

9 Mobility paradox

“Green” energy production and Sámi perceptions of national decision-making legitimacy

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Introduction

The Nordic region is one of the European sub-regions experiencing challenges in the midst of the green transition. It is a target zone for green energy production to which civil society has responded with demonstrations, questioning the role of the European Union as an environmental champion and the legitimacy of Nordic states leading Arctic energy governance. Sámi People, the only Indigenous group in mainland Europe,¹ are amongst the populations and non-state actors contesting their governments’ decisions. The cultural and environmental repercussions of “green” energy production have the effect of limiting mobility for the reindeer herds and the people who work with them. From a sociological standpoint, this contestation suggests that from a Sámi perspective, the legitimacy of Nordic governments’ decisions on the green transition is at stake.

In an era of the legal and policy transformation to “green” energy production in the EU, assessing the legitimacy of political institutions is important to validate the extent to which these institutions work rightfully towards achieving the European Green Deal (EGD) goals.² Research on global governance institutions, including those related to the EU and its regional effects, has studied the legitimacy of those institutions using normative parameters.³ Sociological legitimacy, a burgeoning field concerned with the empirical study of legitimacy, proposes that social perspectives also matter, given the increased participation and contestation engaged in by civil society and other non-state actors as political decisions affect these social groups, which in turn has potential implications for the effectiveness of global and regional governance.⁴ Normative-sociological legitimacy, a combined approach, proposes that these two perspectives can be simultaneously addressed when focus is on understanding a group’s perspectives through theoretical standards in legitimacy studies.⁵

This chapter focuses on Sámi People’s perception of the legitimacy of Norwegian and Swedish governments’ decision-making in light of the mobility paradox. The mobility paradox originates when green energy production – the set of mining of critical raw materials, windmill parks and hydropower activities – enables mobility for the broader society under the auspices of the EGD, whilst constraining the

traditional mobility of Sámi People to carry out their reindeer herding activities, which are paramount for their cultural and economic development.⁶ It builds on Arctic environmental justice studies and normative-sociological legitimacy scholarship, which together provide a framework to understand Sámi perceptions of the legitimacy of relevant law and policy and how it is implemented. Perceived legitimacy suggests that political institutions address justice, alongside other normative standards. In contrast, lack of social legitimacy signals the lack of practical justice for local populations and less confidence in the political institutions involved. Perceptions of (il)legitimacy are important because they signal Sámi People's potential unwillingness to collaborate with relevant governments, which will have some bearing on both the future of green energy projects and the future of the Sámi People.

The chapter also discusses Sámi territories as sacrifice zones – land areas that are chosen to concentrate economic activities that likely lead to environmental degradation⁷ – for hosting green energy production as climate mitigation strategies that lead to forced adaptation plans for Sámi communities.⁸ To conclude, the chapter discusses the implications of the mobility paradox on the effectiveness of mobility and energy governance and Sámi environmental justice.

This chapter is an empirical-based contribution to the studies of Nordic mobility in the context of normative and sociological legitimacy, and other broader discussions related to global and regional climate governance. As such, this chapter first conceptualises the mobility paradox in Sámi lands. It then describes relevant legislation at the international, regional and national levels, as well as relevant institutions. Thereafter, it analyses four cases—two in Sweden and two in Norway—using directed content analysis (DCA) and scrutinises the relevant Sámi perceptions of legitimacy in those cases. Whereas further research is required to render a final assessment of Sámi People's legitimacy perceptions, the empirical analysis suggests that perceived (il)legitimacy in the agreement (or contestation) of green energy production might have serious implications for future mobility, both as a matter for Sámi People and in the creation of new mobility pathways.

Contextualising and conceptualising the mobility paradox in Sámi lands

The EGD requires energy transitions⁹ but the resurgence of war in Europe has added to pre-existing pressures, including climate change and social injustice.¹⁰ In this context, Sámi People are facing threats to their landscapes, livelihoods and cultural practices due to their lands being co-opted for energy production through mining of critical raw materials, windmill parks and hydropower activities, all of which are associated with the EU green energy transition.¹¹ These competing pressures underline the tensions between Sámi traditional forms of mobility that predated colonisation and the contemporary dynamics that affect those ancient mobility forms. For this reason, reaffirming their self-determination is paramount for Sámi People, apropos international, regional and national political institutions and mobility legislation.¹²

