

Wind Energy on Trial in Saepmie: Epistemic Controversies and Strategic Ignorance in Norway’s Green Energy Transition

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Abstract

Climate change policies and the green energy transition have renewed colonial structures and injustices for Indigenous peoples in land-use conflicts, but not without resistance. This article explores epistemic controversies in a legal struggle concerning impacts from wind energy infrastructure on Southern Saami reindeer herding and culture in Norway. The article draws on courtroom ethnography and diverse written material concerning a court case between the wind energy company Fosen Vind DA and the Southern Saami reindeer herders in Fovsen Njaarke Sijte. The findings show that the parties’ competing claims to truth rely on different knowledge systems and worldviews concerning what Southern Saami reindeer herding is an ought to be. However, beyond onto-epistemological struggles between the “Indigenous” and the “Western”, Fosen Vind DA and the Norwegian state strategically ignored all knowledges that threatened capitalist and green colonial interests. The Fosen case illustrates how Indigenous peoples can contest dominant knowledge regimes and colonial presumptions about their livelihoods, culture, and rights through the legal system. However, the Norwegian state’s reluctance to respect the outcome of the Supreme Court verdict reveals that asymmetric power relations continue to pave the way for colonial dispossession of Saami landscapes, epistemes, and human rights in the green energy transition.

Keywords: *Southern Saami reindeer herding, green colonialism, courtroom ethnography, Indigenous epistemes, strategic ignorance, Indigenous peoples’ rights*

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1 Introduction

“Baajh vaeride årrodh. Baajh vaeride årrodh!” [Let the mountains live!], was shouted repeatedly in the Southern Saami language outside the Frostating Court of Appeal on a grey December morning in 2019, in the city of Tråante¹ on the Norwegian side of *Áarjel Saepmie* – the Southern Saami homelands.² A group of Southern Saami activists and environmentalist allies had gathered to protest against Fosen Vind’s construction of one of Europe’s largest onshore wind energy complexes on the Fosen peninsula across the fjord. The protesters questioned the environmental impacts of the project and its implications for Southern Saami reindeer herding, as the large-scale wind energy infrastructure had dispossessed Fovsen Njaarke, a reindeer herding community on the Fovsen peninsula, of its crucial winter pastures. Beating drums, appeals and shouted slogans made up the soundscape that received the parties on the first day of the court hearings and reflected growing discontent over Norway’s so-called “green transition” agenda.³ Inside the courtroom, Fosen Vind and Fovsen Njaarke disputed the impacts the wind energy infrastructure has on Southern Saami reindeer herding and culture. While the company argued that wind energy development and Saami reindeer herding can and should coexist, the Saami reindeer herders argued it violates their right to enjoy their culture in the landscapes which historically belong to them.⁴

The Fosen Vind project constitutes the largest encroachment on Saami homelands in history, and is linked to Norway’s commitments to international climate policy, EU’s renewable energy goals and demands to electrify industry and society in general.⁵ Critical scholarship has questioned the limits of green growth and a technological quick-fix to solve the ecological and climate crisis.⁶ Despite low-carbon emissions, renewable energy infrastructures have renewed historical patterns of colonialism, capitalism and extractivism.⁷ Wind energy development requires vast space to generate energy⁸ and exacerbates mineral extraction,⁹ causing infrastructural harm and environmental, psychosocial, and cultural impacts on rural and Indigenous communities in both the Global North and South.¹⁰ Decolonial perspectives on the energy transition focus on dismantling power asymmetries which are upheld through the colonial structures that persist in contemporary societies.¹¹

In the Nordic-Saami context, injustices occurring in processes of wind energy development have been termed “green colonialism”.¹² First publicly expressed in 2013 by the former president of the Saami Parliament in Norway, Aili Keskitalo, the concept has been used as a political narrative¹³ to contest Norway’s climate change policies and the non-consensual expansion of wind energy projects on Saami reindeer herding lands. While Fosen Vind and other wind energy companies argue that the industry is necessary to achieve climate goals, Saami authorities, organizations and impacted reindeer herding communities assert that it violates Saami rights to self-determination,¹⁴ destroys cultural landscapes, and threatens the wellbeing of both herders and reindeer.¹⁵ Legitimized by paternalist and moral discourses of wind

energy as “green, good and necessary”, the industry has exacerbated historical disposessions of Saami reindeer herding lands and practices.¹⁶ The Arctic has the highest rise in temperatures due to climate change,¹⁷ posing severe threats to Saami health, livelihoods, and culture.¹⁸ Paradoxically, Saami reindeer herding thus faces a double colonial burden; from climate change itself and its mitigation measures.

This article addresses Norway’s green colonial energy transition by exploring the epistemic dimensions of wind energy controversies. Previous research in Saepmie has studied epistemic injustice in natural resource management, land-use planning and licensing processes.¹⁹ Reflecting international tendencies,²⁰ Environmental Impact Assessments (EIAs) in the Nordic countries have been critiqued for being industry-owned, positivist, and lacking in Saami knowledges and worldviews.²¹ Asymmetric and colonial power relations between Saami and “Western” knowledge systems have been identified in state regulation of Saami fishing²² and reindeer herding.²³ Importantly, these contestations are not considered as a binary opposition between the “Indigenous” and the “Western”, but rather as “situated at the intersection of dominant ways of knowing and Other forms of caring for humans and other-than-humans”.²⁴

Struggling for self-determination over “culturally distinct livelihoods, lifeways and cosmovisions”,²⁵ reindeer herding communities are increasingly resisting and challenging state and corporate perceptions of what constitutes legitimate knowledge and what has a significant impact on Saami reindeer herding and culture.²⁶ This has challenged decision-makers with *competing claims to truth*.²⁷ Here, disagreements between reindeer herders, the state, and companies reflect struggles over what kind, and whose knowledge determine impacts. It also concerns conflicting ontologies, or worldviews, in the consideration of what is at stake when large-scale infrastructure disrupts Saami landscapes.²⁸ Nevertheless, the possibility of achieving self-determination over Saami livelihoods and culture in land-use conflicts has shown to be limited, as these struggles take place within state governance structures and market relations which rearticulate and reaffirm capitalist and colonial rationalities and strategies. The Nordic states have the final say in decisions over resource extraction and there is a lack of legal and political recognition of Saami ancestral lands and waters.²⁹

In this article, I am concerned with how impacts from wind energy infrastructure on Southern Saami reindeer herding and culture are contested in the courtroom. Illustrated by the Fosen case, the main research task is to analyze how conflicting knowledges and worldviews shape and maintain the *competing claims to truth* put forward by the parties in court, but also how *ignorance* is actively and strategically produced to promote capitalist³⁰ and colonial³¹ interests. First, I provide background on Southern Saami reindeer herding, Indigenous Rights in Norway and the Fosen case (2). Then I present the methodological and ethical approach based on courtroom ethnography and document analysis (3). The main discussions (4) build on ethnographic fragments from the hearings of the Frostating Court of Appeal in 2019

and diverse written material from the court bundle. However, as the Fosen case is the first of its kind settled in the Norwegian court system I analyze how both the Court of Appeal (2020) and the Supreme Court (2021) dealt with the competing truth claims. Finally, I discuss the parties' reactions to how the government sought to implement the legally binding verdict of the Supreme Court. Following court procedure, the article ends with a "concluding argument" from the point of view of the researcher (5).

