

■ Explaining Policy Failure in Swedish Game Management

An Institutional Analysis

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This paper reveals that Swedish game management policy is often ignored by local landowners who instead use alternative, legitimate, but often illegal informal rules: proxy policy. In consequence, a number of game management policy goals still remain unattained since their introduction in 1981. This circumstance adds weight to the premise that implementing natural resource management policies that lack legitimacy trigger permanent and costly conflicts between stakeholders. Ironically, the corporative state, via its judicial process, can only enforce policy if conflicts of interest come to its attention. Therefore, it is argued that if natural resource management is to be effective as well as efficient a more collaborative and legitimate Swedish policy making process is imperative.

Introduction

This research article contributes to the research community's understanding of the cause and effect of policy failure in the context of natural resource management (NRM). Fashioned from the way public officials, citizens and scholars think about problems policy is defined here as a set of formal rules (legislation) implemented by organisations to fulfil specific political goals. A new policy is considered ineffective or failed if its underpinning goals are not attained. As a hint to why policy fails van der Waal (2005) reminds us that formal rules are intimately entwined with informal rules in local contexts. Informal rules-in-use emanate from and are expressed in traditions, customs, moral values and religious beliefs (Pejovich 1999). Subsequently, they are followed because they are seen as natural, rightful, expected, and legitimate (March and Olsen 2005). The point to be made here is that policy does not solely govern our behaviour and, more significantly, it does not always necessarily converge with informal rules (cf. North 1990).

To emphasise this discrepancy I will introduce a policy neutralisation hypothesis. I assume that rules-in-use have the potential to partially or completely neutralise policy

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if the new policy has not gained legitimacy with local stakeholders. In other words, implementing new, or amending old, policies to achieve, for instance, the sustainable use of a natural resource in democracies will depend on the character and legitimacy of rules already in use. This core assumption constitutes the structure that the forthcoming analysis will be built around. Ultimately, given Swedish society's present natural-resource-sustainability imperative, combined with the possibility that relevant policies may meet resistance in local contexts, it is vital to test this hypothesis in the context of natural resource management (NRM). What do we know about this phenomenon to date?

According to Imperial and Yandle (2005), if any policy governing NRM is to be effective, it must be compatible with the informal rules in use in rural villages. If this is not the case resistance to policy will be strong and the odds of changing stakeholder behaviour so as to improve outcomes will be slim (Ostrom et. al. 1994). On this note, and considering that organisations are empowered to implement policy in Sweden, Pejovich (1999) as well as March and Olsen (2005) state categorically that the informal rules in use in an organisation can neither be changed nor suppressed arbitrarily. To be sure, these conclusions, if true, will have far reaching implications for the success of NRM in Sweden inasmuch as stakeholder resistance, if it exists, might be permanent. Indeed, Nash (2006) reveals that governments are not always aware of local institutions (rules-in-use). He states that the insufficient recognition of the dichotomy between formal and informal rationales leads to considerable disenchantment among both communities and other stakeholders. Additionally, mounting evidence suggests that another root cause of policy failure is the policy making process (PMP) per se, especially if it excludes collaborations with concerned stakeholders (Armitage 2005). For example, when the formal management bureaucracy in Canada's Nunavut province failed to incorporate local traditional "know-how" uncertainty among the stakeholders engaged in community-based narwhal management was exacerbated leading to policy failure.

Based on this research it can be claimed that the success of the Swedish government's NRM policies is dependent on the constitution of its PMP and its bureaucracy's awareness of rules-in-use. Both of these factors have in common that they influence policy legitimacy. The implementation of a policy, which aims to coax the behaviour of citizens in a desired direction by gaining consent for the latest political trend or imperative is for this very reason dependent first and foremost on how implementing bureaucratic organisations are perceived by citizens. Logically then, without legitimacy any policy that aims to realise NRM goals will be partially, or completely, neutralised by rules-in-use. This kind of circumstance, although it is problematic, will most likely not threaten government in the larger scheme of things. However, it will surely have negative consequences for a government's ability to achieve important NRM goals locally, which in the long-term may even erode the bulwark upon which its power-base rests. All told, legitimacy theory is exceptionally well equipped to capture this two-fold normative structure. In fact, it is one of the most important frameworks we have for understanding the effectiveness of government organisations in democratic societies (Gibson 2008).

The upcoming analysis will generally focus on the institutional obstacles that cause policy neutralisation and the ability of legitimacy theory to describe and explain why policy is neutralised. In this endeavour I will rely heavily on institutional research (North 1991, Ostrom, et al 1994, Pejovich 1999, Imperial and Yandle 2005 and March and Olson 2005) as a means to identify the obstacles (internal and/or external) that counteract, or weaken, the bureaucracy's ability to achieve government's NRM goals. The aim of this paper is accordingly to test the policy neutralisation hypothesis in the context of Swedish NRM while at the same time dealing with some principal issues intrinsic to political science such as how policy legitimacy is gained and maintained.

The article's main contribution to recent and current research can be found in its ambition to approach policy failure in Swedish NRM from a new angle. This angle is characterised by incorporating the legal and moral aspects of legitimacy theory into institutional analysis as opposed to applying more common evaluative legitimacy criteria such as the use of rhetoric and propaganda in the media (cf. Deegan, Rankin, Tobin, 2002), or in political campaigns (cf. Gibson 2008). Accordingly, the article centres around three main themes in the social science literature: Namely, natural resources management (Armitage 2005; Wilson 2006, Bullock and Hanna 2008), legitimacy (Schaar 1981, Beetham 1991, Suchman 1995 and Gibson 2008) and institutionalism (North 1990; Ostrom et. al. 1994, Imperial 1999, Pejovich 1999, March and Olsen 2005, Imperial and Yandle 2005, van der Waal 2005 and Nash 2006).

