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# Recurring Colonial Ignorance

## A Genealogy of the Swedish Energy System

ABSTRACT This chapter sketches a genealogy of the backbone of the Swedish energy system—hydroelectricity, starting with the recent state investigation on Water Activities and its version of history that stands in contrast to research showing the historical as well as present-day colonialism manifested in Swedish policy on hydropower development in Sápmi and the apparent exclusionary practice of only inviting certain stakeholders to participate in the investigation, none of whom represented Sami organisations or institutions. In order to trace the formation of this practice, a lineage is established through a study of the uncharted judicial and political impacts of an exemption act facilitating hydroelectric power extraction during the Second World War, an act that eventually became conventional law. After the war, Swedish hydropower expansion was mainly pursued in the northern parts of the country, which coincide with Sápmi—the traditional land of the Indigenous Sami people. Sweden's environmental policies of today are focused on what is perceived as renewable and sustainable energy sources. While leaning heavily on hydropower, these policies rarely acknowledge the consequences of hydropower extraction in Sápmi. Nor are the traces of water rights left in the terrain recognised, traces that make possible a recurring colonial practice of ignorance among present-day Swedish decision makers.

KEYWORDS Sami History, Indigenous People, Swedish Hydropower, Industrial Colonialism, Genealogy

## Introduction

Ever since 1910, Sweden has established power plants and reservoirs for hydroelectric power production in Sápmi—the traditional land of the Indigenous Sami people. Hydroelectric power is the backbone of the Swedish energy system, contributing 40,5 per cent of the total electricity production (Energimyndigheten 2016*a*). Adding to hydropower's importance, with a rising awareness of anthropogenic environmental impact and changing climate in the recent decades, it is also considered to be an environmentally friendly, sustainable and renewable energy source.

Beginning with the establishment of a State Board for Hydropower Issues in 1909 and a large-scale power plant and dam at Bårjås (SaL)[1] (Swedish: Porjus), established between 1910 and 1915 in the Julevsáme (SaL) ['Lule Sami'] area, Sweden engaged in a modernist project to secure energy for the emerging industries in the face of world wars and trade embargos. The extraction of this so-called domestic energy source increased during the Second World War, enjoyed a golden age in the late 1950s and dried up at the end of 1960s. A few projects were conducted during the 1970s and only a handful during the 1980s, which were actually extensions of existing facilities or pursued as employment measures for the sparsely populated areas of Northern Sweden (Riksdagstryck NU 1971: 26, 8; Prop. 1980/81:19; Prop. 1983/84:160, 9; Forsgren 1992: 138–141).

Nevertheless, these dams and plants are still present in the landscape, extracting electricity from hydropower and exploiting both the aquatic ecosystem and the animal and human-related environment. Today, the Swedish energy system is based on the increased hydropower expansion that was accomplished during the 1950s and 1960s. The expansion took place mainly in Sápmi and by way of an exemption law which was to a large degree based on the hydropower companies' interests. The consequences, such as the drowning of ancestral land, homesteads and reindeer pastures (Össbo 2014), are rarely acknowledged and still less understood as present-day problems in Swedish policy documents or political practice. They are rather perceived as history while the continuous wounds in the landscape, as well as in the people, remain unattended. Nor are the traces of water rights left in the terrain recognised. All of this makes it possible for present-day Swedish decision makers to obscure legitimate participation and ignore the voices of Sami societies and the rights of an Indigenous people.

This article will illuminate the launching and evolvement of the Swedish Hydropower Crisis Act of 1939 and connect the arguments and aspects to the discourse and practice of the present-day investigation on aquatic environment and hydropower, in order to contribute to a genealogy of the Swedish energy system, wherein hydropower is regarded as sustainable, unproblematic and clean energy.

*Genealogical Method*

In order to elucidate diverging perspectives on history or histories, the philosophical legacy of French scholar Michel Foucault is often used. This analysis will draw on scholars using Foucault's and Friedrich Nietzsche's genealogical writings and method (Beronius 1991; Edenheim 2005) and will also highlight this method as beneficial when it comes to Indigenous histories.

