaining between government and a key group of industry stakeholders (Mikalsen and Jentoft 2003). For the sake of the argument we shall reiterate two of its basic characteristics. First, there is the centralized, top-down structure of management decision-making – vesting the power to make and implement policies and decisions in the hands of central government, notably the Ministry of Fisheries and the Directorate of Fisheries. The latter is essentially a "professional" or staff agency whose main role is to provide advice and expertise to the Ministry and secure the efficient implementation of – *inter alia* – management policies. It is one of the oldest institutions within the fisheries bureaucracy – established as early as 1900 – and it is generally considered to be more influential than its advisory role suggests (Mikalsen and Jentoft 2003; Nordstrand 2000).

Second, there is the major role played by one particular and well organized group of stakeholders: the NFA. Its long-standing status as *the* representative of the fishing industry has given the association a privileged position within the Norwegian system of fisheries governance. Very little that pertains to fisheries policy has been decided and put into practice without formal consultations with the association, through the so-called Regulatory Council (Hoel et al. 1996; (later replaced by the less formal and more open Regulatory Meetings, of which more later) or by way of informal talks between industry representatives and ministry officials (Jentoft and Mikalsen 2001). This system is both "inspired" and sustained by the overall corporatist structure of public policy-making that awards a key role to organized interest groups in public policy making in virtually all sectors of the Norwegian economy, or for all of the Nordic economies for that matter (Nordby 1994; Arter 2006). As such, corporatism amounts to a "policy partnership" that combines centralized control, selective consultation and interest group participation. Power is shared in order to secure legitimacy and compliance. In other words, a system that provides for industry input and influence through corporatist structures while retaining government control and ministerial responsibility.

The nature – and robustness - of the current system of centralized consultation ('corporatism') probably owes much to its historical roots, and may well be perceived as a product of particular political circumstances. What comes to mind here is first and foremost the encouragement and support offered by government in establishing the NFA during the latter part of the 1920s (Mikalsen et al. 2007), and its later decision to accept the association as the only legitimate representative of the entire industry within the system of government subsidies set up at the beginning of the 1960s (Hallenstvedt 1982; Jentoft and Mikalsen 1987). Given that the state had actively sponsored, and to some extent initiated, the formation of the association, its status as *the* representative of the industry was awarded almost by default. The implication, we contend, was a privileged position for the association that subsequently spilled over into other issues of fisheries governance. Of particular significance here is the government's decision to implement limited entry across a wide range of stocks and fisheries during the 1970s (Hersoug 2005), a policy that could not

have been effectively implemented without the support of the association which, by that time, had come to include the economically powerful off-shore sector. The perception of NFA as a representative voice of the harvesting sector in particular, and the subsequent adoption of a corporatist approach to management policy-making strengthened and sustained the position of the association as a privileged partner. With hindsight, these decisions may well have come at "critical junctures" or major turning points that shaped the basic institutional characteristics of Norwegian fisheries policy, i.e. at particular points in time where government intervention was called for and its success depended on the contributions of a representative (and reliable) policy-partner with broad support among key stakeholders. Therefore, the "appointment" – and what amounted to a government licensing - of the NFA as *the* voice of the entire industry, made sense politically and created a "path" (and a vested interest) that have influenced the contents of fisheries policy as well as the range of institutional alternatives found worthy of consideration. Over time the system became "locked in" as existing arrangements have come to be taken as 'given' and seen as more attractive and realistic than hypothetical alternatives with uncertain effects (and costs).

In any case, the association's eager acceptance of its new role as industry representative and the government's "co-pilot" marked the beginning of a partnership that has since developed into a highly institutionalized policy process where legitimacy and support are traded for access, influence and efficient implementation. In other words, the privileged position of the NFA – its ability to impact institutional design as well as the content of management policy – is a product of the historical circumstances and government initiatives that virtually created the association, and as such a legacy that has proved both powerful, effective and persistent. The legitimacy of government intervention was thus established (and has been sustained) by the ability of government to "lean on" a key stakeholder group whose consent is vital to efficient implementation of management policy. The role of key player reflects the association's history as a large and representative voice, not just of fishermen and fishing, but of the coastal population in general.

