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# Species Conservation and Minority Rights: The Case of Springtime Bird Hunting in Åland

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## ABSTRACT

The article examines the case of springtime bird hunting in Åland from a moral point of view. In Åland springtime hunting has been a cultural practice for centuries but is now under investigation due to the EU Directive on the protection of birds. The main question of the article is whether restrictions on bird hunting have a sound basis. We approach this question by analysing three principles: The animal rights principle states that if hunting is not necessary for survival, it cannot be morally justified. Therefore hunting merely to engage in a cultural custom is morally suspect. In the light of the species conservation principle the hunting is questionable due to the fact that it seems to have a diminishing effect on the species populations. The formal principle of justice makes up a more difficult question since the special position of the minorities in regard to the use of natural resources is generally recognised so that they have the right to maintain their cultural practices. We claim, however, that even though cultural practices have substantial value and can be the object of special rights, they should be coherent with other principles. The springtime bird hunt in Åland does not accord with the relevant moral principles and for this reason we conclude that the basis for its continuation is weak.

## KEY WORDS

Hunting, minority rights, animal ethics, species, conservation, Åland

In this paper we study how the special position given to local communities and indigenous peoples in relation to the use of natural resources in many international agreements can be understood. Since the conflict between minority rights and international environmental laws is often enough inevitable, it is necessary

to analyse in which cases the minority has some special rights to nature that the majority lacks. The case we mean to explore is the conflict between Åland, or to be precise Finland, and the European Union (the EU) regarding springtime bird hunting that takes place in the Åland archipelago. Our approach to examining the conflict is ethical (this means that the juridical dimensions of the conflict are not studied). In Section I we shall introduce the background to the dispute. Section II focuses on the ethical principles by which the tradition of springtime hunting is deemed as problematic. In Section III we concentrate on how the minorities could attempt to justify their special rights. We shall defend the claim that minority status in our case study does not justify practices that are at odds with the welfare of animals and especially the conservation of biodiversity. It is our view that there are no sufficient reasons to continue springtime bird hunting in Åland.

#### I. LOCAL COMMUNITIES AND THE ENVIRONMENT

It is impossible to say where and when the intentional activity called environmental protection first occurred (Grove 1995); different restrictions and prohibitions on the use of natural resources have been implemented through history. The traditional idea of environmental protection is said to originate from nineteenth-century USA. Today the idea has spread virtually everywhere. The core idea is that special value is given to pristine, relatively unmodified areas of nature and they are to be protected from human use. The protection of animals and species has also called for economic restraints or even total prohibition on their use.

Putting into practice this kind of a preservationist policy is in many cases problematic. It has been criticised, for instance, for the enforced transfer of local communities and for significant prohibitions concerning sources of livelihood as well as for the overriding of local decision making (see Guha 1997; Colchester 1997). It is seen not as motivating people to actually preserve, but as leading to overuse and encouraging poaching (Schmidtz 1997). In some cases environmental protection policies have been labelled as colonialist because they are imposed from outside (Ghimire and Pimbert 1997; Guha 1997). Many countries have issued special rights to local communities in relation to natural resources in order to provide favourable conditions for the existence of their culture. Moreover, it has been noticed that these communities have a long history of co-existence with the local natural environment and in many places they have succeeded in instituting the use of natural resources so that it does not erode the resource base (see Berkes 1999; Baland and Platteau 1996). Perhaps the most significant reason for minorities to claim a right to maintain their cultural traditions has been recognised in the ILO Convention concerning indigenous and tribal peoples. The

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same emphasis can also be found in other recent UN proclamations on sustainability and development, most notably in the Brundlandt Commission's report *Our Common Future* (1987: 115–16). In the Convention on Biological Diversity (Article 8) it is also acknowledged that the protection of know-how and traditional lifestyles of indigenous peoples and local communities deserve special concern.

The relation between minority rights and environmental laws is not fully clear, but they are often in conflict. In order to abate this conflict or even to eliminate it altogether, it is sometimes claimed that cultural autonomy is to be understood as subject to the general laws that concern everyone within a nation-state (Eide 1996: 8, 12–13). This way of resolving the conflict raises the question of what is left of cultural autonomy, if it is invariably subject to general laws and national decision making. For this reason, it is best to investigate the rights of minorities to natural resources in the light of concrete cases and in this way clarify the limits of special rights.

