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INDIGENOUS RIGHTS AND ENVIRONMENTAL IMPERATIVES

A Normative Analysis of Green Mining

ABSTRACT

This normative thesis explores the ethical dilemma surrounding the construction of green mines on indigenous lands and seeks to determine whether such actions can be justified. The aim is to show that a prioritisation between two seemingly good things is not always a given. Using a normative study framework, the research investigates a conflict of value between different interpretations of the value of the Good, a philosophical term for moral evaluation. The perspectives are drawn from two distinct theoretical perspectives, namely Will Kymlicka's multiculturalism and Robert Goodin's theory of value. The two theories each represent one interpretation of the Good in order to discuss whether green mining on indigenous land can be justified. Kymlicka's deontological approach emphasises the principle of equality, arguing against the justification of green mines on indigenous land due to inherent inequalities and violations of territorial rights. In contrast, Goodin's consequentialist perspective prioritizes environmental security, suggesting that certain ends may justify the means. This perspective acknowledges value trade-offs for the importance of reassuring environmental security. Ultimately, the conclusion as regards whether the construction of green mines on indigenous land can be justified differs depending on what interpretation of the Good is being used.

Key words: indigenous rights, environmental safety, normative method, deontology, consequentialism, value trade-off

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1. Introduction

As the world is coming to accept climate change, we try to find ways to tackle its consequences. The dominant discourse in global environmental politics is that a green transition of industry, energy and production is necessary. The green transition involves an increase in renewable resources and a shift away from fossil fuels. The renewable resources will assure continued production, but in a sustainable way. There are certain resources that have proven more crucial than others, and such resources have been categorised as critical raw materials (Owen et al., 2022). These critical raw materials primarily include metals such as lithium, cobalt, manganese, as well as rare earth metals. The critical raw materials can be utilised in the production of green technologies such as solar panels, electric vehicle batteries, and wind turbines (Naturskyddsforeningen, 2023).

However, the extraction of critical raw materials is not without complications. 54 per cent of projects aimed at extracting minerals to facilitate the green transition are situated either directly on indigenous territories or in close proximity to them. Consequently, developers claim indigenous land to establish mines and other industries. The mines often result in indigenous peoples being displaced, their water and lands polluted, or otherwise affects their cultural and territorial heritage (Owen et al., 2022). The issue is global, from the communities Tampakan and Didipio in the Philippines (Reuters, 2024), to Wikieup in Arizona, home to the Hualapai tribe (Simon, 2024), and to Tusaquillas in Argentina where the indigenous Kolla reside (Janetsky et al., 2024). Sweden, with its indigenous Sami population, is no exception. In Vittangi in northern Sweden, plans are underway to construct a graphite mine which would disrupt pasture lands crucial for the Sami reindeer, fundamental to their culture and history (Jones & Fröberg, 2023).

The discussion of industrial mining on indigenous land is no new phenomenon. However, when mines are built in the name of sustainability and for a greener future it leads to an interesting ethical dilemma. A certain standpoint depends on what values are being prioritised and what values are considered more worth. When indigenous rights and the green transition are juxtaposed as opposing actors it becomes harder to discern what should take precedence as both can be seen as something with intrinsic value, i.e., something that in itself is considered Good.

This dilemma renders a normative discussion relevant, and the current global empirical evidence of this conflict of interests motivates the study thereof. Through a normative analysis, this thesis aims to examine whether the construction of mines on indigenous lands can be justified as they contribute to the green transition, or whether it cannot be justified given the inherent value of indigenous peoples. The purpose of the normative analysis is to demonstrate how one can theoretically reason on an issue based on different perspectives of a given value, here chosen to be different interpretations of what the Good entails.

1.1 Climate Change

In order to carry out a meaningful discussion on climate change and indigenous rights, it is essential to discuss what climate change entails. For this I will be using Mark Maslin's contribution to the series *A Short Introduction*, this one called *Climate Change* (2021). Climate change is a rise in temperature caused by the emission of greenhouse gases and the burning of fossil fuels (Maslin 2021:65). The change of temperature causes extreme weather like storms and floods, droughts, and fires. Climate change is also causing a negative impact on biodiversity on land and in the oceans, for agriculture and human health (Maslin 2021:65).

There are three general supposed solutions to the issue of climate change. One solution is adapting our technology to be able to withstand the changes, or the effects of climate change will ultimately leave our collective coping range. Another solution is geoengineering, which is the idea of developing a system that extracts CO₂ from the atmosphere (Maslin 2021:123). The last solution, and arguably the most widespread one, is reducing our ecological footprint and reducing the emission of greenhouse gases. This can be done in various ways (different solutions for reducing emissions will be discussed below).

As mentioned above, one solution to reduce emissions is to switch to renewable resources. This is what the mines will contribute to as the extraction of critical raw materials will be used in production for renewable energy. I will be using the term "green mines" to effectively describe this phenomenon. Terms like "the green transition", "green industry" and "green technology" are too far-reaching terms and may confuse the reader

as to what is referenced to. The term “green mines” will also differentiate the mines discussed from mines extracting coals and other resources which do not contribute to the reduction of greenhouse gas emissions. These do not fall into the category of renewable resources made for the green transition and are thus not relevant for the ethical dilemma which this thesis explores. The dilemma of green mines on indigenous land is only interesting as it is harder to prioritise between two seemingly Good things.