As a governance system it reflects political traditions and an approach to regulatory decision-making that cuts across sectors and industries. Regulatory institutions, be they in fisheries, agriculture or health care, are largely a product of history and context. This is why we often talk about a Nordic or Scandinavian model of governance, the essence of which is policy-making by (selective and centralized) consultation (Arter 2006). This means that institutions in, say, fisheries management will not – in their *modus operandi* – differ fundamentally from regulatory institutions in other sectors of the economy (Mikalsen and Jentoft 2008). There are, to adopt a phrase from David Vogel (1986), distinct national styles of regulation. Therefore, new institutions are largely shaped along the lines of existing ones. In Norway these are predominantly corporatist. As such, this corporatist arrangement was – and still is - part and parcel of a well-trodden path of interest intermediation in Norwegian politics. The institutional (and political) environment into which fisheries governance is nested thus allows for limited flexibility in institutional design, as we shall see below[b].

A powerful legacy?

Arguably, there is an institutional legacy, but how powerful is it? There is a recent trend in Norwegian politics towards the decline of corporatism (Nordby 2004). There are fewer

(institutionalized) points of access for interest groups in public policy-making as the "machinery of consultation" - the sheer number of committees and commissions - has been reduced while lobbyism, particularly towards parliament, has increased (Rommetvedt 2011). A similar trend is evident in the fisheries. The system of government subsidies, administered through a highly institutionalized and collaborative arrangement between the state and the NFA, has been discontinued (Jentoft and Mikalsen 1987). Management decision-making – at least in its preparatory stages – has become more transparent and less exclusive. Replacing the Regulatory Council with the so-called Regulatory Meetings has extended the opportunities for inputs beyond key stakeholders in the fishing industry[c] This reform, however, stops well short of altering the centralized and standardized character of the system; it "merely" extends the right to be heard to a wider group of people and organizations claiming stakeholder status. Change, then, is not inconceivable, but it takes more than this reform to weaken the corporatist character of the system in any fundamental way, or undermine the status and power of the NFA within it. However, since the regulatory meetings are held only twice a year, the new arrangement may have increased the scope and frequency of informal exchanges between the Ministry and the Association. One should perhaps not expect that the NFA would accept the new situation if it goes against their interests. If so, corporatism will prevail through more informal means of communication.

Judging from the current state of affairs, there is little to suggest that the NFA has substantially lost power relative to other stakeholder groups as a consequence of this reform. It still has the Minister's ear, as the government depends on its support and consent for the efficient implementation of public policy. In fact, as environmental concerns have become more prominent in the marine realm, these two parties may find their relationship even more important for keeping control of the fisheries policy agenda, currently being challenged by the no less powerful partnership between the Ministry of the Environment and the environmental movement. However, this divide is no longer clear-cut as the fishing industry has joined forces with leading environmentalists in opposing the exploration (and eventual extraction) of oil and gas in areas important to fishing, notably the waters off the Lofoten islands. These waters have hosted a rich cod fishery that has attracted fishermen from all over Norway for ages. More pertinent in this context is the fact that this fishery has been co-managed through an elect group (a committee) of fishermen authorized to establish and enforce so-called operational rules (Jentoft and Kristoffersen 1989; Holm et al. 2000). This system has been changed into one where the NFA elects the members of the committee, replacing a participatory system of genuine co-management with a corporatist one[d]. Explaining the persistence of corporatist structures the old adage "if it ain't broke, don't fix it", probably catches one of the factors at work here. However, the system has been criticized, particularly by the Association of Coastal Fishermen and stakeholders in fisheries dependent communities who argue that the close relationship between the Ministry and the NFA rules out a serious discussion of management alternatives. The irony here is that the relative success (measured in terms of stock conservation) of the current system may have stripped its opponents of the political ammunition needed to launch such a discussion. Management success may, in turn, have strengthened the power and status of the NFA and muted the criticism from the environmental movement. It should thus come as no surprise that Norway, according to government

sources, is the "world champion" of fisheries management."[e]. All this has created a powerful incentive to defend current arrangements and thus increased the costs of adopting alternative governance principles that would represent an exit from current policy paths. In short, you don't tamper with institutional legacies that work!