2 Southern Saami reindeer herding and Indigenous peoples' rights in Norway

The Saami have resisted colonial domination by four nation-states, in terms of territorial dispossessions, Christian mission activities, scientific racism, and assimilation politics, among other atrocities.³² *Áarjel Saepmie*, the Southern Saami homelands, has its own colonial history and legacy with implications for the current status and practice of Saami reindeer herding, culture, and rights.³³ The Southern Saami population in Norway and Sweden is a minority within the larger Saami society, and the Southern Saami language is considered to be severely threatened by UNESCO.³⁴

Båatsoe, southern Saami reindeer herding, is an ancient way of pastoralism, characterized by the breeding, herding, and caring for semi-domesticated reindeer that seasonally migrate between extensive and uncultivated pastures. To adapt to climate change and avoid degradation, a sustainable use of the seasonal pastures depends on flexible access to vast landscapes.³⁵ Today, a significant proportion of the Southern Saami population in Norway are reindeer owners³⁶ and many are second- or third-generation descendants of reindeer herding families. *Båatsoe* and its ancestral land-use is thus not only important for subsistence, but is considered to be the backbone of Southern Saami culture, language, and identity.³⁷

The Reindeer Herding Act establishes Norway's obligation to safeguard reindeer herding as the material base for Saami culture. Norway was the first country to ratify the ILO Convention No. 169 on the Rights of Indigenous and Tribal Peoples in 1990 and adopted the UN Declaration on the Rights of Indigenous Peoples in 2007. § 108 of the Norwegian Constitution and article 27 of the International Covenant on Civil and Political Rights (ICCPR) in the Norwegian Human Rights Law, protect the Saami's right to enjoy their culture, including reindeer herding.³⁸ Despite increased legal protection, Southern Saami reindeer herding culture is under high pressure from competing land-uses and their negative cumulative impacts.³⁹ Norway's Truth and Reconciliation Commission's recently published report,⁴⁰ which assessed the Norwegianization policies and other injustices the State conducted towards the Saami, concluded that this implementation gap still has assimilating effects for Saami reindeer herding communities today.

2.1 Fovsen Njaarke Sijte and the Fosen Vind DA projects

Fovsen Njaarke is the Southern Saami name for the Fosen peninsula and the reindeer herding community impacted by the Fosen Vind DA wind energy complex. Fovsen Njaarke Sijte consists of two separate groups, referred to in this article as the *North Siida* and the *South Sijte*.⁴¹ *Siida/Sijte* is a Saami term for one or several families, often related, who share collective responsibility, but individual ownership of reindeer within a designated area. In Fovsen Njaarke, the two family groups use separate pastures during the whole migratory year and are impacted by different projects in the Fosen Vind DA complex.

Fosen Vind DA consists of six projects comprised of 278 wind turbines and has a yearly production of 3.6 TWh. It is a joint-venture company owned and operated by the Norwegian energy companies Statkraft (52.1 %) and Aneo (7.9 %),⁴² and foreign investors in Nordic Wind Power DA (40%).⁴³ The Norwegian system operator Statnett owns the upgraded 420kv power lines which connect Fosen Vind DA to the national grid. In 2021, Statkraft sold its shares from one of the projects which then became a separate company called Roan Vind DA owned by Aneo Roan Vind Holding (60%)⁴⁴ and Nordic Wind Power (40%).⁴⁵ Fosen Vind DA and Statnett, however, were the responsible industry parties in the legal process addressed in this article between 2017 and 2021 which concerned four of the six projects on Fovsen Njaarke's winter pastures; Storheia in the South Sijte, and Roan, Kvenndalsfjellet, and Harbaksfjellet in the North Siida.

The Fosen Vind DA complex was given a final license by the Norwegian Ministry of Petroleum and Energy (OED) in 2013, but in 2015 the main share holder Statkraft announced they would withdraw due to lack of profitability.⁴⁶ However, due to a push from the local mayor in Åfjord and with international capital on board, the project proceeded⁴⁷ and was issued a pre-approval to construct by OED in 2016. The same year, the Saami Parliament expressed that neither they or Fovsen Njaarke had given their free, prior, and informed consent to the Storheia and Roan projects.⁴⁸ Initially, the North Siida negotiated compensation agreements regarding the three projects which impacted their winter pastures, but broke the dialogue after their demand to keep their third and most important winter pasture at Roan intact was dismissed. The South Sijte resisted the Storheia project from the beginning and tried to halt construction by filing for a temporary injunction to the District Court in 2017. When their complaint was denied, they sent a communication to the Committee on the Elimination of Racial Discrimination (CERD). CERD then urged the Norwegian state to halt the project due to the high risk of human rights violations, but the request was dismissed by OED in 2018.⁴⁹

The Frostating Court of Appeal hearing in December 2019 merged two lawsuits which were treated separately in the District Court: Compensation due to the expropriation of property rights of both the North Siida and the South Sijte in 2018, and the validity of the license litigated by the South Sijte in 2017. Paradoxically, the

Court of Appeal and the Supreme Court were to settle the question of validity, even though construction was completed. Despite their initially different strategies, both the North Siida and the South Sijte claimed that two of the projects, Storheia and Roan, violate their right to enjoy their culture on the lands which historically belong to them, as established in article 27 of the ICCPR.