Special permits have been given to some peoples so that they are able to maintain their local traditions. The most famous case, perhaps, is the International Whaling Commission's approval of Eskimos' claim for the right to whale for subsistence (that is to be differentiated from commercial whaling which has been subject to international moratorium).<sup>1</sup> Some North-American peoples have wanted to maintain traditions that involve the hunting of endangered species. For example, it has been an issue of a debate whether or not to allow some nations to catch bald eagles so that they can obtain feathers for religious ceremonies (see Schwarz 1987; Rolston 2000).<sup>2</sup> Often a further incentive to grant these special rights lies in the fact that indigenous peoples have been treated unjustly for centuries, and this recognition is an attempt to rectify past injustices.

These kinds of cases can also be found in Europe. In Finland there is a heated debate concerning the Ålanders' right to hunt birds during springtime.<sup>3</sup> Åland is situated in the Baltic Sea, at the entrance of the Gulf of Bothnia, 40 km east of the Swedish coast. In 1921 the Finnish parliament granted Åland autonomy in internal affairs so as to sustain its peculiar cultural traditions and to protect Swedish as the main language of the islands. Today Ålanders constitute a recognised minority in Finland. They have never been suppressed, unlike the Sami people in Lapland. In economic terms, Åland has been affluent, thanks particularly to shipping.<sup>4</sup>

Åland wants to continue the hunting of migrating birds when they return to the north to nest. According to archaeological findings, springtime bird hunting has been practised in Northern Europe from time immemorial. The earliest written documents of bird hunting date back to the 18th century, and Linnaeus, for one, recommended that some restrictions be placed on it (Storå 1968). The Swedish government, under whose control Åland was at that time, tried to place restrictions on the hunting partly to protect the hunting privileges of the nobility,

but the peculiar conditions of archipelago nullified their implementation (Vuorisalo 1999; Vuorisalo et al. 1999). From time to time the tradition has been criticised by both the hunters and the bird conservationists. For instance, the Finnish hunting magazine *Metsästys ja kalastus* [Hunting and Fishing] expresses its concern in an issue dating back to April, 1946 that irresponsible hunting threatens the bird population (the context of this remark can be found in the rationing of consumables in the aftermath of the war). Despite the century long debate, springtime bird hunting has remained an inseparable part of Åland's culture.

Times change and new agents enter the arena with the motive of abolishing springtime hunting. The latest agent is the EU. Springtime bird hunting seems to violate the EU Directive on the protection of wild birds: Article 7 states that the hunting of birds is prohibited during the mating season. Finnish environmental and bird protection organisations have appealed to this Directive in their requirement that the bird hunting should be stopped (see Laurila 1996). The conflict between Finland and the EU is still without a permanent solution, even though new national restrictions have been introduced as a response to the objections made by the European Commission and these restrictions were thought by the Ministry of Agriculture and Forestry to eliminate the problem. Åland's claims have heavily influenced Finland's opinion on the matter. Ålanders consider the springtime hunt an essential part of their culture, and demand it be made the special right of the Ålanders. Can the Ålanders' claim be justified?

## II. ARGUMENTS AGAINST HUNTING

To find an answer to the question above, we have to study whether hunting in general is acceptable and if it is, how it should be organised. In this chapter we shall put forward an argument that there are at least the following three requirements which the granting of special right to hunt should meet: (1) hunting has to serve our primary interests and if so, it has to be done with humane methods; (2) hunting must not be ecologically unsound, i.e., it must not result in the extinction of the species; and (3) the special right to hunt must be acknowledged by all the *relevant* social actors. These three principles are to be taken into account in moral deliberation concerning hunting that has been perceived to cause danger to animal populations. It is a possibility that in some cases the requirements are met, but such cases are rather rare. It is our view that Ålanders' claim to carry on springtime bird hunting is not one of those rare exceptions, and thus the case for their special rights is very weak indeed. Let us focus one by one on these principles.

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II.1. *The principle of respect for animals*

The strongest objections to springtime bird hunting – and to hunting in general – are made by those who think that killing animals violates the principle of respect for animals. The objection rests on various theoretical views that all emphasise the significance of sentience as the basis of moral value. The interests of sentient beings are of moral relevance and humans have an obligation to take them into account. Since it is in any animal's interest to avoid being killed, people shouldn't actively go against this interest. (See Regan 1988; Singer 1989.)

