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Back to Square One. Green Sacrifice Zones in Sápmi and Swedish Policy Responses to Energy Emergencies

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Abstract
In the wake of the enthusiasm for green energy, previously contested energy and mining projects can be framed as part of a green transition. When state authorities decide to forego the standard procedural protections and the processes and forums for deliberation and local influence, it contributes to constructing green sacrifice zones. This paper compares two Swedish energy policy processes. The first is occurred during World War II and the hydropower expansion of the 1940s and 1950s. The second takes place today when wind power is expanding to increase renewable energy production. In Sweden, policymaking seems to be back to square one in the green transition, leaving out both important knowledge of the past and contemporary voices of the ongoing and probable consequences. In certain issues, such as how the recognition of the Indigenous status of the Sámi actually affects the legislative process and how to address the Indigenous rights of the Sámi, policymaking is particularly slow to adapt. The green transition industry is already affecting the Sámi, as the construction of the Nordic welfare society has done during the last century, and still does. It deepens an ongoing colonial wave that started in the 1300s. By showing how the Swedish legislative process, historically as well as currently, has neglected to involve Sámi representatives, this study points to the importance and obligation of Swedish policymaking to engage Sámi representatives in an early phase to avoid further sacrifice zones in Sápmi.

Keywords: *green sacrifice zones, Indigenous peoples, green transition, climate change mitigation, coloniality, wind energy, hydropower*

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1 Introduction

As an Indigenous people, the Sámi of Norway, Sweden, Finland, and Russia carry the burden of climate change, which affects, among other things, reindeer herding. In Sweden, the reindeer-husbandry area covers almost 50 % of the country. This area coincides with Sápmi, the Sámi traditional land, an area that today houses most of the facilities for hydropower and wind power production in Sweden, as well as raw forest material extraction sites and major mining facilities. Hence, in recent years, the Sámi have been carrying the burden of the world's response to climate challenges as their territories have become utilised for renewable energy production. Reindeer herding is also experiencing the effects of climate change on a concrete level.[1] Aili Keskitalo, the former president of the Sámi Parliament in Norway, as well as others, has called this *Green Colonialism*,[2] connecting aggregated historical dispossessions with the current dispossession carried out in the name of green energy.

While Sweden is taking small steps forward when it comes to Sámi rights, for example, with the recent Girjas Supreme Court decision,[3] other circumstances that contribute to Sámi rights remain unconsidered. One of these issues is increased energy production for a projected green-transition industrialisation against a backdrop of urgent climate-change mitigation. A point of departure is the fact that the urgency of certain matters[4] within energy production, such as more effective decision-making, has justified solutions that were, and still are, harmful for Indigenous Peoples. To elucidate the development of Sámi participation and inclusion of Sámi rights in Swedish energy policy, this study examines historical and contemporary policy processes in Sweden regarding energy production during times that are described as emergencies. The focus is the tension that exists between the political ambition and action to involve relevant stakeholders – in this case reindeer-herding Sámi communities (RHSC), Sámi authorities and Sámi organisations – and the policy that calls for streamlining the permit processes to live up to national and international climate goals.[5] To what extent is the Swedish legislative process today in line with the discussion of acting against unequal distributional effects in the processes of renewable energy production?

The two cases in this study are the Act of 20 October 1939 with special provisions on temporary water regulation (The Crisis Act),[6] an exemption law on temporary water regulation for hydropower production during the Second World War, and the recent call for a rapid investigation to legally secure wind power permits.[7] Both processes were defined as urgent, one in the face of the Second World War and the other the global climate crisis. The empirical sources consist of reports from energy and environmental authorities, official reports, governmental bills and legislation, documents from Sámi organisations and authorities and complementary email-correspondence. Starting with the landscape and energy production, a brief historical background of Swedish policies towards the Sámi people will be followed by the theoretical and methodological foundations of this study.

2 The urgency of energy production

2.1 Hydropower and wind power in the Sámi landscape

The development of wind power in Sweden has increasingly become a matter for the northern part of the country since ten times more wind power is planned in the north compared to the south, where the needs are actually the greatest.[8] This imbalance follows in the footsteps of the past, as the rivers of the north have been the backbone of the Swedish energy system ever since the 1930s, when the long-distance distribution of electricity connected most of the country.[9] According to the interest organisation Swedish Wind Energy, the localisation of wind power in the north is due to more intense protests in the south and the perspective that "achieving profitability requires really large parks, and such large vacant land areas do not exist in Southern Sweden".[10] However, the green industrialisation taking place today, with fossil-free steel production, will now require the electricity that was previously transferred from the northern parts to southern parts of the country via the distribution networks.

In Sweden, hydropower is the primary contributor to electricity production, although wind power production is increasing.[11] Historically, the northern parts of Sweden have been used to extract hydropower. In 1915, the first large-scale power plant was completed on the river Stora Luleälv, which, only a few years later with the construction of a large dam at Suorvvá, transformed Sámi landscapes along with the newly established national park of Stora Sjöfallet. During the Second World War, a more rapid hydropower expansion was made possible with the help of the Crisis Act. Through this law, the energy companies could put any damage compensation on hold for several years. Hydropower expansion had its heyday in the 1950s and 1960s when the modernisation of the northern part of Sweden and building of the welfare society were in focus.[12]