Swedish Game Management and Policy Making Process

The policy making process (PMP) is an important variable when explaining success or failure in any kind of policy implementation context. It is, thus, prudent to begin by selecting the relevant aspects of the Swedish PMP that influence NRM.

From an analytical perspective Swedish game management presents an appropriate and sufficient case of NRM since it has, albeit in different versions, been implemented for over a century now. Moreover, with 300 000 citizens registered as hunters, game hunting is big in the Swedish policy domain and unique to the extent that it is organised. Game management is organised and implemented today by thousands of empowered Game Management Associations (GMAs) which include different stakeholders: landowners and rent-hunters. As early as the 1930s landowners were encouraged by the Swedish crown to pool their hunting rights to establish larger hunting areas: so-called GMAs. This system was put in place so that non-landowning hunters (rent-hunters) could rent permits to hunt from the GMA and not just from individual landowners as was the case earlier (SOU 1936:38). This regime was augmented once again in the early 1980s when GMAs were empowered by government to implement a new game management policy (see below). Today every county in Sweden has a large number of GMAs that de facto implement policy under the auspices of the County Administrative Board (CAB). Because of the density of its GMAs (it had in 2005 over 200 GMAs) and because of reported conflicts of interest in these organisations by the county's local media I have chosen to analyse game management in the northern Swedish county of Norrbotten. All told, game management in the county of

Norrbottnen is researchable and constitutes a case of NRM where the policy neutralisation hypothesis can be tested.

Since current Swedish game management policy originates from the late 1970s, it is important to briefly reflect upon the political context that influenced its goals. The Swedish PMP was at this time corporative in nature giving precedence to the ideological dogmas of leftist political parties as well as the concerns of relevant government agencies and special interests such as trade unions and NGOs with a large working-class membership like the Swedish Association for Hunting and Wildlife Management (Pettersson 1996). However, for all its merit and from a modern NRM perspective, the Swedish PMP has one major weakness: It does not invite concerned stakeholders, urban or rural, to participate in policy formation. The Swedish mode of NRM was changed in the mid 1990s when the government realised that it no longer could sustain forests without involving local stakeholders. It was, therefore, prompted to favour broader stakeholder *education* (Ollonqvist 2005). However, the current Swedish policy praxis still does not collaborate with or learn from stakeholders' collective experience; rather it "teaches" them how to meet policy goals. To reiterate, NRM researchers like Pejovich (1999) and Armitage (2005) argue that a more inclusive and collaborative PMP is essential if NRM is to gain and maintain its legitimacy. This interpretation implies that Swedish game management policy and possibly other NRM policies may lack legitimacy in rural communities and, therefore, it is liable to be neutralised by diverging informal rules-in-use. As mentioned earlier, this kind of problem, policy failure, is best explained by legitimacy theory.

The Preconditions of Policy Legitimacy

Like other researchers I have hitherto employed the term legitimacy loosely without really defining it. According to Suchman this is a common occurrence: "legitimacy is more often invoked than described, and it is more often described than it is defined" (1995, 573). This is understandable since legitimacy has many faces and will more often than not operate differently in different contexts (Suchman 1995, 573). I have mentioned that legitimacy can be acquired via the PMP (Beetham 1991) or via media or political campaigns (Gibson 2008). When it comes to NRM and game management legitimacy is acquired predominantly through the PMP and the contents of the formal rules that make up policy. Moreover, legitimacy has been described implicitly in terms of the bureaucracy's ability to take into account rules-in-use. It is common that a definition of legitimacy takes into account the influence of the PMP, policy content and implementation. However, it is not common that a definition of legitimacy takes into account informal rules-in-use in policy implementation contexts.

When the new Swedish game management policy came into play in 1981 the first challenge for the corporate state was to gain legitimacy for its underpinning goals via the PMP. However, as pointed out earlier local stakeholders such as landowner communities are seldom directly involved in the Swedish PMP. In other words, just because new legislation has undergone the standard operational procedures of the PMP does not mean that its legitimacy can be taken for granted.

Relevant features of key discourses on legitimate and non-legitimate state authority will now be considered (Schaar 1981, Beetham 1991 and Suchman 1995). In the beginning of the 1980s Schaar stated what many of his contemporaries already conjectured, that the institutions underpinning a government's legitimacy is no longer something which can be taken for granted (1981). I will now reflect on the preconditions intrinsic to the legitimacy concept in order to elucidate the importance this statement has for the legitimacy of game management in Sweden.

In the Webster's unabridged dictionary legitimacy is defined legally as: (1) lawfully begotten; (2) in accordant with law (lawful), or (3) conforming to recognised principles, or accepted rules or standards. In the tradition of the social scientist Max Weber, legitimacy can also be defined morally as the degree to which institutions are valued for themselves and believed to be right and proper (Schaar 1981).

Derived from the above definitions a democratic government can gain and maintain its legitimacy if two reciprocal preconditions are met. Firstly, legitimacy requires that a government's, or organisation's actions are *lawful* and, secondly, that the majority of a society's members perceive government, its actions and underpinning institutions as just and *morally* proper. Consequently, if legitimate authority is declining in the modern state, as Schaar claims, it can be explained by a government's, or organisation's corrupt exercise of power and/or lack of moral authority. So if game management policy was to fail it would be on account of the bureaucracy's, in this case the GMA's, exercise of power (decision-making) not being perceived by concerned stakeholders, for varying reasons, as legally or morally legitimate.

A lack of consent for policy can, according to Beetham (1991), be explained by *informal* rules as opposed to policy. A policy can, therefore, be neutralised by the use of informal rules that "legitimise" an organisation's authority and converge with some stakeholders' perceptions of what is "right and wrong". In fact, if it does not represent the general interest the implementing organisation is often incapable of resolving conflicts of interest (Beetham 1991). A lack of moral, unlike a lack of legal, authority is more harmful for policy since it impairs an organisation's decision making. While a legal legitimacy deficit can be counteracted if the organisation in question revises its practices or replaces figures of authority (Suchman 1995, 600).