Instead of asking what really happened in the past, a genealogist will rather ask "what aspects from the past still exist in our present?" In that way, "genealogy is the history of the current" (Beronius 1991: 50). Sociologist Mats Beronius (1991) and historian Sara Edenheim (2005: 15) emphasise that using a genealogical definition of history involves, among other things, a point of departure in the present. A present-day phenomenon sparks an urge in a genealogist to trace its lineage in order to be able to understand it. In this case, it is the present-day perception among decision makers that hydropower constitutes the most sustainable energy source and, except for the destructive impact on aquatic environments, an almost unproblematic one. The source material for this study is primarily based on state-produced texts, such as proceedings of Water Courts and the legislative process found in the archives of the Justice Department and the Environmental and Energy Department. At the end of the time period, Sami-produced texts on hydropower expansion became accessible.

The purpose of a genealogical study is to describe how certain aspects of an element emanate from, and still are structured by, components from the past. Instead of asking or answering the question "why?", the genealogist tells present-day people about something they are not directly aware of or have narrow perspectives on (Beronius 1991: 50f.). The genealogist will not trace the origin of a phenomenon. In fact, causality and truth claim are precisely the kind of scientific religion criticised by genealogists (see Edenheim 2005: 16). Instead, genealogy involves tracing ascendency lines—not the origins— in order to "identify the involved components and follow the thread that these components are weaved of" (Beronius 1991: 52–53). Based on the assumption that temporary and incalculable aspects have more to do with our social being in the world, a genealogical analysis includes more temporary or chancy and incalculable aspects than the causal pattern commonly

found in many theories and analyses (Beronius 1991: 45). Instead of melting every episode into cause-effect chains, the genealogist creates analytical space for perceiving incidents as a "flow of formations." Historical events are neither the product of historical teleology, progress or social imperative, nor of an underlying structure, but rather a result of haphazard conflicts, chances, mistakes and power unbalances and their often unintended consequences (Beronius 1991: 46–47).

In this article, the task is to trace the lineage of the present-day view among hydropower decision makers reflected in the Water Activities Investigation. A view on hydropower as an unproblematic and also a domestic and rather inexpensive (that is, if you misappropriate someone's property and then refuse to pay compensation for the drowning of it) energy source is found in the Hydropower Crisis Act of 1939 and the practice regarding hydropower expansion under that law and subsequent legislation. Relating and tracing a present-day phenomenon to a practice or ideas which are no longer acceptable is the first step in a genealogical mission, the parodic part (see Edenheim 2005: 14–15).

### *Ongoing Colonial Past*

Today, few people can accept the colonial practices they associate with earlier centuries and other places. In Sweden, the concept of colonialism was rarely used in research on Swedish-Sami relations until a few years ago (see Fur 2013). From the Swedish state's perspective, the conquering of other peoples' territories had to involve crossing an ocean (Johansson 2008: 84). Seeing the Swedish hydropower expansion through a lens of a colonial condemnation of Sami land and water is part of this first step. With settlement policies aimed at Sami lands, prohibition of Sami religious practices, division of the Sami into groups with different rights and special authorities administrating Sami livelihoods on its agenda, the Swedish state is no different from any other age-old colonial actor (Össbo 2014; Lantto 2012; Rydving 1993). By using the colonial backdrop, Sweden's right to extract hydropower in the rivers of Sápmi can be questioned which will shed light upon the present-day debate on a perceived legitimate energy production. The historical and present relations between the Sami and the Swedish state resulting from state policies and practices are an intricate ongoing colonial past that needs to be recognised in order to avoid recurrence and achieve change and decolonisation.

## Starting in the Present

In 2014, the third and last official report from the *Water Activities Investigation* was submitted for comments to various consultative bodies. The series of reports (Riksdagstryck SOU 2012:89, SOU 2013:69; SOU 2014:35) was the

result of a longstanding criticism Sweden has gained from the European Commission for not having implemented the European Water Framework Directive in the management of aquatic environment and water activities such as hydroelectric power production. The implementation of this directive requires so-called modern environmentally updated permits involving thoroughgoing environmental measures in old dams and power plants.