Sámi mobility

Sámi People live in Fennoscandia region, which corresponds to the settler states of Norway, Sweden, Finland and the Russian Kola peninsula.¹³ Traditionally, their subsistence and economic practices were hunting, fishing and reindeer herding, all of which are linked to land use and rights.¹⁴ Focusing on reindeer herding, Sámi People have nomadic practices that have been affected by climate change¹⁵ but also by energy transformation.¹⁶ Sámi reindeer herding practices are also associated with constant mobility, especially as a form of subsistence.¹⁷

Sámi mobility then entails their mobility for reindeer herding that is both an economic and a cultural practice around which Sámi People have developed values and environmental knowledge systems.¹⁸ This form of mobility matters because energy transitions occur both in the territories inhabited by Sámi, and also in spaces they might not permanently inhabit but take their herds through to graze. Moreover, energy issues might not affect Sámi People directly, although do so indirectly by threatening reindeer herding opportunities, which is not only a form of subsistence but also an important element of their culture.¹⁹

In the context of the green transition, the mobility paradox is a form of “green” colonialism, which refers to the exploitation of Sámi (or other Indigenous) lands for economic (e.g., energy) production justified on the basis of the importance of mitigating climate change.²⁰ Energy production is argued to transform Sámi territories into sacrifice zones, which are the designated areas where public and private actors intend to locate these activities, knowing the environmental and health risks that those represent for the local people and the natural environment.²¹

Sámi actors

Sámi are a People, which is a collective noun, but it is imperative to recognise the individualities within that group too. Sámi People have different ways to live their indigeneity that can vary across generations, levels and forms of education, gender, sexual preferences, and physical capacities and individual identities. It is from all these angles that they might form their individual perceptions. But they might come to agreements or common conclusions by their shared history and environmental identities.²² This chapter considers both the individual and collective features of Sámi that potentially shape their perceptions of the legitimacy of relevant law, policy, and government decision-making.

Furthermore, there are institutions organised by or for Sámi People, such as the Sámi Parliamentary Council (SPC), which is a representative body where representatives from Finnish, Swedish and Norwegian Sámi parliaments, and observers from Russian organisations cooperate.²³ However, Sámi parliaments in Norway and Sweden have distinct features. The Norwegian Sámi Parliament was created by Sámi People in 1989 and is relatively independent from the Norwegian government.²⁴ Whereas, the Swedish Sámi Parliament was established in 1993 and is ingrained in the Swedish government.²⁵ That Sweden is not party to the only binding treaty addressing the rights of Indigenous Peoples (Indigenous and Tribal Peoples

Convention 1989, hereafter “ILO 169”) has meant that the Swedish Sámi Parliament has more limitations compared to its Norwegian counterpart.²⁶

An older Sámi organisation, the Sámi Council, dates back to 1956. Unlike the Sámi parliaments, the Council is a non-governmental organisation with nine Sámi member organisations from the four settler states that Sámi People inhabit. It advocates for Sámi rights by defending the economic, political and cultural interests of Sámi People in the governmental processes of the settler states inhabited by Sámi.²⁷

Mobility-related law and policy

Mobility-related law and policy refers to the breadth of those laws, policies and institutions within the state apparatus that impact various forms of mobility, including Sámi reindeer herding,²⁸ among other forms. Thus, energy production policies might fall within this research focus because they impact mobility and land-rights for Sámi People. Since all such law and policy and its implementation might affect Sámi People’s mobility, they might in turn affect Sámi People’s perceptions of the legitimacy of the responsible government institutions. It is not possible within the confines of this book chapter to cover all potentially relevant policies or regulatory frameworks. Therefore the focus here is on those particularly significant to Sámi rights.

ILO 169 is a legally binding instrument that, among other things, calls for the respect of the customary practices of Indigenous Peoples, which would include Sámi reindeer herding.²⁹ It has been ratified by Norway, but not Sweden. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is a resolution of the UN General Assembly that emphasises the need to respect Indigenous Peoples’ culture throughout, and particularly in Articles 5, 8, 11, 12, 14 and 15. Article 10 provides that Indigenous Peoples shall not be forcibly removed from their lands, and that no relocation shall take place without the free, prior and informed consent (FPIC) of the Indigenous Peoples concerned. Article 32 provides that Indigenous Peoples have the right to determine and develop priorities for the development and use of their lands, and that states should consult and cooperate with Indigenous Peoples to obtain their FPIC prior to the approval of any project affecting their lands or territories.³⁰ UNDRIP is not legally binding but is grounded in binding principles of human rights law. Finally, the Convention on Biological Diversity (CBD), which governs aspects of the use of natural resources, provides in Article 8(j) that each contracting party will respect, maintain and preserve Indigenous practices relevant for the conservation and sustainable use of biological diversity and, indirectly, also refers to consultation by requiring that such practices be promoted with the approval and involvement of Indigenous knowledge holders. However, Article 8(j) also contains the caveat that these endeavours are subject to each state’s national legislation.³¹