3 Methodology, ethics and methods

Legal scholars have analysed how the court systems in the Nordic countries deal with Saami rights to culture when wind energy is developed on Saami reindeer herding lands,⁵⁰ but ethnographic perspectives on these legal struggles are understudied. I thus engage with the courtroom as both a research site and methodological approach to explore epistemic controversies in Norway's green energy transition. Courtroom ethnography allowed me to access rich material and was a unique opportunity to analyze the competing truth claims of the parties. Access to the court bundles further permitted me to do a comprehensive assessment of evidence alongside the testimonies of expert witnesses and the parties which laid the foundation for the Court's decision. Importantly, my presence in the courtroom enabled me to "witness" and reflect over power dynamics between the parties through courtroom performances and interactions.⁵¹

The main material for the article comes from observations and interactions with the parties inside and around the Frostating Court of Appeal between 2–13 December 2019. In Norway, most civil cases are open to the public, but all parties were made aware of my presence as a researcher on the first day of the court hearings. As no official recordings were available, I made direct transcriptions of testimonies and notes from interactions, resulting in two hundred written pages. I am thus accountable for all quotes which are reproduced, translated, and analyzed in the article, and for ethical considerations, all testimony has been anonymized.⁵² Recognizing the complexity and extensive scope of the case, this article is limited to address contestations over the impacts of wind energy infrastructure on Saami reindeer herding and culture. In the process of selecting quotes and situations from the court hearings, the transcribed notes were repeatedly read in order to identify patterns and tendencies according to the research task. As only excerpts of evidence were presented by lawyers and expert witnesses in court, relevant documents from the court bundles were scrutinized to ensure that the quotes selected represent the parties' views and claims. Finally, I analyzed the Frostating Court of Appeal and Supreme Court verdicts to understand how they dealt with the competing claims, as well as written material that reflects the Norwegian state's and the parties' reactions, positions, and (in)actions in the aftermath of the historical Supreme Court verdict.

As a Saami scholar exploring decolonial approaches to research,⁵³ I take a committed approach⁵⁴ to struggles against colonial injustices and support Indigenous peoples' rights. Thus, I question taking a neutral position in research concerning human

rights violations, and rather actively negotiate the blurry spaces between activism, advocacy and academia.⁵⁵ The Saami share a colonial history with other Indigenous peoples and are among the most studied peoples in the world.⁵⁶ This calls for urgent ethical considerations beyond consent seeking and participatory processes, even for Indigenous scholars who carry out research in their own communities. Building research relationships on respect, reciprocity and responsibility is a way to “speak back” to colonial research practices and to increase the legitimacy of the research process.⁵⁷ Despite a growing consciousness of relational ethics in research on Saami issues,⁵⁸ research fatigue is reported by reindeer herders facing wind energy development and other extractive industries on their lands.⁵⁹ In this article, I choose to “stand with”⁶⁰ Fovsen Njaarke in solidarity and with care, a much needed stance in and around settler-colonial courts where Indigenous peoples’ legal perceptions, ways of knowing and being are devalued.⁶¹ As such, accountable research relations through courtroom ethnography were sought as an alternative to extensive participatory methods, which potentially would risk exhausting the Saami reindeer herders further. During the research process I also engaged in public discussions and shared opinions based on preliminary findings.⁶²

4 The Frostating Court of Appeal: Competing claims to truth

“Do you solemnly affirm that you will tell the truth, the whole truth,
and nothing but the truth?”

The Frostating Court of Appeal is like any other court; square, grey, and with strict rules of procedure. For some, the building represents business as usual. For others, it conjures feelings of discomfort and unease beyond the uncomfortable seats and monotonous presentations that make your back ache and eyelids droop after a few hours of listening. For Fovsen Njaarke, the struggle began when the first plans were presented back in 1999. Twenty years later, confronted with Europe’s largest wind energy complex, the future existence of reindeer herding as the Saami reindeer herders know it is at stake. Since the Fosen Vind projects were already built, hopes that the court would recognize the reindeer herders’ claims had dwindled. As one defendant told me before the opening statements were presented on the first day:

We are the guinea pigs of large-scale wind energy and its impacts on Saami reindeer herding in Norway. When the project was launched, everyone applauded it as climate action. Now the general opinion in Norway has changed, but for us I am afraid it is too late.

As I have described elsewhere, the atmosphere and order abruptly changed when the seven judges entered the courtroom: “All rise. From now on, the rule of Law and its language prevails”.⁶³ The two parties were seated on opposite sides of the room, facing each other from a distance. Even though they were the protagonists of the case, their lawyers sat in front and conducted most of the interactions that

took place. The lawyers know the “rules of the game” in a place where rationality and rhetoric narrow down the space for spontaneous emotions and diverse forms of knowing.⁶⁴

From one side of the courtroom, Fovsen Njaarke’s lawyers argued that two of the most crucial winter pastures at Roan and Storheia are completely lost, and that impacts from climate change will increase the significance of these pastures in the future. In recent years the winters in the Arctic have been characterized by increased snowfall and fluctuating temperatures, among other challenges, causing frozen and inaccessible pastures for reindeer.⁶⁵ The pastures at Roan and Storheia are located high in the mountains where there are strong wind conditions, which ensure that pastures are always free of snow and ice. The Fosen Vind projects added to multiple dispossessions which have fragmented and accumulated negative impacts in the landscapes on which reindeer herding depends, such as hydropower, power lines, roads, crushing plants, cabins, and ski slopes. As they lack sufficient pastures to maintain the size of the herd, the reindeer herders are left with two painful options: to stop herding, or implement permanent infrastructure for artificial feeding during the winter to compensate for the lost pastures. They argued that the future existence of Saami reindeer herding culture is threatened; by being denied the practice as a whole or by being restricted from using and relating to the landscape according to their knowledges, values and norms – either way, the license permit is invalid.⁶⁶

From the other side of the courtroom, Fosen Vind’s lawyers argued that Fovsen Njaarke have sufficient winter pastures to cope and that wind energy infrastructure and reindeer herding can coexist if certain mitigation measures are implemented, such as extra herding, equipment, and supplementary feeding if needed. According to them, reindeer can pasture between the spinning turbines, power lines and roads, if the Saami herders are only willing to keep them there. Thus, permanent and expensive artificial feeding is not necessary. In addition, they argued that some inconvenience must be accepted without claiming for compensation or a violation of rights. According to the Expropriation Law, they argued, reindeer herders and other rights holders have the duty to adapt to the development needs of the larger society, in this case, Norway’s obligation to produce more renewable energy – and as such, the license permit is valid.⁶⁷

The opening statements of Fosen Vind and Fovsen Njaarke, reveal contestations over the impacts wind energy infrastructure has on Saami reindeer herding culture and landscapes. As declared before the Court, both parties solemnly affirmed to tell the truth, but on what kind of knowledges and worldviews did they base their competing claims?

4.1 Knowledge controversies and competing “facts”

As in any other trial, the parties had to provide evidence to sustain their arguments and claims. Throughout the court hearing, the lawyers presented legal precedence

from similar cases in Norway and abroad, Environmental Impact Assessments, research articles and reports on reindeer's reactions to infrastructure, maps, and more. In addition, the testimonies of the parties and the expert witnesses they called provided the judges and the audience with direct access to their knowledges and opinions. In the following, I explore how the competing claims of Fosen Vind and Fovsen Njaarke are supported by different epistemologies, but also by conflicting views on “the state of the art” within the environmental sciences – the knowledge system that dominates the assessment scheme and state decision-making.

