

Blue Justice

The Case of the Sámi In Scandinavia

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Introduction

The Sámi are the only recognized indigenous tribe in the European Union.¹ Nonetheless, this recognition has come through a long-lasting fight between the Sámi and the Scandinavian nations, which have historically perpetrated environmental injustices against the indigenous populace. This essay delves into the injustices regarding the recognition of Sámi waters in both Norway and Sweden, using the framework of “blue justice” to analyze the historical rights and laws surrounding water justice. Therefore, this essay’s main focus is to question to what extent is “blue justice” achieved in Sámi coastal areas in Norway and Sweden, in order to understand why both Scandinavian governments prioritize some fishing groups over the Sámi. Blue justice is defined as the right to equal access to sea resources, especially regarding smaller-scale fisheries, in this context Sámi-owned fisheries.

This essay will defend the thesis that throughout history and in the present, the pursuit of blue justice in Sámi waters remains elusive, hindered by the relentless impact of past colonization, exploitation of resources, inadequate representation, sparse engagement of the Sámi people, and insufficient yet prevailing legal structures, with specific regard to the poor management of inshore fisheries and integrated Coastal Zone Planning (CZP). In the context of the Sami people, CZP refers to planning efforts that consider the traditional lands and livelihoods of the Sámi in coastal areas of Northern Scandinavia.

To do this, the research first delves into the definition of the concept of blue

1 Luke Laframboise “The Sámi Limbo: Outlining nearly thirty years of EU-Sápmi relations,” The Arctic Institute. September 12, 2023. <https://www.thearcticinstitute.org/sami-limbo-outlining-nearly-thirty-years-eu-sapmi-relations/> (accessed on 11 March 2024)

justice. The study then examines the key traditions of the Sámi, such as their nomadic lifestyles, reindeer herding, and cultural practices, to underscore the importance of preserving their unique way of life. It also analyzes the assimilation processes that the Sámi have endured throughout history, shedding light on the forces that have shaped their identity and the ongoing efforts to revitalize their culture. Then, the essay turns to examining the legal and policy frameworks governing fishing rights in Sámi waters, encompassing both historical structures and current regulations, in order to provide a dialectic history of the evolving recognition of Sámi rights. It will constantly highlight the inability of both Norwegian and Swedish governments to encompass Sámi's water rights, especially focusing on how they are not able to create a proper CZP. Furthermore, the case study of the Alta Controversy as one of the largest environmental injustices perpetrated against the Sámi is used to illustrate a pivotal moment in history and depicts the systemic denigration of Sámi fishing rights. Finally, the discussion and conclusion of the paper will integrate these various elements, answering the research question, addressing the thesis, and emphasizing the broader implications for environmental justice principles and the rights of indigenous communities.

What is blue justice?

Blue justice can be defined as a just and inclusive blue economy where recognition, procedural and distributional justice concerns are at the forefront of the blue economy.² The blue economy, also known as the ocean economy, is an umbrella term commonly used to describe the sustainable economic activity of the ocean.³ The concept of blue justice stems directly from the environmental justice principles, emphasizing the need for distributional justice in cases where communities are dependent on their natural environment for their survival, such as the Sámi. Article 18 of the *Climate Justice Bali Principles of 2002*, states that:

Climate Justice affirms the rights of communities dependent on natural resources for their livelihood and cultures to own and manage the same in a sustainable manner and is opposed to the commodification of nature and its resources.⁴

Not only recognized by the Environmental Justice Principles of 1991 as well but the concept of the blue economy and blue justice is enshrined through the United Nations Sustainable Development Goals, specifically related to Number 14: Life Be-

2 Sigrid Engen et. al, "Blue justice: A survey for eliciting perceptions of environmental justice among coastal planners' and small-scale fishers in Northern-Norway," *PloS One*, 16(5), (2021): 1-13; Bennett, Nathan James and Jessica Blythe, Carole Sandrine White, Cecilia Campero, "Blue growth and blue justice: Ten risks and solutions for the ocean economy." *Marine Policy* 125(104387): 1-27.

3 Engen et al., 2

4 Christopher W. Wells, *Environmental Justice in Postwar America* (Seattle: University of Washington Press: 2018).

low Water; Number 13: Climate Change; and number 8: Decent Work and Economic Growth.⁵ But then, the question remains, why has the framework of blue justice not been effective for the Sámi, even with the status as the only recognized indigenous tribe in Europe?

The Sámi: Historical Assimilation

The Sami are an indigenous population who live in northern Scandinavia. Their population is estimated to be somewhere between 80,000 and 95,000 individuals distributed in the respective countries as follows: Finland: 8,000, Norway: 50,000–65,000, Sweden 20,000, and Russia 2,000.⁶ Due to the distribution of Sámi, this essay finds it pertinent to look closely at Norway and Sweden’s water management laws, while acknowledging the Finnish and Russian Sámi populations but not specifically diving into their politics.