There are numerous facilities for energy production in Sápmi, and with societal infrastructure such as roads, towns and railways, any remaining unaffected areas are already scarce. New water elevations due to hydropower dams and electricity plants have permanently flooded Sámi residences, important reindeer grazing lands and migration routes.[13] The sound and visual effects of wind power plants disrupt the natural behaviour of the reindeer and make them avoid these areas in certain periods. In combination with disturbances from roads, forestry and other infrastructure, wind power expansion in the reindeer grazing areas has become an additional challenge for reindeer herding.[14]

Nevertheless, data on hydropower facilities and wind-power turbines can still give an indication of how the large interventions that are underway leave only small parcels of land non-impacted. In addition, it should be mentioned that a predominant number of Sweden's mines are located in reindeer-husbandry areas, adding to the cumulative effects of intrusion and land-use interests. By using several sources such as Dammregistret SMHI, Reindeer-herding maps at Sametinget and the websites of hydropower companies such as Jämtkraft, Statkraft and Vattenfall, it is possible

to map hydropower facilities in the landscape. In total, 34 of those 51 RHSCs that conduct reindeer husbandry in Sweden have at least one hydropower plant or dam on their land and 28 have three or more. To understand the extent of the wind power industry in the reindeer-husbandry area, I have used the map service *Vindbrukskollen*. According to the information available in September 2021, wind turbines over 100 meters exist within 25 RHSCs, and six more have large wind turbines planned or approved to be built on their lands. Two examples are Jijnjevaerie RHSC with 396 turbines, in addition to 668 approved, and Östra Kikkejaure RHSC, which has 430 turbines, with an additional 564 turbines approved.

2.2 A Swedish history of neglect

In the early hydropower court cases, the rights of reindeer herders were not considered at all.[15] Reindeer herding was treated as a privilege given to the Sámi by the state, exercised on state- and privately-owned land, and managed within the colonial authority called the Lapp Administration.[16] Due to colonial tutelage, the reindeer-herding Sámi were not involved in the legal processes in connection with hydropower expansion and, at first, they were not even compensated for the land that was lost or damaged.[17] For a long time, the compensation for lost land was placed in a state-controlled fund. However, in the 1960s, RHSCs themselves enforced the right to plead a cause in hydropower cases and the right to receive compensation for lost land.[18]

Swedish hydropower expansion in Sápmi, and its institutional framework since 1910, has been described[19] as industrial colonialism because it entailed an extensive dispossession and degradation of land that led to numerous losses for the reindeer-herding Sámi. It also led to losses for other Sámi groups, losses that are often connected to the fact that the state conditioned Sámi property rights to reindeer herding. The agrarian colonial politics from the end of the seventeenth century stipulated that the Sámi population and agrarian settlers could coexist. However, this coexistence occurred at the expense of the Sámi, especially the reindeer-herding Sámi who need perpetual land areas for reindeer herding.[20] Today, coexistence is one of the most frequently used words when it comes to legitimising energy or mining projects despite the impacts these have on rights holders.[21]

The rationalisation of reindeer herding is another aspect of industrial colonialism. In the early twentieth century, the authorities treated reindeer herding as a culture on the verge of extinction. However, in the 1950s and 1960s, the authorities began to view reindeer herding as an industry that should be rationalised, largely due to a decline in functioning pastures: the fewer the herders, the better.[22] Indeed, the fewer the herders, the fewer the rights holders. The authorities' approach to reindeer herding has often taken sides in the extractive discourse and, as such, has not promoted Indigenous peoples' rights. Today, in applications for wind-power projects or other land-use matters, reindeer herding is still considered and treated as an industry

interest; not as part of a larger context of Indigenous rights, but rather as one interest among many.[23]

Since the beginning of the 1900s, Sámi political mobilisation has struggled for the recognition of Sámi rights.[24] Today, there are several Sámi organisations on the national and international level, in addition to NGOs that cooperate with them. This has led to increased attention being paid to Indigenous peoples' issues. Nevertheless, getting to this point has required hard work by Indigenous groups and their allies. In Finland, Norway and Sweden, the policy towards the Sámi is currently the subject of investigation within truth commissions in each country.[25]

On the Norwegian side of Sápmi, the Supreme Court has declared two large wind power facilities illegal as they violate the rights of the Sámi people.[26] The fact that these illegal facilities are already built points out that Indigenous rights must be given attention much earlier in the permit process and as well as in energy politics. Considering that all extractive projects implemented in Sápmi rest upon centuries of colonial discourse and Sámi dispossession, permit processes ought to be reviewed.[27] In Sweden several wind projects have been appealed by both RHSCs and wind companies. In some cases, conditions and measures to secure reindeer husbandry and the location of turbines have been reviewed and changed.[28]

While decision-makers and representatives of other land-use interests seem to have difficulties considering perspectives other than their own, reindeer herders are expected to understand the perspectives of the wind-power, mining or forest industries or the larger community of which they are a part. Simultaneously, they must safeguard their own perspectives and culture. That is a difficult mission and the result of the asymmetric power relations that underpin the extractive violence Sámi reindeer herders are exposed to in the interplay with extractive industries and other land-use interests.[29] The Swedish parliament has decided to implement a procedure for consulting the Sámi that will oblige state, regional and municipal authorities to consult with the Sámi parliament, national Sámi organisations and RHSCs in matters that may affect them directly. This notwithstanding, the principle of free, prior, and informed consent (FPIC) is not included – in its entirety – in the proposal or the law. As such, the consent of a Sámi organisation is not necessary for a decision to be valid.[30] In sum, what is most notable is not the historical shortcomings of decision-makers in involving Sámi organisations, but rather whether these working methods have changed for the better in the 140 years since the first reindeer grazing law was implemented. One example is the recognition of Sámi procedural rights in land use decisions.[31] Today, Sweden prides itself on being one of the most egalitarian countries in the world, yet it has still not ratified the International Labour Organization's Indigenous and Tribal Peoples' Convention 169, and has omitted several principles of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), such as, among other things, the right to self-determination through FPIC in land-use issues and the restoration of exploited land.