In March 2018, the Swedish government entered into an agreement with several other parties to secure hydropower as the backbone of the energy system as they see hydropower as crucial to sustainable development in energy politics. Nuclear energy is to be abandoned and renewable energy production such as wind power is regarded as the best solution. However, wind power can be unreliable due to windless idle times, making hydroelectric power reserves a necessity. This kind of energy system balancing act involves more environmentally destructive short-term regulations of water systems that are already exploited (Energimyndigheten 2016*b*). Although hydropower is defined as "green energy" it obviously requires environmental adaptation. For fear of having to retrench production and lose profit, the power companies' solutions, which involve using the waters even more "flexibly" through destructive short-term regulation, pose serious threats to the already brutally regulated water systems of Swedish Sápmi.

The findings of the Water Activities Investigation show that over 7 000 water activity facilities exist, of which only 78 is supported by a permit according to the Environmental Code (Miljö- och energidepartementet 2017). Reviewing permits that are over 100 years old or facilities that have no permit at all will of course be an immense and expensive task. In a recent proposition, the Government proposes several changes to Swedish water management that risk continuing the destruction of aquatic environments in highly hydropower productive rivers and devaluing the legal security of individual stakeholders. Furthermore, it is stated that the funding of the review will be the operators' responsibility, but in return, the government and its allied parties will reduce the property taxes on hydropower facilities (Regeringskansliet 2017), which in turn will hamper the work of NGOs such as *Föreningen Sveriges Vattenkraftkommuner* ['Swedish Hydropower Municipalities'], an organisation that works towards the gains from hydropower production being returned to the local economies. Ultimately, the reduction of taxes on hydropower facilities will be funded by a corresponding increase in energy taxes paid by the consumers (Regeringskansliet 2017).

Reviewing and upgrading the environmental conditions for permits on hydropower production will be conducted on the companies' initiative. Certain designated authorities will create a national plan, grade the facilities and assign an order of priority to them in the reviewing process. Most

likely, environmental measures involving the highly productive rivers in Sápmi will be put on hold, since they would interfere with energy production. Neither the Sami Parliament, Sami organisations or reindeer herding communities were invited as experts in the drafting of the reports from 2012–2014 (Riksdagstryck SOU 2012:89, SOU 2013:69; SOU 2014:35) and the *Pro Memoria* in 2017, despite the fact that they concerned land and waters in their ancestral territories and even though the Sami Parliament was invited to submit a statement of opinion on SOU 2013:69 and SOU 2014:35. Instead, representatives of energy companies, fishing organisations and farmers' associations were involved as experts and invited to submit statements of opinion at all stages of the five-year investigation process.

There are several threads from the past in this fabric of present-day ignorance and exclusionary practices when it comes to taking Sami issues into consideration in the work of the Energy Department, and thus these practices risk leading to a perpetuation the position of Sami society as having no real influence on land use politics in the north on a national level. This is a devaluation of the legal security as well as for the Indigenous rights of the Sami people in Sweden. The second feature of a genealogy according to Foucault is the dissolvent part which impacts the view on identities and subjects as being produced with the same lacuna of correlation and reconnaissance as in the past (Edenheim 2005: 15). For this analysis, the dissolvent part merely lends the focus on Sami rights an unchallenged position.

## Setting the Stage

In 1908, the predecessor of the Swedish state-owned energy company Vattenfall ['Waterfall'], the State Power Board, was established by a Royal Committee that investigated the whole country in search of watersheds suitable for industrial projects, ignoring Sami rights and fostering a colonial and extractive discourse concerning potential power producing rivers in Sápmi. (*Vattenfallskommittén* 1903; Prop 1908:159, 45; Össbo & Lantto 2011: 74–75). Vattenfall became a special board tasked with safeguarding and producing hydroelectric power (Vedung & Brandel 2001: 30–31). The first large-scale power plant at Bårjås was legally processed and built without any recognition of the area as an important grazing land during the reindeer migrations of the two reindeer herding communities on the land, Sirges and Unna tjerusj. Compensation for the lost pastures was investigated three decades later after two additional potentiation developments of the plant (HLA, NLLA D I b:36, 2).

