

## Dissertation

On May 12<sup>th</sup> 2017 Malin Brännström successfully defended her PhD thesis “*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*” for the degree of Doctor of Laws at the Department of Law, Umeå University. Opponent was Professor Annina H. Persson, Örebro University and the evaluation committee consisted of Professor emerita Kirsti Strøm Bull, University of Oslo, Norway, Professor Jan Darpö, Uppsala University and Professor Karin Åhman, previously Uppsala University. Supervisors have been Associate Professor Christina Allard, Lulea University of Technology and Associate Professor Viola Boström, Umeå University.

Malin Brännström (b. 1973) received her Degree of Master of Laws at Umeå University in 1998. She served as a legal clerk from 2000 until 2004, primarily at Svea Court of Appeal, Stockholm. Between 2004 and 2009 she worked as a lawyer of the Swedish National Reindeer Herder Association (sv. Svenska Samernas Riksförbund). In 2010 she started her PhD studies at Umeå University. Her primary research interests are legal issues relating to land use and nature resources, governance of natural resources, property rights, Sami rights, indigenous rights and constitutional rights, especially the protection of property.

### Thesis

Brännström, Malin. 2017. *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*. Doctoral thesis, Department of Law, Umeå University. Print och media, 373 pp. ISSN 1404-9198. ISBN 978-91-7601-687-9. Language Swed-



ish. Available online: <http://umu.diva-portal.org/smash/get/diva2:1089570/FULLTEXT01.pdf>

*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 pointed out that the Forestry Act and the Reindeer Herding Act, that regulates the relation, do not sufficiently reflect the property rights perspective of the land use conflict.

This study examines the legal framework that regulates the relation between forestry and reindeer herding from a property rights perspective. A starting point of the study are basic aspects of property rights, such as the right to use, decide on and benefit economically from property. Another starting point is the legal protection of property rights that is required in relation to others. A comparison is made with law, case law and principles that regulates other legal relations such as neighbors, easement, facilities and utility easement.

The study concludes that the legal relation between land ownership and reindeer herding rights only can be understood and explained by historical events such as colonization and demarcation. Hence, the rights are more independent of each other than other legal relations and the relation between them can be compared to a kind of “double ownership”. It is further concluded that the Forestry Act is based on the assumption that reindeer herding is a public interest that needs certain protection. Elements governing the property rights relation are very weak and

the legal framework differ in several respects from other legal relations. Central elements usually used to regulate property rights relations are missing, e.g. requirements of mutual consideration, damages and judicial review. Further, land owners have a far reaching right to use forests that causes damages to pasture in a way that is not in accordance with the legal nature of the reindeer herding right.

The study also examines if the legal framework is in accordance with the constitutional protection of property in Chapter 2 Section 5 of the Swedish Constitution and Article 1 of the First Protocol to the European Convention on Human Rights. The study concludes that the legal framework have several deficiencies with respect to the constitutional protection of property rights. Eventually, elements are discussed that can be implemented in law that in an appropriate way reflect the property rights relation.