At the regional level, the EGD is an effort “to integrate the United Nations’ sustainable development goals” into the region, with an emphasis on issue areas like “clean, affordable and secure energy”.³² Two aspects of the EGD are of interest

for this research. First, the EGD aims at striking a just transition for all. Second, the European Commission proposed a Critical Raw Materials Act within the EGD framework,³³ which requires the extraction of raw materials for powering wind turbines and solar panels. The inclusion of mining within the EGD framework provoked reactions from within civil society and Sámi People, entrenching opposition to existing and prospective mining projects in Sweden and Norway.

Within the Nordics, rather than the broader EU region, the Nordic Sámi Convention elaborates the general rights of the Sámi People, recognises that Sámi are one People residing across national borders, and establishes cooperation between the Nordic states within which Sámi live: Finland, Norway and Sweden (Russia is not a party). It provides that the states shall respect and consult Sámi representative bodies “when necessary” in Article 21, and acknowledges that “the Saami parliaments make independent decisions on all matters where they have the mandate to do so under national or international law” in Article 15. The Convention also references the affirmation and strengthening of Sámi culture in Articles 1, 6, 9, 11, and the entirety of chapter III.³⁴ Relevantly, Article 34 provides “If the Sámi have traditionally used certain land or water areas for reindeer husbandry, hunting, fishing or in other ways, they shall have the right to continue to occupy and use these areas to the same extent as before”, although with due regard for other users. The Convention expressly requires negotiations with Sámi in advance of any government decision granting a permit for the utilisation of land otherwise used by Sámi (Article 35) that the Saami Parliament has the right to co-manage the land (Article 39), and that reindeer husbandry shall enjoy special legal protection (Article 42). Finally, national legislation and judicial decisions affect Sámi mobility. In Norway, the Sámi Act (1987), the Finnmark Act (2005) and the Reindeer Husbandry Act (2007) support Sámi rights. In Sweden, Article 2 of the Swedish Instrument of government (which forms part of its constitution) provides that Sweden shall promote opportunities for Sámi People to preserve their cultural life, and Article 17 expressly recognises the right of the Sámi population to practise reindeer husbandry and that this shall be regulated by law. Accordingly, Sámi People inhabiting settler Sweden are subject to the Swedish Reindeer Herding Act (1971) which governs the right of Sámi to use land and water to maintain reindeer herds in certain parts of Sweden.

The Indigenous status of Sámi is not recognised in Swedish or Norwegian constitutions,³⁵ notwithstanding their recognition as such under EU and international law. The absence of the Indigenous status enshrined in the constitution is important because it might impair Sámi People from asserting certain rights, and might contribute to the formation, or not, of perceptions of legitimacy. On the other hand, the Swedish government adopted in January 2022 the “Lag (2022:66) om konsultation i frågor som rör det samiska folket”,³⁶ a law to support the consultation rights of Sámi People in relevant situations for their development. Both the Sámi parliament and other Sámi representatives ought to be consulted by the Swedish government and associated agencies from January 2022, whilst local governments must carry out consultation from March 2024. Along the same lines, the Norwegian government has similar obligations under international law, since it has ratified ILO 169 that emphasises in its Article 6 that signatory countries shall implement consultations with Indigenous Peoples that might be affected by governmental decisions.³⁷

A normative-sociological legitimacy framework to understand Sámi perspectives

Legitimacy beyond normative standards

Under a normative legitimacy perspective, an institution that is considered legitimate lives up to given normative standards such as institutional integrity,³⁸ accountability, transparency, inclusiveness and openness.³⁹ The sociological legitimacy approach is instead interested in the perceptions held by relevant audiences of whether a political institution is legitimate.⁴⁰ These perceptions might or might not be grounded on normative standards. When the analysis is focused on legitimacy perceptions of certain actors based upon normative values, then, we talk about normative-sociological legitimacy,⁴¹ which provides the analytical framework for this chapter. Essentially, under a normative-sociological framework political institutions are perceived as legitimate when they appropriately exercise normative standards in governance processes.⁴²

Normative and sociological legitimacy scholarship have grown apart in terms of their ontological and epistemological reasoning. However, they can also be seen as complementary under the normative-sociological legitimacy approach proposed here. Correspondingly, some elements are relevant in both theoretical schools. These include that objects of legitimacy are the actors in which legitimacy is bestowed,⁴³ and that those actors who bestow legitimacy are known as the audiences, those who perceive legitimacy.⁴⁴ In the previous section, I outlined legitimacy objects (i.e. the EU and Norway and Sweden's governments) and audiences (i.e., Sámi actors) of relevance for this chapter. To understand Sámi legitimacy perceptions, all Sámi actors are here considered as audiences, whilst state actors (i.e. Norway and Sweden's governments) are regarded as legitimacy objects.