Historically a nomadic tribe, reindeer herding, and fishing have been their most important economic activities, which required them to seek new grazing lands due to seasonal change and be constantly in motion for fishing areas. Today, less than 10% of individuals with Sami heredity are actively pursuing these traditional practices.⁷ Due to the close connection between the ocean and the Sámi, it is also part of the Sámi identity, and represents a material foundation for the Sámi culture, highlighting how important is to achieve blue justice in the case of the Sámi.⁸ Comprehending the historical context and salient features of the Sámi people is imperative in order to appreciate how important is to achieve the blue justice framework in modern Scandinavian society.

Throughout their history, the Sámi people have weathered a series of assimilatory forces that have left an indelible mark on their cultural heritage and way of existence. These took many shapes and forms, but some of the most prevalent are an aggressive detour from their traditional language, and the use of educational and public systems to erase their identity.⁹

In Norway, the process was called *fornorsking*, or literally translated as “Norwegianization”, and rested on the basis of the social Darwinist idea of the superiority of the Norwegian race over the Sámi.¹⁰ This process of Norwegianization has been

5 Department of Economic and Social Affairs Sustainable Development, “The 17 Goals,” United Nations. <https://sdgs.un.org/goals> (accessed on 11 March 2024).

6 J.B. Henriksen, “The continuous process of recognition and implementation of the Sami people’s right to self-determination,” *Cambridge Review of International Affairs*, 21(1) 2008: 27-40.

7 Soile Hämäläinen and Frauke Musial, Anita Salamonsen, Ola Graff, Torjer A. Olsen, “Sami yoik, Sami history, Sami health: a narrative review,” *International Journal of Circumpolar Health*, 77(1) (2018): 1-8. <https://doi.org/10.1080/22423982.2018.1454784>

8 Henriksen, 28.

9 Hämäläinen et al., 2.

10 Henry Minde, “Assimilation of the Sami-implementation and consequences,” *Journal of Indigenous Peoples’ Rights* 3(1) (2005): 1-33; Hämäläinen et al. 2008, 2.

prevalent since the 19th century, and for Minde it ended in 1981.¹¹ Minde identifies two main events as the start and the end of the *fornorsking* process. The first event was the establishment of the *Finnefondet* (the Lapp fund) in 1851, calling for a change of language and culture. The *Finnefondet* was a state-controlled trust fund in Norway intended to provide economic support to the Sami people and compensate for the loss of traditional lands. The second event was the Alta Controversy (1979-81), which will be further discussed in the essay as a historical landmark to understand how blue justice has failed in this context.¹² Due to these national boundaries, the Sámi were spatially separated.

On the bright side, there have been efforts to rejuvenate the culture after the aforementioned Alta Controversy. Currently, the revitalization of the Sami culture has grown strong, and the Sami traditions have been reinvigorated by increasing awareness to preserve the Sami culture as a unique and valued part of Norwegian society. It has even sparked conversations for establishing some form of reparations for the *fornorsking*.¹³ The acknowledgment of the impact of assimilation on the Sámi people underscores the imperative of safeguarding and rejuvenating their distinct cultural legacy for posterity.

Legal and policy frameworks in Sami waters

Despite the latest efforts for the rejuvenation of Sámi culture, it is important to not forget that they have historically suffered from injustices in the realm of blue justice. In the Norwegian context, rights to marine resources are very much tied to the idea of equal access to the sea, a common owned by all Norwegian citizens, but it allows for little regional and local management, and it has not been open to the idea of managing fisheries concerning ethnic categories.¹⁴ In the Swedish context, the literature also highlights the historical reluctance of the government to properly manage fishing rights to meet the needs of the Sámi.¹⁵ Lantto and Mörkenstam mention that an obvious instance of this reluctance is the unwillingness of the Swedish government to ratify the ILO (International Labour Organization) Convention No. 169, also known as the *Indigenous and Tribal Peoples Convention of 1989*, which Norway only signed in June 1990 but both Sweden and Finland are yet to ratify.¹⁶ Korsmo mentions that the Swedish agenda for the Sámi can be only defined as a political ambiguity, acknowledging the recognition of the Sámi but avoiding the political and legal consequences

11 Minde, 6.

12 Minde, 6.

13 Hämäläinen et al., 2.

14 C. Brattland, "Mapping rights in coastal Sami seascapes," *Arctic Review on Law and Politics* 1(1) (2010): 28-53.

15 P. Lantto and U. Mörkenstam, "Sami rights and Sami challenges: The modernization process and the Swedish Sami movement, 1886–2006," *Scandinavian Journal of History* 33(1) (2008): 26-51; F. L. Korsmo, "Swedish policy and Saami rights," *Northern Review* 11(1) (1993): 32-55.