Dominant stakeholders – anticipating a challenge to their privileged position - will seek to stifle public debates about possible alternatives, or at least attempt to define the basic premise for such discussions. One such premise is the idea – or belief – that since fish is a *national* asset and public property, it must be *centrally managed*. This belief is strong and persistent, reiterated like a mantra whenever proposals for decentralization – however modest - are put forth. According to paragraph 2 of the 2008 Ocean Resources Act[f], *"living marine resources belong to the Norwegian society as a whole."* Since few would dispute this fundamental principle, the current system of centralized management may seem to follow almost logically from that. Since fish stocks, at least in principle, belong to the people of Norway, one *could* argue that their management is better left to institutions that are expected to govern in the public (national) interest. In other words, centralization follows from the assumption – held by dominant stakeholders such as government and user-groups - that a national asset such as fish stocks is best managed by institutions whose jurisdiction and authority transcends regional and local boundaries. In addition, the history and relative success of current arrangements strengthens the propensity of dominant stakeholders to take these for granted. The centralized and corporatist structure is seen as "natural" and appropriate; as the only game possible in town, as it were.

Moreover, the lack of a real debate on alternatives should come as no surprise given the virtual policy monopoly exercised through the policy partnership between central government and the NFA. There are vested interests involved, and one should never underestimate the political clout and powerful incentives of those that benefit from current arrangements. Indeed, this may be a case where established institutions generate powerful incentives that reinforce their stability and work against change (cf. Pierson 2000, 255).

Clearly, there are costs involved in introducing even limited reforms; administrative costs incurred by establishing new procedures and institutions, political costs in the possible loss of legitimacy among stakeholders benefitting from current arrangements. There is thus an incentive for decision-makers to shield themselves from inputs on alternative problem definitions and solutions in order to avoid the costs, uncertainties and complexities pertaining to institutional reforms. Jon Elster's metaphor for this phenomenon is Ulysses who tied himself to the mast in order to resist being tempted by the sirens (Elster 1979). Perhaps this is why proponents of change, such as those behind the 'experiments' described in section 3 below, experience that they often speak to deaf ears when they plead for management reform. Fisheries management decision-makers may - metaphorically speaking - have waxed their ears in order to escape the noise and avoid the possible costs and problems of reform.

Furthermore, the repertoire of formal legislation underpinning management policies and ministerial authority is both complex and vague, granting considerable discretionary powers to management agencies and officials. It is thus a common perception among key stakeholders – government officials, MPs and the NFA's leadership, in particular - that since the exercise of discretion requires legal expertise (as well as scientific knowledge), the authority to manage should be vested in central government agencies where such expertise is "on tap", as it were. Is it also a dominant perception that since, in a democracy,

public officials should be accountable to their political masters and ultimately to the public, administrative discretion needs to be checked, and that - in fisheries governance - this is best achieved through standard procedures of political oversight and control where parliament and ministers are key actors. This view is echoed by the NFA, in a statement to the effect that since fisheries management in particular, is a question of applying standardized rules (formal legislation and administrative regulations), it is both indefensible and inexpedient to delegate management tasks to lower levels of government[g].

Also, fisheries governance is very much about the allocation of scarce goods (e.g. licenses and quotas) among individuals claiming – often rightly so - the same rights and needs. In such a situation, scarcity implies "cruel" choices whose legitimacy may be strengthened if traditional civil service norms of impartiality, adherence to formal rules and consistent decision-making are observed, or at least perceived to be observed. If so, the propensity to centralize, and the unwillingness to delegate, may stem from perceptions – among politicians, managers and industry stakeholders – that the chances of such norms being observed are strengthened when the power to manage is located at the very top of the fisheries bureaucracy. Conversely, regional and local institutions are perceived to be lacking the political authority, professional qualifications and administrative capacity to intervene effectively in areas of conflict and dispute.

The legacy challenged?

As pointed out above, the criticism of the exclusive and overly corporatist character of the system has been consequential. The perception of who has a legitimate stake in the resources has been extended well beyond the industry, mainly through the inclusion of new groups such as processors, environmental organizations, consumer representatives and ethnic groups, all of which have a voice in the so-called Regulatory Meetings[h]. Their influence, however, is yet to be assessed. It may well be that this is a way of co-opting the critics and adjusting procedures without seriously undermining the privileged position of the NFA. A more recent and controversial challenge pertains more directly to the centralized nature of the current system, and the unwillingness of government (and key stakeholder groups) to seriously consider even a limited decentralization of management responsibilities. These challenges emanate both from a global trend towards partial devolution of management authority to local or regional institutions and from the new tasks, techniques and ambitions facing fisheries managers. What we have in mind here in particular are ecosystem-based approaches, spatial management such as marine protected areas, coastal-zone planning, the management of local stocks, indigenous fishing rights/privileges, and tenure rights also legitimized as human rights (Allison et al. 2012). Meeting them would necessarily entail a role for local stakeholders, indigenous groups included, as well as municipal and/or regional institutions. One may well ask whether the long-lasting equilibrium of management policy is being punctuated by fresh initiatives and lessons drawn from other sectors. The ideas, as we shall see, are there, alternatives and models likewise, but what about agency - the institutions, people and power needed to put new ideas and models on the agenda and eventually into practice?