Finally, there are drivers or sources of legitimacy, which are the reasons why audiences perceive institutions as legitimate.⁴⁵ Taken together, normative and sociological legitimacy scholarship offers a vast number of concepts that can be considered sources of legitimacy within a normative-sociological approach. On the normative side, research bridging legitimacy and energy offers a framework with at least nine different sources of legitimacy – authority, inclusion, procedural (i.e., decision-making) fairness, transparency, accountability, output, outcome, impact and distributive (i.e., benefits distribution) fairness.⁴⁶

On the sociological side, research focused on global governance has proposed sources of perceptions of legitimacy coming from varying theoretical approaches, including individual, institutional and societal dimensions.⁴⁷ For the purpose of combining normative and sociological approaches, the relevant sources within sociological legitimacy studies focus on the features of political institutions (institutional sources). From an institutional legitimacy angle, political institutions are expected to follow normative standards to be perceived as legitimate; for instance, participation, accountability, efficiency, impartiality and distributive justice.⁴⁸

However, the sources of interest in this study are restricted to perceptions of justice held by Sámi People, and as a central concept for their own advocacy (i.e., procedural and distributive justice – concepts explained in the next section).

Conveniently, justice-based perceptions of legitimacy overlap in both normative and sociological approaches, which makes them suitable to analyse from a normative-sociological approach. Understanding whether Norwegian and Swedish governments' decision-making processes are perceived as legitimate in the eyes of Indigenous Peoples helps to understand the potential for collaboration between Sámi People and those governments. Perceived legitimacy might provide Sámi People with greater willingness to engage with those governments, which alongside concerted government cooperation could create fairer and more effective policies for Sámi People.

Justice as a normative and empirical legitimacy standard

Most of the previous studies on mobility and Sámi examine justice-based aspects.⁴⁹ In terms of legitimacy studies, the analysis of justice and legitimacy is already present in classic psychology studies that point to perceptions of legitimacy and link them to procedural and distributive justice.⁵⁰ Contemporary normative⁵¹ and sociological⁵² legitimacy research also acknowledges this link. Building on these studies, I investigate procedural and distributive justice as sources of legitimacy.

To judge legitimacy on justice grounds, audiences might pay attention to the fairness they perceive in decision-making processes (procedural justice), such as energy-related consultations.⁵³ Alternatively, or simultaneously, audiences could pay attention to the fair share of policy-making outcomes (distributive justice), like the advantages (or disadvantages) of energy policies implementation and the (un)even situation that these policies create.⁵⁴ Since this chapter enquires into the perceptions of mobility policies and legislation in Sweden and Norway, the legitimacy perspective will judge the appropriateness of these governments in fairly making and implementing international, regional and national law and policy related to the energy-mobility nexus.

In addition, other justice-related aspects might be of importance for the formation of legitimacy perceptions by Indigenous People, such as recognition (in relation to procedural justice), and resource access (in connection to distributive justice).⁵⁵ For instance, just policies ought to recognise Sámi Peoples and also their land rights and their Indigenous knowledge to be perceived as legitimate.⁵⁶ In the case of resource access, Indigenous People might perceive as worthy of legitimacy an institution that offers “appropriate financial resources, technologies, and training, as well as public participation forums”,⁵⁷ but also the ability to access natural resources as they used to.⁵⁸

Research design and methods

Case studies

The chapter is inspired by a talk delivered by an Indigenous reindeer herder in Kilpisjärvi, Finland, a town close to the triple border between Sweden, Norway and Finland. This Sámi person explained that there are challenges to reindeer

herding – a customary and economic activity done across borders – such as local and national laws that limit cross-border reindeer movement and windmills that change reindeers’ movement patterns. That anecdote led me to pinpoint cases concerning energy production in Scandinavia. I chose Swedish and Norwegian governments as objects of legitimacy considering their closer social, economic and political context, compared to the other countries with Sámi population. These countries are also relevant from an empirical standpoint because they host Sámi populations but also support industries that potentially impair Sámi livelihoods.

To choose the case studies, I first used the Justice Atlas⁵⁹ and later Google search to identify potential cases involving Sámi reindeer herding and energy production. I have chosen four cases involving energy production and reindeer herding issues in light of the available data. All of these cases were related to so-called green energies that, amongst others things, affect the traditional mobility processes of Sámi herders. The involved energy production forms are wind turbines, small hydro-power plants (SHP) and ore mines for “sustainable” steel production.