3 Analytical and methodological frameworks

3.1 Green Sacrifice zones

Scholars have scrutinised the uncritical embrace of green-energy enthusiasm seen in today's policy formulation.[32] The dilemma of policy imperatives following this enthusiasm has the potential to reduce greenhouse-gas emissions, but at the same time risks a fall into the procedural pitfalls that characterise fossil capitalism, a logic that contributes to constructing sacrifice zones. The concept of sacrifice zones describes forms of violence, degradation and destruction to environments in specific landscapes and regions connected with racism, erasure of economic justice and Indigenous sovereignty.[33] The risk of Indigenous peoples and already marginalised communities being further pressured by a kind of climate colonialism has given rise to the concept of *Green Sacrifice Zones* (GSZ), which focuses on areas and peoples that carry a heavier environmental burden due to asymmetric power relations and conceptions of core and periphery.[34] Projects previously contested due to their environmental effects can now be framed as green-energy initiatives, resulting in state authorities deciding to forego standard procedural protections and processes and forums for deliberation and local influence.[35] The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) underlines not only the involvement of Indigenous peoples in decision-making but also the obligation of the state to obtain Indigenous peoples' FPIC, which authorises Indigenous peoples to "determine the outcome of decision-making that affects them, not merely a right to be involved in such processes".[36]

A central point in climate justice and research on GSZ[37] is not whether the world really needs to address climate change by ending the fossil-fuel economy, but rather *how* to approach this challenge and implement change in terms of recognising and acting against the unequal distributional effects that are related to all stages of processes regarding renewable energy production, including the historical aspects. The word sacrifice has a holistic meaning from an Indigenous perspective, creating a balance between what (resource) is taken or received and what is given back.[38] The intertwining of colonialism, capitalism and industrialisation that is manifest in the green-energy enthusiasm and the green-transition industry will hardly contribute to establishing and affirming equal relations between different societies and communities. Indigenous scholar Kyle Whyte describes how a certain relational tipping point between different communities and entities has already transgressed before the ecological tipping point, which is often the focus of the western world. In an Indigenous context, the relational and ecological aspects of living and being are inseparable. Colonial states have nurtured an exploitative relationship with Indigenous peoples and other local societies in their pursuit of growth. The important values of consent, trust, accountability, and reciprocity take time to build between societies – and time is in short supply in a future predicted to include escalating climate change. However, a "narrow focus on averting some ecological tipping point is a major concern

for some indigenous peoples because we know that the needed relational qualities for coordinated response are missing".[39]

3.2 De/coloniality and modernity

The importance of hydropower expansion in Sápmi for the Swedish welfare society brings the coloniality/modernity concept into light. The concept was coined by Ánibal Quijano and further developed by Walter Mignolo, where coloniality and modernity necessitate one another.[40] A de/coloniality-approach articulates a world system that has experienced political-juridical decolonisation processes. While colonial administration has been decommissioned, the peoples of the periphery (non-Western/non-European) remain under colonial exploitation. This is framed as a shift from global colonialism to global coloniality where "coloniality and modernity are two sides of the same coin".[41] There are indeed peripheral zones within "cores"[42] such as Scandinavia and Sweden, where the formal colonial administration has been eliminated; however, using the concept of coloniality allows us to understand the continuity of colonial forms of domination that are shaped by settler colonial structures and cultures, which applies to the situation of the Sámi people in their traditional home areas.

Zografos & Robbins connect GSZ with coloniality together with cost shifts, mainly focusing on private enterprises, but this passing of "harmful consequences and damages of economic production to third parties"[43] and communities is also visible within state corporations. GSZ illuminates structures and practices in the colonial relations existing within democratic, overdeveloped and settler colonial states like Sweden. Crises are often used to legitimise colonial oppression, and this is visible today in states' responses to the environmental crisis and climate change.[44] Hence, this study seeks to understand the continuation of the historical phenomenon of colonialism, that is, coloniality in energy policy processes during crisis times, and points to ways for moving forward.

3.3 Comparing policies focusing on the power of water and wind

Previous research has examined the Swedish energy system through a comparison of the arguments in present-day energy policy processes and the arguments found in the process of the Crisis Act during the Second World War.[45] The Governmental Investigation on Water Activities (performed 2012–2018) focussed on the implementation of the European Union's Water Framework Directive and resulted in an overview and reconsideration of permits for hydropower following the modern environmental conditions in the Environmental Code.[46] However, the participation of Sámi organisations in this process was limited, which is illuminated by the fact that that Sámi organisations were neither engaged as experts nor as consultative bodies for the three investigations. The final report does not mention the ongoing consequences that prevail in the reindeer-husbandry area.[47] Since it has several similarities

to the proposal to streamline permit processes for wind power production,[48] the present study is a follow up and evaluation of the practice. Beginning with the law review process from the end of the 1930s, I analyse how the crisis was made useful by hydropower proponents and then compare this with the arguments and strategies used in the review of the environmental code regarding wind power permits. A focus for analysis in both cases is the inclusion of relevant stakeholders.