1.2 Is the green transition the solution?

There are as mentioned different solutions to reduce our ecological footprint. This thesis will assume that the green transition will reduce greenhouse gas emissions, yet it is worth mentioning that there are different views on the matter. To make the visualisation easier I will refer to “The Wizard and the Prophet”, written in 2018 by Charles C. Mann. Mann has simplified the discussion on solutions for climate change by creating two teams. The first team are the “Wizards”, who believe that innovation and technology will solve environmental problems. This aligns well with the idea that a green transition will reduce greenhouse gas emissions while allowing a continuation of the way of life today. The “Prophets”, on the other hand, believe the only solution is to scale down. They argue that you cannot save the planet with the thing that has destroyed it, i.e., industry, technology, and large-scale production, and, consequently, that degrowth is the only way forward.

These two perspectives have been clear opposites since the 1940s but the ideologies can be found way back. The discrepancy seems eternal as there is no way of knowing which one is right as the discourses use widely different arguments that cannot be compared to each other. To visualise this struggle, Mann summarises the issue of knowing “the truth” at the end of his chapter on climate change (page 362):

What to do, in a world brimming with fossil fuels? In climate change, all choices involve leaps into the unknown. Claims that carbon capture cannot be economically viable or that renewables will always cost too much or use too much land generally amount to saying, I prefer the unknown risks associated with this discourse rather than the unknown risks associated with that discourse because the first leads to a future that I like better. At bottom, the choices stem from private images of the good life – a life in which people

*are tied to the land or free to roam the skies. Only individuals can choose.
The important thing is that they have choices.*

Because of this dispute, it is not questionable to assume one of them is right for the sake of this thesis's discussion. In addition, the assumption that green technology will help the environment is based on the fact that since the 1980s the sustainable development discourse has become the global dominating discourse of environmental policies (Dryzek 2013:147). This assumption makes the thesis relevant as it aligns with the dominating discourse in environmental global politics.

2. Purpose and Research Question

The purpose of the thesis is to highlight the ethical dilemma that arises in a conflict of value. The two opposing perspectives are indigenous rights, mostly related to land and territory rights, and green mining. The analysis aims to depict the complexity of the issue and intends to emphasize that different interpretations of the Good underlie the normative dilemma. The research question is formulated as follows:

- *How can the decision to allow mining on indigenous land to promote the green transition be justified, based on different interpretations of the Good?*

2.1 Literature Review

The issue of mining on indigenous land is nothing new and much is written on the subject. However, there is a difference between normative studies and empirical studies, as well as mining and green mining. One normative study investigates the justification of green mining in Sweden (Lawrence & Moritz 2019) and discuss whether it is reasonable for developers to violate indigenous rights or not. The normative study does not reach a definitive answer, much like a bachelor thesis similar to this thesis (Larsson Berg 2023). The bachelor thesis merely discusses the issue at hand without reaching a decision on what is preferable; indigenous rights or reducing greenhouse gas emissions. Larsson Berg's text will be similar to this thesis but differs in what values are being used to conduct the discussion.

Normative studies aside, most academic work is of the same opinion: that claiming indigenous land for mining purposes is wrong and most commonly focus on one indigenous group (Owen et al., 2022; Reuters, 2024; Janetsky et al., 2024; Jones & Fröberg, 2023). For example, in Sweden, many argue that Sami people should have more legal territorial and cultural rights than what they have today, both based on international and national legislation (Johansson 2022; Malmsten 2020). Some works discuss the general economic and social impacts of mining and its effects on local communities (Brunet & Longboat 2023) while others argue that indigenous rights are something that comes in the way of the mining industry (Suopajärvi et. al. 2022). Others argue that green mining can be seen as a form of colonisation (Lawrence & Åhrén 2016), which ruins the environment that indigenous communities are dependent on (Blanco et. al. 2023).

General information about indigenous communities have been found on the United Nations Indigenous Programme's website and from the European Union. Information regarding the mining industry and role it plays has mainly been found on websites of the European Union and Naturskyddsföreningen, a Swedish environmental organisation.

3. Method

3.1 Normative Method

The question of whether or not to allow green mines to be built on indigenous land is a deeply political question. Resolving such political questions are ultimately a prioritisation of values and when values constitute arguments for what is right or wrong it is relevant to apply a normative theory. The normative theory will create a framework for how to prioritise between these different values (Badersten 2006:29). The normative analysis is a tool to discuss what constitutes acceptable human behaviour according to different perspectives (Esaiasson 2017:29).

A type of normative analysis is the normative "given-that" analysis. The given-that analysis is found in Björn Badersten's book *Normativ metod – att studera det önskvärda* (2006) which will be used to further describe the method used in this thesis. The given-that analysis can neutrally problematise and discuss normative positions regarding the prioritisation of different values. It can be used to justify certain actions. The justification

can be done through various normative perspectives. Because of the different perspectives, the analysis can lead to multiple conclusions, implying that the analysis is not used as a tool to advocate for specific actions but rather to engage in a discussion of the potential values relevant to the normative dilemma. Thus, a single question can lead to "sometimes contrasting perceptions of how society should be organized" (Badersten 2006:30, translation by me).