In sum, when legitimation theory takes informal rules-in-use into account it can generate assumptions and provide explanations about the cause and effect of policy neutralisation. As we now know the legitimacy concept can be operationalised by, firstly, breaking it down into its constitutional parts and, secondly, by applying them as criteria to evaluate the institutional performance of game management policy. Are organisations exercising their power lawfully? Are organisations doing what people expect them to do? Before we can answer these questions we need an account of the nature of the institutions that influence game management policy's performance.

Game Management's Institutional Framework

Bhaskar (2001) reminds us that: "What lies behind specific policy outcomes is a complex and dynamic process, and it is necessary that we are able to appreciate and repre-

sent adequately this complexity". With this in mind, I will now describe and establish the contexts and scope of game management's institutional setting (see Figure 1).

In response to the goal of achieving a more environmentally sustainable society NRM-based research has undergone a paradigm shift (Imperial 1999). The latest theme for researchers is to consider how to make NRM more sustainable. One already mentioned means to achieve this is to increase the legitimacy of NRM via collaborative processes. It is in this context that Ostrom and her colleagues continue to expand the relevance of the institutional analysis design (IAD) framework. The framework is used to evaluate different institutional arrangements underpinning ecosystem-based management programs like fisheries (cf. Rova 2004). In essence, the framework focuses on problems where individuals, like game hunters, find themselves in repetitive situations influenced by a combination of factors derived from the physical and cultural world as well as by rules-in-use (Ostrom et. al. 1994). Precisely for this reason it is relevant in the analysis of game management in Sweden. I will now account for the sources and elements of the theory and framework most pertinent to the upcoming analysis.

The natural resource to be managed is moose and small game and will make up the context of the GMA's physical world (see Figure 1). The attributes of the game management community consist of the informal rules that are generally accepted norms of behaviour among game hunters in these villages (Ostrom et. al. 1994). Other attributes of the community are types of stakeholder linked with game hunting and the possible conflicts of interest that arise when they interact. Concerning the attributes of policy I will focus primarily on game management legislation (SFS 1980:894), stat-

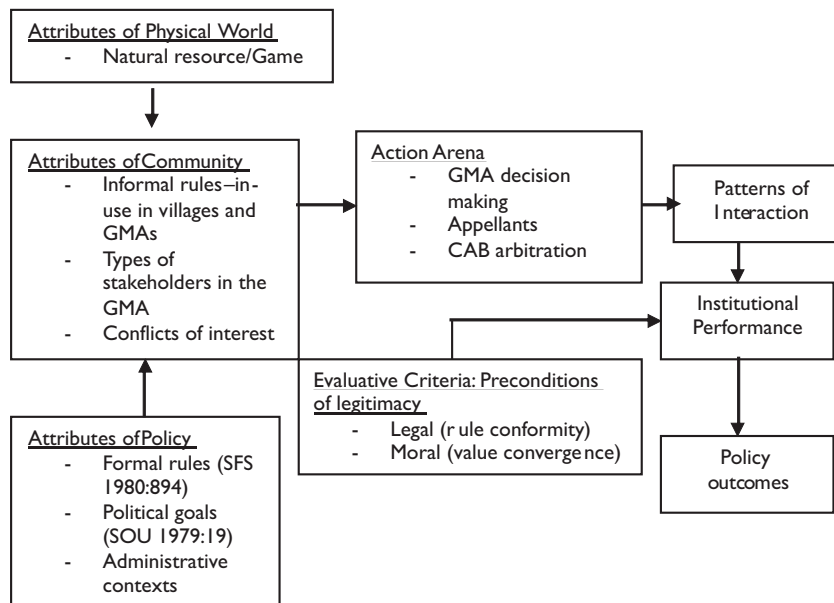


Figure 1. The LAD Framework with an Emphasis on Evaluating NRM Policy Legitimacy.

ed political objectives (Prop. 1979/80:180) and administrative contexts (SFS 1987:905). The action arena, the focus of analysis, includes local GMA decision making (exercise of power), appellants (conflict dimension) and County Administrative Board (CAB) arbitration. The inclusion of CAB arbitration in the action arena is pivotal since it allows an evaluation of institutional performance defined in terms of the legality of GMA decision making. Patterns of interaction between GMAs and its stakeholders over time will be mapped to determine, firstly, if institutional incompatibility is either temporary or permanent and, secondly, to reveal if, and in which way, institutional change (cf. North 1990) influences the attainment of game management's political goals. In sum, a number of questions can now be posed: Do GMAs make decisions in accordance with formal policy and/or rules-in-use? Is decision making influenced by the GMA's administrative context? Are GMAs doing what stakeholders (landowners and rent-hunters) expect of them? Do stakeholders have different expectations? Do conflicts of interest arise as a result of GMA decision making?

Method

As a step to inform about the case study's data and its quality the process by which it was generated will now be presented (cf. King, Keohane and Verba 1994). The data was first collected from the County Administrative Board's (CAB's) archives in Luleå the capital of Norrbotten in 2003 and again in 2004 from the CAB's offices in the inland rural town of Jokkmokk.

In order to test if policy is indeed neutralised by informal rules I will discern if GMAs exercise their power legally and/or in line with individual hunters' perceptions of what is "right and proper". By analysing game hunters' appeals of GMA board decisions it can be determined if power is exercised legally, if it is not it can be taken for granted that other rules are in use and that they are used by stakeholders to resist policy because it has not yet gained legitimacy. Interviews will be carried out to determine exactly which rules are used as a proxy for policy and by which stakeholders.

Data Collection

The Norrbotten county case study data consists of 257 written documents. Each document includes an appeal of a GMA board's decision making and a summary of the CAB's arbitration of the case.