Although the codification of what the state considered to be Sami rights, i.e. reindeer herding rights, was implemented during the same time period, the Swedish parliament lacked a holistic perspective on important

policy fields for the northern parts of the country. A colonial authority, the Lapp Administration, emerged during the preparation for and implementation of the first Reindeer Grazing Act in 1886 (Lantto 2012: 77, 85 ff.; Riksdagstryck SFS 1886:38). The term *Lapp* was the dominant society's derogatory denomination for Sami people. The new legislation imposed a system of reindeer herding communities called *Lappby* ['Lapp village'] upon local Sami communities.[2] In some areas, these units had historical counterparts in taxed-based units like *tjïelte/tjeälddie/tjiellde* (SaS/SaU/SaL), *tjerusj/čearru* (SaL/SaN) or *vuobme* (SaL) but in other areas the existing structure was the family-based organisation of reindeer herding and Sami rights, the so-called *sïjte/sijdda/siida*-system (SaS/SaL/SaN) (Brännlund 2015: 22–23; Silversparf, Lundström & Össbo 2016: 76).

Reindeer herders became invisibilised and treated collectively as the Lapp Administration, and its Swedish officials, so-called *Lapp Bailiffs*, assumed control of information and infiltrated decision-making in the local Sami society (Lantto 2012; Össbo & Lantto 2011). At the beginning of the twentieth century, the Swedish policy towards the Sami people and Sami issues was characterised by a patronising practice which was often built on racist assumptions and racist ideology (Persson 2013; Lantto 2012; Lundmark 2002). In the case of the first Suorvvá-dam, this tutelage is apparent. While the opinions of the Sami reindeer herding experts in the area, E.E. Kuoljok, P. Åstot, P.P. Skano and A.P. Kitok, gave the Lapp Bailiff more insights, they did not overturn his view that the economic loss suffered by the reindeer herders due to the damming was a minor problem (Össbo 2014: 91).

In 1918, the Swedish parliament passed legislation regarding the building of dams and extraction of hydropower known as *The Water Act*. A new institutional setting was launched with specialised Water Courts consisting of a water judge, two water engineers and two water jurymen from the local society (Össbo & Lantto 2011). The members of the Court were incapable of judging the impact and intrusion on reindeer herding and Sami society. In addition to the prevailing colonial discourse on Indigenous rights and societies, the court also possessed an ethnic blindness towards Sami livelihoods, society and culture. Instead, their knowledge was based in the judicial, technological and farming society elite they represented (Össbo 2014: 10, 235).

Several problems and discriminatory aspects were associated with the legislation and the courts' interpretation of it with respect to reindeer herding Sami rights and issues. To begin with, the Water Act targeted exploitation and defined several industries and interests to be considered. However, reindeer herding was not one of these industries. Although it was an important livelihood in the areas of the potential power producing rivers, it was not included as an industry worth protecting in the Water Act, which

contained provisions regarding compensation for damage to farming, fishing and timber-rafting (Högstedt 1923: 177; Riksdagstryck, SFS 1918:523, ch. 2 & 4). Reindeer herders were refused compensation for their lost reindeer grazing lands and ancestral lands. If any compensation was given, it accrued to a special state-controlled fund for Sami issues that could disperse the money over the entire reindeer grazing area. Herders were not even considered to be tenants since ordinary tenants, that is *farming* tenants, received compensation for their lost land according to the Water Act (Högstedt 1923: 177; Riksdagstryck, SFS 1918:523, ch. 9 para 52).