A conflict of value can either be a conflict between different values or a conflict due to different interpretations of the same value (Badersten 2006:30). As the research question focuses on the justification of green mines on indigenous land according to different interpretations of the Good, it is vital to understand what the Good entails. The reason for choosing the Good is that it is a common philosophical term for a moral evaluation of human behaviour (Goodin 1992:25). Generally, philosophers have disparate views of what it means, and I will therefore create my own framework from the term. The Good will be interpreted in two different ways of moral evaluation based on two different theories. The conflict of value will lie in these two disparate interpretations.

The normative method will aid the understanding of the different perspectives of the discussion and how either of the sides would ideally organise what society to live in. The arguments will be based on values and not empirics. In normative methods there is no need for empirical data or materials; they instead use theories as the base for different perspectives. There are certain tools which can be used to facilitate the understanding of the perspectives that can be used in a normative discussion. These tools can be referred to as "normative logics". There are many different logics to apply to a research question and the next section will explain this further.

3.2 Normative logics

Normative logics can be seen as tools that function as a guide for different lines of arguments and makes it possible to argue normatively. The normative logics can be juxtaposed to show that the question of what is morally right can lead to different answers depending on the normative logic used and will help answer the question of how something can be justified (Badersten 2006:45). A good use of normative logics would meet the requirement of internal validity (Badersten 2006:107).

The four normative logics presented by Badersten are deontology, consequentialism, appropriateness logic, and contractualism. These are not the only ones and are not necessarily complete opposites, which constitutes a clear argumentation as to why two were chosen and the others not. The two normative logics most suited to the given research question are consequentialism and deontology.

The two normative logics that were not chosen are appropriateness logic and contractualism. Appropriateness logic suggests that reality is too complex to formulate universal principles of value. What determines a value is its context in the individual case. Appropriateness logic thus works with more precise cases and therefore becomes difficult to apply at the high level of abstraction of the research question. The second logic, contractualism, justifies actions based on contracts between rational and independent individuals. There is no requirement for a formal contract as society as a whole can also be seen as a contract between people. The logic is less suitable for answering the research question, as the lack of indigenous rights indicates that the "contract" between them and the state is not functioning (Badersten 2006:127).

3.2.1 Consequentialism

Consequentialism provides the universal rule: "always act so that the consequences of the action are as good as possible" (Badersten 2006:119). The most common expression of consequentialism is utilitarianism. Utilitarianism views good consequences as something that should lead to the greatest possible benefit for society. What that benefit should result in is not entirely given, but the most common prioritised value of good consequences within utilitarianism is pleasure and happiness (Badersten 2006:114). Despite utilitarianism being the most common type of consequentialism, it will be difficult to apply to the research question. What is considered pleasure and happiness can be difficult to specify at such a high level of abstraction. In addition to that, one of the theories used in this thesis, Will Kymlicka's theory of multiculturalism, uses John Rawls' definition of justice from "A Theory of Justice" (1971). Rawls argue that utilitarianism is another form of justice than "justice as fairness" which will be used in this thesis, as Kymlicka's multiculturalism draws its arguments from Rawls' definition of justice (Rawls 1971:22). It would therefore be confusing to use different views of justice in one thesis.

This thesis will use consequentialist thinking as a supplementary tool to a theory, namely Robert Goodin's green political theory. The theory will then present its interpretation of "the Good" and the consequentialist perspective will be based upon that interpretation. Consequentialism has no guidelines regarding what values should be applied and can therefore be customized for the problem at hand. It is only a guidance in how one should think while having to prioritise different values or interpretation of values (Badersten 2006:119). Thus, it is not necessary for the consequences to provide the greatest possible happiness to as many people as possible if the interpretation of the Good is something else.

3.2.2 Deontology

Deontology provides the universal rule: "always act in accordance with the duties" (Badersten 2006:119). In the context of this thesis, duties are understood as predetermined rules and principles of the Good. According to deontology, an action should be evaluated on the basis of such rules and principles, independently of the consequences it produces. Thus, an action may be undesirable even if it would have good consequences, and vice versa. The focus is on the action itself, isolated from the circumstances.

As mentioned above in the description of consequentialism, one interpretation of the Good will be the core of one of each normative logic. I.e., the deontological explanation of the "Good" will be presented in the second theory, Will Kymlicka's multiculturalism. If the action is incompatible with the theory's interpretation of the Good, it is inherently immoral and wrong. It is important to note, just as with the consequentialist logic, that deontology itself does not pronounce which values are desirable. It is a principle added to the normative logic that merely guides how to reason about the chosen principles (Badersten 2006:119).

4. Theories

As proven in the presentation of the method, it is clear that the choice of theory will affect the interpretation of the Good, and in turn, whether it can be justified to construct green mines on indigenous land. To nuance the complex normative issue of green mining on

indigenous land the discussion needs theories that will recognize both sides. The theories will then be integrated with one of the normative logics presented above to deepen their arguments.