Initiatives to that effect from below have so far been dismissed, sometimes ridiculed, and even moderate adjustments to the current system of centralized consultation are fiercely resisted. What are the forces at work here and the arguments used to justify

current arrangements? We have already offered some fairly general answers to this question – path dependency and administrative and legal factors among them. In an attempt to address this question more thoroughly – assessing the politics, power and privileges involved - we shall therefore present and discuss three, hopefully telling, cases where the centralized character of the system has been challenged and its defendants have been forced to argue their case.

Regionalism – a recurring issue

In Norwegian fisheries, the centralization of governance goes back more than a century. It was not before co-management was instituted for the Lofoten fishery in 1897, that the problem with micro-management by the ministry was identified as a major obstacle to efficient decision-making (Jentoft and Kristoffersen 1989). The sheer physical distance between Oslo and Lofoten as well as the size and complexity of this particular fishery, made it impossible for central government to adopt a hands-on approach to management. In the Lofoten case, decentralization and devolvement of fisheries management tasks to local institutions was therefore seen as a matter of necessity. Fearing the fragmentation of the nation's fisheries governance system, government stopped short of introducing this reform in other fisheries. With few exceptions (see Jentoft and Mikalsen 1994), the Lofoten model has remained a special case in Norwegian fisheries governance. Over time, and especially with the extension of national jurisdiction to 200 miles in the mid-1970s, central government became an increasingly powerful player in Norwegian fisheries governance (Holm 2001). Today, the notion that since fisheries resources are a national property, they should be managed by the Ministry is a normative principle underpinning an institutional arrangement that is largely taken for granted. Those who defend the principle are seldom called upon to justify their support. Instead, it is those who promote the decentralization and regionalization of the Norwegian fisheries governance system, who seem to have the burden of proof.

However, the possible shortcomings of hierarchical governance and unilateral state control, recognized - inter alia - in recent debates within the European Union, have also been voiced in Norwegian fisheries. Is state-level micro-management really appropriate in all fisheries? Should some management tasks be delegated to institutions at the municipal or county level? As already noted, counties and municipalities are largely by-standers in Norwegian fisheries governance as the current system does not allow them to play a meaningful role, except in issues pertaining to coastal zone planning[i]. The regionalization/decentralization issue has also been raised in connection with the "spatial turn" (St. Martin and Hall-Arber 2008) in marine governance, noticeable in the Norwegian discourse on the establishment of marine protected areas. Here, Norway is lagging behind other nations for reasons that will be discussed below. Last but not least, Norway's indigenous people, the Sami of the coastal regions of the north, have been pressing for a formal recognition of their marine tenure rights and for more autonomy – or "self-governance" - in fisheries management. This would, of course, lead to devolvement of management functions from central government to Sami institutions located almost as far away as you can get from the capital and its government offices. No wonder, then, given the aforementioned 'second principle', that there is considerable resistance to such a reform. Machiavelli clearly hit the nail when he stated that there is nothing more difficult than to initiate a new order of

things. There are several recent "events" in Norwegian fisheries to corroborate this statement. We shall examine three of these in order to substantiate our point.

The Lyngenfjord project

This was a project launched in 1993 by three adjacent municipalities, the aim of which was the establishment of a local fisheries management system for the Lyngen fjord in North Norway. The project, how it came about and its eventual demise have been described in detail by Holm et al. (1998), and we will draw heavily on their account. The impetus behind the project was the identification of a distinct cod stock for that particular fjord which - according to official of these municipalities – could best be managed locally, by institutions in which the municipalities should themselves be involved. This, of course, ran counter to the dominant perception of the cod as a single stock and fisheries management as a matter for the ministry and its network of national institutions. The state of Norwegian fisheries at that time - a general crisis leading to strict quota regulations (Jentoft 1993) – called for new ideas and institutions. Thus, the project was launched as a five year experiment in local marine management, based on evidence - produced by the Marine Science Institute in Tromsø - that a local stock indeed existed. Conferences were held where the idea was floated and a detailed proposal for a management system for the fjord was developed. The formal organizational structure involved a reference group of people with local knowledge and scientific advisory board. The idea was to manage the fishery on the basis of annual quotas for each commercial species in the fjord. In 1995 the project was submitted to the Ministry of Fisheries for approval.