4.1.1 Corporate commissioned EIAs and research

In their closing argument on the last day in court, Fosen Vind argued that Fovsen Njaarke can still use their winter pastures at Storheia and Roan. As stated by their lawyers:

No studies show that reindeer stop using an area because of wind energy or power lines (...) Research show that reindeer are afraid of humans, and not infrastructure itself (...) Reindeer are steered by hunger which is stronger than their fear (...) Reindeer will adapt (...) Reindeer herders can make sure the reindeer use the pastures inside the wind turbine sites.

The research and expert opinions they presented to support this claim, mainly derive from the EIAs they had commissioned for the license permitting process between 2008–2011. In line with Norwegian regulation,⁶⁸ they could freely choose their consultants and hired a firm whose researchers had led two large research projects on impacts on reindeer from wind energy (VindRein, 2005) and power lines (KraftRein, 2007).⁶⁹ Published articles and a final report from these projects, mainly funded by the energy industry, conclude that it is human activity that disturbs the reindeer, and not the infrastructure itself.⁷⁰ These findings, they proclaimed, challenge prevailing assumptions regarding encroachments and impacts on reindeer, as they conclude that reindeer are disturbed during the construction phase, but do not avoid power lines and wind turbines in operation.

In 2013, OED gave a final license to Fosen Vind based on the EIAs the company had commissioned, as well as on ongoing studies by the same researchers. In its decision, the Ministry argued that the benefits of renewable energy production outweigh the disadvantages this may have for reindeer herding.⁷¹ By requiring Fosen Vind to compensate for the increased workload and infrastructure needed, the projects would not threaten the future existence of reindeer herding, nor violate the Fovsen Saami's right to “enjoy their culture” as established by article 27 of the ICCPR. Further, the Ministry recognized that research on impacts from wind energy on reindeer herding is scarce, but that ongoing studies and observations indicate that impacts may be less severe than initially feared. One of the main premises for approving the license was that Storheia and Roan could still be used as winter pastures and thus coexist with the wind energy infrastructure in the operation phase.⁷²

4.1.2 *Aerpiedaajroe and aerpiemaahtoe: The knowledge, practices, and experiences of reindeer herders*

Back in the courtroom, Fosen Vind claimed that OED's decision is well-founded, while Fovsen Njaarke argued that it is based on erroneous factual grounds. Fovsen Njaarke's lawyers asserted that the company commissioned EIAs are superficial, ignore the knowledges and concerns of reindeer herders, and fail to assess the cumulative impacts on reindeer herding landscapes from other encroachments. Further, they argued that the reindeer herders' own experiences and observations of severe impacts have been confirmed by research in Sweden and GPS data from an ongoing research project at Roan. This, they argued, indicates that Storheia and Roan have to be considered lost as winter pastures, consequently threatening the future existence of Saami reindeer herding at Fovsen.

The Saami reindeer herders from Fovsen Njaarke are local ecological experts,⁷³ and provided the court with *aerpiedaajroe* and *aerpiemaahtoe*, which can be explained as theoretical and practical knowledges deeply rooted in Saami culture and worldview.⁷⁴ *Aerpie* means inheritance, while *daajroe*⁷⁵ and *maahtoe*⁷⁶ refer to the knowledges passed on and accumulated over generations. In court, Fovsen Njaarke described how important the pasture lands are to them, how they use them, the impacts they have already seen from wind energy and other encroachments, and how climate change is an additional challenge. In his testimony, Laara, from the South Sijte, explained that the few animals he has seen near Storheia "act in a strange way" and that these animals predominantly comprised of less shy bulls accompanied by a few females without calves. Fovsen Njaarke also called on other reindeer herders to share their experiences of impacts. Marja, a reindeer herder from a community impacted by wind energy infrastructure in Sweden, narrated how the situation had turned chaotic and the herd had spread in different directions as they tried to actively herd them past the turbine site. She affirmed that the reindeer avoid the sight and sound of the wind turbines, and that they do not show any signs of adapting.

During breaks from the formal procedures, the herders from Fovsen Njaarke expressed that their knowledges and observations are difficult to explain outside of a practical context and to people who lack an understanding of reindeer herding in general. When asked by the Fosen Vind lawyer about their ability to control and keep the reindeer within a desired area, Toamma from the North Siida answered: "The reindeer tend to move according to the weather and the wind". This answer is perhaps the most precise way for a reindeer herder to explain the dynamics between the herders, animals, and the landscape. There is an old Northern Saami proverb that aptly illustrates how the nomadic use of the Saami reindeer herding landscapes cannot be reduced to a rigid and square pattern: "Jahki ii leat jagi viellja",⁷⁷ no year is the other year's brother. As climate conditions are changing faster than ever, the need for flexibility will be even more important in the future. Fovsen Njaarke's argument that access to the winter pastures at Roan and Storheia is crucial because these pastures are always free of snow and ice, is an illustrative example.⁷⁸

When the same lawyer asked Toamma where his reindeer could be found right now, the question seemed to be perceived as a mere provocation supporting the repeated argument that herders should be able to control their animals within the wind turbine site. At this point, Meerke, a young reindeer owner from Fovsen Njaarke who was awaiting her turn to testify, loudly exclaimed from the audience bench in the back of the courtroom: “How should we know, we have to be here [in court]!”. According to the Norwegian court’s code of conduct observers are not allowed to engage in any form of communication or activity that disrupts the formal hearings.⁷⁹ The silent response and lack of rebuke by the judges, however, could be understood as some kind of recognition of authority in her abrupt statement. It was also a reminder that many reindeer herders spend numerous hours addressing legal and bureaucratic processes, while being deprived of crucial time to herd their reindeer. This burden translates into fatigue, and paradoxically prevents reindeer herders from engaging in reindeer herding activities and transferring ancestral knowledges to the younger generations. As such, defending Saami reindeer herding culture through long-during legal processes can be considered as a threat to the aim itself.

4.1.3 Contested EIAs and research

Explaining reindeer herding knowledges to decision-makers in a context where “Western” sciences and perceptions of Saami land-use predominate, is a challenge identified in other struggles over industrial development and state management of the environment and natural resources in Saepmie.⁸⁰ Since the first District Court cases in 2017 and 2018, the South Sijte had thus commissioned several expert reports about the importance of Storheia and the cumulative impacts from all encroachments on their reindeer herding lands. In contrast to the research and EIAs carried out by the Fosen Vind consultants, these “shadow reports”⁸¹ were written by Saami ecological experts and natural and environmental scientists, and were thus based on both *aerpiedaajroel/aerpiemaahtoe* and science. Altogether, the reports and the expert witnesses who presented them in court concluded that Fovsen Njaarke’s pastures are lost, and that the cumulative impacts will threaten the future existence of reindeer herding at Fovsen.