Methods

I use DCA in order to study perceptions around the four identified cases. This is a deductive approach that is useful for this research considering the existence of a pre-given legitimacy framework. Once I identified the cases, I stated the criteria to operationalise the study of institutional sources of legitimacy related to justice (see the “Operationalisation” section).

The DCA process first required identification of data sources of the chosen cases. Some of these sources were found during the case selection process, whilst I checked for complementary information sources at a later stage. I used various types of secondary data sources such as academic and newspaper articles, recorded and transcribed interviews, organisational statements, reports and blog posts. The final sources were chosen under two conditions: to have enough information about the case and to incorporate the views of Sámi People themselves about the cases.

Secondly, I added the selected texts of all these sources into the qualitative data analysis software ATLAS.ti. This software allowed me to code text related to the operational concepts of legitimacy and justice contained in the codebook. To contextualise each case, I also identified the type of audience (e.g., Sámi person, Sámi representative.), the type of legitimacy object (e.g. Sweden) and whether and what justice types (i.e., procedural or distributive) were present in the case, as well as the type of energy involved. Thirdly, for the analysis and discussion, I created the following categories: (a) mobility situation, (b) justice perceptions and (c) legitimacy perceptions.

Operationalisation

In practice, this chapter combines the methods of two recent articles studying legitimacy and justice perceptions of non-state actors, which would include Indigenous Peoples. Based on Dzebo and Adam’s (2023) empirical study of legitimacy

perceptions of non-state actors, I operationalised legitimacy as a binary variable where any statement of agreement with local, national or regional laws or governmental decisions for being fair represents perceived legitimacy, whereas any statement of contestation on justice grounds suggests lack of perceived legitimacy.⁶⁰ To understand whether (in)justice is the source of Sámi legitimacy perceptions, I classified statements of Sámi People into procedural or distributive (in)justice, depending on whether they refer to (un)fairness in policy-making or implementation, respectively (as discussed in the “Justice as a normative and empirical legitimacy standard” section). The relation to justice or injustice is inspired by Engen’s and others (2023) study on Sámi (and other state and non-state) actors’ acceptance/opposition under justice grounds. The study seeks to understand Sámi People’s attitudes towards energy production by linking opposition to injustice, and implying that acceptance is linked to justice.

Analysis

Case 1, Norway. The first case concerns the Fosen wind turbines park, which is located in settler Norway. It involved the construction and operation of a 151-turbines farm in Sámi territory by the state-owned Statkraft company. Sámi opposed the project due to the adverse effects that the operation was anticipated to have on grazing in a legally recognised reindeer herding area.⁶¹ Opponents of the construction engaged in peaceful protests and litigation to stop the operation. However, the company proceeded with the construction that was completed in 2020 before the court’s verdict, which was regarded by those Sámi opposed to it as unfair and lacking their consent.⁶² In October 2021, the court concluded that this project violated Sámi human rights. However, the state company is yet to act upon this decision.⁶³

Fosen violations provoked evident contestation towards the Norwegian government, to whom the Fosen company belongs. Right after the court’s decision, Andreas Bronner representing a group of Sámi herders stated that “[Fosen park] construction has been declared illegal, and it would be illegal to continue operating them”.⁶⁴ During a later protest, Áslat Holmberg, president of the Saami Council, questioned, “What kind of safeguards are there for Sámi if the justice system isn’t working in [their] favor?”⁶⁵ Holmberg also asked, “What kind of constitutional state doesn’t respect the ruling of its own Supreme Court?”⁶⁶ In line with these statements, other Sámi representatives have also condemned the failure of the Norwegian government to act.

For instance, Beaska Niillas, a Sámi politician, stated: “If the Norwegian Government themselves don’t follow their own legal systems, then how are they to expect that others are to respect the laws and the legal system?”⁶⁷ The quote exemplifies a lack of trust in the Norwegian government for failing to respect its legal system. This Sámi politician later mentioned that his Sámi community expected the Norwegian government to respect the resolution, which underlines a justice component related to unfair distribution of energy production. Sámi protesters demanded in March 2023 that the solution is to close down the turbine park and

restore Sámi land use in that area. They said that “transition to green energy should not come at the expense of Indigenous rights”.⁶⁸

In sum, a complex situation arose in the Fosen case. First, there was perceived procedural justice through the recognition of Sámi herding-related mobility rights by the court. On the other hand, since Fosen is a state-led company, the decision to continue the construction and operation of the turbine park rests on the Norwegian government, the decisions of which Sámi People seem to perceive as illegitimate for disregarding Sámi lack of consent and failing to comply with the Norwegian court’s ruling, violations that represent procedural injustices. This not only affects Norwegian government perceived legitimacy, which might hamper future cooperation, but also affects Sámi mobility since the decision disregarded Sámi reindeer herding interests. The installation of wind turbines has disrupted reindeer grazing and impeded mobility.