Regan and most of other proponents of animal rights do not, however, propose an absolute prohibition to killing but rather regard the duty not to kill as a *prima facie* duty. This means that killing animals is morally wrong if we cannot provide *adequate reasons* to justify it. Therefore, to explicate whether a specific instance of hunting is morally right or wrong we have to define a criterion of acceptability. One popular way of doing this is based on viewing the conflict in terms of primary and secondary interests (see VanDeVeer 1979). The basic motive of hunting – which goes back to prehistoric times – is the hunter's interest to survive by obtaining nourishment and the prey animal's interest to avoid suffering and being caught. The interests of the hunter and the prey are primary, in that they are directly tied to the survival of the individual. In such a situation in which there is no realistic alternative to the killing of animal, it can be morally acceptable, whether it is being done for self-defence or sustenance. There surely are places on Earth in which alternatives to hunting have been close to zero and hunting is clearly a matter of survival. Åland is a northern archipelago where the local people have traditionally depended on various sources of game animals: fish, seals and birds. The tradition appears as a direct continuation of the times when birds provided the much needed nourishment for the hunter and his family after the long harsh winter. In a modern, economically well-off society hunting is no longer, however, a necessity (cf. Naess's argument against whaling in Norway, Naess 1989: 30).<sup>5</sup> Therefore, hunting serves rather different purposes than in premodern society.

The local hunters themselves have acknowledged this, as they state that the purpose of the bird hunt is not the meat, but the need to engage in an old cultural practice (Eriksson 1994; see also Cartmill 1996: 29). Usually the defenders of animal welfare regard this kind of hunting as serving secondary interests and thus not justifying the killing of animals (Regan 1988: 354). From the point of view of an individual's welfare, the interest in staying alive takes precedence over any other interest, including the desire to act upon certain cultural practices. On this account the springtime bird hunting does not accord with the principle of respect for animals. Nevertheless, sometimes the distinction between basic and secondary interests is not so clear and moreover, it has been claimed that in certain instances acting on one's cultural practice actually is a primary interest as it

promotes the quality of life (see Kymlicka 1995; Scruton 1997: we shall come back to this argument in section III.3.)

## II.2. *The principle of species conservation*

Often the idea of animal rights is distinguished from species conservation. Animal rights proponents see species membership as a morally irrelevant characteristic, whereas conservationists see species as something important in itself and worthy of protection (Norton 1987: 167). The grounding principle of species conservation is that humans should refrain from acts that tend to imperil the existence of a species. This allows hunting, providing it is ecologically sound, but in our example we claim that is not the case. Often hunting, as it is ordinarily understood, is an immediate cause of the extinction of species, for it destroys the natural capability of populations to accommodate to external effects. To avoid species extinction while allowing hunting, the idea of sustainable management of species has been introduced. How to organise hunting so that it does not lead to extinction is a difficult issue. The possibility of sustainable management and culling depends on various ecological, technological and social determinants. By taking a closer look at them we can at least partially explicate the principles of the sustainable management of migrating birds.

When it comes to ecology we have to ask how much we actually know about the processes of nature. Do we know what is sustainable and how to manipulate certain elements of nature without deteriorating the whole system and jeopardising the existence of populations? Half a century ago Aldo Leopold (1989 [1949], 205) wrote that our knowledge on these matters is limited because ‘the biotic mechanism is so complex that its workings may never be fully understood’. The special target of his criticism was the idea that game populations could be maximised by destroying the predator populations. This idea was in his view simplistic and based on a mechanistic understanding of nature. In reality the role of predators in the ecosystem was more difficult to characterise with precision. Whether Leopold’s scepticism is still completely justified is not something we need to analyse. The only thing we do claim is that those who argue that springtime bird hunting is sustainable have to show that hunting does not lead to species extinction. The little empirical data that is available indicates that hunting has an adverse impact on bird populations (see Kilpi and Asanti 1997).