Similarly, Fosen Vind had commissioned updated reports from the same consultants they had used in the licensing process. While these consultants agree that flexible rotation and access to Storheia and Roan are crucial for the sustainable use of Fovsen Njaarke’s winter pastures in the future, they disagree on how severe the impacts will be, and whether the future existence of reindeer herding at Fosen is actually threatened or not. In the reports presented to the Court, they acknowledge that the available research indicates some change in reindeers’ land-use, but still note that “the impacts from wind energy on reindeer herding may not be as severe as previously feared,”⁸² and that “it is possible the pessimism among reindeer herders is unnecessarily great.”⁸³ In his testimony, one of the consultants hesitated to conclude on the cause-effect relationship between the reindeer avoiding the pastures and the

infrastructure itself, assuming that the reindeer have a strong motivation to access available pastures despite their potential fear of the turbines.

During their cross-examination of the same consultant, Fovsen Njaarke's lawyers challenged him to comment on research which found clear avoidance patterns, including an ongoing study in Rákkočearru in northern Norway, led by himself. Although recognizing that the impacted reindeer herding community had stated that avoidance up to 10 kilometers from the turbine site is a direct consequence of the project, he responded that more GPS data is necessary to rule out other causes and natural fluctuations of reindeers' land-use. When asked if he thinks it is possible for reindeer to pasture inside a wind turbine site, he answered:

It is entirely possible (...). I would say under most conditions if the reindeer have used the pastures before. If there are disturbances, they might avoid at first, but then adapt over time. Like us humans. They understand it is not as dangerous as they thought. I do not see any reason for the reindeer not wanting to use an area where there is good pasture.

When asked whether future reindeer herding is threatened, he first hesitated to respond, but eventually said that: "I think that the issue of threatened existence has to do with reindeer herders not liking an area and not because it is a threat to reindeer as such. The reindeer herders have to account for this."

4.1.4 A question of method(ology)

It was crucial for the court to clarify the disagreement between the two research groups called by the parties as expert witnesses, as these researchers have carried out most of the available studies on impacts from wind energy infrastructure on reindeer herding in Norway and Sweden. The report "Wind energy and reindeer – a knowledge synthesis"⁸⁴ addresses the ongoing knowledge controversy between them and was frequently referenced during the court hearings. The report juxtaposes available studies on the impacts from wind energy and power lines respectively, accounting for the different methods, scope and limitations that can explain the diverging results. However, as the report does not conclude on whose research design is more accurate, the disagreement between them continued to unfold in court. For example, Fovsen Njaarke's consultants claimed that the studies carried out by the Fosen Vind consultants are invalid as they were carried out on a local scale and ignored the reindeer that were already avoiding the area. The Fosen Vind consultant, on the other hand, claimed that studies carried out on a large scale fail to exclude other variables which may cause avoidance.

Beyond differences in research methods and techniques, what becomes apparent when listening to their testimonies and from reading their studies and reports, is how the two research groups have substantially different methodological approaches to reindeer herders' knowledges and experiences with wind energy. In the studies and EIAs presented to the court, only Fovsen Njaarke's consultants included

in-depth interviews with impacted reindeer herding communities, recognizing their knowledge as equally valid. Environmental decision-making in Norway increasingly requires the inclusion of Saami knowledges. For instance, the Norwegian Biodiversity Act⁸⁵ says that authorities must base their decisions on both science and knowledge “based on many generations of experience acquired through the use of and interaction with the natural environment, including traditional Saami use.” In the consideration of a potential violation of article 27 of the ICCPR it was also relevant for the parties to discuss to what degree Saami reindeer herding knowledge had been included in the licensing process. In court, the Fosen Vind lawyer and consultant both argued that collaboration with the reindeer herders in the EIA process had been good, but the response from Toamma from the North Siida revealed the contrary. He exclaimed: “Collaboration? No, I do not recall any other collaboration than making the animals available to them. The [GPS] marking began with them doubting whether we have actually made use of the areas we claim.”

Reindeer herders from other communities were also called by Fovsen Njaarke to testify and give their opinions on research practices and results of studies carried out by the Fosen Vind consultants in their areas. They expressed how the researchers had ignored their knowledges and reached conclusions contrary to what reindeer herders observe and communicate. Issát, a reindeer herder from Rákkočearru, a study mentioned above, seemed annoyed when he explained how the researcher hesitated to conclude that reindeer avoid wind turbines.

[the researcher] tried to explain away our interpretations of the results, but we disagreed. I maintain that reindeer avoid everything that moves (...) Nobody can come and explain to me how reindeer herding works after only three days in the field. That is how it is with all impact assessments. They [consultants] stay there a short time, and claim they know more about reindeer herding than us.

In a research article about the knowledge status of impacts on reindeer herding from wind energy infrastructure, the same research group that Fosen Vind used as consultants explicitly discredits the knowledge Saami reindeer herders hold. In doing so, they affirm a positivist position as neutral scientists while warning about the subjective role of reindeer herders in knowledge production. In a concluding paragraph they write that “there are challenges in using intervju data from reindeer herders, because they are often a party in ongoing conflicts of interests where wind energy is built or planned (...) intervju based information should be combined with objective data for reindeer land-use (GPS)” and analyzed “with a neutral set of data”.⁸⁶

4.1.5 Ignorance as a strategy?

The testimonies from reindeer herders and the statements from the Fosen Vind consultants above illustrate how Indigenous knowledge is devalued and even dismissed as biased by researchers who largely influence decision-making. During the court hearings, I observed how Fosen Vind seemed to take advantage of such a positivist stance,

and how they also constructed doubt about all knowledge production that was critical towards wind energy development on Saami reindeer herding lands. As argued by Fovsen Njaarke's lawyers, Fosen Vind has trivialized the impacts observed by reindeer herders and relied on knowledge produced by consultants who adapted the EIAs in favor of the priorities of the license authorities. In the licensing process, the same consultants had changed their conclusions from the first EIA in 2008 to the second and third EIAs in 2009 and 2011. This happened after the Norwegian Directorate for Water and Energy (NVE) had already prioritized and given a final permit to the Storheia and Roan projects. After first warning against construction of these projects, the consultants concluded that they no longer constitute a threat to the future existence of reindeer herding, noting that they had not conducted any new assessments of the projects. To support this claim, Fovsen Njaarke's lawyers read out loud from a published critique from another scientist who warned against researchers who become "merchants of doubt" when they present the current knowledge status as uncertain and diverging, leaving decision makers and courts confused or with the impression that reindeer herders exaggerate.⁸⁷ This concern was also reflected in a letter from the County Governor in Trøndelag that was presented to the court. The letter stresses how a lack of trust from reindeer herders in EIA processes is a serious problem in Norway, as developers are free to choose consultants who may favor their development plans.