The appeals were arbitrated by legal experts at the Norrbotten CAB between 1981 and 2001. Out of a total of 200 GMAs in Norrbotten 98 made decisions that were appealed by game hunters during the 20 year period. An analysis of these appeals together with an analysis of 19 audio-taped interviews constitutes the data analysis. The data has been divided into four SPSS datasets (the Appeal, GMA, Year and Interview datasets) for analysis.

Datasets

The *Appeal* dataset contains variables that capture 237 hunters' perceptions of their GMA board's decision making and its legality. By analysing statements from GMA chairs and hunters embedded in the appeals it was possible to resolve if GMAs conform to the rules in policy as well as how game hunters perceive their boards' exercise of power. GMAs in the county of Norrbotten usually take their names from the largest, or sometimes only, village within their boundaries. The boundaries are determined by the size and lay of its landowners' properties. Therefore, the *GMA* dataset contains some geographical data on the 98 appealed GMAs. It contains variables that display how many and which stakeholders hunt in the GMA, as well as its physical size (measured in hectares) and administrative contexts. Moreover, this data set even allows the researcher to see if different attributes such as size and number of urban hunters in the GMA impact on conflicts of interest. The *Year* dataset focuses mainly on patterns of interaction and institutional change. This dataset makes it possible for the analysis to establish if deliberate attempts by the Swedish government to change game management, in line with a new political resolve (see below), met resistance between 1981 and 2001.

Finally, the *interview* dataset is made up of data extracted from interviews with chairs from 19 of the county's village GMAs. GMA chairs, for the most part landowners, are interviewed because they can identify and augment our understanding of the attributes of the community, that is, the informal rules in use and conflicts of interest linked with their use. The interviews were carried out in their homes and consist of 38 open-ended questions derived from the results of the previous data analysis (see Appendix 1). A single interview took from anywhere between 40 minutes and two hours to complete. The perspective of the naïve questioner was sometimes taken to elicit more in-depth answers to the questions (Holme and Solvang 1991 and Yin 1994). In order to ascertain if all GMAs use the same informal rules I even interviewed chairs from GMAs whose decisions have never been appealed.

The Case of Game Management in the County of Norrbotten

Since the attributes of the physical world are already known (moose and small game) I will focus my attention on the other two attributes of interest: Attributes of policy (political goals, formal rules and administration) and attributes of the community (stakeholders, informal rules and conflicts of interest).

Attributes of Game Management policy

Swedish parliamentarians and a majority of referred-to-bodies (including special interests) had three core objectives in mind when they changed the game management policy regime in 1980/81. The first objective was to increase the number and availability of game hunting permits, satisfying the recreational needs of a swelling urbanised workforce. At the time landowners had strong property rights and could decide

who hunted on their lands, which meant that very few permits were obtainable for potential urban hunters. The objective was reached by weakening the property rights of landowners in GMAs and by transferring excess permits to its board. However, the weakening of landowners' property rights was compensated by access to bigger and more game. The political incentive for leftist parties is clear. After all, the urban workforce was an important constituent of a powerful political opposition consisting of the Social Democratic Workers' Party (*Socialdemokraterna*) and its ally the Left Party Communists (*Vänsterpartiet kommunisterna*).

The second objective was, since they could only hunt small game, to authorize small landowners, an important constituent of the liberal Centre Party (*Centern*), whom with the conservative Moderate Party (*Moderaterna*) made up the government at the time, to hunt big game (moose). In view of the fact that both the government and opposition were in agreement that earlier game management measures had failed a third game management objective was introduced: to sustain a viable game stock (SOU 1979:19).

As a result, a new inquiry consisting of representatives from both the government and opposition (and with consideration taken to the recommendations of special interests) agreed that already existing, albeit weak, GMAs be empowered to achieve these goals (SOU 1979:19). Therefore, membership in a GMA became a new prerequisite to hunt game and not just landownership. The *raison d'être* behind the new game management legislation is ideological to be sure. A minority of landowners, it was argued along communitarian lines, must give way to the general interest of urban workers and small landowners. This ideological ingredient has proven to be problematic (see below). All three goals were formalised and articulated in the GMA Act from 1980 (SFS 1980:894) and make explicit the course with which Swedish game management is supposed to follow.

Also a relevant attribute of policy is the two different kinds of administrative context that GMAs operate in: the century old hunting license area (*licensområde*) and the more recently established moose management area (*älgskötselområde*). The moose management area is generally the larger of the two and is an attempt by the Social Democratic government in the early 1990s to appease forestry companies. In essence, moose management areas enable forest companies to enlist GMAs to hunt moose that graze on their seedlings and saplings. Forestry companies experience economic losses annually due to grazing moose. As a result GMAs in moose management areas have the advantage of leasing large areas of forest from these companies qualifying them for more generous big game quotas (Fell 2006). However, hunting license areas still dominate game hunting in Norrbotten in 2005 and constituted 85% of the County's total hunting area (CAB annual statistics 2005). The question to be deliberated now is whether or not GMA decision making is in line with this policy or rules-in-use (informal rules) and if the extent of convergence or divergence between the two sets of rules has an impact on the government's three game management goals. Firstly, however, we must identify which informal rules are in use in GMAs.

Attributes of the Community

To reiterate, the GMA has two main stakeholders: Landowners and rent-hunters. The main difference being that landowners make up more than half of the board's membership and have the privilege of voting on all game hunting-related issues (see below). Conversely, rent-hunters can only vote on non-land-use issues (SFS 1980:894, 23 and 25 §§). If feasible the analysis will, therefore, deliberate if policy, by incorporating these stakeholders on uneven terms inadvertently brought about conflicts instead of cooperation (cf. Bullock and Hanna 2008).

A number of relevant contextual attributes will now be added to the analysis to see if and how they impact on game management. They are in order of application: percent of urban hunters in the GMA, the GMA's threshold property requirement (TPR), its physical size (measured in hectares), administrative context and informal rules in use. The TPR determines how much property a landowner must own in order to gain a hunting permit. The most common TPR in Norrbotten is 50 hectares. These variables will be applied to explain conflicts of interests concerning the most frequently mentioned hunting issues in the analysed appeals and to identify those GMAs that use informal rules.