By then the crisis in the cod fisheries was over and the impetus for management reform was gone. The government was confident that the current system had proved its worth during the crisis; it was not broken and thus in no need of repair. So, when the project proposal was submitted to the Ministry, it met with little enthusiasm, to say the least. As Holm et al. (1998:86-87) put it: *"Instead of treating the Lyngen Project in good faith, trying to establish a common understanding of the problems identified and how it could be solved, as its promoters had expected, the Ministry subjected it to a definitively hostile trial of strength."* Ministry officials were bent on taking down the plan. Not only did they go against the proposal as such, they also rejected outright the notion of local stocks. The Lyngen delegation left the meeting utterly disappointed and disillusioned.

Holm and his co-authors explain what they call the *"assassination of the Lyngen Fjord Project"* as motivated by the Ministry's commitment *"to the idea of fishing as a national resource, galvanised against local or regional property claims"* and the perception of the project as an attack on the fundamentals of the established fisheries management system. Transferring the powers to manage to a local institution was clearly out of the question, even if the power to appoint its members would be retained. The prospects of the project creating a precedent - triggering similar claims from other coastal municipalities - were highly unsettling to both the Ministry and the Director General of Fisheries (Holm et al. 1998: 87). In the end the air went out of the Lyngen balloon and the project was shelved, never to appear again, neither in Lyngen nor anywhere else. That does not mean, however, that the issue of decentralization went away, as we shall see below.

Sami marine tenure

In 1990 Norway ratified the ILO Convention 169 on the rights of indigenous peoples. That year a new system of vessel quotas was introduced that in effect closed the Norwegian fishery (Hersoug 2005). The two events would immediately intersect. This happened when the newly elected Sami Parliament raised the issue with the government that the quota system seemed to discriminate against Sami fishers. Given the timing, this was a criticism the Ministry of Fisheries could not ignore. It immediately appointed a prominent law professor (Carsten Smith) to assess the claim. His report was filed the same year, and since then the Sami fisheries rights claims have been a salient issue in Norwegian fisheries politics. Smith argued that the ratification of ILO 169, together with additional domestic and international legislation pertaining to the rights of minorities, meant that Norway was obliged to install mechanisms that would secure the rights of the Sami people, including the material basis for their culture. As the fishery was always a major source of livelihood in several Sami communities, this translated into an obligation of government to secure their rights to fish, acknowledging their tenure and self-determination.

To the dismay of the Sami, the implementation of this obligation has been cumbersome and contentious, and much more so in the marine than the terrestrial realm. In the latter realm, legislation (The Finnmark Act) was adopted by the Norwegian Parliament in 2005, granting the Sami a specific legal status regarding land use. The fishery issue, however, dragged out until new legislation was proposed in 2008 that recognized the historical rights of fishing for people living in the county of Finnmark. The basic elements including a quota sufficient to generate a decent income, a co-management system established to administer harvesting within a territory defined by the county borders and the ocean base line. As for the Lyngen Fjord Project, one would think that such a minor reform would not cause much opposition as it was in accordance with what the government has signed up for when the ILO 169 was ratified. (A more elaborate account of what happened is given by Jentoft (2013).

This time, however, the Sami were up against a much stronger force as the entire Norwegian fisheries establishment, including the Ministry of Fisheries and the MFA was strongly against almost all of what the legislative proposal suggested. The latter was opposed to any reform that would decentralize management functions to lower levels of authority, undermining the corporate model of management – and thus its privileged position, in Norwegian fisheries. The following quote sums up the gist of the argument – and neatly illustrates the point we are trying to make:

> "The Fishers' Association considers the proposal to establish a separate fisheries zone outside Finnmark, which also includes a separate management organization, as an attempt to introduce a regional management system in Finnmark… This is a fundamental departure from the principles that have been basic in recent times, which is governance by the state… Because of the serious consequences of a regional management and regulation of fisheries resources, the Fishers' Association rejects the entire proposal." (Prop. 70 L (2011-12), p. 66) (Our translation)

Interestingly, the Ministry emphasized the need to distinguish between the legal and political aspects of the case. The law commission's report, said the Ministry, did not distinguish clearly between the responsibilities emanating from international law on the

one hand, and the state's policy goals concerning the coastal and fjord fishing in North Norway, on the other. Whether this meant that when the legal principles go against current policy, the former yields, is not entirely clear. As Smith (2013) himself observed; *"Law is law even if the law points in the same direction as good national policy."* He finds the government's position on the matter puzzling. In our view, this can be explained by the Ministry's opposition to a decentralization of fisheries management, a view it has held consistently in the past and continues to hold, as we shall see below.

