Anthropologist Niels Einarsson is the director of the Stefansson Arctic Institute in Akureyri, Iceland. Here he discusses the implications of Iceland choosing not to reform its fisheries management even in light of a 2007 United Nations Human Rights Committee decision that the system violates basic human rights. He warns policy makers that turning local fishing rights into a transferable financial commodity could cause potentially irreversible damage to the people and communities of Iceland and other countries where the “Icelandic model” is expected to be applied.

Fishing has been the mainstay of the Icelandic economy since the early twentieth century and continues to provide almost half of the country’s export value in terms of products. Two-thirds of Icelandic fish products are sold within the European Union (EU) (see Bjarnason 2010, 203). After the short-lived financial boom and collapse in the 2000s, fishing regained its role as Iceland’s main economic activity, together with industrial aluminum smelters and tourism. The Icelandic economy is fundamentally different from that of its neighbors in Western Europe and the EU, of which Iceland is not a member but has rights and responsibilities under the European Economic Area (EEA). In Iceland fishing contributes about 6 percent of GDP (down from 10 to 12 percent in the last decade), compared with an average of only 0.25 percent in the EU. Iceland ranks among the leading...
fishing nations of the world with an annual total catch of over a million tons (ibid., 203–4).

Iceland is often held up as an example of best practices in international fisheries management. This “poster child” reputation is less than convincing to many Icelanders, however: in a recent opinion poll, the overwhelming majority of respondents agreed that the current system of fisheries management should be fundamentally changed and property rights in fish stocks recaptured and reallocated. In the poll, taken in September 2010, 71 percent gave their support or strong support to such a transformation; an increase of 10 percent from February 2009.¹

Before Iceland’s version of fisheries management is held up to the world as a universally ideal model, as proponents of Individual Transferable Quotas (ITQs) advocate (see Auth 2012; Eyþórsson 1997; Pálsson and Helgason 1995; Pálsson and Helgason 1996; Árnason 2008; Hannesson 2004), anthropologists and other social scientists who have studied private property rights used in Icelandic fisheries governance have some serious questions that should be addressed. Foremost is how the present system squares with human rights and social equity.

HUMAN RIGHTS

In 2003 two Icelandic fishermen brought a case against their government to the United Nations Human Rights Committee (HRC), arguing that the ITQ system used for managing Iceland’s fisheries was unfair, unconstitutional, and illegal. Until then, Iceland had consistently placed at the very top of the United Nations Human Development Index, so the accusation at the international court was a national embarrassment. In 2007 the HRC issued its decision supporting the fishermen’s charges, adding more fuel to the fire in an already inflamed social debate about the legitimacy of ITQs.

The conflict began in September 2001 when the fishing vessel Sveinn Sveinsson from the coastal village of Patreksfjörður in the West Fjords sailed several times to fishing grounds to catch fish. What made these trips unusual was that the boat’s owner and crew were publicly defying laws laid down by the Icelandic Fisheries Management Act (FMA) of 1990, which firmly established the ITQ system. The fishermen had notified the authorities of their intentions in advance, planning their outings as a protest against the FMA. They claimed the act was illegitimate and unethical, and they believed it was undermining not only their own livelihoods but also the economic and social viability of fishing communities around Iceland.
The inherent inequity of ITQs and the privatization of the commons in Icelandic fishing communities has been well documented by anthropologists and other social scientists. In the 1990s anthropologists Gísli Pálsson, Agnar Helgason, and Einar Þórðursson reported on how the unfettered transferability and commodification of fishing rights was affecting fishing communities and how catch quotas accumulated quickly into the hands of a few large companies. The consequences for small fishing communities were severe (see Þórðursson 1997; Pálsson and Helgason 1995; Pálsson and Helgason 1996; Auth 2012.)