The selection of theories is based on the two opposing views, and I wanted each theory to represent one of the views. The theories chosen for this thesis will be explored deeper further down, however, there were other potential theories that could have worked in the framework. For the perspective of indigenous rights, one theory that could have been used is the social greens discourse, a radical theory that argues against the sustainability and is pro-degrowth, as well as arguing for equality among people (Clapp & Davuergne 2005:12). The theory would have suited the thesis's purpose well, were it not for its broadness of focus. It did not explain indigenous rights as well as Kymlicka's multiculturalism. As for a theory supporting the green transition, Maarten Hajer's Ecological Modernisation Theory (1995) was reviewed. The theory believes that the economy can be used as a tool for tackling climate change and that climate change in fact forces innovation in technology. Production will increase the usage of renewable material until it reaches net-zero. Ecological modernisation would have aligned well with the positive view of green mining, only it had no normative elements and was difficult to use with either of the normative logics.

Another theory that might seem relevant is the theory of green colonialism, which revolves both around indigenous rights and environmental protection. I found that the theory was too broad and made it complicated with an opposing theory. In addition to that, green colonialism focuses on the fact that many indigenous groups biggest threat to their territorial rights is conservation organisations who occupy the land for conservation purposes, often banishing indigenous groups from using their previous territory (Klein 2016). That is not the area which this thesis focuses on.

The theories I did choose were Will Kymlicka's multiculturalism and Robert Goodin's view on green political theory – his theory of value. Kymlicka's multiculturalism is a theory that argues for the protection and recognition of indigenous rights. Will Kymlicka is a distinguished scholar in the multiculturalism discourse and argues in one of his works, *Multicultural Citizenship* (1995) that to reach true equality minorities need group-specific rights. Kymlicka's multiculturalism will in this thesis take a deontological perspective.

This assumption is based on Kymlicka's positioning that something can have a value in itself, i.e., having an intrinsic value which aligns well with deontology. This framework will represent the perspective of wanting to preserve indigenous land.

An opposing theory that instead argues that it is the result of measures taken for the climate that counts is found in Goodin's book *Green Political Theory*, (1992), supported by other works from Goodin. In the *Green Political Theory*, Goodin argues that green ends justify the means. The goal is to be sustainable and save the climate and, it should not matter how the goal is reached. This perspective of green theory is outspokenly consequentialist and will therefore be consequentialist in this thesis as well.

4.1 Will Kymlicka's Multiculturalism

Kymlicka's multiculturalism is a theory that advocates rights for minority people equal those enjoyed by the majority. Multiculturalism is widely complex, leading to many misconceptions. Because of the theory's expansive scope, this thesis will focus on the "equality argument" presented in *Multicultural Citizenship* (1995) which Kymlicka uses to justify group-specific rights. The central value of equality will be the predetermined "duty" in the deontological perspective and will be one of the interpretations of the Good for what the research question is asking.

According to Kymlicka, group-specific rights are not only applied to immigrant minorities but includes the groups that were targets for "conquest and colonisation" (Kymlicka 1995:11). These previously self-governing societies are referred to by Kymlicka as "nations" within "multination states" that form "national minorities". Kymlicka changed this designation in 2007 in his book *Multicultural Odesseys* to "indigenous" groups instead of national minorities and hereafter the thesis will use this term instead. The most common historical case for indigenous peoples is that another state forcefully invaded their territory. This led to the "nation" involuntarily joining the conquering nation. Although it is possible, yet uncommon, for the incorporation of self-governing societies into multination states to be voluntary (Kymlicka 1995:11).

Kymlicka draws his equality arguments from a liberal egalitarian theory, mainly from Rawls and Dworkins (Kymlicka 1995:109). For simplicity, the thesis will use John Rawls definition of justice found in *A Theory of Justice* (1971), and every mention of justice in the

thesis will be based on Rawls' works. Kymlicka claims that we should be concerned about the inequalities of cultural membership, especially since Rawls' states that it is important as the inequalities are "profound and pervasive and present from birth" (Kymlicka 1995:109; Rawls 1971:96). Rawls' general definition of justice will work as a guide in my interpretation of Kymlicka's use of the equality argument. The definition is as follows: "All social values – liberty and opportunity, income and wealth, and the bases of self-respect – are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone's advantage." (Rawls 1971:62).

From this definition, Rawls extends the apprehension of justice by talking of justice as fairness. Rawls then divides justice as fairness into two rather different principles. The first one is justice as in *rights and duties*. The principle simply states that basic liberties be applied to everyone equally. All individuals have the same intrinsic value and should be treated as such. Justice is uncompromising as it is the first virtue of human activities (Rawls 1971:4). The second principle is justice as in *social and economic inequalities* and focuses on distributing resources and opportunities. It accepts inequalities only if it is in the form of compensation for the least advantaged (Rawls 1971:14). The values of the second principle (the social values) are referred to by Rawls as "primary goods" and are things that "every rational man is presumed to want" (Rawls 1971:62). The principles come in a certain order which means that the second principle cannot compensate for lack of rights in the first (Rawls 1971:61).