Noteworthy is that the higher the percentage of urban rent-hunters in the GMA the more likely conflicts of interest will increase concerning in particular association, hunting permit, removal of property and small game conflicts (Fell 2006). When the GMA board sets restrictions on whom landowners can issue hunting permits to, some landowners attempt to remove their properties from the GMA. This has to do with the property owner's right to determine who hunts on his, or her, land and explains why the TPR is strongly correlated with the removal of property issue. This issue reveals, moreover, that some landowners who initially were positive to becoming GMA members have long since changed their minds. In other words, legitimacy was gained, but not maintained. It is also striking that small-sized GMAs have a tendency to suspend more game hunters than big-sized GMAs. Finally, although they are larger than their counterparts in hunting licence areas, moose management GMAs are known also to suspend more small game hunters than moose hunters (Fell 2006).

These conflicts of interest connect to other dimensions such as law (Bavinck 2005) and identify contentious hunting issues which, as Bennett (2001) puts it, focus attention on something that needs to change for the benefit of all concerned. In sum, those hunting issues that cause most conflicts of interest in the GMA are the:

1. suspension of hunters
2. issuing of hunting permits
3. discrimination of urban hunters
4. removal of property
5. association issues (Fell 2006)

It is now important to determine to what extent rules-in-use govern the five contentious hunting issues.

GMA chairs in Norrbotten revealed that decisions concerning the suspension of hunters were taken with the aim of sanctioning what they often term "unruly" game hunters (Fell 2006). Although policy has strict rules governing the suspension of

hunters, they are not always followed. In fact, small-sized GMAs frequently breach paragraph 32 in the Game Management Act (see Table 1), unlawfully suspending urban hunters. Nevertheless, the arbitrary use of this informal rule is maintained because local landowners in particular use it as a means to the end of minimising rent-hunters' influence, particularly in small GMAs with a large number of urban rent-hunters.

GMA boards use two different kinds of rules, one formal and one informal, when issuing hunting permits to rent-hunters. An open-for-all rule is in use in GMAs concerning small game hunting and is compatible with policy. Conversely, a for-locals-only rule is in use concerning moose hunting and deviates from the formal rules in policy (cf. SFS 1987:905). However, the latter rule corresponds with paragraphs 4 and 7 in the old Hunting Act from 1938 which, although it is believed obsolete, is still in use (Fell 2006). It is obviously urban rent-hunters that are not happy with the moose hunting for-locals-only rule (see above).

With regards to the small game hunting issue the GMA's concern for the safety of both landowners and small game hunters is often misguided. This is especially the case when GMA boards deliberately assign small game hunters to areas of the GMA that are of no interest to moose hunters. This is done, GMA chairs claim, to keep both sets of hunters apart for safety reasons. This emphasis on safety breaches the formal rules in policy and explains why this issue was and still is characterised by conflicts between the two stakeholders. The use of the informal safety rule also explains why small game-hunters are often discriminated against by GMA boards in moose management areas. Another reason for discrimination is that forestry companies want GMAs to focus mainly on moose and not small game. This overzealous concern for safety has legitimacy in many GMAs since it too emanates from the 1938 game management policy which gives priority to moose hunters (Fell 2006).

A property rights controversy arose in the 1930s regarding the annexation of land against the will of the concerned landowners.² For this reason I asked GMA chairs if they had conscripted landowners into their GMAs against their will. Half of the chairs reveal that this is a common occurrence. They also indicate that since then a number of these landowners have, without success, tried to remove their properties from the GMA. This implies that this issue represents the tip of a very large iceberg indeed. However, the issue's controversy has been alleviated somewhat since many landowners reach an informal "gentleman's agreement" with their GMAs: That is, if they remain as members of the GMA, hunters will, when possible, avoid hunting on their property (Fell 2006).

Finally, most chairs claim that small landowners are satisfied with the quotas allocated to them by the GMA board. Moreover, and with regard to game management in general, only half of the GMA chairs are of the opinion that game management efforts have improved since 1981 (Fell 2006). This can be compared with a government

2 To avoid a potential "tragedy of the commons" (cf. Hardin 1968), and testament to the aspirations of small landowners, a hunting inquiry in 1936 (SOU 1936:38) found it necessary to amend legislation. It was recommended that the GMA, given the consent of a two-thirds majority of its landowners, should be able to annex landowners' properties against their expressed will. Implemented in 1938 (SFS 1938, nr. 274) both the TPR and conscription is still a reality today.

inquiry's (SOU 1997:91) findings from 1997 where 60% of the respondents in northern Sweden (both inside and outside of GMAs) claimed that game management efforts had improved. This gives the impression that current game management efforts are not as effective as they could be.

It can now be concluded that informal rules are particularly in use in large GMAs and act as a proxy for formal game management policy. With the exception of arbitrary (suspensions) and discriminatory (small game) rules, informal rules are often made up of what I call "ghost rules", that is, old legislation long believed to be obsolete, but still in use (Fell 2008). This proxy policy has legitimacy among landowners and GMA boards, but not urban rent-hunters who question it on moral grounds. Finally, although half of the Norrbotten county GMAs were not appealed it can now be concluded that the same informal rules are most likely in use within their boundaries and have legitimacy among local landowners. One plausible explanation for this is that non-appealed GMAs have few, if any, urban rent-hunters. In consequence, policy may not yet have gained legitimacy in these GMAs.

Game management's contextual attributes have had an impact on GMA decision making. Typically, GMAs with a high percentage of urban game hunters are frequently affected by conflict negating the political desire to increase the number of (moose) hunting opportunities in Norrbotten. Furthermore, the small game hunting and removal of property issues seem to permanently affect the same stakeholder: rent-hunters in moose management areas in the former and predominantly landowners in the latter. The legal and moral authority of GMAs in the county of Norrbotten is controversial. However, this kind of controversy is not new in NRM contexts.³ What is new is that contextual attributes also play a role in policy failure. We now know that GMAs make decisions based on rules-in-use and not policy. To what extent are they doing this?