In 1995 twelve of the fifteen villages that lost more than 60 percent of their quotas had a population of less than 1,000. Iceland’s West Fjords were hit particularly hard: by 1995, four villages had lost 70 percent of the quotas they had had in 1984 (Þórðursson 1997, 117). When coastal communities dependent on these resources lose their quotas, it translates into insecurity, unemployment, depopulation, outmigration of young people, valueless homes, and social alienation (Skaptadóttir 2000). In these communities fish stocks have from the time of settlement been open and common property. Now they face a social reality of fenced and enclosed commons regardless of the conditions of the fishing grounds and abundance of fish close to home, and irrespective of local needs and aspirations. (For a history of access rights and Icelandic fisheries see Þór 2002, 37.)

The Icelandic Fisheries Agency filed suit against the two protesting fishermen. In August 2002 the two men pled guilty but claimed the laws were unconstitutional. They were found guilty by the West Fjords District Court, which based its decision on the precedent of the April 6, 2000, Supreme Court decision in the so-called Vatneyri case. The two men were sentenced to pay a fine of one million kronur each, or be imprisoned for three months, and pay the costs of the trial. In their subsequent appeal, the Supreme Court upheld the decision of the district court.

However, the two fishermen pursued their legal battle and took their predicament to the HRC, claiming to be victims of a violation of article 26 of the International Covenant on Civil and Political Rights (United Nations Human Rights Committee 2007).

They were acting on the culturally and historically ingrained assumption among many Icelanders that the fisheries cannot belong to any one person. They are a commonly held resource equally accessible to all Icelanders. Therefore, the men argued, their protest was ethically justifiable. (For an ethnography of the moral discourse on privatization and property rights in Icelandic fishing see Óðinsson 1997.)
Although the Fisheries Management Act of 1990 has been amended several times since it was first adopted, it still starts with a stipulation stressing that the fish stocks in Icelandic waters are the common property of all Icelanders and not the private property of any group of people. It states:

The commercial fish stocks in Icelandic waters are the common property \[\textit{sameign}\] of the Icelandic nation. The goal of this Act is to support their conservation and efficient use and thereby secure employment and settlement in the country. The allocation of fishing licenses according to this Act shall not give rise to property rights or irrevocable control of individuals over fishing licenses.\(^2\)

Despite this preamble, most of the FMA describes the administration and allocation of common property resources within an ideology of transferable private property rights, or ITQs. The FMA defines which stocks it covers, delimitation of the jurisdiction, and how annual total allowable catch (TAC) is determined for each so-called fishing or quota year, which starts annually on September 1. Harvest rights or individual catch quotas within the TAC are calculated on the basis of this total amount, and each vessel receives its share on this basis. Change in annual TAC means a change in the quota share. Originally quotas were allotted without a fee, so in fact they were given to those firms engaged in fishing in 1983, based on the fishing record of 1981 to 1983. In the literature of fisheries governance this method is sometimes referred to as “grandfathering of catch rights.” Article 4 of the FMA stipulates that no one is allowed to undertake commercial fishing without a fishing license. Penalties for violating the act include fines and imprisonment of up to six years.

In their appeal, the fishermen argued that according to law, Icelandic fish stocks were defined as common property. However, they were in fact treated as private property and given free every year to a select group; thus, in reality, they were donated to a privileged few. Other fishermen were forced to lease or buy quotas from this group. The income from the sale and lease of fishing rights benefited the sellers directly and not the nation as a whole. This ability to buy and sell fishing rights, plus the fact that quotas can be used as collateral, inherited by spouses and offspring, and are subject to property tax shows that they are treated as de facto private property.

Bringing cases to the HRC is a slow and stately business, but six years after the two fishermen went fishing without stipulated appropriation of fishing rights, the committee concluded that the Icelandic state had indeed violated the rights of the two men and that they were victims of discrimination in violation of article 26 of the covenant (see United Nations Human Rights Committee 2007, 13, clause 10.2). The decision rested on the fact that the two
fishermen were obliged by the FMA to buy fishing rights from other citizens to gain access to resources that were declared by law to be the common property of the Icelandic nation.