16 Lantto and Mörkenstam, 28.

of the historical injustices.¹⁷

Over the last three or four decades there has been a change in the Norwegian fishing regulations to include extended coastal fishing rights for the Sámi, but they have often found the Sámi on the losing side of the regulations. One of the areas that highlights these changes best is the area of Finnmark, which today comprises an area north of Norway, sharing borders with both Russia and Finland.

Historically, and due to the abundance of resources found in the area, it attracted Norwegians from other areas as well as Finnish immigrants. This created a cleavage between the Sámi (which had already inhabited Finnmark for thousands of years) and the newcomers, which usually settled on the coast, in comparison to the Sámi which relied on in-shore, fjord fishing.¹⁸ In 1990, the Norwegian government introduced the so-called “vessel quotas” for cod fishing. The condition for receiving a vessel quota in 1990 was that one had to have fished a certain number of cod during one of the years between 1987 through 1989. For many fjord fishermen in Finnmark, with small boats only suitable for traditional fjord fishing, such amounts were impossible to achieve, both due to the nature of their equipment and because the larger vessels had virtually left nothing to fish. Thus, displacing many of these local fishermen, mostly Sámi.¹⁹ This is only one example of the historical injustices against the fishing rights of the Sámi.

In the Swedish context, similar examples can be seen regarding poor management of fishing rights. The only law that has historically managed the status and resource provision of the Sámi is the *Sámi Reindeer Herding Act*, first stated in 1886 and currently under the latest 1971 provision.²⁰ The *Sámi Reindeer Herding Act* is legislation that recognizes and regulates reindeer herding rights and management for the Sami people in Sweden. This act also accounts for local fishermen and their right to use the blue economy. As previously mentioned, the Swedish government is falling into political ambiguity in the creation of such mechanisms. Since 1886, the Sámi have been divided into villages and compensation zones following the first reindeer herding law, creating a sort of “village membership” and allocating each individual to a zone, damaging greatly their migratory patterns on reindeer herding and fishing.²¹ Since then, the Swedish government has constantly aimed to reduce the number of herders-to-herd, effectively decreasing reindeer herding and in turn, damaging local fishermen who usually performed both activities together.²² The 1971 amendment was aimed at closing these boundaries, but it further created more cleavages. The 1971 provision states that the Sámi have “immemorial rights to the use of water and land resources,” but still disallows most of the Sámi to hold village membership, therefore

17 Korsmo, 33.

18 S. U. Søreng, “Legal pluralism in Norwegian inshore fisheries: differing perceptions of fishing rights in Sami Finnmark,” *Maritime Studies* 12(1)(2013): 1-21.

19 S. Pedersen, “The Coastal Sámi of Norway and their rights to traditional marine livelihood,” *Arctic Review on Law and Politics* 3(1): 51-80.

20 Korsmo, 34.

21 Korsmo, 34.

22 Lantto and Mörkenstam, 39.

effectively stripping their rights for these resources.²³

One of the most discussed problems related to both Norwegian and Swedish policy is in relation to the poor use of integrated Coastal Zone Planning (CZP) in the development of spaces for local Sámi fishermen. Two things are worth mentioning here. Firstly, integrated CZP refers to a holistic methodology that endeavors to harmonize and synchronize the myriad interests and endeavors within a coastal region, encompassing ecological preservation, economic progress, infrastructural development, and societal considerations, guaranteeing the enduring and cohesive administration of coastal resources, fostering coastal resilience.²⁴ Secondly, most of the Sámi operations happen in-shore, on the fjord landscapes of the Scandinavian countries, and most of the bigger scale operations happen in coastal areas, highlighting the separation between Sámi and Norwegian communities previously mentioned. Coastal fisheries are generally more specialized than fjord fisheries, the latter usually taking place alongside farming and other employment.²⁵ This decreases the stock of fish entering the fjords, further damaging their capture. This was aimed to be resolved by multiple commissions, especially focusing on the region of Finnmark, but the latest iteration, the *Finnmark Coastal Fishing Commission of 2006*, has not been effective in tackling the injustices suffered by Sámi fjord fishing, especially because they make excessive differences between fjord and open-sea farms over fishing regulations and quotas.²⁶ The Finnmark Coastal Fishing Commission of 2006 was a Norwegian commission established to clarify coastal fishing rights and management for both ethnic Norwegian and Sami groups in the Finnmark region of northern Norway.²⁷

I argue that integrated CZP in Norway and Sweden fails for two main reasons. To begin, a notable deficiency can be observed in the consideration and incorporation of the distinct requirements and entitlements of local Sámi fishermen within the planning procedures. Consequently, their traditional fishing practices are confined and opportunities for their livelihoods are limited. This deficient execution undermines the fundamental principles of inclusivity and sustainability that the comprehensive CZP endeavors to achieve. Secondly, the concentration on coastal regions in CZP overlooks the significance of fjord landscapes, which serve as the primary setting for most Sámi operations. The segregation between Sámi and Norwegian communities persists, with coastal fisheries often being specialized and detrimental to the fish population entering the fjords. This, in turn, further intensifies the challenges confronted by Sámi fishermen. As I previously mentioned, the Alta Controversy serves as a prime example of poor management of Sámi water rights, and it is imperative to analyze it through the lens of blue justice and integrated CZP.