I furthermore observed how doubt was actively produced by Fosen Vind in the courtroom through the use of visual images. Even though Fovsen Njaarke repeated that the few animals who seem less afraid of turbines and other infrastructure are a few bulls that constitute only fifteen percent of the entire herd, the lawyers of Fosen Vind projected pictures and videos of reindeer lying and pasturing close to the wind turbines. The presentation of visual images, supported by what Kirsch terms *corporate science*,⁸⁸ the kind of research and expert opinions that companies rely on to indicate that impacts are less severe, left the impression that reindeer do not mind the wind energy infrastructure. As such it represent what Proctor⁸⁹ refers to as *ignorance* as a *strategic ploy*. Here, ignorance or what is "not known" is understood, not as something neutral, but as doubt, uncertainty or misinformation that is actively constructed to protect capitalist⁹⁰ and colonial interests.⁹¹ The controversy taking place in the courtroom then, not only concerns knowledge gaps or friction between different knowledge systems, but also strategic ignorance of all knowledges supporting the reindeer herders' claims.

Another crucial question disputed by the parties in the courtroom was how much knowledge is needed to support a claim and how to deal with uncertainty. In their closing statement, Fovsen Njaarke's lawyers argued that there is enough available research indicating that the winter pastures will be lost because of the projects, and they stressed that reindeer herders' knowledges have to be emphasized in research and decision-making processes. In case of any doubt regarding severe impacts, they argued that the Court should apply a precautionary principle as OED had done

when they rejected a license permit for a wind energy project in Gaelpie in 2016, with special considerations for the already vulnerable Southern Saami language and culture.⁹² Fosen Vind, on the other hand, argued that the available research is unclear and that reindeer herders should carry the burden of proof when they claim that wind energy prevents reindeer herding from continuing.

4.2 Impacts on Saami land-use, landscapes, and relations: Worlds apart?

At Fosen, reindeer herding is the only Saami practice that provides an environment where we can meet. Reindeer herding is our core, and the very foundation of the Southern Saami language and traditions. Having taken part in this culture (...) I am glad to have received values of how to think about nature and share, not only exploiting from it. We look after each other and we have respect for the lands that have traces of history, hold memories of the past, and also hope for the future.⁹³

The testimony above from Meerke, a young reindeer owner from the South Sijte, illustrates how important reindeer herding and the landscapes in which it is practiced are for the Southern Saami culture at Fosen. While the logic of the case mainly evolved around financial and metric schemes to calculate compensation for loss in terms of meat production, Meerke highlights values embedded in the relationship between humans, reindeer, and the landscape. While Fosen Vind and their expert witnesses reduce the distinction between impacts on reindeer and Saami herding practices to a matter of “being willing to adapt” or “reindeer herders not liking an area,” Meerke considers losing the lands as equivalent to losing what is integral to her very existence, a sentiment expressed by Saami reindeer herders in struggles against wind energy infrastructure elsewhere.⁹⁴ As she explicitly told the Court: “To me, reindeer herding is the most important identity marker. If I cannot continue, I would struggle to know who I am.”

Critical geographers encourage us to look into the landscape as a framework for addressing basic human rights, justice and well-being, by integrating spiritual and cultural values to the analysis.⁹⁵ Decolonial approaches to geography need to be “rooted and routed in the places and genealogies we inhabit”,⁹⁶ in this case the Southern Saami landscapes. Beyond the experience of material loss and disrupted access to pastures for the animals, Meerke expresses relational values which reflect practical, cultural, and ideological aspects of Saami livelihoods and worldviews.⁹⁷ The integral and reciprocal care between humans, non-humans and the lands can be understood as taking place within a “Saami cultural landscape”.⁹⁸ Although dynamic in time and space, this landscape contains intangible knowledges and herding practices which carry memories of ancestral use and has an identity strengthening meaning to those who relate to it.⁹⁹ In Northern Saami, this landscape can be conceptualized as *meahcci*, equivalent to *miehtjiesdajve* in the Southern Saami language, and is characterized by “practical places, uncertain but productive social relations with lively and morally sensible human and non-human beings.”¹⁰⁰ In this

landscape, there is no distinction between nature and culture, just as impacts on reindeer and Saami herders are inseparable from each other.

Meerke's testimony further contrasts with the claim made by Fosen Vind that reindeer herders have an obligation to adapt to the needs of society, as stated in the Expropriation Law. According to her, Saami reindeer herders have instead an obligation to take care of the landscape, by not exploiting it. Although Fosen Vind argued that impacts are less severe, they maintained the paternalistic mindset that reindeer herders have a duty to "sacrifice their attachment to place for the greater good of a nation-state."¹⁰¹ In the context of wind energy development, this colonial argument is framed as a global common good, as it builds on the premise that reindeer herders need to make some sacrifices to save the planet.¹⁰² However, as expressed by the Saami Council,¹⁰³ this moral imperative is embedded in a green colonial paradox: Saami lands are being exploited "by what the Nordic peoples define as 'green energy'", while "Saami livelihoods – including reindeer herding – are among the 'greenest' there are".

During the court hearings, Fosen Vind further argued that Saami reindeer herding has already adapted to technological innovations, and that Saami culture therefore is far from being threatened by the mitigation measures they propose. This is similar to what has been stated by wind energy developers who dispossess Saami reindeer herding lands elsewhere.¹⁰⁴ The green colonial underpinnings of Fosen Vind's arguments came to the fore in the closing statement of their lawyer:

All parts of society develop, and we must work together to make it work. Technological development affects reindeer herding. It is not a question of maintaining a culture from 100 years ago. They have adapted by using drones, snowmobiles, helicopters, etc. today. The state demands more renewable energy to be produced, which is important for the society. From our perspective, it is totally unlikely that reindeer herding will disappear because of the wind energy plans.

4.2.1 Mitigation measures and impacts on Saami reindeer herding culture

According to Fovsen Njaarke, lack of access to the Roan and Storheia pastures will eventually force them to reduce the herd. As a consequence, they fear that at least one family from each Sijte/Siida will be pushed out of reindeer herding. This will have implications for the ability to conduct the collective work required to maintain the herd, consequently affecting the remaining families' ability to continue. The only measure which can secure the survival of the reindeer is to compensate for lost winter pastures with artificial feeding, a "necessary evil" which pushes "the question of what 'Sami reindeer herding' actually is (...) to its limit".¹⁰⁵ As expressed by Læjsa, a young reindeer owner from the North Siida during the court hearing: "It is difficult for me to suggest this, because it is not something we want to do. It is not traditional reindeer herding".