4 Case 1

4.1 Rapid investigation on energy sustainment during WWII

In September 1939, the Royal Swedish Hydropower Board (today the state-owned company Vattenfall AB) and the private hydropower-company interest group, the Swedish Hydropower Association, presented a proposal for a new law with simplified procedures in water court cases concerning permits for hydroelectricity during wartime. After a few weeks, with certain modifications, the proposals were adopted as the Crisis Act. At the time, the head of the justice department wrote:

> From the report provided, it appears that by introducing the possibility to take quick measures for increased utilization of hydropower significant savings can be made in the consumption of coal and other fuel. This is obviously of great importance under the present condition.[49]

The impending threat was electricity rationing resulting from difficulties sustaining the energy supply. All available domestic energy was utilised, and trade blockades prevented the import of, for example, coal. During the winter of 1941–42 and for an autumn month in 1942, the coalition government decided on a rationing of energy consumption. However, until 1960, the threat of electricity rationing remained.[50] The energy was largely used to maintain industries such as mining. As is well known, Swedish iron ore was exported to Germany during the war.[51]

When the proposal was referred to the Supreme Water Court, the Water Court Judges, the National Board of Trade, the County Administrative Boards in Uppsala, Kopparberg, Gävleborg, Västernorrland and Jämtland counties and the Board of Stockholm Industrial Service all gave their overwhelming approval and were sacrificial in their power asymmetry, especially as the proposal from the hydropower actors contained concrete examples of coal savings through specific extension projects to existing facilities. These projects were not only to take place in neighbouring regions but also in the rivers of the inland region of the southern parts of Norrland, which could have a positive impact on industries in Stockholm. In addition, the projects were framed as causing no significant damage to "other interests".[52]

The main obstacle to the rapid implementation of a hydropower project was, according to the Northern Water Court, the Water Act's rules that regulation could not begin until the damage it inflicted had been paid for. To determine such damage usually took time.[53] While the Northern and Eastern Water Court proposed even

more time-saving measures, the Southern Water Court placed a condition: the law could only apply to existing facilities. The Western Water Court mentioned such a condition, but still believed that some new dams could be completed without the damage being too great.[54]

Like many other emergency laws, the Crisis Act of 1939 became an enabling act (SFS 1939:739).[55] The application and abolition of the law could be decided by the government, if necessary, and later approved by the Parliament. Thus, the law was given a provisional character in more than one respect.[56]

The application of the law was approved immediately and abolished as late as 1961/62. The Crisis Act was a major departure from the ordinary Water Act, which included a permit process where indemnification had to be determined and paid before a permit could be used. Only already existing dams were to be used for temporary regulation according to the Act, due to the reduction of legal security in the permit process. The rules for the protection of public interests in the ordinary water law were excluded. These include the regulation fees, which were paid annually for regulations that created a certain amount of power, and the fees to protect fishing from deterioration. The hydropower companies' argument was that these regulations and dams would be time limited and less harmful. However, instead, the many new dams – which were built in conflict with the rules in the law – became permanent. Eventually these temporary dams underwent an ordinary permit review according to the Water Act, but many processes became lengthy with uncertain outcomes regarding compensation to stakeholders, as in the case of Burvattnet and the third damming of Suorva.[57] The result is that the legal security of certain groups was sacrificed for the sake of domestic energy sustainment.

4.2 Cost shifts from the South to the North

Earlier research has shown that the praxis in the Northern Water Court and the Mid-North Water Court allowed the construction of completely new dams.[58] This type of procedure was highly unusual in the water courts in southern Sweden (i.e., the Eastern, Southern and Western Water Courts).[59] The praxis, a kind of cost shift from the South to the North, contributed to creating and confirming a sacrifice zone in the watersheds as well as the local and Indigenous communities of Sweden's northern regions, since the legal security of stakeholders was sacrificed in parallel with their home environment. This practice points at regional structures where the Northern Water Court acted more discriminatingly or sacrificially towards its own territory.

4.3 Protests and changes in legislation

Several lakes had been regulated according to the rules of the Crisis Act, and after protests in 1942 from, among others, the County Administrative Board in Jämtland County, the legislation was revised to include regulation fees. This was negotiated despite dissatisfaction from the hydropower operators, who believed that regulation

fees posed a risk to the power supply. The companies argued that in the long run, the fees, resulting in increased expenditure for the power plants, would be a threat to both the national economy and industry, as well as to individual consumers.[60] The law committee meant that the common interests of the district came into conflict with or opposition to the interests of the general public connected with the waterways, but that a review of the rules was not allowed to hamper power production.[61]

Amendments to the Crisis Act came into force in 1943, marking a step towards increased legal security for the power companies' opposing interests.[62] At the same time, this justified a continued and expanded application of the law in a way that was not intended, that is, with the construction of new dams. The need for reasonable compensation was recognised and seemed obvious both to those who spoke for the stakeholders affected by hydropower facilities and the developers. However, "compensation" was established as a tool to use in hydropower expansion processes, as the arguments were based on needs that were defined and balanced based on the values and interests of the core of power. A chain of arguments can be found to support this:

The Crisis Act [is motivated by the fact that it] increases the utilisation of hydropower –> which leads to savings in fuel consumption –> which is important under current circumstances [war] –> In order to achieve the aim [increase utilisation of hydropower], the hydropower interest was given a highly favoured position –> which could not have taken place without other public and individual interests, to a certain extent, being superseded.[63]

The core of power in this case was hydropower companies and politicians who represented a strong industry. Their values and knowledge were inherited from the Swedish colonial order that promoted ethnocentrism and preferred industries that already had legal protection under the Water Act, which meant that reindeer herders – whose livelihoods were strategically not mentioned by the legislators in the Water Act – were sacrificed and placed by all stakeholders at the far end of both the opinion periphery and the geographical periphery.[64] In comparison, Swedish colonial politics from the 1600s seems more sensitive and inclusive.