Furthermore, the committee pointed out that the FMA differentiated between those fishers who were fishing at the time of the initial allotment in early 1980s and those who started fishing later. Those who enjoyed the initial allocation are able to use, sell, and lease their catch shares, whereas those who took up fishing later had to buy or rent from the former (ibid., clause 10.3). The committee acknowledged that the protection of fish stocks is a legitimate, reasonable, and objective goal. But it also pointed out that the quota system had been introduced as a temporary measure, that in fact its provisional character was a key precondition for adoption by the Icelandic Parliament, which was initially reluctant to allow ITQs in 1983 (Helgason 1995). The committee stated that the nature of the quota system changed with the FMA:

...[it] became not only permanent with the adoption of the Act but transformed original rights to use and exploit a public property into individual property. Allocated quotas no longer used by their original holders can be sold and leased at market prices instead of reverting to the State for allocation to new quota holders in accordance with fair and equitable criteria... in the particular circumstances of the present case, the property entitlement privilege accorded permanently to the original quota owners, to the detriment of the authors, is not based on reasonable grounds. (United Nations Human Rights Committee 2007, 13–14, clause 10.4)

The committee cited the International Covenant of Civil and Political Rights in stating that that Iceland must not only compensate the two fishermen but also revise the Icelandic fisheries management system in accordance with human rights. The committee made a point of reminding Iceland that it is party to the Optional Protocol of the covenant, which means that Iceland recognizes the HRC as competent to determine human rights violations and has undertaken the obligation to guarantee its citizens rights under the covenant. Needless to say, the HRC’s ruling has put a dent in Iceland’s image of itself as a civil society accustomed to enjoying a top spot on the United Nations Human Development Index.

COLLATERALIZED FUTURES

The ITQ fisheries management system not only has led to international allegations of human rights abuses but also is directly linked to the country’s
economic boom and subsequent bust. Before the ITQ system was introduced by law in 1983, and also before the 1997 act that allowed fishing rights to be used as collateral (albeit supposedly connected to the physical properties of boats), the only value fishing firms had was in their fishing vessels, gear, and facilities on land. After 1997 companies and individuals with fishing licenses were allowed to use them as monetary collateral, or “paper fish,” creating a heretofore nonexistent source of financial capital. With the ability to use fishing rights as collateral, the value of firms multiplied, and the price of stocks and markets in the 1990s and 2000s skyrocketed. Icelandic banks also greatly benefited, because they now had enough assets and equity to draw the attention of foreign investors.

Outside of the fisheries industry, Iceland had few other assets that could be manipulated into capital assets of collateral equity. The danger facing financial institutions using fishing rights as mortgages had, however, been known for some time. In a newsletter dated as early as 2000, the Central Bank of Iceland warned against using the volatile collateral of quotas, because the market price of fishing rights was deemed to be overly inflated (Seðlabanki Íslands 2000, 22–23).

Nevertheless, before the collapse of 2008, Icelandic banks, largely owned and operated by the newly rich “Quota Kings,” were eager to buy fishing firms and their quotas from small-scale operators who had gradually joined the ITQ system. The banks also fueled quota transactions by offering, sometimes insistently, what looked like lucrative loans in foreign currency for investments in catch quotas. The impact of this policy was to raise the prices of quotas and their collateral equity, thereby inflating the banks’ balance sheets with “paper fish” assets.

Risk-taking in the Icelandic banking system increased even further with the privatization of the two state-owned banks in 2003. These banks were handed over to political allies of the ruling parties, as described by Már Wolfgang Mixa in this volume. Within a few years, the system had escalated into an all-out reckless international market raid, leading to a rise in assets from 100 percent of the GDP in 2000 to over 900 percent in mid-2008 (Gylfason et al. 2009, 149).