Furthermore, the precepts for safeguarding common interest did not protect Sami reindeer herding due to the authorities' notion of herders being nomads who, by the authorities' definition of a true nomad, did not own a homestead that could be drowned in a reservoir. Due to ethnic blindness and colonial discourse, the stipulation that protected inhabited areas from damming was not applied in cases involving reindeer herders (Riksdagstryck, SFS 1918:523, ch. 2, para. 3 & 12; Össbo 2014: 66). As a result of the subsequent three elevations of the Suorvvá reservoir, the same families experienced forced relocation several times (Hanes 2001: 91).

## Networks of Power

In cooperation with an organisation consisting of private and municipal power companies, the board of Vattenfall appealed to Parliament in September 1939 requesting changes to the Water Act. In the face of war, they found it important to plan and promote the extraction and utilisation of domestic energy. The purpose of the appeal was to enable more expeditious and cheaper concession processes, including the building of new power plants and regulation of dams. However, Parliament restricted the changes to apply only temporarily to already existing facilities and not to completely new dams (RA, JuA 1939 no 142). A few weeks later, Parliament passed the "Hydropower Crisis Act of 1939," a temporary act on temporary water regulations for the purpose of electric power production during the war period. Compared with the older Water Act, this exemption law was even more exploitation-friendly. The requirements regarding the economic gain of projects were lowered and information to and communication with local communities and organisations were not required. Furthermore, the new legislation overturned the legal security of the companies' opponent stakeholders, since compensation for damage was not assessed prior to giving concession and the special fees aimed at promoting fishing and local development were abolished (Riksdagstryck, SFS 1939:732).

A study of applications to the North and Mid-North Water Courts from October 1939 to the end of 1953 shows that applications under the

Hydropower Crisis Act constituted almost half of the total number of applications. The State Hydropower Board, being the largest operator in the area, was the most eager user of the Hydropower Crisis Act. Out of 93 applications for temporary regulations, only nine concerned regulations outside the reindeer grazing area and since almost the entire geographical area served by these courts was herding areas, most of the nine applications involved the centre of towns or villages. Nineteen of the applications concerned twenty-five water courses with no previous damming, twenty of which were located inside the reindeer grazing area. Twenty-four watercourses designated as temporary projects became permanent dams in the reindeer grazing area (Össbo 2014: 129). This points to the degree of impact this legislative procedure and court practice had on Sami societies.

In the mid-1930s, the national grid had been extended to almost the entire country, except sparsely populated rural areas. By the time of the outbreak of the Second World War, it was possible to build a power plant with reservoirs in alpine areas and distribute the electricity southwards to energy-consuming industries, cities or coastal regions without major power losses (Upmark 1945: 3–4, 20; Fridlund 1999: 160). The North of Sweden and Sápmi became severely impacted by the expansion enabled by the Hydropower Crisis Act since the region up until then had only had a few large-scale dams and plants (RA, JuA 1952 no 21, Bergsten PM, 20–22). All essential hydropower resources in the southern parts of the country were considered utilised (RA, JuA 1943, no. 262, Letter from Water Courts).

In the new, easier process under the Hydropower Crisis Act, indemnification to stakeholders was postponed because the projects were defined as being temporary. Due to the demand for an expeditious process, the courts often approved the damming of a lake just by reading the application and without any on-site investigation (RA, JuA 1943, no. 262). In many cases, a single water judge would grant a company permission. In 1942, the inland county of Jämtland protested and demanded compensation to stakeholders and communities. In the following law review process, the power companies protested against this aspect of the authorisation process, arguing that if the cost of electricity production increased, this would jeopardise the sustentation of energy and Sweden would risk energy rationing (Riksdagstryck, 2LagU 1942: 35, 17–20; Össbo 2014: 118–119). Power had to be cheap.

Nevertheless, the Hydropower Crisis Act was amended in 1943, safeguarding regulation-fees for collective compensation to local communities, fishing-fees and indemnity to landowners and tenants (Riksdagstryck, SFS 1943: 392) in line with the regulations in the Water Act. However, the decision to indemnify stakeholders seems rather to have legitimised increased exploitation on the part of companies and courts (Riksdagstryck, Prop.