A discriminating factor is that directors of hydropower companies acted as experts in the following investigation, placing the hydropower expansion interests at the core of policy making. Today, mining proponents' use similar arguments, defining mining processes as "lengthy" and a threat to Sweden's reputation as an attractive mining country for investors.[65]

Discussions on the amendment of the law did not question the ways in which problems with temporary regulations and the law were made visible, but considered the consequences to be necessary based on the power supply situation and the fact that compensation in some form was possible.[66] This is state sanctioned cost shifting from hydropower companies to public and private interests and rights. Nevertheless, for reindeer husbandry, compensation was hardly a possibility because the land could not be replaced. All available land was already occupied, either for reindeer grazing or for settlement.

Several years later, in 1960, an official inquiry was set up to investigate how hydropower had affected reindeer herding. During the investigation, it was proposed that certain areas should be "opened" for reindeer grazing. In fact, these lands were former reindeer grazing lands that had become settlements, forest commons or Crown parks where reindeer herding had gradually been pushed aside. However, the report concluded that the repatriation of such extensive properties was too expensive and complicated.[67] The final proposal did not result in any actual compensation through the repatriation of reindeer grazing land, nor any actual discussion as to whether it was possible to give reindeer husbandry real compensation.

A few years later the inquiry into a new reindeer-husbandry law was presented. In this inquiry, the idea of the rationalisation of reindeer husbandry during the 1950s and 1960s, finally resulted in proposals for severance pay for the reindeer herders who left the industry.[68] After the impact of hydropower expansion on the land, migration routes and fishing, a reindeer herder needed much more capital to conduct reindeer husbandry, which meant that the reindeer herd had to increase.[69] As a result, the state investigation concluded that with the "new" conditions, fewer herders could remain in reindeer husbandry. Reindeer herding was thus sacrificed on the altar of energy production and had to adapt to survive under the conditions set by the Swedish state.

5 Case two

5.1 A rapid investigation to meet wind power production interests

The Swedish government decided in October 2020 to undertake a rapid investigation to provide increased predictability in environmental permits for wind power. This was articulated as *predictability for the projectors*. According to the directive, the provision on municipal approval in the Environmental Code has been criticised by, among others, wind power projectors. This provision requires the consent of the specific municipality where a wind power plant is to be located. However, the Environmental Code does not include a specific Sámi veto. It was pointed out that the provision lacked decision criteria, requirements for justification, and a time limit. Therefore, the government appointed an investigator to examine the conditions for repealing the provision and submit proposals on how the municipal influence could be met in other ways. The inquiry should also assess alternative proposals to make the environmental assessment of wind power plants more legally secure and predictable. This was justified by the need for increased wind-power expansion in the light of climate crisis, which in turn necessitates that the permit process is efficient and predictable.[70]

The investigation's directive emanates from a report conducted by the Swedish Energy Agency and the Swedish Environmental Protection Agency. In this report, the authorities propose to remove the provision of municipal approval, based on an evaluation of how the approval system had functioned after a few years of use. While the municipalities' experience of how the application process works is generally

positive, planners, review authorities, the Energy Agency and the Environmental Protection Agency point out that the approval rule gives wind power a special position in the Environmental Code and lacks regulatory decision-making criteria. Furthermore, the report shows that municipal approval can be changed during the process, thereby lengthening processing times.[71]

Under the heading "Consequences for society",[72] it is clarified how the authorities view the situation: the abolition of municipal approval "is expected to lead to the permit process for wind power being facilitated and becoming more legally secure compared with today". Furthermore,

> The process becomes more legally secure because the predictability increases as the municipality will not be able to stop a project at a late stage or change attitudes during the process. Predictability is also expected to increase as the general plans are expected to play a more important role for the municipality in managing wind power establishments.

The societal consequences are thus that wind-power developers acquire a simpler and more predictable permit process. The consequences for other actors: municipalities, review authorities, corporate promoters and the public, are also included in the report. The municipal general plans [Swe: *översiktsplan*] are expected to play a more important role, but the report fails to acknowledge the possible problem that municipalities have not always included or updated their position on wind-power issues in their general plans or in thematic additions on wind power.[73] These plans are costly to develop and above all take time in the democratic processes that municipalities are expected to follow. It is assumed that resources used on approval decisions will be released for work in other areas, while at the same time it is predicted that there will be increased consultation work involving the municipality and the possibly of an increased number of appeals.[74] The proposed changes risk becoming a zero-sum game, resulting in the end in additional work for some resource-poor municipalities. Moreover, the cost shift and sacrifice to promote wind power will affect democracy and public interest as well as the legal security of certain stakeholders, creating a situation similar to the Sámi communities that are involved in several parallel contested land-use processes, with no paid staff to handle the issues.

Regarding the impact on review authorities, time savings is mainly reported, as is the fact that an increasing number of appealed cases does not constitute a threat, since the number is already high today.[75] For corporate promoters, there are only positive effects, as uncertainties and ambiguities will disappear, as well as the financial risk they entail. The projectors are already assumed to be in early dialogue with the municipalities. Somewhat surprising, however, is the ignorance in the report[76] on what the Energy Agency states in a guide on municipal approval for wind power:

> The municipality's decision on the approval for a wind power establishment shall not contain any conditions. The views of the municipality on the establishment of wind power should be put forward in early dialogue, consultation and in the consultation statement regarding the permit application.