Case 2, Norway. The second case relates to SHP stations in Norway. Through a sociological legitimacy lens, I re-analysed a study exposing more than 71 cases of opposition (contestation) versus acceptance (agreement) that corresponds to the arguments linking illegitimacy to injustice and legitimacy to justice, respectively. To start, an important feature of SHP is that energy producers claim it causes no harm to the natural environment. However, Sámi people, particularly reindeer herders, perceived it to be harmful for the environment not only because of the construction of the necessary dams but also the construction of related infrastructure, such as highways. Indeed, 65% (47 out of 71) of upcoming SHP projects have been opposed by Sámi herders in the reviewed study.⁶⁹

Sámi representatives, “i.e., reindeer districts, the Sámi Parliament, and the reindeer authority”,⁷⁰ were amongst the groups opposed to the upcoming SHP projects, along with other reindeer herding Sámi. Those opposed to SHP perceived that the project would impact reindeer herding activity by the construction of dams, roads and pipelines and contributing to changes in the soil that would affect the local flora,⁷¹ and therefore also reindeers’ natural feed and traditional herding practices. However, this study found that not all Sámi herding communities opposed SHP, and that the acceptance/opposition corresponded to not only the perceived impact of SHP but also related changes (e.g., roads construction).⁷²

In the case of perceived impact, opposing communities critiqued the state’s failure to use a Sámi reindeer herder expert to carry out impact assessments during decision-making processes, indicating a procedural injustice. Additionally, the absence of a cumulative effects evaluation in the same case might be perceived as another procedural injustice for excluding follow-up plans to restore natural environments affected by SHP complementary roads in the decision-making process.⁷³ This could prevent Sámi People from herding as they used to. Meanwhile, the fact that the main group opposing SHP are reindeer herders, most of whom are Sámi People, connects to a distributive injustice, since Sámi and other herders seem to be more affected by those projects than other social groups.

Additionally, SHP is a sensitive topic concerning justice and colonialism for Sámi People in the Norwegian side, because it is a reminder of the Kautokeino-Altavassdraget dam construction, of 1968. The organised opposition to the dam

construction brought Sámi voices together to oppose not only this hydropower project but also other subsequent energy production projects threatening Sámi land used for reindeer herding. Concerning hydropower, regardless of small or big projects, the Sámi Parliament President Silje Karine Muotka said in 2022 that “I can swear that history repeats itself” referring back to the 1968 dam project.⁷⁴

In this context, Sámi People might perceive the Norwegian government’s decisions as illegitimate, since a licence from Norwegian Water Resources and Energy Directorate is required to build SHP and all their related infrastructure, again evidencing the trade-offs between official licences and Sámi mobility-related rights.

Case 3, Sweden. The next case occurred in 2022 in the Gállok (Sámi language name for Kallak) locality in Jokkmokk, Lapland, at the north end of settler Sweden.⁷⁵ The process started in 2006, when the British company “Beowulf Mining Plc.” and the Swedish partner “Jokkmokk Iron Mines AB” were granted exploration permission by the Swedish government. After that, there were protests of Sámi People and other civil society actors, which led to consultations and statements of the Swedish Sámi Parliament,⁷⁶ the Sámi Council and other Sámi organisations. Despite Sámi opposition, Sweden approved an application by the British company to establish an iron mine in Gállok.⁷⁷ The approval occurred a couple of months after the new Sámi consultation law was adopted by the Swedish Parliament. The Swedish government also disregarded the decision of the Norrbotten County, which had rejected mining in Kallak since 2014.⁷⁸ Consultations with Sámi representatives and local institutions occurred, but they seem to have been disregarded or downplayed by the Swedish government in relation to other interests, raising questions about procedural injustice.