In June 2012, the Norwegian Parliament turned down the legislative proposal, striking instead an agreement with the Sami Parliament that does not include a co-management model but one that grants the Sami an advisory status in fisheries management and with the Ministry at the helm.

The Tvedestrand MPA

Compared to other states around the North Sea, Norway has been rather slow in creating marine protected areas. Although plans have been developed by the Fisheries Directorate for the Norwegian coast as a whole, their implementation has been cumbersome - for reasons illustrated in the Tvedestrand case, which is a pioneer project in the Norwegian context. Whereas the previous two cases refer to events and issues occurring in the high north of Norway, this one is taking place close to the southernmost tip of the country. Tvedestrand is a small coastal municipality in the county of Aust-Agder, facing the North Sea. Here, the pressure from recreational activities is much more prevalent than in the other two instances reported above. Still, there is a local commercial and recreational small-scale fishery in the area. There is thus a need for resource management, nature conservation and conflict resolution among different stakeholders competing for space and resources. Here the conflict emanates from an initiative by municipal authorities to establish a marine protected area (MPA), in collaboration with the Institute of Marine Research, which has a station in a neighboring municipally. The institute has since long been taking stock of the marine ecosystem in the area through a project called "Aktiv forvaltning" (Active management). Authorities at the regional level have supported the initiative, while the NFA and its regional branch have made strong efforts to stop it.

The proposal to protect the local marine areas originated through the Active management project and was presented to the municipal assembly in March 2011. It listed four different zoning categories, one for "multiple use", another one for fish farming, plus a "habitat zone" and a "protection zone". The latter involved a no fishing rule. In total 15 percent of the ocean area of the municipality would be included. The municipality initiated a hearing process and several stakeholder meetings were held, which resulted in some minor revisions of the plan without changing the main thrust of it. However, the plan was strongly criticized in the local media and attacked by the regional and local branch of the NFA. This did not, however, stop the municipal assembly from supporting the conservation plan and the Ministry of Fisheries and Coastal Affairs from accepting the zoning proposal in June 2012. This came as a surprise and major disappointment to the Southern Branch of the NFA. In a telefaxed letter to the Minister, they characterized this as "a major blow" to the traditional coastal fishery in the area and the process as *"a scandal from the very beginning of the project."* They also advised against the involvement of the NFA in similar processes in other parts of the country (letter of Sept 15, 2012).

What is also interesting here is that in another letter from the same branch (of June 6, 2012), the main argument against the plan – echoing the position of the association's central office and that of the Ministry - is that since fish is a national resource, the fisheries should be managed at the national level, "not regionally or locally". And:

> "We are thus pleased to learn that the Minister of Fisheries and Coastal Affairs in a joint meeting at Flødevigen on June 5 this year unequivocally upheld that resource management is, and shall be, a national task under the Fisheries and Coastal Ministry".

The point here is not the details of the zoning arrangement or the local criticism during the hearing process and in the local media. Our focus is on the arguments provided by the NFA for going against the plan, and how these echo the overall political principles of fisheries governance advanced by this organization and the government. In several letters to the Ministry of the Environment and to the Ministry of Fisheries and Coastal Affairs, the NFA strongly supported their regional and local branch in their defense of the "national resource, central management" principle. The association criticized the lack of appreciation for the viewpoints advanced by commercial fishers and their representatives, including its own protests, claiming that the projects lacked legitimacy within the industry. In a letter of April 27, 2012, the NFA asked for a meeting with the Ministry to discuss the matter. A more lengthy argument was developed in a letter to the Fisheries Directorate dated March 30, where they disputed the Directorate's perception that "the current system with national regulations" is not capable of handling local biological variation and therefore not sustainable. The Directorate's view – that regionalization of the governance system should be considered – was rejected outright. The position of the association – and the principle from which it emanates – is neatly illustrated in the following statement:

> "The governance model for Norwegian fisheries must stay firm. We shall have a central fisheries governance system in Norway. Changes in relation to the fishers' most important interest areas must be decided based on processes at the national level and not at the municipal or local level." (page 5).