4.1.1 Conceptualisation of the Good

Rawls' first principle justifies the base of Kymlicka's equality argument: that equal rights should be applied to all as it is in our human nature to be equal. The second principle helps justify Kymlicka's argument for group-specific rights. Group-specific rights will work as a compensation for indigenous communities that are "unfairly disadvantaged" (Kymlicka 1995:109). Special rights for some groups of society can only be accepted as it compensates the least advantaged, as mentioned above. Indigenous communities are, if not the least advantaged, usually "undermined by economic and political decisions made by the majority" (Kymlicka 1995:109). Group-specific rights function as a tool for external protection, which Kymlicka explains as the indigenous group's wish to protect itself from

external impact as a way of securing and protecting their culture and ultimately, their existence (Kymlicka 1995:36). With group-specific rights, indigenous peoples and their disadvantages can be rectified.

Group-specific rights are closely related to self-government rights as they entail differentiating indigenous peoples from the majority. According to the UN, “all peoples have the right to self-determination” (Kymlicka 1995:27), which can be in the form of political autonomy or territorial jurisdiction. However, “in many parts of the world the hope for political powers is almost utopian” (Kymlicka 1995:20) and the goal is instead simply to secure indigenous land from further “erosion by the settlers and resource developers” (Kymlicka 1995:20), i.e., many indigenous communities do not have the power to hinder developers from entering their territory to build green mines. Because of the research question and the thesis’s focus on green mining on indigenous land, the disadvantages discussed in this thesis will revolve mostly around territorial rights.

Indigenous land rights are important for securing the culture of indigenous peoples and equality to the majority (Kymlicka 2001:147). The right to land “should be seen as ordinary, historical property rights based on prior occupancy” (Kymlicka 2001:148). One common objection to this justification of land rights for indigenous peoples is that a “first-come, first-serve” argument is not a valid argument for equality. However, Kymlicka argues, that this is an incorrect interpretation of the argument of prior occupancy. As mentioned above, indigenous communities are seen as self-governing societies that were involuntarily occupied by a foreign power. The occupancy violated indigenous sovereignty and territorial rights is one way to regain some of that sovereignty (Kymlicka 2001:149).

Tools used to lift indigenous groups will automatically trade off other interests. The question is when and why these trade-offs are justified (Kymlicka 1995:107). Kymlicka’s opinion is that the loss of others is in no way near the loss of indigenous people and their culture, and with a deontological perspective on equality this argument will be very uncompromising and will only accept acts that are equal in themselves. This is only one perspective on the issue at hand and the theory presented below will have another perspective.

4.2 Robert Goodin's Green Political Theory

In *Green Political Theory* (1992), Robert Goodin argues for a sustainable future and believes that to reach that goal, certain values which conflict such goal will have to be compromised. Goodin argues for what he believes to be the core of green theory: to save the planet from destruction. This theoretical framework is fundamentally about the consequences of actions and will therefore be supported by the normative logic of consequentialism. When applying Goodin's theory, the interpretation of the Good will be the value of environmental security. Environmental security will be explored further below.

Goodin argues that green political theory has two sub-theories: the theory of value and the theory of agency. According to Goodin, the theory of value is the fundamental core of green political theory where the ultimate goal is to save the environment from further destruction. The theory of value is used to assess the outcomes of an action and is a consequentialist perspective (Goodin 1992:16). The theory of agency is leaning toward being a deontological perspective, yet Goodin does not go as far as to claim that they are one and the same (Goodin 1992:16). The theory of agency guides what actions are accepted; it guides how to execute actions to reach the goals conducted by the theory of value. It advocates non-violence, democratic rights, and equality, to name a few examples (Goodin 1992:63).

Goodin presents two perspectives on how to approach moral dilemmas concerning the environment, when weighing theories of value and theory against each other. The first perspective, which Goodin argues for, is that the two theories should be separated, and that the theory of value should be prioritised over the theory of agency (Goodin 1992:12). The second perspective is what Goodin sees as "the general mass of green theorists" do, be it green party-members, activists, or theorists (hereafter called "greens"). Goodin claims that the greens typically do not separate the theories and argues that this leads to stagnation in moral dilemmas and counteracts a prioritisation when the theories of value and agency collide. A separation of the two would lead to an easier framework for actual situations and not just theoretical ones. It enables a framework that will not lead to internal disagreements or inactivity.

Instead, the greens prioritise the way in which actions are undertaken over the outcome of such actions. They want to keep their values intact while still trying reach their ultimate goal of saving the environment. This may sound reasonable, but Goodin makes the point that it is not the case. To visualize the disadvantages of combining the theories of agency and value, Goodin uses the example of a forest that needs to be saved from cutting down. For greens, to save the forest it is just as important to save the trees as it is not to inflict injury to other values, such as people and other animals, as they believe in non-violence as part of the theory of agency. While this seems reasonable, such way of thinking may work for some individual cases and not as a rule. Imagine if the only way to save the forest was to inflict a few people (some) injury, then the greens adhering to the theory of agency would not be able to save the forest as it would go against their belief of non-violence. However, the theory of value would justify the infliction of injury to some people for the goal of saving a forest (Goodin 1992:70). The means would justify the end, Goodin argues. The example highlights the risk of inactivity in the theory of agency when put in a moral dilemma. It only works if there are no complex situations. That is why Goodin argues for a separation of the theories and for people to abandon their beliefs when it puts them in situations where they are unable to act in line with the theory of agency. In situations where it is possible to act in line with both theories there is no need to prioritise between them. Goodin summarises his argument that the means justify the ends in green theory in the introduction to *Green Political Theory* (1992:13):

The green theory of agency is a theory about how best to pursue the Good and the valuable, according to a distinctively green analysis of what is good and valuable. Some theories of agency might elevate right action, regardless of consequences, to an art form in and of itself. Green theory is not among them. It aims first and foremost at producing good green consequences.