> […]
>
> To make the approval dependent on a compensation being paid is contrary to the government's demands for objectivity and impartiality. Municipalities and county councils may charge fees for services and utilities they provide.[77]

According to the Swedish constitution, a municipality's decision must be made on an objective basis without agreement on, for example, financial compensation. Regardless, the report expects that "[t]he incentives for projectors to negotiate with the municipalities about financial compensation is expected to decrease because the possibility for the municipality to decide on the approval of a project disappears."[78]

Finally, the public is expected to gain more transparency with the removal of municipal approval. But again, the report neglects to draw attention to the fact that municipal general-plan processes are slow and costly. Therefore, the plans are not revised or updated frequently, which makes it even more important to follow the technological development for wind power. An area may have the opportunity to house power plants up to 200 metres, but in two years' time, plants may be much larger, up to 280 metres.

5.2 Democracy and coloniality

If we start from the notion that those who have the most to say in wind power issues are those who live nearby, and that wind power is most often built in sparsely populated areas, another approach must be the democratic one. In a majority-decision system, it is more difficult for those who approve or reject wind power in their areas to make their voices heard. Another fact is that decisions on wind power take place within the framework of larger decisions on general plans and not approval decisions on specific wind farms, which also complicates the democratic aspects.

On the other hand, the report argues that the policy proposal is not expected to affect the pace of wind-power expansion to any great extent, and thus no direct consequences are expected for the environment, employment, and other industries. Instead, it is emphasised that a decision element is removed, which creates legal security and a predictable review process, which in turn creates "better conditions for the expansion of the renewable energy form wind power."[79]

The report serves as the basis for the directives in the 2021 governmental report, which proposes placing municipal approval earlier in the permit process and giving more weight to the municipal general plan and thematic additions on wind power.[80] To a certain extent, this costly additional work is recognised. Proposed compensation is to be established through a planning support system aimed at securing "that permit applications for wind power are received more positively by the local residents than what would otherwise be the case".[81] Another proposal is economic compensation for municipalities and local communities. While several of the positive and negative effects of such a system are discussed,[82] the issue of communities

or persons that may suffer more than others is not considered. One such group is reindeer-herding Sámi who are not helped by economic compensation for lost lands; another group could be neighbours of a wind park, who stand alone against numerous promoters. In discussing the positive effects of compensation, the focus lies in how to change opinions towards wind power, not the reasons for negative opinions.

> It can also contribute to a more positive local opinion, which would make both a possible approval process and the permit process more efficient. Such compensation can make people feel less overlooked or run over by the government, which is why it is to some extent also a question of democracy.[83]

Based on the Energy and Environmental Agencies' Report, the special investigator mapped out objections raised first and foremost from the municipalities, but also from other actors. The investigator consulted, held meetings, or offered such a meeting with approximately 40 actors, and seven "particularly important" actors[84] are mentioned in the report.[85] Here one can note a kind of sacrificial planning observed in the research[86] when it comes to policy reviews in Sweden. According to a diary extract,[87] neither the Sámi Parliament nor the reindeer-husbandry industry organisations Sámiid Riikkasearvi (SSR) and Swedish Reindeer Owners' Association, Boazoeaiggádiid oktavuohta (RÄF) were among these actors, despite the directive stating that the investigator must have a dialogue with "other stakeholders [which should at least include the Sámi Parliament], and businesses [which should include SSR and RÄF], environmental organisations and other actors". An administrator was asked if the investigator had spoken to Sámi representatives:

> The inquiry has not spoken to Sámi representatives. The reason is that the proposals are not about how different interests should be weighed against each other or how different values and interests should be weighed against wind power. These issues are handled today and according to proposals within the framework of the general planning and the permit examination, respectively. In the report, the inquiry states that more wind power can have a negative effect on reindeer husbandry, but since the inquiry did not have the purpose or goal of increasing the expansion, that conclusion is not something that affects the proposals themselves.[88]

Here, one must consider the overall purpose and goal of the investigation. The inquiry as such was established at a time and under an active policy with the outspoken aim to expand wind-power production, one headline in the directive being "the need for an increased wind power expansion".[89] Therefore, the purpose cannot be rewritten to *not* increase this expansion. Choosing not to involve Sámi organisations is to sacrifice their perspectives and Sámi rights. The report persists in its one-sided perspective:

> All the meetings that the investigation had with different actors added relevant information to understand the context and history. Direct contacts with actors that in different ways have been involved in the work with municipal approval, have also helped the committee to map out how and why the provision was created.[90]

The report was submitted for response to over 100 referral bodies. In their referral response, the Sámi Parliament questioned the proposals and articulated important aspects not seen in the investigation:

> The Sámi Parliament also fears that the proposal for financial compensation to the municipalities may entail risks that the inquiry has omitted. As the knowledge of Sámi culture, Sámi land use and Sámi rights vary within the municipalities where reindeer husbandry is conducted, the Sámi Parliament believes that the municipal influence can be maintained provided that the Sámi influence is ensured. […]
>
> To only make decisions based on the municipalities' general plan and the reindeer husbandry's national interests are not enough. […]
>
> The Sámi Parliament sees a risk with the proposal for financial compensation to the municipalities as compensation for wind power establishment. The risk is that the system will put further pressure on the reindeer-herding Sámi communities and may lead to increased conflicts between Sámi communities and the rest of the local population where there are different opinions for a wind power establishment.[91]