In this respect, the Swedish Sámi Parliament chairperson said that

the board really regrets that the government, with the decision to grant a processing concession, is opening up another iron ore mine in the north, despite the Sami’s resistance and despite the fact that several important bodies have said no.⁷⁹

In an official statement, the Sámi Parliament pinpointed at least two factors that might affect their mobility: loss of reindeer land for foraging and husbandry due to mining operations and transport; and long-term inability of the used area after closedown and restoration.⁸⁰ This project would restrict long-term access to land that sits in the Laponia World Heritage Area.⁸¹

In addition to the potential perceived procedural injustices already emphasised, the Gállok case illustrates aspects of potential distributive injustice by exposing an imbalance between the Sámi rights to freely practice their culture in their ancient territories (e.g. reindeer grazing and husbandry lands) and a mining-based “low” carbon economy, in which government nonetheless favoured economic interests at the expense of Sámi and environmental health threatened by mining trade-offs.⁸² By proceeding with decisions perceived to be unfair, the Swedish government has undertaken administrative action that could impact its perceived legitimacy, and future collaboration with Sámi People.

Case 4, Sweden. This case focuses on the addition of turbines to an existing wind farm in Botsmark, Västerbottens County. In Northern Sweden in March 2023, the Swedish Land and Environment Court denied permission for new turbines to be installed by the European Energy Sveriges company in Botsmark.⁸³ The project was initially approved despite opposition from Sámi villagers of Rans and Grans, whose lands would be directly impacted. However, Sámi People appealed the decision arguing that despite proposed precautionary measures, the project continued to threaten Sámi reindeer herding activities, as it would constrain the mobility of their herds.⁸⁴ As a result of this appeal, the project concession was finally rejected.

This resolution seems to provide procedural justice to Sámi People at least in the appeal stage, when Sámi arguments were meaningfully weighed. The result also provided a sense of distributive justice to Sámi villages, who would have been directly affected by the wind turbines construction and operation, although the energy from them would flow to other areas. Yet, the court's decision has been removed from the official registry, indicating that the case could have been reopened due to consecutive appeals or because the "announcement has gained legal force".⁸⁵ No additional evidence was found to support any of these possibilities.

Summary of the findings and discussion

The goal of this chapter was to explore the mobility paradox by understanding Sámi actors' perceptions of the legitimacy of government approaches to administrative decision-making affecting their lands and mobility. It also sought to interrogate the extent to which legitimacy subjects uphold Sámi reindeer herding rights versus EGD-related goals, and to identify if and how perceived justice was a relevant aspect for their perceived legitimacy. To report the results and ease the discussion, I have divided the analysis into the following topics: (a) mobility; (b) perceptions of justice; and (c) perceptions of legitimacy.

Concerning mobility, all the presented cases were intended to be (Case 4) or were finally built (Cases 1, 2 and 3) in Sámi legally protected lands. While Sámi People are not against "green" energy production per se, conflicts arise when state use of Sámi land takes place without their consent, reminiscent of colonial practices and transforming Sámi recognised areas into sacrifice zones.⁸⁶ Reindeer herding is part of the recognised identity of Sámi People; it inherently requires mobility and is also a form of economic activity, and there are legal instruments to support Sámi mobility. Whilst not specified in the reviewed data, Sámi opposition to the projects is underpinned by their rights to be consulted in decisions that affect them, and obligations to protect reindeer herding right as a form of cultural expression, which provide legal support for Sámi to oppose energy-related projects, including via judicial appeal. It is also implicit in the case studies that involved companies, either private or state-owned, use the EGD as a supporting framework to justify "green" energy production (i.e., wind turbines, "green" mining and SHP) during contested cases.

It is left to the governmental authorities to solve the mobility paradox – weigh these regulations and interests – although contested processes such as Cases 1 and

4 underline varying decisions between authorities in Sweden and Norway, in which case the role of the relevant national courts was key for settling differences. On the other hand, Case 3 indicates that Sámi People in settler Sweden could find more obstacles to fair mobility than Norway until 2022. As United Nations Special Rapporteurs declared in 2022, the Swedish government missed the opportunity to make up for past grievances in Gállok and disregarded important international Indigenous-related obligations and national laws.⁸⁷ Case 4, in turn, suggests that Sámi People might have more resources to appeal judicial decisions after the Swedish consultation law has taken effect.

Regarding legitimacy, the analysis suggests that Sámi People perceive some lack of legitimacy in most cases, whether related to actions or decisions of the Norwegian or Swedish governments. For instance, case 1 showed that Sámi actors perceived the Norwegian government had violated the law for failing to implement the court decision to dismantle the Fosan wind farm. In contrast, Case 4 concerning Botsmark might indicate that Sámi People perceive the Swedish state as legitimate for recognising Sámi mobility-related rights. Yet, it was not the national government but a court that took a favourable decision for Sámi People. It is not evident from the reviewed data if Sámi perceptions over one political institution might act as shortcuts to bestow legitimacy over others.⁸⁸ In contrast, it is evident that the Swedish government's promulgation of a Sámi consultation law might not have elicited the perception of legitimacy for Sámi People, who contested the Swedish resolution in Case 3.