Discussion and conclusion

Alluding to Aristotle's concept of "first principle", an axiom from which other principles can be logically deduced, we have examined the "meta-governance" of Norwegian fisheries, or what Kooiman (2003) refers to as "governing the governance", i.e. the basic assumptions, values and principles underpinning the design and operation of governance systems. In Norway the 'first principle" states that living marine resources (i.e. wild fish), belong to all Norwegians as a collective or national property. This principle is also included in the Ocean Resources Act, passed unanimously by the Norwegian Parliament in 2008[j]. What we have labeled the "second principle" - that fisheries management is a task for central government, is clearly more controversial, and not specified in any act of Parliament pertaining to the fishery. In fact, the Ocean Resources Act opens up for decentralization and delegation of management functions as it allows for delegation to fishermen's cooperative sales organizations (paragraph 48) and for certain fisheries within

a delimited geographical area to be managed locally (paragraph 32). Also, the Plan and Building Act (2009), which regulates coastal zone planning, allows for municipal authorities to play a role. However, their mandate is limited by the *lex specialis* principle that gives fisheries legislation right of way when there is conflict and overlapping jurisdictions. Thus, centralized management is not the only game in town - as one is led to believe following the political debate about regionalism in Norwegian fisheries as current legislation allows for a more diversified and multi-layered system involving both different levels of government and fishermen's 'cooperatives'. Whereas the first principle of Norwegian fisheries governance enjoys legal backing, the second one does not. The latter, we argue, must therefore be seen in the context of the ongoing political struggle for power and influence in Norwegian fisheries governance. Although strong on legacy and enthusiastically supported by the NFA, the second principle is being increasingly challenged, particularly from outside the industry. The three cases presented above, are all of recent origin, and not yet settled. Despite their differences, they are all based on the idea of a more regionalized governance system that vests power and control with local authorities, involving a broader set of stakeholders. In contrast to the hegemonic corporatist model, they entail an element of genuine co-management, i.e. of shared responsibility among actors below the level of the state. They thus represent a challenge to the *"established order"* of Norwegian fisheries governance. And these cases are far from trivial; modeling management on them may impact the entire governance system, as pointed out by the NFA commenting on the Tvedestrand case. This scenario of fundamental change largely explains its opposition to these new proposals as they are 'nibbling' at the core of the corporatist model, already threatened by the move towards ecosystem-based management and the "spatial turn" in fisheries governance globally (St. Martin and Hall-Arber 2008). That said, the corporatist model in Norwegian fisheries still enjoys considerable support as it has proved quite successful in attaining the twin goals of management efficiency and political legitimacy. Those who want to "initiate a new order of things" thus face an uphill struggle because the burden of proof rests on them. Therefore, there is reason to assume that the fate of Saami tenure rights, and area-based co-management schemes such as marine protected areas will only be adopted if and when they fit in with the corporatist model.

Principles – whether of fisheries management or other forms of governance - may well sound self-evident and logical, but they are not therefore exempt from closer inspection. They should be seen as part of governance itself, not something that is outside and prior to it (Kooiman and Jentoft 2009). Any principle, however, is only as good as the argument underpinning it. We are not in this paper questioning the validity of the 'first' principle in Norwegian fisheries governance but rather its corollary ('the second principle') and the arguments advanced in its support. Does the 'second' principle necessarily follow from the 'first'? While the second principle draws an axiomatic aura from the first, the deduction is rarely scrutinized. The argument is mostly a practical – or administrative - one, as when the NFA questions the management qualifications of regional and Sami authorities[k]. This argument, of course, is not without merit, but it points to a problem that - given sufficient determination - can be solved by building management capacity at lower levels of government. The question then, is whether the reference to administrative feasibility is really a self-serving argument in disguise. The mantra about fish resources being a national property and its stated implications (that they must be managed at state level) serves the purpose of maintaining status quo.