Springtime bird hunting is partly targeted at species that are protected elsewhere. An example of this is the velvet scoter. The species – like the goldeneye, merganser, eider, long-tailed duck – that are not on the Red List can also be endangered by mistimed hunting. This presumption is based on the fact that springtime bird hunting, in contrast to autumn hunting, is not directed at the new generation but to the nesting generation, which should produce the new generation. In addition to this direct diminishing effect of the hunt, there is also an indirect effect. It has been shown that the partners of the killed males do not – contrary to the presumption – reproduce well.<sup>6</sup> The negative effect of the hunt

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on the species' populations can also be seen by comparing the population numbers of those areas where no hunting is done (the protected areas in Finland and the archipelago of Stockholm) to those areas in which hunting has been exercised: the former have larger populations than the latter (Hario 1993: 222–7). In light of this it seems clear that springtime bird hunting is not ecologically sustainable.<sup>7</sup>

Technological development has also affected the efficiency of the hunt. Traditional methods assured relatively moderate hunting (under the Swedish regime firearms were banned from the ordinary folk), but after the spread of new weaponry the bird populations dramatically diminished (see Hario 1993; Vuorisalo 1999). The change in hunting methods has gone hand in hand with a change in hunting traditions. Traditionally the main purpose of hunting was to obtain food for local people and it was done by moderate methods, but it has now been replaced by sport hunting carried out with more efficient methods and means.<sup>8</sup>

Social institutions govern the use of natural resources. Ecologically sensible institutions enable and encourage individuals and collectives to use resources rationally and discourage depletive use. For this reason, it has been claimed that a situation where individuals unrestrictedly use natural resources is something that all rational individuals should want to avoid. Perhaps the most widely known analysis of this problem comes from Garrett Hardin (1968). In his essay 'The Tragedy of the Commons' he describes a situation in which from the individual's point of view rational use of common pasture leads to its degradation. The situation was similar to high sea fisheries prior to the enforcement of national and international regulation: without international and national solutions – or local ones, as it was traditionally (see examples in Berkes 1992) – individuals seek to maximise the catch and this results in overfishing. In the long term, it is wise to organise the use of renewable resources so that planning and investing are reasonable in practice. These arrangements include privatisation of resources (or the like means) and restrictive contracts signed by all parties in which the use of the common resources is regulated. In the context of the high sea fisheries, this means enforcing national fishing boundaries and creating national and/or individual fishing quotas. (There are, naturally, many problems in such institutional changes, but they cannot be addressed here.)

Migrating birds behave as if there are no national borders; they are exhaustible public resources. In order to create some kind of programme of sustainable use, not to speak of their protection, it is necessary to have international agreements on bird conservation. For international agreements to succeed, exceptions should be close to non-existent: if some parties are given special rights the agreements and their implementation suffer, become devalued and face the danger of becoming inefficient. Agreements on bird hunting have as yet not been unanimous. For this reason, Finnish bird conservationists fear that allowing Åland a special right to springtime bird hunting will build new obstacles in the way of mutual, international agreements and lead to pleas for more special privileges in other situations (for instance in the Mediterranean



region). We thus come close to what is at stake in the next section: can the granting of special rights accord with the formal principle of justice or does it lead us to a slippery slope and watering down of species preservation?

### II.3. *The formal principle of justice*

The formal principle of justice states that similar cases should be treated in a similar way and that no one should be privileged over any other. Consequently, differential treatment of two individuals (or groups of individuals) is justified if there is a relevant difference between the two. Birds constitute a scarce resource, the use of which should be governed by the formal principle of justice and it seems as just either to prohibit all from hunting or to entitle everyone to hunt. What are the premises on the basis of which special rights for hunting birds could be given? If the formal principle of justice is to be followed, such premises are hard but perhaps not impossible to find.

Ålanders form a *de facto* minority group (see Myntti 1993: 79) and their minority status grants them certain rights that other citizens of Finland (and of other EU countries) lack. They do not constitute an indigenous people in a sense defined in the ILO convention, despite this the Ålanders have minority rights and in general such rights can be called group rights. (By group rights we refer to a set of rights which certain individuals have in virtue of being a member of a certain group.<sup>9</sup>)

Springtime bird hunting presents a case of group rights in practice because hunting would be allowed to a recognised minority. It is also an issue of just and equal treatment of members of the state. The central question is whether group rights violate the formal principle of justice by not treating citizens equally. During most of the 20th century the standard answer was yes: group rights were seen as incompatible with the formal principle of justice. There was a claim for universal equality between individuals regardless of their other cultural bounds within a nation-state and on the basis of this group rights were seen as unjust, as something that leads to favouring one party at the cost of another: just consider apartheid in South Africa as a notorious example.