1943:253, 42–43, 48; RA, JuA 1946 no 277–283). But even though the authorities regarded reindeer herders as tenants on state-owned land, herders were still refused compensation for lost grazing grounds.

The power companies exerted a kind of axiomatic voice in the investigations of the law review process. Directors of power companies could hold expert positions (Össbo 2014: 126) while reindeer herders had no influence in the discussions. Their opinion was never invited. However, in 1942, the County Administrative Board approached the colonial official, the Lapp Bailiff, concerning a specific case that included several lakes that had not been previously dammed, the Buvriejaevrie (SaS) (Swedish: Burvattnet) group of lakes in Jämtland. The bailiff expressed on the one hand support for the herders affected, but on the other he assumed a resigned but ambivalent position, describing compensation as being more or less impossible because the matter concerned specific land use in a certain area where all land was already defined as reindeer grazing lands or designated for other forms of land use. Despite this dilemma, the Lapp Bailiff concluded that the more important aspect of energy sustentation could not be dismissed or delayed (RA, JuA 1943 no 262). There is no evidence of reindeer herders' having participated or being otherwise involved in the bailiff's report. Power companies often started building on land even before an application had been filed with the Water Court, which demonstrates the implicit power and knowledge they possessed to accomplish their goal. This wilful strategy was also adopted by Vattenfall and their fellow companies at Buvriejaevrie. Questions and investigations concerning indemnifications became long and laborious processes and stipulated measures were sometimes delayed. In 1945, an inspection by the Water Court resulted in power companies being obliged to remove dead trees and clear away forest vegetation rising up from the lake floor as they constituted a safety risk for boat traffic and an obstacle to fishing. Six years later, nothing had been done by the companies. The drowned trees were left in the same manner. The monitor of the reindeer herding community of Njaarke, Lorentz Fjällberg, emphasised the need for individual compensation to the Sami families instead of the Lapp Fund, and remedy for the loss of amenity value and comfort (Össbo 2014: 143–147).

## From Temporary Ventures to Permanent Alterations

Although initiated as a temporary measure, the Hydropower Crisis Act and the possibility to employ its regulations remained even after the war. The legislation was applicable until the 1960s and the Buvriejaevrie and the third regulation of Suorvvá (NJA 1965, avd I 1965: 87, 496–499; ÖT, MVD Ans.D. 37/1942; UT, NVD, Ans.D. 17/1943).

In the law review process that lasted from the first protests in 1942 by the County Administrative Board of Jämtland until 1952, some of the regulations of the Hydropower Crisis Act were abolished while others were incorporated into the Water Act. The outspoken fear among energy producers of the consequences of abolishing ongoing temporary regulations was mitigated by the legislators who framed the law revision as a bridging statute, offering the companies a three year-long respite to apply for Water Act permits (Prop. 1946:154, 8, 25 f.). A committee consisting of eight persons including two managers of energy companies was set up to examine how to incorporate the regulations of the exemption law into regular water law.

In 1947, Parliament demanded that the Hydropower Crisis Act be repealed, as a result of which another investigation was launched, performed by an assistant director of law. However, the report was put on hold as the exemption law was considered necessary to sustain the power and energy supply even after the war (AK 1947:21, 2LagU 1947:29; JuA no 21 1952, PM 10 November 1950).

A study of documents in the Water Court archives regarding hydropower development matters handled under the Crisis Act shows that the court practice did not reflect the legislator's intent. Instead, the exploiters' intent to secure an easier and cheaper process for building new dams became predominant in Water Court rulings. On the one hand, this has close linkage to the chances these companies had taken in their initiative to propose a new legislation in the face of war, and on the other the relational strength the energy companies and industrial interests were given in the legislation review process. While several of the lakes in Sápmi had not been previously regulated or dammed, they were nevertheless dealt with under the temporary law (ÖT, MVD Ans.D. 65/1939; 78/1939; 16/1940; 37/1942; 49/1945). The Crisis Act processes also became long and laborious both for the courts and the stakeholders, which is shown in the cases of Buvriejaevrie, Suorvvá and Málmiesjávrre. Eventually, the Málmiesjávrrie case resulted in a precedent whereby the reindeer herding community was designated a legal entity, which allowed them to be parties in court processes and to receive compensation for lost grazing land (NJA avd I 1961: 444–445). However, just a few years after the precedent, reindeer herding communities were rejected as complainants in the Water Court process involving Lake Lossen (Össbo 2014: 228).