4.2.1 Conceptualisation of the Good

For the second interpretation of the Good, according to Goodin's theory of value, there is need for a supplementary explanation of the prioritisation of values. With help from an introduction to *Global Basic Rights* (2011) written by Goodin, together with Charles R.

Beitz, it will be possible to create a functioning framework for the second interpretation of the Good. The framework will also be using the normative logic consequentialism.

The introduction to *Global Basic Rights* goes deeper into the prioritisation of values for the sake of the environment. Goodin and Beitz use Henry Shue's *Basic Rights* (1980), in which Shue argues for the protection of specific rights which are more fundamental than others (hence the title *Basic Rights*). Goodin uses this course of thought to further develop a framework of basic environmental rights. For people to have more than basic rights (i.e., the right to life and security) one would have to live in a safe environment, he argues. Environment in this context would be in the sense of nature and by extension security in an absence of flooding, forest fires, drought, starvation, etc. Without a stable environment, other, non-basic rights cannot be a priority. Goodin takes this to the extreme by pointing out that "agency presupposes existence; you have to be alive to exercise any rights" (Goodin & Beitz 2011:20). What he means is that climate change causes fatalities that otherwise would not occur. The value of environmental security should therefore be a priority, and a basic right and will be the second interpretation of the Good.

4.3 Limitations

The theories presented above, despite being the best theories for the purpose of this thesis, have certain limitations. The theories are being juxtaposed in this thesis because of the given research question but would not necessarily be juxtaposed in other situations. For example, Kymlicka's multiculturalism is not strictly deontological and could be seen from a consequential perspective as well by evaluating the consequences of an unequal society. The theories have created framework to each present one interpretation of the Good in the given situation. The definition of what "the Good" is according to each theory is based on the core of each theory and the reader should have been able to follow the justification of these choices in the presentation above. It is worth mentioning that Goodin has ideas of his own on how to counteract climate change and would not necessarily argue for green mining on indigenous land, but this will not be discussed in this thesis.

Given the thesis's level of abstraction, there is a risk of generalising matters which should not be generalised. Systems for protecting indigenous societies vary between different

countries and depend, among other things, on whether they are located in a democratic state or not. Kymlicka addresses this in *Multicultural Odesseys* and argues that general principles are applicable despite different circumstances (Kymlicka 2007:44). The same goes for the discourses used in the thesis, e.g., the sustainable development discourse. Discourses rest on assumptions and judgements and is a tool for analysis and debates. If discourses did not exist, problem-solving would be tedious work as we would have to construct a new framework for each question (Dryzek 2013:9). Hence, some generalization is necessary to construct arguments and helps highlight the most important aspects of an issue.

4.4 Operationalisation

Given the abstract nature of the research question, an operationalisation is necessary to focus the discussion. The thesis will focus on two main areas. The first part of the analysis will revolve around the green transition, where the different theories will visualise what standpoint they would have in relation to the given question. The reason for choosing the green transition is that it is the overarching conviction that ultimately violates the territorial rights of indigenous communities. The green transition will be understood as a global phenomenon and the reason behind the building of green mines. The second area concerns the question of the land. The discussion of indigenous territory can be interpreted as the main feature in Kymlicka's multiculturalism in relation to the research question. The territorial rights and the right to land symbolise the culture and history of indigenous communities, it is the basis of many other rights.

5. Analysis

In this section, the thesis will present certain justifiable arguments for green mining as well as argue that no justification is possible. The analysis will be based on the two theories described above, and their complementary normative logics. In section 5.1, the thesis will present arguments for and against the green transition based on the theories presented above and discuss whether climate change can work as a justification for the building of green mines on indigenous land. In section 5.2 the thesis will discuss the importance of indigenous territory and whether the intrinsic value of this can be weighed

against climate change. The analysis is supposed to give a nuanced and detailed examination of the issue, and ultimately lead to an answer to the research question: *How can the decision to allow mining on indigenous land to promote the green transition be justified, based on different interpretations of the Good?*

5.1 The Case for the Green Transition

5.1.1 The Right of Indigenous Autonomy

It is unavoidable that states promote certain values and cultural identities. This promotion is not necessarily conscious but is merely a result of one group being the majority. This “promotion” of values and cultural identities will automatically disadvantage those who do not belong to the majority group, resulting in an unequal treatment of individuals (Kymlicka 1995:108). Given that the leading political environmental discourse is sustainable development, the dominant culture can be interpreted as supporting the green transition, and by extension green mining.