23 Korsmo, 34.

24 Engen et al., 2.

25 Soreng et al., 5.

26 Brattland, 37.

27 Brattland, 37.

Case study: the Alta Controversy (1979-1981)

The Alta Controversy is a historical landmark to understand the injustices suffered by the Sámi on their water rights. Also known as the Alta-Kautokeino dispute, it revolved around the building of a hydroelectric dam in the Alta River, which would require damming the Alta River valley, a traditional reindeer herding route and also one of the most known salmon fishing spots for the Sámi.²⁸ The Norwegian Energy Administration (NVE), a government agency, began drawing up plans for the dam as early as the 1960s and the Norwegian Parliament confirmed the final decision to dam the river in 1981.²⁹ This enraged the local Sámi population, which took matters into its own hands. Local accounts of the process highlight the inability of the Norwegian framework to encompass the rights of the Sámi.

One of the most eye-opening stories is recounted in *The Alta Conflict: From Civil Disobedience to Sámi Terrorism*. This short podcast explores the tale of Jorunn Eikjok, a fervent Sámi activist. Eikjok was 17 years old when she traveled to Oslo to participate in a hunger strike against the Alta construction project and the increasingly precarious situation of the Sámi people. Outside the Norwegian Parliament, she and the others in the group set up their Sámi tent in protest against what they perceived as the Norwegian government's colonial approach to handling the Sámi in the Alta issue.³⁰

Jorunn's cousin, Niillas Somby, also participated in a hunger strike in Oslo, but when the dam was eventually built, he expressed his discontent by detonating bombs near a bridge leading to the dam construction site. Accidentally, Niillas lost an arm and an eye in the explosion. Subsequently, Niillas was imprisoned and set to face over 20 years in prison. This story, among many others, shows the local discontent with the creation of the Alta Dam and its subsequent consequences on the fishing areas of the Sámi.³¹

The failure of the Norwegian government to achieve blue justice and integrated CZP in this case is clear. The decision to construct a dam on the Alta River, without considering its significance as a traditional reindeer herding path and vital salmon fishing spot for the Sámi people, showcases a disregard for the rights and livelihoods of the indigenous population. The local unrest, which resulted in acts of civil disobedience and even terrorism, serves as a poignant reflection of the deep-rooted frustration and dissatisfaction with the Norwegian government's handling of the Sámi people in the Alta dispute. This case stands as a compelling reminder of the ongoing quest for blue justice and the imperative of adopting an inclusive and sustainable approach that honors the rights and heritage of indigenous communities.

28 P.I. Smith, "Challenges to Sámi Indigenous sovereignty in an era of climate change," (Ph.D. thesis University of Kansas 2017).

29 Smith, 56.

30 Sveriges Radio. 2012. P3 Dokumentär. *Sveriges Radio*. 15 July. <https://sverigesradio.se/avsnitt/44486?programid=2519>. (accessed 4 December 2023)

31 Sveriges Radio.

Discussion and Conclusion

In conclusion, the essay has shown that throughout history and in the present, the pursuit of blue justice in Sámi waters remains elusive due to insufficient yet prevailing legal structures, with specific regard to the poor management of inshore fisheries and integrated Coastal Zone Planning (CZP). The essay has shown that these injustices are perpetrated by the Norwegian and Swedish governments due to the profitability that larger-scale, open-sea fishing brings to the economy in comparison to the traditional Sámi methods. The exploration of “blue justice” in Sámi coastal areas uncovers an intricate tapestry of historical obstacles and contemporary threats that hinder its achievement. The concept emerges as a vital framework for comprehending the social and environmental fairness required for sustainable water resource management.

In Sámi territories, both historical struggles and current conditions serve as reminders of the enduring fight for societal and ecological equity, underscoring the significance of acknowledging indigenous knowledge in governance. Local stories emphasize the impact on individuals and communities, and the need for a better integrated coastal zone planning system that encompasses the Sámi. As we investigate the presence of “blue justice” in Sámi coastal areas, it becomes clear that the gaps in legal systems, historical struggles, and ongoing controversies require comprehensive decision-making processes and policy improvements. In conclusion, this research not only enhances our understanding of the specific challenges faced by the Sámi but also emphasizes the broader importance of incorporating indigenous perspectives in the pursuit of environmental justice for future generations in other cases.