GMA Decision Making and CAB Arbitration (1981-2001)

The degree of legality of GMA decisions is defined by the Norrbotten CAB's arbitration. Three categories of legality are applied in the analysis: low, average and high. A *low* degree of decision legality occurs when less than 35% of the arbitrated decisions linked with one of the five hunting issues are legal. When between 35 and 60% of GMA decisions are legal we have an *average* degree of legality. Finally, when over 60% of the appealed and arbitrated decisions are deemed legal by the CAB a *high* degree of legality is evident. Since legitimacy deficits explain the degree of GMA decision legality it is vital to correlate them with the varying degrees of legality linked with each hunting issue. An interesting finding is that a low degree of legality is linked with a moral legitimacy deficit and that an average and high degree of legality with a legal deficit. However, a high degree of legality does not necessarily mean that decisions underpinning a hunting issue are legitimate since they can also be questioned on ideological grounds.

3 Bennett et al explain that a failure in tropical fisheries management was caused by stakeholders perceiving it as a situation of inequality and injustice (2001).

Table 1: *The Legality of GMA Decision Making between 1981 and 2001 (N=209).*

Hunting issues	Degree of Legality and Type of Deficit		
	Low (<35%)	Average (35-60%)	High (>60%)
Small game	moral		
Suspension	moral		
Hunting permit		legal	
Removal of property			ideological
Association			legal

Policy is frequently breached by GMAs relating to three of the five controversial hunting issues identified in the previous section. That is, small game hunting, suspensions and the issuing of hunting permits. Because they are governed by rules-in-use these issues have as predicted a low to average degree of legality (see Table 1).

Not surprisingly GMA decision making has a low degree of legality concerning small game and suspension-related issues. These decisions are perceived by appellants as amoral. Small game hunters, for instance, are often discriminated or wrongly punished by their boards. While the concerned boards are in turn doing their best to safeguard the annual moose hunt from outside interference. Urban hunters are in particular judged arbitrarily by their boards. On the other hand, and despite the fact that they are right, urban hunters are seen by boards as a nuisance. The policy rules governing the issuing of hunting permits are not always clear to landowners. This is one reason why the issue has an average degree of legality. Another reason is the ubiquitous use of obsolete formal rules that favour local landowners. Once again there is usually no problem issuing hunting permits to outsiders when it comes to small game, but moose hunting permits are often reserved for locals only. Consequently, legitimacy deficits (moral and legal) explain the existence of the already revealed informal proxy policy that governs small game hunting, the suspension of hunters and the issuing of hunting permits.

The removal of property issue is characterised by a high degree of legality, but just the same it is, as mentioned earlier, still ideologically controversial. In this case it is the content of a single rule (1980:894, 29§) that makes up this aspect of game management policy that is contentious, not the GMA board's decision making. Finally, the association issue, also characterised by a high degree of legality, still has a legal deficit which is explained by the fact that hunters are not legal experts and therefore are apt to make erroneous decisions from time to time. The data exposes the fact that roughly half of the appellants that either perceived GMA decisions as illegal or its authority as immoral have the law on their side.

It can be concluded, therefore, that the use of informal rules lead to rule breaking concerning the formal rules that make up official Swedish game management policy. Indeed, GMAs only conform to policy rules in just over half of the cases. In other words, the use of informal rules (see above) is widespread among Norrbotten's GMAs. Urban rent-hunters are right to question GMA decision making concerning suspensions and how small game hunting is organised. Has this always been the case?

Patterns of Interaction in Game Management (1981-2001)

Since policy change threatens well entrenched tenure systems (cf. Bullock and Hanna 2008), it is not surprising that the empowerment and attempted proliferation of the GMA is controversial for some stakeholders. For this reason, it is important to resolve how GMA decision making has been affected by CAB arbitration over time. That is, if it has become more or less compatible with game management goals since its implementation. This is determined by identifying patterns of interaction defined as changes in the use of legal (formal) and illegal (informal) rules over time (see Figure 2).

It is worth noting that although its use has increased incrementally, policy still does not entirely govern game management two decades after its implementation (Figure 2). Consequently, the political goals of increasing the availability of hunting permits for urban game hunters is evidently still not attained. It would seem that March and Olsen (2005) is right about the resilience of informal rules-in-use in organisations. Concurrently, the intensity of the moral and ideological conflicts linked with small game hunting (particularly in moose management area GMAs) and the rights of land-

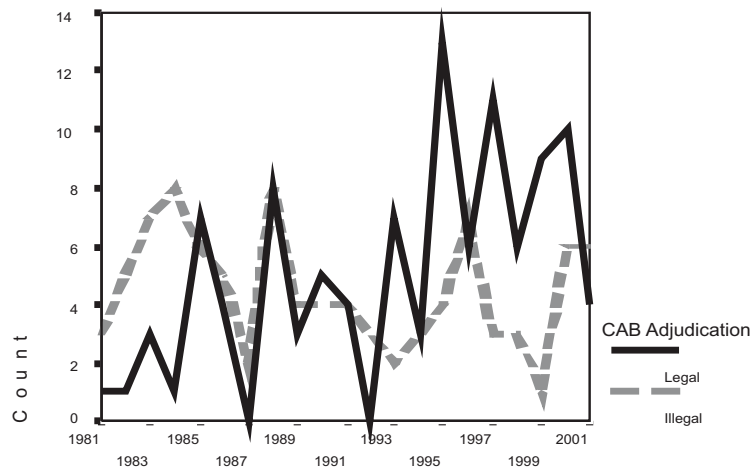


Figure 2. Formal and Informal Decision Making in GMAs over Time, N=257 (Fell 2006).

owners to remove their properties from the corporative GMA has still not abated (Figure 2).