It is important to note that indigenous communities do not necessarily oppose the green transition. This thesis is merely highlighting the fact that the dominant culture of sustainable development is hurting indigenous communities. As this thesis shows, it can be argued that some results justify the means, and Kymlicka is himself aware that there can be discussions of value trade-offs. Nevertheless, in *Multicultural Citizenship*, Kymlicka argues that the loss of the majority is in no way near the loss of indigenous communities (Kymlicka 1995:107) and is not accepting a trade-off of values. However, Kymlicka argues against a theoretical dominant culture. In this context, the dominant culture is the support for sustainable development and belief that it will solve climate change. Kymlicka does not mention the effects of global warming and climate change, and as the main source is written in 1995, global warming was not as prominent a discourse that has since evolved. The consequences of not acting against climate change are tremendous, and one could argue that a value trade-off might be in its right when the fate of the world is at stake. However, even if Kymlicka was aware of the consequences of hindering the building of green mines on indigenous land, the deontological perspective is unyielding. Deontology does not care about or value the consequences of an action

even if it effects the whole world. No matter what consequences the building of green mines might have, they violate the rights of indigenous communities.

Indigenous communities should be able to decide for themselves if they want to contribute to the green transition and in what way. The question is fundamentally about their right to self-government. Indigenous peoples are acutely aware of the consequences of climate change as they are the group that is most affected by it (UN n.d). Water and food shortages, droughts, fires and loss of vegetation and deforestation all effect indigenous communities and their cultures negatively. It leads to “political and economic marginalization, loss of land and resources, human rights violations, discrimination and unemployment” (UN n.d).

Despite these challenges, it is not justifiable for external actors to build mines on indigenous land. The core argument is that it undermines the principle of autonomy for indigenous communities, allowing the majority population to be able to violate the rights of the minority. Indigenous communities should be able to control what is being built on their own land. Whatever the consequences, even if it is the dire consequences of climate change, the act itself is not based on equality. And, as outlined above in the explanation of Kymlicka’s multiculturalism (section 4.1), it is more equal for minorities to have special rights than for the entire population to have the same “equal” rights. Indigenous communities’ right to autonomy is unquestionable for Kymlicka and the deontological perspective.

5.1.2 The Green End justifies the “Unequal” Means

54 per cent of all green mines are located on indigenous land, meaning they contribute substantially to the green transition. If all indigenous communities were to exercise their supposed unquestionable territorial rights and hinder developers from building green mines on their territory, the consequences would be severe. Of course, green mines are not the only solution for us to live inside the planetary boundaries, but it is an important part of the green transition. As mentioned, the critical raw materials extracted in the mines will be used for solar and wind power, as well as in the production of car batteries, which will help the goal of not emitting any CO₂ (European Council and the Council of the

European Union 2024). As of today, there is no other way of producing these products which makes the extraction of them ever so important (Riofrancos 2022).

Goodin's interpretation of the Good, is as mentioned, environmental security. If the world would not be using the tools believed to reduce climate change, we would be putting many more people at risk of the consequences of climate change. Goodin too acknowledges that there is sometimes a need for a value-trade off but does not agree with Kymlicka's statement that the loss of the majority is not comparable to the loss of the minority. Such rights simply cannot be prioritised when it comes to green outcomes. Goodin and Beitz (2011:23) writes that:

The more rights there are, the greater the danger that we will face "rights–rights trade-offs," being forced to sacrifice some rights in order to fulfil others. The possibility of basic environmental rights, and perhaps yet other basic rights, might suggest a similar complaint. If all of these rights are truly basic, and there is no way of satisfying all of them simultaneously, then trade them off for one another is just what we must do.

Goodin would argue that equality between the majority and the minority does not matter when global warming, (i) firstly, affects everyone no matter what group of society one belongs to, and (ii) secondly, has such grave consequences. As cited in section 4.2.1 above: "agency presupposes existence; you have to be alive to exercise any rights" (Goodin & Beitz 2011:20). The right to environmental safety is a basic right which is needed in order for one to be able to access other rights. There is evidently no easy way of both building green mines and protecting indigenous rights simultaneously, and therefore a prioritisation is needed. When one perspective is environmental safety and all that it entails (saving the planet, securing biodiversity, saving *lives*), and the second perspective is territorial autonomy for certain communities, only being 5% of the global population (Tomei 2005), it seems unreasonable to choose the last of the two.

Goodin would argue that this is the only logical conclusion. He argues that the consequentialist perspective is ever present and that even deontologists cannot ignore the consequences of all actions (Goodin 1992:16). The consequences of climate change are so dire that deontologists should not be able to argue deontologically. According to Goodin, the strictly deontological view poses no threat to his argumentation since

“virtually no one is prepared to embrace quite such an extravagant position, anyway” (Goodin 1992:16). What ultimately counts are the outcomes of the actions. The climate crisis is too real to talk of intrinsic rights and deontological standpoints and it cannot be justified to protect these rights when they are compared to the effects of climate change.

5.2 The Case for Indigenous Territorial Rights

5.2.1 Indigenous Territorial Rights

One group-specific right which is vital for indigenous people is their right to territory. Kymlicka argues for territorial rights using the same arguments as for the right to autonomy. The rights should not be based upon a “first-come, first-serve” argument, nor should it be given solely because of the indigenous communities’ often strong connection to nature. It is a common misconception that indigenous territorial rights are justified because of some historical and exotic fetishization, that their presence is merely some kind of “part of the natural scenery” (Kymlicka 1995: 218 n. 30). It is even so that “[some] governments have argued that land claims should only be given to indigenous groups which have maintained their ‘authentic culture’” (Kymlicka 1995:104). Kymlicka frowns upon this rhetoric; the territorial rights should be given because of the intrinsic value of the sovereignty and self-governmental rights it brings forth.