In their referral response, the RÄF levelled sharp criticism at the report:

> It is remarkable that in the matter of legally secure wind power permits, the ministry does not include the reindeer herding industry as an actor that the investigator must consult with. On the other hand, environmental organizations are listed as a body to obtain views from. […]
>
> [RÄF] rejects proposals for a special law where municipalities within six months give notice of the approval or disapproval from the date the projector requests it. […]
>
> [RÄF] is doubtful about the system of financial compensation […]
>
> [RÄF] rejects the proposal for a legally secure wind power trial. For a more legally secure wind power assessment to take place, RÄF requires that an environmental and social impact assessment for reindeer husbandry be included in the municipalities' decision basis for testing wind power establishment.[92]

The procedure of not including Sámi stakeholders at an early stage or no stage at all, except as referral bodies following the proposal, is roughly the same procedure of excluding certain actors from the inner circle of policymaking, as was the case during the Water Activities investigation. The procedure is also reminiscent in several ways of the inquiry that was appointed 81 years earlier following a proposal from the "industry" represented by Sweden's major hydropower production actors.

In the final proposition, the government advocates nine months as a limit for municipal decisions on the location of wind turbines. The opinions of the Sámi referral bodies were not considered. They were only notified that their proposals had been rejected and that issues of "Sámi interests and how these would be affected" had been articulated.[93] In proposing that the municipal general plan will only be a guide,[94] and with their scant knowledge of Sámi land use issues in municipalities, the government has sacrificed Sámi rights for more generous decisions in favour of wind

power projects that will most likely not be favourable for reindeer herding. When the government "notes that the public's opportunity to participate in the process of municipal planning, e.g., in the development of new general plans, is unchanged",[95] they overlook the busy schedules of several RHSCs, where they are obliged to consult with a variety of different land use prospectors, and where reindeer herding rights are based on immemorial use of the land. These are rights that must be seen on another level and raised above the possibility of prospecting natural resources.

In June 2022, the environmental committee rejected the proposal with the argument that the rules would not lead to increased expansion of wind power but welcomed the already launched investigation concerning how to compensate localities for wind power.[96]

6 Back to square one

The first stage of streamlining energy permit processes can be found in the Crisis Act that existed during the Second World War and was used into the 1960s. This law formed the basis for the many hydropower projects that were carried out in northern Sweden after the hydropower resources in the southern parts of the country had already been utilised. The streamlined procedure sacrificed stakeholders' involvement in the permit process. When the procedure was reviewed in the 1940s to make it more legally secure, power-plant directors acted as experts in the official investigation, and reindeer herding rights were not represented, not even by the colonial authority, the Lapp Administration, even though the intention was to increase legal security for other actors besides the hydropower companies.

The Swedish energy system represents a cost shift, as it builds on, from the projectors' perspective, "cheap" electricity from the north.[97] This idea is based on the politics of land ownership in the north and in Sápmi; ultimately the Swedish state considers itself the owner of large areas of the northern mountainous region as well as the waterfall rights located there. This is preceded by 200 years of settler colonisation policy, which has meant that the original inhabitants of the north have either been assimilated as permanent settlers and Swedes, or have continued with their nomadic or semi-nomadic livelihoods where reindeer herding is often the keystone. As a result, nomadic reindeer herders qualify as that group which Swedish decision-makers consider Sámi with the right to use reindeer grazing areas,[98] the collectively and individually managed Sámi lands previously called Sámi taxed land.[99] With colonial land distribution processes, these areas became reindeer grazing lands on state-owned as well as on privately-owned estates.

Lessons from the history of sacrificed Sámi rights were hardly part of the Water Activities Investigation; neither past nor present consequences were mentioned. The result of the investigation was new hydropower legislation from 2019, which stipulates that the heavily modified watercourses in the north will hardly receive any environmental adaptation at all. Instead, Sweden will use all the exceptions that

exist to not oblige companies to waive hydropower production. The final bill was not referred to the Sámi Parliament, nor any reindeer herding organisation.[100] The avoidance of adapting the aquatic environment to increase fossil-free electricity production (for climate change mitigation purposes) places the land- and waterscapes of hydropower in Sápmi in a GSZ where the limits for environmental degradation are lower than the average standards in the EU Water Directive. Because the rights of the Sámi were not considered in the investigations and proposals that preceded the hydropower review process, Sámi rights risk being further sacrificed in the process. There is no certainty that the historical and ongoing consequences of the dams will be considered when hydropower permits are reviewed and renewed.

Despite recent progress in legal cases for Sámi rights,[101] it is still not self-evident that Sámi representatives are included in law review processes. Swedish political goals to increase renewable energy production led to a review of certain regulations that were considered to complicate and delay decisions in permit processes for wind power. The review was forwarded by the wind power industry and governmental agencies. Once again, neither the Sámi Parliament nor any Sámi organisation were included in the investigation except as referral bodies for the finished proposal. One argument for excluding Sámi organisations and authorities was that the proposal did not discuss how certain interests should be weighed against each other. Again, reindeer herding and Sámi rights are treated as interests, but following that argument, these interests must be considered for what they manifest for Sweden: reindeer herding as a domestic meat industry and part of the Indigenous rights of the Sámi, and Sámi rights as an interest for the state to keep on an acceptable level. In this way, Sweden keeps sacrificing the possibilities to honour these "interests" and shows that GSZ are created and maintained by Swedish politics.