In 2000, when the Central Bank warned that the price of quotas was unsustainably high, the price of so-called “cod equivalents” was just over ISK 800 per kilo. By 2008, just before the collapse, the price had risen to a flabbergasting ISK 4,400 per kilo, far more than any existing fishing operator or new entrant could hope to see as a reasonable investment in catch rights or a viable business. In 2007 and 2008 the total value of quotas in the Icelandic fisheries
reached what one economist calls the “ridiculous” level of approximately ISK 2,000 billion, or fifty times the annual profit of the fishing industry (Steinsson 2010, 7). This inflation reflected the willingness of the banks as institutions of financial capitalism to offer loans based on quota acquisitions in the industry rather than on the real productive value of the fishing rights. By the time of the economic meltdown, when the money dried up, the price of permanent quotas had dropped to half of their previous value (ibid., 3). In the spring of 2012, the market value of one kilo of permanent catch rights in cod equivalent was around ISK 2,000. However, the price lacks transparency and seems to be kept afloat by a tacit agreement between banks and fishing firms.

HUMAN RIGHTS AND MARINE POLICY

One crucial outcome of quotas as mortgage collateral is that banks and quota holders have vested interests in keeping the inflated value up and working against any attempt by authorities—as the HRC ruling called for—to recapture and reallocate the quotas, which in practice are now private property. Any such change could immediately affect the status of quotas as collateral and lead to a drastic collapse in the value of financial assets in quotas. This is explained in a report by the so-called Resource Committee (Auðlindanefnd), which, in 2000, was asked to review the impact of capturing resource rent from Icelandic natural resources, including fish stocks. It concluded that recapturing quotas at as little as 5 percent per annum would lead to a 42 percent decrease in the overall capital value of fish firms and cause much “unrest” among financial institutions (Auðlindanefnd 2000, 35–36).

In this context it does not come as a surprise that Icelandic banks take an avid interest in the current fisheries policy and campaign against any changes. Many of the assets of the new, refinanced banks in post-meltdown Iceland are also tied to quota collaterals. Icelandic banks were active in advising the so-called Reconciliation Committee (Sáttanefnd), appointed by the post-crash government to discuss reformation of Icelandic fisheries governance. This committee commissioned several assessments of the economic impact of recall and redistribution of the fishing rights. One of the reports, echoing the 2000 report mentioned above and the concerns of the fishing industry, concluded that with 5 percent recall per annum, the value of quotas and thereby collateral equity would immediately decrease by 57 percent. A 10 percent recapture would lead to a 75 percent fall (see Gunnlaugsson et al. 2010, 32–33). These numbers are hard to believe, since the forecast applies to post-crash conditions when quotas have already lost half of their value, though it may well
indicate that quota prices are still too high. But this does support the Central Bank’s reasoning in its 2000 warnings on the financial dangers of inflated quota prices and the risky nature of quotas as collateral.

In the end of 2008 the fishing industry owed the banks ISK 560 billion, and since the industry was in dire straits, the banks needed to secure the loans for themselves and their foreign lenders. Fishing industry profits in 2008 were ISK 33 billion, and by 2009 it they had increased to ISK 45 billion (Hagstofa Íslands 2010, 12). These enormous loans also had to be kept intact, as the income the banks receive annually from the fishing firms in the form of interest and other payments are vital for the banks’ stability. There seems to be a real fear of another financial collapse in the banks and, by default, among political decision makers who have been given the task of resurrecting the nation’s economy. The International Monetary Fund, which Iceland called on for help during the crisis, required the rebuilding and strengthening of the financial system as a key component of its adjustment program (International Monetary Fund 2011). Ultimately, the majority of the Reconciliation Committee rejected any radical change in quota rights involving recapture and equitable reallocation of privatized common property that would have been in accordance with the demands of the HRC. The banks and quota holders could trust in the relative status quo.