Two years of significance in game management policy's history are 1992 and 1994. The year of 1992 signalled the introduction of the moose management area to the county of Norrbotten. This led to an increase in conflicts between the GMA and urban hunters linked with the small game, suspension and hunting right issues (Fell 2006). The ideologically controversial removal of property issue increased dramatically since Sweden joined the European Union (EU) in 1994. This is not surprising since some landowners are aware that the European Court on Human Rights (ECHR) does not condone conscription of any kind in game hunting associations (cf. 25088/94;28331/95;238442/95 [1999] ECHR 22). It is striking that despite the issue's ideological controversy and intransience no local landowner has ever succeeded in removing his or her property from a GMA in the county of Norrbotten (Fell 2008). The period between 1994 and 1999 is the period of the game management regime mostly characterised by formal GMA decision making. However, this tendency is mainly due to the fact that GMA boards make legal decisions concerning the removal of property issue, which was predominant then. The use of informal rules has decreased as a consequence of CAB arbitration, however their use seems to have increased again since 1999 (Figure 2).

Conclusions: Institutional Performance and Policy Outcomes

To conclude, Swedish game management policy has partially failed since it has been neutralised by rules-in-use leading to the illegal suspension of urban hunters, limitations in the movements of small game hunters and the exclusion of some urban hunters from the annual moose hunt. This is due to the fact that not all GMA landowners consent to policy since the presence of urban rent-hunters and small game hunters agitates them. Rules-in-use can, therefore, be interpreted as a means to the end of limiting urban hunters' influence in GMAs. This situation has negative consequences for game management policy's primary goal: increasing the number of urban hunters in GMAs. Therefore, because it is mostly urban hunters that contest the use of informal rules in the GMA, gaining legitimacy for game management among local landowners is unlikely without the continued intervention of the CAB.

In a perfect society legitimacy for policy would be gained via the mechanisms of the PMP. When policy lacks legitimacy, however, it is the CAB that enforces it. From this perspective the conflicts of interest inadvertently built into Swedish GMAs are actually positive and essential when they lead to a decision being appealed. This gains legitimacy, or at least a grudging acceptance, for policy via CAB enforcement. It is, however, uncertain if CAB intervention cancels out the permanent use of informal rules.

In sum, policy failure is caused by the PMP's lack of collaborations with local stakeholders prior to policy implementation. Therefore, Swedish policy makers and researchers alike must become more attuned to the use of legitimate, and sometimes il-

legal, informal rules-in-use in local NRM contexts. In particular, the continued use of old legislation by local communities is often overlooked.

To avoid present-day and future legitimacy deficits (legal, moral and/or ideological) the Swedish PMP ought to be modified to be more collaborative. Government should apply the current institution of CAB arbitration as a feedback mechanism to identify incompatibilities between NRM policy and informal rules-in-use. Government could then include concerned stakeholders in periodic collaborations with the CAB, or other suitable organisation(s), to assess local stakeholders' sentiments concerning new policy thereby avoiding unnecessary conflicts of interest. In sum, these measures would allow game management policy to be implemented at a faster pace and at a lower cost than is currently the case today.

Bibliography

- Amendment of the Forest Management Law from 1979: Skogslagen (SFS 1979:429).
- Armitage, D. R., 2005. "Community-Based Narwhal Management in Nunavut, Canada: Change, Certainty and Adaption", *Society and Natural Resources* 18: 715-731.
- Bavinck, M., 2005. "Understanding Fisheries Conflicts in the South—A Legal Pluralist Perspective", *Society and Natural Resources* 18: 805-820.
- Beetham, D., 1991. *The Legitimation of Power. Issues in Political Theory*. London: Macmillan Press Ltd.
- Bennett, E. et. al., 2001. "Towards a better understanding of conflict management in tropical fisheries: evidence from Ghana, Bangladesh and the Caribbean, *Marine Policy* 25: 365-376.
- Broderick, K., 2005. "Communities in Catchments: Implications for Natural Resource Management", *Geographical Research* 43(3): 286-296.
- Bullock, R. and Hanna, K., 2008. "Community Forestry: Mitigating or Creating Conflict in British Columbia?", *Society and Natural Resources* 21: 77-85.
- Deegan, G. Rankin, M. Tobin J., 2002. "An examination of the corporate social and environmental disclosures of BHP from 1983-1997: A test of legitimacy theory", *Accounting, Auditing & Accountability Journal*, Vol. 15, Iss. 3: 312-343.
- Fell, T., 2006. *Legitimacy and Conflict - Explaining tension in local Swedish hunting policy*. Luleå: Universitetstryckeriet (2006:18).
- Fell, T., 2008. "Research Note: Conflict and Legitimacy: explaining tensions in Swedish hunting policy at the local level", *Environmental Politics*, Vol. 17, No. 1, February, 103-112.
- Game Hunting Inquiry from 1936. Betänkande med förslag rörande jaktlagstiftningsfrågar (SOU 1936:38).
- Game Management Act from 1938. Lagen om rätt till jakt (SFS 1938:274).
- Game Management Inquiry from 1979. Om jaktvårdsområden (SOU 1979:19).
- Game Management Proposition from 1979. Förslag till lag om Jaktvårdsområden, mm (Prop. 1979/80:180).
- Game Management Act from 1980. Lagen om jaktvårdsområden (SFS 1980:894).
- Game Management Directive from 1987. Jaktförordningen (SFS 1987:905).
- Game Management Act from 2000. Lagen om viltvårdsområden (SFS 2000:592).
- Gibson, J. L., 2008. "Challenges to the Impartiality of State Supreme Courts: Legitimacy Theory and "New-Style" Judicial Campaigns", *American Political Science Review*, Vol. 102, No. 1, 59-75.