Furthermore, neglecting the Sámi organisations' views on compensation is a sacrifice and a cost shift from those who receive the benefits or the electricity from wind power, mainly consumers and municipalities, to those who ultimately have their lands destroyed and livelihoods endangered. By showing how the Swedish legislative process, historically as well as currently, has neglected to involve Sámi representatives, this study points to the importance and obligation of Swedish policymaking to engage Sámi representatives in an early phase to avoid creating and maintaining GSZ in Sápmi. Rendering invisible the sacrifices that were required of certain groups for the sake of energy production is characteristic of the coloniality of those who create sacrifice zones, making it possible for a return of this process disguised as ecologically conscious modernity combining "climate action with economic growth and development".[102]

From the perspective of inclusion and building relations with the Indigenous communities who are already deeply involved in the consequences of energy production, it is important to point out that this investigation was carried out at the wind-power industry's behest to develop a more streamlined permit process with the argument that there is a need for increased wind power production. By excluding relevant

actors, the investigation shows that Swedish energy policy is back to square one, creating and maintaining GSZ, and that for specific cases in Sápmi it is not only (the places of) localities but also (the places, rights and livelihoods of) Sámi communities that are sacrificed.

7 Conclusion

In Sweden, hydropower projectors and companies have been allowed to govern and design legislation within their own area of activity. Among other things, power-plant directors have acted as experts in investigations and on committees. This relation is common between industry and politics, but uncommon when it comes to less powerful actors. A striking example of this is minority groups and Indigenous groups that have historically been subject to various restrictions and unequal treatment. The Sámi, and in particular reindeer-herding Sámi, are one such group with minimal influence over their own areas of activity, where state arrangements and ideas – often without transparency and participation for Sámi – have characterised the entire policy area today called Sámi and Indigenous politics in Sweden.[103]

Although some progress has been made for Sámi rights, the green transition brings Swedish politics back to square one, leaving out lessons from the past and contemporary voices of ongoing and probable future consequences. In certain issues, such as how the recognition of the Indigenous status of the Sámi should actually affect the legislative process and how the Indigenous rights of the Sámi should be addressed, policymaking is particularly slow to adapt.[104] The green transition industry is already affecting the Sámi people, just as the construction and completion of the Nordic welfare society did during the last century and still does.[105] It actually supports and deepens an ongoing colonial wave that started in the fourteenth century and intensified with the discovery of silver ore in the alpine areas on the Swedish side of Sápmi in the 1630s.

The notion that history repeats itself may seem obvious when it comes to including the Sámi in Swedish policymaking in times of energy emergencies. In the shadow of World War II and the Crisis Law for hydropower production, the arguments were to produce domestic electricity for the public good at the national level. Directors of hydropower companies had the opportunity to propose and influence the legislation, while reindeer-herding Sámi representatives were not involved. This is not merely exclusion but becomes sacrificial when connections are made concerning how the land is used, who gains from energy production, and who uses the energy produced. In today's energy policymaking, Sámi organisations are still not involved. The issue of streamlining the permit process for wind power is treated as if it does not affect reindeer herding. The argument today is to produce renewable electricity for the greater good at a global level. With those arguments it is difficult not to end up at a disadvantage as an Indigenous minority and in a green sacrifice zone.

To a large degree, one can still say that the Swedish hydropower system is based on the sacrificial cost shift of producing cheap energy from the north at the expense of legitimate stakeholders' rights. This was made possible through colonial forms of knowledge and mentality that privilege certain groups' versions of the 'greater good' in times of emergencies.

While it is important that aspects concerning relationships with state-owned companies that operate on Sámi lands can be addressed within the framework of the *Sámi Truth Commission*[106] recently decided on by the Swedish parliament, the practice of planning and policy processes needs to change. The system for Sámi consultation is now in operation but the question is still open as to how "issues concerning the Sámi people" will be defined in each individual case.[107] As mentioned, in the wind-power investigation, the relevance of involving Sámi expert functions was set aside with incorrect arguments that suit the interests of the government. However, a decoloniality approach suggests that Sámi organisations should be involved in all forms of land-use issues concerning Sápmi and given the opportunity to engage on equal terms when it comes to capability building. If, for example, representatives of the Swedish Mining organisation are considered experts in the investigation of a new reindeer husbandry law,[108] then Sámi organisations must of course be considered experts in the investigation that reviews permit processes and regulations for the supply of innovation-critical metals and minerals,[109] just as they should have been involved in the wind power investigation.

Moreover, the state should also ensure that there is a service or funds set aside for such work within the Sámi organisations and authorities. The new Sámi consultation system can be a step towards this, but the bill still does not require the consent of the Sámi part, which can be seen to conflict with the development of Indigenous peoples' position in international law. If the ongoing consequences of hydropower expansion in Sápmi were recognised in public investigations, it might be easier to justify and realise greater inclusion for and the engagement of Sámi organisations. Although omitted, the lessons from the past are conspicuous; the crisis should not appear as unprecedented[110] because hydropower is not just history, but something that impacts the people who live and work near the heavily modified waterways every day. Today, the focus is on "the new saviour" wind power, which is equivalent to the consequences of hydropower with respect to land-use, since below the surface it is one of the many layers of cumulative effects that reindeer herders with their larger landscape perspective must maintain a complete overview of. Most other actors only see their property, interest, or project, even if it is a large wind-farm industry. Nevertheless, there is still a chance for the state to do penance in the wind power compensation investigation[111] by including relevant stakeholders as experts early in the process, such as Sámi organisations and the Sámi Parliament.

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NOTES

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