The third feature of a genealogy is the sacrificial part which concerns truth-claims made in science as well as in religions and ideologies, where they are often linked to moral values. Furthermore, the knowledge claim of truth becomes synonymous with "the Good" and all forms of criticism and challenge are dismissed as representing "the Evil." Therefore the genealogist

sacrifices the (always constructed) truth and inquires utterances claiming to represent "the Good" or "the Uncontradicted" (see Edenheim 2005: 15). In many hydropower processes, the argument of "the Common Good" was frequently referred to (RA, JuA 1939 no 142; JuA 1946 no 277–283; Riksdagstryck, 2LagU 1942:35, 1–11, 32 & Prop. 1943:253, 31–48). However, the concept of "the Common Good" is seldom scrutinised and analysed from the angle of different concepts of nature, asymmetric power relations and historical structural injustice creating an uneven relational strength among the different actors. The argument of "the Common Good," as this concept was defined by the majority elite in hydropower discourses, neglected and ignored the problems, needs and reparations of Sami reindeer herders. If compensation was given, this also points to the idea that monetary compensation or payment in kind was possible even in cases involving the drowning of homesteads and the loss of important places. At the same time the practice of invisibilising Sami actors was created in a "flow of formations" that was initiated and activated several decades earlier with the implementation of the colonial authority known as the Lapp Administration and the Reindeer Grazing Act.

## Opposition in the 1950s and 1960s

During the post-war period of the 1950s and 1960s, several changes in the mind-sets of states who defined themselves as being democratic were about to impact the rights of Indigenous peoples. The UN Declaration of Human Rights in 1948 and the atrocities of war were important aspects in the ordering of the political landscape. In Swedish hydropower policy, the consequences of the exemption law had rather shown that energy companies adapted the legislation to their own needs and created a system founded on what they perceived as cheap energy from the North, while legitimate stakeholders remained judicially excluded and diminished.

The critique against the hydropower-imposed nature transformation grew and in 1951 nature protection organisations as well as tourist organisations requested an investigation into waterways worth preserving. Among other things, Sami ethnicity and reindeer herding were to be taken into account (Vedung & Brandel 2001: 61–67). In 1950, the *Sámiid Riikkasearvi*, the Sami Association in Sweden, was established, which enhanced the discussion and made Sami opinions more visible. The association eventually became a legitimate representative of the Sami people. In 1955, Sámiid Riikkasearvi appointed a committee to investigate and spread information on hydropower issues involving Sami areas. In *Samefolkets Egen Tidning* (SET) ['The Sami People's Own Journal'] the handling of hydropower cases was frequently criticised and scrutinised (SET 1953:2; SET 1953:3; SET 1953:4; SET 1955:3).

A collaboration was initiated between Sami associations and nature protection and tourist organisations, but following the so-called *Peace treaty of Sarek* in 1961, in which nature protection organisations entered into an agreement with proponents of hydropower, the collaboration ceased, at least with nature protection organisations at the national level (Sámiid Riikkasearvi 1962; Vedung & Brandel 2001: 84).