In relation to justice, all cases seem to have justice aspects associated with Sámi's perception of the legitimacy of state decision-making, which could be identified by looking at two cross-cutting situations. First, procedural injustices were evident when Sámi representatives' legal claims were overruled on final appeal, as in Cases 1 and 3. Interestingly, the empirical evidence of Cases 1, 3 and 4 underscores that Sámi representatives have been invited to consultation, although those consultations are not meaningful or effective if used only as a tool for perceived legitimacy, whilst Sámi claims are not considered in reality.

Second, distributive justice appears to be the main motivation of Sámi contestation in all cases, although contestation might not come from all Sámi actors. Sámi People emphasised during contestation in all cases that the cumulative effects of green energy production (e.g., pollution for constructions or long-term uselessness of production areas⁸⁹) create unequal risks to their culture and livelihoods compared to other regions or societies. However, some of the cases showed that different Sámi actors can also have different interpretations of distributive justice. For instance, Case 2 showed that Sámi People did not oppose over 30% of the SHP projects between 2010 and 2018, which suggests that they are not necessarily against "green" technologies. This also emphasises their individual identities and agency beyond their collective environmental identities, although further research is needed to understand different Sámi perceptions and what those entail.

Taken together, the reflections above suggest that scaling up green energies is far from providing a fair transition, which is another goal of the EU green deal. This argument has been advanced by other scholars,⁹⁰ and more examples of perceived

legitimacy associated to justice like Case 4 are needed to advance towards that goal. These results are not conclusive, but provide an initial idea about the state of the mobility paradox, and the trade-off affecting justice and legitimacy perceptions. The implications of lack of perceived legitimacy towards the effectiveness of mobility and energy governance are clear if justice is considered an effectiveness parameter.

Conclusion

The implications of this research for studies of mobility in the Nordic countries in light of the green transition are revealing. A first lesson comes from the contextualisation, which showed a variety of legal instruments at different levels to protect Sámi People's mobility rights that involve reindeer herding. Although some of the legislation does seem inconsistently applied, which potentially diminishes the perceived legitimacy of the Swedish and Norwegian governments' decision-making. Both the Swedish and Norwegian governments' legitimacy seems to be at stake where international commitments to respect, protect and fulfil Indigenous Peoples rights are not upheld.

Furthermore, both procedural and distributive justice issues were identified as relevant sources of contestation or support, which suggests a relationship between perceived (in)justice and perceived (il)legitimacy. In addition, all of these cases indicate a nexus between "green" energy production and reindeer herding issues, which represent trade-offs between Sámi and mainstream forms of mobility, and risks for the cultural and environmental benefits of Sámi herding.

However, reindeer herding might not be the only form of mobility relevant for Sámi People. Sámi People have also experienced urbanisation processes linked to cultural and educational immersion in non-Indigenous contexts. Conversely, younger generations with Sámi heritage are experiencing the return to their ancestral homelands and re-immersing in the Sámi traditions and cultural life. Future Nordic mobility and legitimacy research might want to address the perspectives of Sámi People facing contrasting forms of mobility including in the context of other challenges such as climate change, biodiversity issues and food and social security.

Moreover, this study opened up for future studies on the justice-legitimacy nexus. Future research in environmental justice and legitimacy is needed to understand whether consultation processes are intended to realise Sámi rights or to legitimise Swedish political institutions. The latter could be evident when legislation and political decisions contradict Sámi recommendations after consultations, such that the consultation becomes meaningless. This presumably represents lack of justice but also questions the effectiveness of Swedish legislation concerning the green transition. It is important to acknowledge that other variables might also affect Sámi People's perceptions of legitimacy, for example, cognitive shortcuts⁹¹ related to other justice-based situations concerning biodiversity, food security, self-determination, amongst others. Also, their perceptions might rely on other sources outside the justice spectrum that were not analysed in this chapter.

Engaging the findings of this chapter in broader discussions, the energy-mobility nexus also relates to climate mitigation and adaptation issues. The revision of the “green” energy plans suggests that the development of mitigation policy-making and implementation aims to sustain the current rate of energy consumption by transitioning to cleaner energies, while ignoring the trade-offs of these decisions. The “green transition” implies a need for adaptation. However, when zooming in on Sámi People’s cases, climate adaptation represents for them various losses, diminishes their culture and becomes a form of maladaptation. To better inform decision-making and their social implication, future research might also point towards large-N research studies or richer small-n case studies to identify more legitimacy perspectives in mobility-related cases.

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