In March 2012 and again in the spring of 2013 the Left-Green/Social Democrat government put forth bills, which were not approved by the Icelandic Parliament, that essentially would have prolonged neoliberal governance of the Icelandic fisheries by recalling in name all the quotas, but at the same time and in one fell swoop reallocating for the next decades some 93 percent of the TAC to present quota recipients, who now generally refer to themselves as quota “owners.” The new allocations were to be tied to twenty-year contracts, which could be renewed for another twenty years. But, importantly, fishing rights were to continue to serve as financial products and collateral, a key element for the financial system, including the international hedge funds that own some of the banks, as well as debt-ridden fishing companies. However, the holders of resource-use contracts in fisheries were to sign a declaration in conjunction with the allotment of the (new) rights, stating that the fish stocks are indeed the property of the Icelandic nation. To many, this recognition of the national property quality of fish may seem peculiar, since it is already stated in the current FMA. However, the clause in the law declaring the fish stocks to be in national ownership was, according to the new but failed bills, semantically strengthened by the word ævarandi, which means “forever.”
The new bills were harshly criticized by politicians and lobby groups representing the majority of the fishing industry as well as those who point out that the new law made no fundamental change and that the government was backing down from its election promises of a complete revision of the governance regime. Emotions ran high. The issue was of such gravity that the president said he would call for a national referendum if the bill became law.

CONCLUSIONS

The privatization of common-property resources in Iceland and the giving away of what was never a *res nullius* runs counter to the basic principles and preconditions of human development as defined in the 1990 Human Development Report (HDR), i.e., as “A process of enlarging people’s choices” (United Nations Development Programme [UNDP] 1990, 12). For this to happen, people must be free to make choices and have the opportunity to realize them. The concept has evolved as the world has changed, with increased attention to sustainable human development and equity factors, but the fundamental principle of making people the center of development remains (ibid.). Given the human ecology of Icelandic fishing communities with their reliance on few employment options apart from fishing, the impact of ITQs is a matter of grave concern. They not only decrease the social and economic flexibility of fishing communities but limit personal and cultural self-realization as well. But the quota system impoverishes all Icelanders by depriving them of equal access to the nation’s most important resource.

The system introduced in Iceland to manage human environmental relations in the fisheries was part and parcel of reductionist economic tools and policies guided by market fundamentalism, lack of foresight, and perhaps even lack of interest in the well-being and viability of the societies so deeply affected by policy and politics beyond their control. Some economists quite honestly admit that privatization of the commons inevitably causes smaller communities to lose out. They have even questioned whether fisheries-dependent communities are actually part of the fishing industry proper. They see the exclusion of these communities as not just logical but also justifiable, rational, and necessary (Hannesson 2004).

Human development relies on human rights and access to limited resources. The closing of commons, such as fish stocks or water, and the giving away or selling of the commons to a small group of privileged few may be not only unethical but also highly detrimental to the ability of those excluded to determine their own fate, nurture their cultural integrity, and indeed interact with
nature in the pursuit of appropriating resources for livelihood and the fulfillment of their needs. In the ecological context of Arctic regions, access to local resources is a key to human welfare.

The reprimand from the HRC should be a wake-up call to Icelandic officials that fundamental change in the system needs to occur if they do not want to see the country placed on par with Myanmar or Zimbabwe when it comes to human rights. The views of the HRC should be a warning to other countries that are considering introducing the “Icelandic model” to their fishing economies.

Heeding the views of the HRC and setting a course for future action could make a real difference in the development of Iceland. Following the committee’s recommendations would be a meaningful pragmatic political act in what appears to be an irreversible process that has transformed public resources into private assets, wealth, and power. But in the realpolitik of post-crisis Icelandic society, marked by the dominant realities and logic of fishing rights as financial products, the message seems to have been lost. It remains to be seen whether Icelandic society has the political and moral capacity to change its economic course and privilege once again human rights over fishing rights.3

NOTES

1. The findings of the opinion poll, conducted by Market and Media Research, are available from http://www.mmr.is/frettir/birtar-nieurstoeeur/157-stueningur-eykst-vie-afturkoellun-fiskveieiheimilda.


3. For an earlier version of this chapter, see Einarsson 2012.