It is important to stress that permanent artificial feeding differs from supplementary feeding, because it requires extensive and enclosed infrastructure, different knowledges and expertise, and increases the risks of spreading disease and morbidity

among reindeer that are used to free pastures and mobility.¹⁰⁶ Marja, a reindeer herder from Sweden, testified how it also effects the well-being of herders who see their animals suffer: “It is difficult for a reindeer herder to see reindeer die at such a close range (...) It is a trauma (...) This is not the kind of reindeer herding you want to practice. You want them to pasture freely”. Protect Sápmi, the Saami consultancy firm that elaborated a cumulative impact assessment for the Storheia project, also calculated the costs of introducing extensive artificial feeding. The consultant, an economist and a reindeer herder himself, emphasized that it is an emergency solution which forces herders to domesticate free ranging reindeer:

You must think like a farmer and build a barn (...) It is not desirable. As an old reindeer owner once said: “If I have to start feeding the reindeer, instead of it feeding me, I will quit reindeer herding.”

Beyond knowledge controversies over “facts”, the competing claims revealed conflicting perceptions of what constitutes Southern Saami reindeer herding and culture. Fosen Vind were only concerned about calculating how much pasture was lost to the extent this would affect the value deriving from meat production. State governance of Saami reindeer herding in general reflects such positivist-reductionist presumptions characterized by generalizations, rationalizations and simplifications of Saami reindeer herding, as well as a limited understanding of “sustainability”.¹⁰⁷ As such, Fosen Vind’s arguments stood in stark contrast to how Fovsen Njaarke valued their relationship with the reindeer and the landscape. Although the court case concerned Saami *cultural* rights as conceptualized in international human rights conventions, the disagreement between the parties points towards what Blaser¹⁰⁸ instead prefers to call world-making or “worlding”. Here ontological difference is understood, not as cultural perspectives on the same reality, but rather as a recognition of multiple realities. When these conflicts are entangled in struggles over lands and resources, they become *political ontologies*.¹⁰⁹ Fovsen Njaarke’s claims to protect their Southern Saami “culture” can thus be understood as an “ontological interruption to western presumptions”¹¹⁰ of what is at stake, in this case, the future existence of Saami knowledges, practices, and landscapes. In this world-making, Saami reindeer herders and animals relate to each other with mutual respect.¹¹¹

4.3 The verdicts: Implications for Fovsen Njaarke and beyond

Based on the competing claims of Fovsen Njaarke and Fosen Vind, the role of the Court was to resolve the conflict. But whose “truth” did it recognize and what are the implications for Fovsen Njaarke and beyond? The Court of Appeal reached its verdict on 8 June 2020. Contrary to OED and the District Court, the verdict stated that “there is a solid scientific foundation for claiming that reindeer avoid wind energy plants when they have alternative pastures at hand.”¹¹² The decision mainly builds on the testimony and research of one of the expert biologists called by Fovsen Njaarke, but recognized that testimonies from reindeer herders support this conclusion. The

verdict is not clear however, on whether this conclusion relies more on *aerpiedaajroe/aerpiemaahtoe* than science, or if scientific research was required to confirm the knowledges and experiences of reindeer herders. By saying that the “conclusion is relatively open regarding the impacts from wind energy infrastructure”¹¹³ the Court of Appeal to some degree hesitated to engage in the disagreement between the two research groups and did not address the question of what constitutes quality or non-biased research.

Contrary to Fovsen Njaarke’s claim, the verdict further agrees with Fosen Vind that the potential impacts were responsibly assessed based on the knowledge available to the license authorities in 2013. Similar to court decisions in wind energy conflicts in Sweden¹¹⁴ the Court of Appeal considered the argument of the “green transition” as legitimate when balancing conflicting interest with Saami reindeer herding.¹¹⁵ It recognized that the current knowledge status indicates that the future of reindeer herding is threatened at Fovsen, consequently violating article 27 of the ICCPR, but concluded that artificial feeding will mitigate the human rights violation. Admittedly under doubt, it concludes that the “main features” of Saami culture will remain intact, and that knowledge of reindeer herding can be transferred to the next generation.¹¹⁶

Compared to a more thorough assessment of the knowledge controversy over “facts”, the Court of Appeal did not refer to any expert opinion and only used its own discretion to define what constitutes significant impacts on the Southern Saami reindeer herding culture. In doing so, the verdict fails to recognize the *aerpiedaajroe* and *aerpiemaahtoe* embedded in the ancestral use of the free and natural winter pastures at Storheia and Roan. By deeming it satisfactory to compensate for the lost winter pastures with artificial feeding, the verdict further denies that the Storheia and Roan pastures are part of a Saami landscape with a relational value of their own. As expressed by Maja Kristine Jåma from Fovsen Njaarke after the verdict was passed: “the value of reindeer herding culture we no longer can pursue cannot be replaced with money”.¹¹⁷ In one paragraph, the Court of Appeal reasons that reindeer herding never has been static and that winter feeding has been introduced by reindeer herders elsewhere. The latter argument, however, ignores that climate change, predators and loss of pasture to multiple industries and infrastructure are among the main reasons reindeer herders have been forced to implement supplementary feeding.¹¹⁸ The verdict does not make a distinction between extensive artificial and supplementary feeding nor between technological adaptations which have been internally adapted and externally imposed. In doing so, the Court of Appeal fails to recognize Saami reindeer herders’ right to self-determination over their own cultural practices on the lands which historically belong to them.

4.4 A historical Supreme Court verdict and Norway’s green colonialism

By concluding that artificial feeding could mitigate the human rights violation, the Court of Appeal opted for an “in-between” solution to resolve the conflict. However, this made both parties appeal the verdict to the Supreme Court. While Fosen Vind

considered the compensation issued to pay for artificial feeding was unnecessary and too high, Fovsen Njaarke insisted that the license still violates their right to practice reindeer herding according to their culture. In this case, this means to continue to use the free and natural winter pastures at Roan and Storheia. During the Supreme Court hearing, the state attorney intervened as a third party, arguing that the case was of interest to the state as the license authority. The state attorney did not only support Fosen Vind's claim that the license was in line with the Norwegian Human Rights Law, but also plead that Fovsen Njaarke as a collective was the wrong legal subject to evoke article 27 of the ICCPR. The appeal left the Supreme Court to decide whose truth it considered more just: The moral green colonial imperative and coexistence narrative of Fosen Vind and the Norwegian state, the self-determined world-making of Fovsen Njaarke, or the emergency feeding solution issued by the Court of Appeal.