Today the interpretation is not so strict and there are claims that group rights are not fully incompatible with the formal principle of justice. Nation-states are by practical necessity based on some cultural traditions specific to an area; hence it has to be decided whose traditions are to be followed. The defenders of the multicultural society claim that equality between different individuals and groups exists only when the specific history and cultural traditions of the groups are taken into account. The idea is that differential treatment of groups can actually advance justice and equality since just treatment of a group has to acknowledge the specific nature of the group. In this way, if all groups are given individual treatment, all groups are treated equally. One of the motives behind this idea is cultural pluralism, which seeks to protect minority cultures from

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being assimilated into the mainstream culture and thus enable them to lead a life that is most natural for them (see Kymlicka 1995; Rääkkä 1996 and 2000).

From the point of view of cultural pluralism Ålanders' right to springtime bird hunting seems to be acceptable. There is still one problem, however: what happens to international agreements if we take the path of claiming and giving special rights? The discussion around the Northern American Makah people reflects well the problems involved in allowing special rights. The Makah people have claimed a special right to whale on the basis that whaling is an essential part of their cultural legacy (see Hawkins 2001). Allowing such a right without starting to allow more rights to similar groups is unjust. Where are we to draw the line? Do all cultures that have at some point of time practised whaling have a similar basis for a group right? Can we justify giving the right to the Makah people and not to the Norwegians or the Japanese, who also have said that whaling has been a part of their culture for quite some time? It is clear that in matters like species conservation, exceptions always require a particularly careful reflection on whether they can be made or not. Some philosophers are more reluctant to give space to exceptions, among them J. Baird Callicott.

Callicott says that 'the Norwegian government's defiance of the international moratorium on whaling contributes to the general breakdown of international law and order'. For him special group rights logically result in an ecologically unsound situation because there is a real danger of a slippery slope in giving out special rights: this would simply lead to new demands (Callicott 1997: 169). Accordingly, all those cultures having a history of springtime bird hunting should be given a special right to hunt if Åland gets this right. The EU legislation commands France, Spain and Italy to ban unsustainable hunting despite opposition in these countries. Thus Åland's special right might very well lead to a general devaluation of the Directive on bird protection.

Should there then be no exceptions ever? This would appear too harsh a conclusion with respect to some indigenous peoples who might have successfully hunted the protected species for ages and who clearly cannot cope without this practice. A possible way of obtaining ecologically sound solutions to exceptions is founded on a general recognition of the legitimacy of exceptions: all the *relevant* parties have to accept the special right of some group and thus the slippery slope can be avoided.<sup>10</sup> In other words, we should distinguish the slippery slope argument, as a logical argument, from a practical or political argument. Though exceptions might stand in an uneasy relationship with rigid logical requirements of consistency, this should not prevent us from accepting exceptions when we are willing to do so and thus deem exceptions as socially acceptable. The social acceptance is in this way contingent upon the approval of others, and the approval in turn is conditional on the other two principles that oblige us to respect animals and to protect species, but which also allow us to use them in cases of need. As far as we know in our case study there is no tendency for its general acceptance as an exception.

### III. ÅLANDERS' ARGUMENTS FOR HUNTING

The principles stated above give a strong basis for providing a case against springtime bird hunting in Åland. Respect for animals, the conservationist viewpoint and principle of the justice all point towards banning the hunt before and during the mating season. However, the justification of the hunt can be approached from other points of view as well, which give the Ålanders the opportunity to defend themselves and to exhibit reasons why others should regard them as an exceptional case. These views include the argument from minimal impact, the argument from cultural autonomy and the argument from primacy of cultural interests.

#### III.1. *The argument from minimal impact*

In the light of the formal principle of justice, it is difficult to justify the group right to springtime bird hunting: if Ålanders are given the right to hunt it seems just to extend the same right to other groups as well. There is however another principle that might equate to the formal principle of justice. This principle places an emphasis on the practical consequences of rules and therefore also weighs exceptions and special rights through the point of view of consequences. Following this principle it can turn out that there are clear practical differences between the outcomes of springtime bird hunting in different countries and that the differences are of relevance in regard to the justification of the hunt. If we take species conservation as the background norm against which to analyse the justification of springtime bird hunting we may then conceive of bird hunting as acceptable if it does not jeopardise the existence of any species. Now countries such as Italy and France are large in population and it can be claimed that approving bird hunting in these countries would lead to devastating consequences for the local and migrating bird populations. Åland, on the other hand, has only a fraction of the population of these countries and bird hunting for this reason does not have the drastic effects as it has in Italy and France. In this, it may be stated, we find a clear, practically relevant distinction between different countries and groups, which erases, or at least minimises, the danger of species extinction in handing out special rights to Ålanders. The hunt carried on in Åland does not endanger species in the same extent if the hunt were carried by much larger nations.