Swedish hydropower expansion in Sápmi brought Sami rights into the courtrooms and government investigations. Although some improvements or rather, codifications of immemorial rights of reindeer herding, were won in court (NJA 1961: 444; Ruong 1982: 209–212), the practice and handling of hydropower issues never diverged from the exclusionary routines, and although reindeer herding and Sami society were eventually considered legitimate players and stakeholders, a recompense for the impact was always possible in favour of the principle of "the Common Good" for the majority society. Rationalisation became the authorities' recipe for dealing with the reduced reindeer pastures, making herding an industry to be compared economically with other industries with competitive land use in Sápmi (Renutredningen 1960; Riksdagstryck Prop. 1962:68; SOU 1966:12). Rationalisation mechanised herding and turned it into a modern but also a capital-intensive business. The new requirements of profitability made small-scale herding impossible. Reindeer herders had to enlarge their herds at the same time as the new Reindeer Farming Act of 1971 offered small businesses severance pay for leaving reindeer husbandry (Riksdagstryck SOU 1968:16, 86; SFS 1971:437). This resulted in fewer active herders and ultimately fewer Sami right holders. In a gigantic case concerning the fourth damming of Suorvvá, an ironic and colonial twist of the recent legal improvement was projected; since the reindeer herding communities had become legal entities, Vattenfall took the opportunity to negotiate only with the board of the reindeer herding community. The right to indemnification thus became a question for the herding community and those of its members who had voting rights (Hanes 2001: 99) leaving several individuals out of the decision-making process. Adding to the divide-and-conquer techniques seen in the formation of government politics towards the Sami in Sweden, strategies like those of Vattenfall in the Suorvvá case have probably contributed to create disunion in local Sami communities.

## Epilogue

The most important renewable part of the energy system is textured of historical threads where Sami land rights were legally devalued and redefined as being inferior to Swedish ownership and tenancy. Hence, Sami rights

were not observed in the authorisation processes for hydroelectric development. Turning the gaze from the past to the present, in the recent state investigation on *Water Activities*, the ignorance is evidenced by the fact that there was no mention of the impact the hydropower-imposed landscape transformation had on Sami communities and reindeer husbandry. This version of history stands in contrast to research showing the historical as well as present-day colonialism resulting from Swedish government policies on hydropower development in Sápmi. This version of history also contributes to a devaluation of the individual as well as collective legal security of the Sami, as the government has proposed changes in the rules regarding trials and reviews of old hydropower concessions which will create a disadvantage for the hydropower producing companies' opponent stakeholders.

In the future, individual Sami as well as reindeer herding communities will have to pay a court fee if they want to secure or elucidate their rights in the proposed review of hydropower permits. In the agreement and proposition, the goal is to achieve as many exemptions as possible from the rules of the Water Framework Directive that prohibits degradation of the water quality.

In other parts of the world, removal of large dams has begun. Two such cases involve the Elwha Dam and The Glines Canyon Dam in the Elwha River in Washington. Although these dams were of limited economic importance, the symbolic importance of dam removal led some politicians to block the implementation of the removal act for nearly two decades (Crane 2011). In Aotearoa New Zeeland, the river Whanganui has gained legal rights. The Māori people regard the river as an ancestor and a living being whose well-being is directly linked to the well-being of the people (Hutchinson 2014). However, the Swedish state seems prepared to carry on sacrificing Sami rights and lands, as well as local and aquatic environments, rather than scrutinising their perception of hydropower as a decent and sustainable energy production with an unproblematic history.

## NOTES

[1] In this article I use South Sami (SaS), Ume Sami (SaU), Pite Sami (SaP) Lule Sami (SaL) and North Sami (SaN) for place-names and waterways as the Sami place names has been smudged, invisibilised and Swedicised during hundreds of years.

[2] After the passing of the Reindeer farming act 1971, the concept was changed to Sameby ['Sami village']. However, for this text I use the concept Reindeer herding community.

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HLA, Landsarkivet Härnösand ['Provincial Archives in Härnösand']
NLLA, Norrbottens läns landskansli ['Archives of the Norrbotten County secretariat']
D I b. Ankomna brev i lappärenden ['Letters received on Lapp issues']
UT, Umeå Tingsrätt ['Umeå district court']
NVD, Norrbygdens Vattendomstols arkiv [Archive of the Northern Water Court]
Ans. D. 17/1943 Suorva
ÖT, Östersunds Tingsrätt ['Östersund district court']
MVD, Mellanbygdens Vattendomstol ['Archive of the Mid Water Court']
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