The Supreme Court's final decision represents a historical verdict in the Norwegian-Saami context. On 11 October 2021, eleven judges in the Grand Chamber unanimously ruled in favor of Fovsen Njaarke, rendering the license invalid due to the violation of article 27 of the ICCPR. For the first time, the Supreme Court came to the conclusion that industrial encroachments on Saami reindeer herding lands in Norway constitute a human rights violation. The verdict decisively contradicts the Court of Appeal on the compensation measure: Artificial feeding differs significantly from traditional nomadic reindeer herding and has not been "given a broad and thorough assessment, and general reindeer husbandry interests have not been heard".¹¹⁹ The verdict further established that the Saami reindeer herders' right to enjoy their culture is absolute and that a minority's interest cannot be balanced against the interests of the majority society, particularly emphasizing that the interest of a "green transition" could have been maintained through options less intrusive to Saami reindeer herding.¹²⁰

Although the Supreme Court recognized Fovsen Njaarke's human rights claim, the construction of 151 wind turbines, 130 km of roads and connected infrastructure had already destroyed crucial winter pastures and the Saami landscape. In the wake of the Supreme Court verdict, Fovsen Njaarke demanded a removal of all infrastructure and restoration of the pastures.¹²¹ However instead, OED called for further impact assessments aiming to enable coexistence¹²² – a common premise and argument used by industries to legitimize material dispossession and fragmentation of Saami reindeer herding landscapes throughout Saepmie.¹²³ Fosen Vind and Roan Vind announced that they support further assessment of mitigation measures which can repeal the human rights violation,¹²⁴ while applying for a new license permit.¹²⁵ In particular, they proposed an assessment of current experiences with mitigation by feeding.¹²⁶ OED consulted the Saami Parliament and Fovsen Njaarke on the proposed impact assessment program. However, the Ministry ignored demands to assess how the winter pastures could be returned and restored, and instead proposed to reassess what had already been considered by the Supreme Court. The lack of

respect for the knowledge and opinions of the winning party of the trial resulted in a withdrawal from the process by both the Saami Parliament and Fovsen Njaarke. In a letter to the Ministry, the lawyers of both the North Siida and the South Sijte jointly express: “The proposal gives an impression that the government lacks genuine will to implement the Supreme Court verdict, and is directly at odds with the government’s statements that it will listen to the Siidas, and to have a trustful dialogue”.¹²⁷

The lack of implementation of the Supreme Court verdict has stirred mass mobilizations and protests. On 23 February 2023, exactly five hundred days after the Supreme Court verdict was announced, the youth branches of the National Norwegian Saami Association (NSR Nuorat) and Friends of the Earth (Natur og Ungdom) peacefully occupied the offices of OED, followed by a week-long blockade of the entrances of several ministries. They announced they would “close the State” through civil disobedience until the prime minister apologizes to Fovsen Njaarke and recognizes that the human rights violation is ongoing. They demanded that the State take immediate action to restore and return Roan and Storheia to Fovsen Njaarke.¹²⁸

In a statement held at the UN Permanent Forum for Indigenous Issues in New York a few months later, Saami youth organizations denounced the land grabs the Nordic states have made in the name of the green transition, in Fosen and elsewhere in Saepmie: “It is just Nordic colonialism hiding behind a new kind of mask.”¹²⁹ Their critique frames how the epistemic controversies addressed in this article are linked to Norway’s colonial interests. Through Statkraft and Aneo, the Norwegian State owns 60% of the projects. OED’s authorization of a pre-approval for construction before Fovsen Njaarke was able to legally try the validity of the licenses in 2016; its disregard of CERD’s request to temporarily halt construction at Storheia in 2018; and finally, the state attorney’s support for Fosen Vind in the Supreme Court, all show how the Norwegian state has willfully defended its green colonial dispossessions in Saepmie. As further evidence of this power asymmetry, it is the same state that will decide how the Supreme Court verdict will be implemented. The assumption that new impact assessments and “dialogue” will result in a solution where Saami reindeer herding and wind energy infrastructure can coexist, resonates with the “subtle”,¹³⁰ “quiet, soft-spoken... understated, polite and bureaucratic”¹³¹ maneuvers which characterize and legitimize contemporary Nordic-Saami colonialism. As late Saami artist and poet Nils Aslak Vålkepää¹³² eloquently stated: “really highly advanced states carry out genocide without blood, without physical violence”. In this case, by destroying Saami landscapes, ways of knowing and being in the name of the so-called green transition.

5 Closing argument

Following court procedure, I will end this article with a “closing argument”. Through an ethnographic and decolonial lens, I have invited you inside the walls of the courtroom to “witness” epistemic controversies and contestations over impacts from wind

energy infrastructure on Southern Saami reindeer herding, culture, and landscapes. The courtroom is certainly a space where asymmetrical power relations and dynamics leave marginal room for Indigenous self-determination and epistemic justice. However, the Fosen case also illustrates how Indigenous peoples can contest dominant knowledge regimes and colonial presumptions about their livelihoods, culture, and rights.

Previous research on land-use struggles in Saepmie has focused on how Indigenous knowledges and worldviews are marginalized in planning and decision-making processes, as this article has addressed in the context of the courtroom. Impacts from the wind energy infrastructure on reindeer dominated the logic of the court hearings, whether based on *aerpiedaajroe/aerpiemaahtoe* or on natural and environmental science. Paradoxically, less attention was given to impacts on reindeer herding as integral to Southern Saami culture – the defining legal premise of the court case. However, beyond onto-epistemological differences between “Indigenous” and “Western” ways of knowing and being in the landscape, the findings clearly show that Fosen Vind produced doubt about all knowledge which threatened their commercial interests. This *strategic ignorance* was willfully reproduced by the Norwegian state in the aftermath of the Supreme Court verdict, as new bureaucratic processes and assessments of impacts and mitigation measures were sought to enforce coexistence.

As long as EIA processes are industry-led and solely based on environmental sciences, Saami reindeer herders will continue to lack trust in consultants and licensing processes which exclude them from being experts on their own livelihoods and culture – or world-making as Blaser¹³³ would prefer to call it. To improve the quality and legitimacy in decision-making processes, there is a need for an integral approach, including assessments of social impacts, such as on economy, health, well-being, and Saami culture.¹³⁴ Joks & Law¹³⁵ have suggested that in order to work less destructively across colonial difference, there is a need “to ‘soften’ the realisms of biology and ‘harden’ the contextual knowledges” and “nomadic practices of Saami experts”. Yet, the findings from this article show that winning knowledge struggles is not necessarily enough, as *ignorance* may be strategically produced to legitimate capitalist and colonial interests. The Norwegian state’s reluctance to respect the outcome of its own legal system reveals that asymmetric power relations continue to pave the way for colonial dispossession of Saami landscapes, epistemes, and human rights in the green energy transition.

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NOTES

1. Tråante is the Southern Saami name for Trondheim.
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