- Holme, I. and Solvang, B., 1986. *Forskningsmetodik. Om kvalitativa och kvantitativa metoder*. Lund: Studentlitteratur.
- Imperial, M. T., 1999. "Institutional Analysis and Ecosystem-Based Management: The Institutional Analysis and Development Framework", *Environmental Management*, Vol. 24, No. 4, 449-462.
- Imperial, M. T. and Yandle, T., 2005. "Taking Institutions Seriously: Using the IAD Framework to Analyze Fisheries Policy", *Society and Natural Resources* 18: 493-509.
- King, G. Keohane, R. O. and Verba, S., 1994. *Designing Social Inquiry. Scientific Inference in Qualitative Research*. New Jersey: Princeton University Press.
- March, J. G. and Olsen, J. P., 2005. *Elaborating the "New Institutionalism"*. Working Paper No. 11.
- Nash, D., 2006. "Contradictions of Collaborative Politics", *Social Alternatives*, Vol. 25, No. 2 (2): 43-47.
- Niemelä, J. et. al., 2005. "Identifying, managing and monitoring conflicts between forest biodiversity conservation and other human interests in Europe", *Forest Policy and Economics* 7: 877-890.
- North, D., 1990. *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press.
- Ollonqvist, P., 2005. "National Forest Program for Sustainable Forestry Management Working", *Papers of the Finnish Forestry Institute* 38: 14-27.
- Ostrom, E., Gardner, R. and Walker, J., 1994. *Rules, Games, and Common-Pool Resources*. Ann Arbor: University of Michigan Press.
- Pejovich, S., 1999. "The Effects of the Interaction of Formal and Informal Institutions on Social Stability and Economic Development", *Journal of Markets and Morality*, Vol. 2, No. 2.
- Pettersson, O., 1994. *Swedish Government and Politics*. Stockholm: Publica.
- Putnam, R., 1996. *Den fungerande demokratin*. Stockholm: SNS Förlag.
- Rothstein, B., 1998. *Just Institutions Matter: The Moral and Political Logic of the Welfare State*. London: Cambridge University Press.
- Rova, C., 2004. *Flipping the Pyramid: Lessons from Converting Top-Down Management of Bleak-roe Fishing*. Luleå: Universitetsstryckeri.
- Schaar, J. H., 1981. *Legitimacy in the Modern State III*. New Brunswick: Transaction Books.
- Suchman, M. C., 1995. "Managing Legitimacy: Strategic and Institutional Approaches", *The Academy of Management Review*, Vol. 20, No. 3: 571-610.
- USDA Forest Service Strategic Plan*. FY 2007–2012. United States Department of Agriculture, Forest Service: FS-880, July 2007.
- van der Waal, C. S., 2005. *Formal and informal dispute resolution in the Limpopo Province, South Africa*. The African Studies Centre: <http://afrika-studiecentrum.nl>
- Wilson, K. R., 2006. "Collaboration in Context: Rural Change and Community Forestry in the Four Corners", *Society and Natural Resources*, 19: 53-70.
- Yin, R. K., 1994. *Case Study Research. Design and Methods*. Thousand Oaks: SAGE Publications, Inc.

Appendix 1

Intervjufrågor

1. Hur blev Du intresserad av jakt?
2. Hur länge har Du jagat i ditt nuvarande VVO?

3. Har Du alltid jagat i VVOet?
4. Vad jagar Du för vilt?
5. Hur ofta jagar Du?
6. Bor Du nära eller långt ifrån ditt VVO?
7. Hur länge har Du varit medlem respektive ordförande i VVOet?
8. När bildades VVOet?
9. Kan Du erinra dig om de argument som användas för att bilda VVOet?
10. Uppskattningsvis hur många medlemmar finns för närvarande i VVOet?
11. Har i din mening andelen jägare i VVOet ökat eller minskat sedan dess bildande?
12. Har arbetet med viltåtgärder utvecklats under din tid som jägare/ordförande i VVOet?
13. Till vilken grad består VVOet av stora såväl små markägare (vilka utgör majoriteten)?
14. Anser sig några av markägarna vara missgynnade i fördelningen av den tilldelade älgkvoten i VVOet?
15. Vad Du minns har några av fastigheterna tvångsanslutits vid VVOets bildande?
16. Har någon av markägarna någon gång sedan VVOets bildande önskat att utsluta sin mark från jakten?
17. Har någon av markägarna någon gång önskat fridlysa sin mark från jakten?
18. Hur går Ni tillväga i VVOet för att fördela den av Länsstyrelsen tilldelade älgkvoten bland markägarna?
19. Händer det att medlemmar ansöker om upp- och överlåtelse av jakträtten till annan än medlem?
20. Bereds det möjlighet för andra att jaga i VVOet än just markägarna?
21. Hur är relationen mellan arrendatorerna och markägarna?
22. Hur stor andel av medlemmarna jagar småvilt i VVOet?
23. Är det samma grupp jägare som jagar småvilt och älg i VVOet?
24. Hur samsas småviltjägarna och älgjägarna under älgjakten?
25. Rent principiellt, anser Du att det är rätt eller fel att stänga av en jägare från jakten?
26. Varför har jägare stängts av från jakten i VVOet?
27. Hur är sämjan i VVOet?
28. Vad är medlemmarna mest nöjda respektive missnöjda med angående jakten?
29. Uppstår det konflikter inom VVOet?
30. Vad beror dessa konflikter på enligt din erfarenhet?
31. Hur löses konflikter?
32. Finns det några Ni kan vända Er till för att få råd när konflikter uppstår?
33. Har VVOet hamnat i konflikt med andra intressen i trakten?
34. Händer det att medlemmar ibland bryter mot VVOets stadgar?
35. Skulle Du vilja se ändringar i någonting angående VVOets uppgifter?
36. Finns det något Du skulle vilja tillägga?
37. Vad har Du för sysselsättning?
38. När är Du född?