There are, at least, three reasons to have reservations about this argument. First, although consequential considerations have a place in moral deliberation in which flexibility is needed to reduce the impact of circumstantial factors and in which the focus is on actual outcomes, the legitimacy of exception is conditional to the acceptance of other parties. If this condition does not hold, then the one-sided declaration of one's own special status may actually lead to the aforementioned slippery-slope effect, particularly if the resource is scarce and an

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object of competing interests: in the light of species conservation, this would be an unwelcome consequence. Because of this, relying on consequences does not hold, for it can be claimed that in the long run the consequences are undesirable: favouring minimal impacts can eventually lead to devastating consequences. Second, it is unclear why we ought to prioritise consequences at the expense of other factors. The threat of slippery slope seems to demand that we search for common principles instead of exceptions – therefore we should concentrate on other aspects as well as consequences. And finally, it seems that in order to come to some reasonable, general agreement we need to pay attention to consistency. This points toward a Kantian approach to ethics, where any moral rule, to be binding, must pass the test of consistency and thus be universalisable. It is not consistent for Ålanders to require others to abide by the common principles of bird conservation, while at the same time defending their own right to continue traditional hunting. Even though we would not hold to this principle categorically and we would be ready to take contextual factors into account, it raises serious doubts about the Ålanders' demand: they are not morally entitled to suggest others forbear from using this resource when they use it themselves. The only way to make the claim consistent would be to state consistently that all those parties who have a minimal impact can hunt. However, since the minimal impact argument does not hold by itself, and since also other more general principles are needed, the criterion of consistency cannot be met in this way.

This perspective opens up a wide array of issues concerning the requirement of special treatment that cannot be dealt with in detail here. But the outcome of our analysis indicates that the argument from minimal impact as such is not sufficient to justify the springtime bird hunt.

### III.2. *The argument from cultural autonomy*

It is commonly accepted that nation-states and/or cultural groups within them should be recognised as autonomous concerning their internal affairs. Ideally different cultures and nations co-exist as equal and independent agents. In the real world, however, the different moral views of different cultures tend to come into conflict. If a moral culture A considers a practice that is carried out by moral culture B as morally wrong, we face the question of whether A is entitled to interfere with B's affairs. Who has the ultimate authority in disputes like springtime bird hunting or bullfighting? One answer is to assume that there are universally binding rules to which all human behaviour is subject and which can be enforced by the global community. This answer is problematic, however, because one can assert that the global community simply means the majority, and to enforce the majority's views on minorities is acculturation (for the term see Liebkind 1995: 29). One can also claim that there are no culturally neutral moral views, and if we enforce moral views on other cultures we always forcefeed them our own culture. All this is directly linked into the debate on the springtime bird

hunt. In the eyes of the Ålanders the EU is interfering with their cultural autonomy and in this is following the politics of, not cultural pluralism, but acculturation. Ålanders think that the EU does not recognise their right to independent decision-making and in doing so the EU is not respecting the Åland culture and its specific viewpoints. In other words, Åland does not conceptualise it as a conservationist issue, but as a cultural issue.

The other solution is to go for cultural relativism fully and proclaim that there are no universal moral norms. According to it cultures are truly independent, closed systems that both can and should remain free from each others' influence. This solution seems, however, impractical and gives us little possibility of coming to agreements on the common natural resources. A better answer is to acknowledge that cultures can interact and communicate on moral matters without this being called interference and that cultures should seek unanimity especially on common matters. Hardly anyone suggests that the international community should use military force to compel Spaniards to renounce the practice of bullfighting, even if it were deemed as immoral by the rest of humanity. This does not mean that we cannot state our views or try to raise more awareness on the matter. The need for consensus becomes even more acute when we notice that issues said to be internal are not actually so: for instance, migratory birds are global commons, the management of which is a matter of international agreements (as far as they are subjects of any regulation).

How can such an agreement be formulated without acculturation? One thing to be acknowledged here is that general rules and particular requirements are not always completely opposite to one another. We can try to work out some kind of arrangement, where general rules and the autonomy of minority groups can co-exist. One such way is looking for a common ground (see Liebkind 1995: 40). In order to find such a compromise it is crucial to ask two questions: 1) What common variables can be found between the two parties? 2) How can these variables be used to solve the conflict?