It helps to preserve privileges and existing power relations in Norwegian fisheries governance, protecting the vested interests of the NFA. A departure from the corporatist model would create institutional confusion and pose a threat to current arrangements, signaling the end to the cozy and long-lasting relationship between the Ministry and the NFA. Notably, the corporatist model has also served the Ministry well as it needs the backing of the industry to secure legitimacy for its policies and – as illustrated by frequent debates on government reorganization – perhaps also for its very existence. The structure of government departments is not written in stone, but often subject to reform, especially when a new government is installed. Throughout its history the Ministry of Fisheries has indeed been facing proposals for mergers with other departments, most recently with the Ministry of Trade and Industry. There is thus no guarantee that the Fisheries Ministry will survive in the wake of the next election. Should it not, the Ministry of the Environment may well be in line to take over its fisheries management functions. If so, policy agendas will probably change, undermining current privileges and existing power relations in Norwegian fisheries[l].

The Ministry of the Environment is already involved in the Tvedestrand case depicted above, and there is no guarantee the NFA will meet an open door here. No wonder then, that the three cases presented make the association apprehensive about its power and privileges. It is perhaps not the prospect of decentralization and delegation that is the most troublesome to the association. There is after all, a certain tradition for that in Norwegian fisheries, even if examples are few and far between. But delegation has always been limited to institutions or organizations within the fisheries sector and has not challenged the power of the NFA directly. With new – and arguably more serious - challenges raised by the environmental, indigenous and regional agendas, the situation is different. Decentralization and delegation would make the governance system more open to external influence which may well undermine the second principle and the corporatist model it serves to legitimate. No doubt, such reforms would face strong opposition from the fisheries political establishment that is currently firmly committed to the corporatist model.

Endnotes

[a]The Ministry of Fisheries changed its name to "Ministry of Fisheries and Coastal Affairs" in 2004.

[b]The fact that this is also the case in Denmark indicates that there may be a Scandinavian model at work here. Cf. Raakjær Nielsen and Christensen 2006; Mikalsen and Jentoft 2008.

[c]According to the Ministry of Fisheries and Coastal Affairs these are "…open meetings where fisheries organizations, processors, trade unions, the Sami Parliament, local authorities, environmental groups and other stakeholders participate.

[d]In this case adjustments were needed due to changes in the overall structure of fisheries management caused by the introduction of a vessel quota system at the beginning of the 1990s.

[e]In fact, this claim is not entirely without merit. In a comparison between 53 countries with regard to compliance with the "Code of Conduct for Responsible Fisheries and of ecosystem-based management, Norway ranks top – although the overall global picture is rather bleak. (Cf. Pitcher et al. 2009a, 2009b.) This evaluation correlates strongly with the World Bank's good governance index and the UN Human Development index.

[f]LOV 2008-06-06 nr. 37: *Lov om forvaltning av viltlevande marine ressursar* (Havressurslova).

[g]Cf. Letter from the NFA to the Ministry of Local Government and Regional Affairs, May 5, 2008.

[h]These meetings also reflect the fact that NFA is no longer considered the only 'user-group' or legitimate voice. In addition to the association of inshore fishermen mentioned earlier, Sami fishermen have formed their own association. Both are currently involved at the consultative stages of management policy-making, mainly through the so-called Regulatory Meetings.

[i]According to the Planning and Building Act, municipal authorities are responsible for creating a plan for the allocation of space among competing interests, for instance fishing and salmon aquaculture as the latter has been booming since the mid-1970s and unavoidably intersect with other marine activities. See Holm and Jentoft 1995.

[j]The validity of the first principle has also been contested – inter alia with reference to policies that entail a privatization of a public resource, i.e. the allocation of fishing quotas that can be marketed and traded at the discretion of the current holder (cf. Hersoug 2005). However, the Supreme Court has recently (October 2013) ruled that fishing quotas can only be granted for a limited period of time. They are thus not to be considered and treated as private property in the legal sense of the term.

[k]Similar arguments have been raised vis-à-vis the Ministry of the Environment and the Ministry of Municipal and Regional Affairs.

[l]In fact, the Ministry of Fisheries and Coastal Affairs will probably not survive in its present form. The new government that came to power after the 2013 parliamentary election has announced that the ministry will be merged into a new Ministry of Industry and Fisheries as of January 1, 2014. This ministry will be led by two cabinet ministers. Cf. announcement by the Ministry of Fisheries and Coastal Affairs on its homepage.

[m]This paper was originally presented at the MARE Conference "People and the Sea", Amsterdam June 26 – 28, 2013.

Competing interests
The authors declare that they have no competing interests.

Authors' contributions
SJ and KHM contributed equally to the present article. Both read and approved the final manuscript.

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