For our case study the first question is easy. Ålanders are not 'outside' of the rest of Europe, but the majority of Ålanders voted in favour of joining the EU in the 1994 referendum in Finland. On the basis of this, it is presumable that all of the principles we have stated above are shared by both the EU and Åland: both parties obviously recognise that animals are entitled to respectful treatment, that biodiversity should be preserved and species protected from extinction and that the formal principle of justice is a necessary part of good decision making. Of course, these principles are emphasised differently in different contexts, but the main point is that they all do belong to the generally recognised agenda and they all constrain policy-making. In this way they can provide us with a starting point for the search of the consensus. Moreover, it is the nature of the object of interest that is similar to all parties and this commonality seems to imply a basis for the common international policy concerning the hunting of birds. So, there is no dominant culture actually that pursues integration of cultural minorities with the

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majority and the consequent homogenisation of the nation – instead there is a group of countries the intention of which is not acculturation, but finding a common basis for environmental policies.

The second question is not so easy. There are no straightforward guidelines as to how exactly to build the compromise. We think that, as it is often said, dialogue is the only way to solve this difficulty and often the agreement can be based on the recognition that the parties have to co-exist somehow and will have to make more and more of these kinds of agreements concerning cultural practices. To be able to make agreements, parties have to be willing to change and adapt. Part of the problem of springtime bird hunting is that Åland has strongly emphasised the meaning of cultural autonomy. This can be seen as separationist politics: Åland sometimes seems to place more importance on the aspects that separate it and make it distinct than on the aspects it has in common with its neighbouring cultures. This leads easily into a closed and static culture with no real possibilities for compromise and this is something to be avoided (see Eriksson and Kangas 1988: 15–16). Springtime bird hunting can be seen as a cultural practice that is part of this change. The banning of it does not imply the commencement of the destruction of the Ålandic culture; rather, it is part of the process of interacting with other cultures and adapting to new, exogenous demands that the loss of biodiversity necessitates.

Moreover, in the context where other nations have committed to ban unsustainable hunting, it is acting like a free-rider: benefiting from the sacrifices of others while not paying for cost. To participate in common ecological causes should be among the greatest values in the current world.

### III.3. *Argument from the Primacy of Cultural Practices*

Earlier we brought into discussion the idea that acting upon one's cultural traditions is not a secondary, but a primary interest. According to this idea cultural traditions are essential to human identity and they promote the quality of life; denying the right to follow them would be a gross neglect of human rights. Springtime bird hunting can be defended on the basis of this claim. It can be said that springtime bird hunting is an essential part of Åland's culture and thus should be allowed to continue. An old man interviewed in a Finnish newspaper *Helsingin Sanomat* (November 17, 1997) said that he would rather give up his right arm than give up hunting birds, a custom that he has been involved with since a little boy; thus the desire to act on this tradition is serious.

Despite the old man's plea, cultures change and adapt to new situations, and in this process are bound to lose some traditions and gain new ones. In the light of this it seems plausible that some cultural practices are *not* essential to the survival of the culture and to the identity of the people. Following the idea that we can to some extent equate bodily and cultural interests, we can state that specific practices are not always primary. We can satisfy our basic bodily need

for nourishment by different ingredients that we deem proper, similarly we can satisfy our cultural needs by selecting those traditions that are acceptable. The crucial problem is what constitutes 'proper' and who is to determine it – only the culture itself or also outside parties? One solution is again moral dialogue between different parties and the search for common ground. In the context of Åland this means seeing what principles it follows and whether there is room for change.

Springtime bird hunting has for centuries been a part of Ålanders' culture. As noticed, the tradition has changed a great deal in the course of this time from providing nutrition to a recreational activity or sport. From one aspect this trend emphasises the cultural value of hunting, for the hunt itself has remained even if methods and motives have changed. However, from another angle it shows that the original nature of the hunt has been lost – the hunt has become a cultural sign that has lost the original meaning. In this light defining the hunting as primary seems questionable, for it has lost the status it once had. This of course does not mean it is not an important part of the culture, but it does mean that we have to be careful not to place too much value on it, and for example sacrifice important moral principles just to follow it. These principles include the ones mentioned in this paper – respect for animals, species conservation and justice. We can alter our cultural customs, but not quite so easily wipe out practical consequences – such as environmental damage – that they might cause. If hunting of birds in springtime were necessary to gain nourishment and if bird resources were not scarce, its continuation would be less objectionable. In the present situation justification is difficult.

The meaning of springtime bird hunting has adapted and evolved in time, so much so that the continuation of this tradition is at risk if not radically altered or stopped altogether. As often in ecological matters, the viability of a culture depends on ability to adapt to the new requirements of the day. In this situation, hanging on to one practice despite of the significant problems it causes is not rational, either from the point of view of cultural survival or from the point of view of interaction (particularly when species extinction ultimately matters for our survival). Therefore, the argument from the primacy of cultural practices is not compelling.

#### IV. CONCLUDING REMARKS

The dispute over springtime bird hunting is essentially linked to the question of species conservation. The EU wants to ban the hunt, since it is thought to have a negative effect on the existence of the species. Åland, on the other hand, wants to obtain a special right for the hunt on the grounds that one special right will not jeopardise the species. This raises many questions about just conduct. If the

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hunting is permitted, who exactly gets permission in the end? If it is only minorities, how can this accommodate the idea of equal treatment of citizens? If it is to be open for everyone (all cultures) what will finally happen to the species?

We argued that the formal principle of justice leads to certain uniformity: it is very hard to justify a special right for the bird hunt without in the end relativising the bird Directive as a whole. We suggested that there is a place for exceptions, but their enforcement prerequisites their general recognition. Ålanders do not think this is the main question and emphasise that the dispute is about the cultural autonomy of Åland. The EU is trying to enforce its own norms on Åland, and Åland will not want to give in. Åland therefore does not conceptualise it as a conservationist issue, but as a cultural issue. The problem with this view is that it does not take into account or give room for the evolution and adaptation of cultures even in a situation where adaptation seems to be sensible. We claimed that finding common factors between Åland and the EU would help to solve the dispute. On the basis of these factors, we believe that a solution will be found in favour of bird conservation.

We also claimed that driving for a static culture and for complete cultural autonomy is not sensible. Cultures are entities which form to suit the changing context that surrounds them. Cultures do affect us, even create us, but they are still secondary to us. Cultures serve as a basis for an interaction between us and the rest of the world: between people, animals and nature. They are not primarily something we are bound to keep alive, but something that keep us alive. In order to be effective in this task they need to adapt and change. In light of this banning the springtime bird hunt seems a reasonable solution.

## NOTES

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<sup>1</sup> See IWC's website:

<http://www.iwcoffice.org/Catches.htm#Aboriginal>

(Read: 10 December, 2001) Also the government of the United States recently lifted the ban on whaling by the Northern American Makah people. See the Makah website: <http://www.makah.com/whales.htm> and <http://www.nwifc.wa.gov/whaling/whaleplan.html> (Read: 10 December, 2001)

<sup>2</sup> It should be added that this species is no longer on the brink of extinction. Simons et al. 1988.



<sup>3</sup> Springtime hunting is also allowed in continental Finland, but the numbers of hunted birds are a great deal smaller than in Åland and there is no similar kind of organised opposition to the enforcement of new preservation laws.

<sup>4</sup> More facts about Åland, see for example their website: [www.aland.fi](http://www.aland.fi)

<sup>5</sup> It can even be said that hunting is not rational from the point of view of mere survival: the costs of hunted meat are obviously higher than that of the meat purchased from a shop.

<sup>6</sup> The experiment to measure the effect of hunting compared productivity of the widowed females to that of the females with partners. There was a clear difference between the two groups: productivity decreased 38 per cent after the males were shot.

<sup>7</sup> It also seems unlikely that the ending of springtime hunting, despite its lengthy history, could have an adverse impact on other species, for example in the sense that it would result in larger populations of other species than the ecosystem can cope with. It should be noticed that we address only the issue of the timing of hunting, not banning hunting altogether.

<sup>8</sup> It could be added that when pondering the measures to enforce the ban, indirect measures like banning guns could be the most efficient. This might be inappropriate however, because of the cost and the difficulties of organising hunting in the autumn.

<sup>9</sup> Group rights as defined here should not be confused with the idea that a collective as a legal person, in our case county Åland (*Ahvenanmaan maakunta* in Finnish), is the rights holder; rather, the right belongs to individuals who are members of this group. Moreover, the access to this collective is relatively closed so that for non-members it is virtually impossible to become members of this group.

<sup>10</sup> There are of course, many questions of how this kind of consensus can be reached and how the rules thus achieved could be imposed: What are the parties to be heard? What is the right procedure to seek for the consensus? It lies beyond the scope of this article to go into details.

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