Territorial rights are much more than merely the right to some soil and land, earth, or dirt. It connects indigenous cultures to their historical significance, as well as contributes to the reduction of other inequalities. For example, according to an International Labour Organization (ILO) study made in 2005, as cited by Kymlicka, it has become evident that anti-poverty strategies work best when the indigenous communities have territorial and self-governmental rights (Kymlicka 2007:148; Tomei 2005). With indigenous people being 15% of the world’s poor, yet only being 5% of the total global population, poverty is not equally distributed among indigenous communities and the majority (Tomei 2005). If having territorial rights leads to the reduction of other inequalities, territorial rights is much more than just the right to a geographic location.

The statement above is not deontological in its nature, as it argues for territorial rights for the consequences it brings. But it does follow Rawls’ definition of justice, that “all social values – liberty and opportunity, income and wealth, and the bases of self-respect – are

to be distributed equally” (Rawls 1971:62). With territorial and self-government rights, the distribution will have higher chances to succeed. The justification of those rights, territorial and self-government rights, are however done deontological: all acts should be acted upon in accordance with the duty, which in this case (as mentioned) is equality.

However, territorial rights can lead to restrictions on members not belonging to the minority group. Kymlicka argues that despite restricting some of the rights of the majority, it is still justifiable as it ensures minority rights (Kymlicka 1995:109). The rights given to the minority in form of territories will raise them to a level of rights more similar to that of the majority. Different cultures need different types of special rights.

Given the justification of territorial rights for indigenous people, can it then be justified to build green mines on indigenous land? Assume that indigenous people have the rights to which they are entitled, i.e., territorial and self-governmental rights. Then, the building of mines could be justifiable. If indigenous communities could choose what actors and companies were allowed to build on their land, it would not affect their rights as a minority. The community could even benefit from the construction of mines as they could use their territorial rights for the purpose of controlling the strain on the environment (pollution in water, the effect on wildlife, food scarcity, etc.). The construction of green mines would also ensure a life within the planetary boundaries. The consequences will therefore follow the equality argument as presented by Kymlicka, as both developers, indigenous communities and the globe will benefit from the way towards to, and the result of the green transition. It would also be justifiable from a deontological perspective of multiculturalism, as the indigenous community would have the power to decide for themselves what to do with their land.

However, the assumption above is made strictly in theory. Many indigenous communities do not have the power to stop the building of mines on their land and helplessly watch as foreign or domestic companies enter their territory (Simon, 2024; Reuters, 2024; Janetsky et al., 2024; Jones & Fröberg, 2023). The communities do not have the power to hinder such exploitation as they do not have enough protective rights legalized. It is an exploitation of indigenous peoples as they cannot choose to allow or hinder external actors to use their land. Indigenous communities are not predetermined against green mines and could in theory even welcome it (as the scenario describes above). However,

that is not what the issue is. The issue is indigenous peoples' powerlessness in executing their rights and protecting their interests. Indigenous communities want the right to prevent the exploitation of their land and of their weak position. External actors bringing technology and industry to indigenous land is not wrong itself, but as Kymlicka writes: "It is one thing to learn from the larger world; it is another thing to be swamped by it" (1995:104).

Here, the deontological perspective is as uncompromising as ever. It cannot be justified to build green mines on indigenous land due to its profound significance of the territory for the communities. Having territorial rights is the first step towards self-governmental rights and other equalities as enjoyed by the majority, while the building of mines are yet another systemic way to weaken indigenous communities and deepen the gap between them and the majority population. It is fundamentally wrong for the majority population to use land that is not theirs to take, according to Kymlicka's interpretation of the Good (i.e., equality) and it is wrong according to the deontological view of said interpretation. If indigenous peoples had the power to decide for themselves, it would be a whole different discussion.

5.2.2 Indigenous Territory and Climate Refugees

While Kymlicka would argue that there is no possible justification for the establishment of green mines on indigenous land if the relevant indigenous group has not accepted such establishment, Goodin would argue that it would be unjust to let indigenous communities decide the fate of other communities across the globe. It may seem melodramatic, but when looking at the consequences of global warming it is not.

Goodin and Beitz outline two different arguments for environmental security. The first argument is the more obvious one, and argues for people's security of not drowning, starving or being burnt alive as a consequence of climate change. The second argument is vague yet still important, not least for the territorial argument made in this section. Such argument "points to the right of people not to have their homeland invaded by refugees" (Goodin & Beitz 2011:20) of climate change. It might seem far-fetched (not to say "outrageously egocentric" (Goodin & Beitz 2011:20)) to argue for the protection of the

environment to preserve one's own personal territory. Yet, as the argument in section 5.2.1 fixates on indigenous territorial rights, it is not an irrelevant point to make.

Climate change will not only cause extreme weather, such as flooding, droughts, and bad harvests, but also mass movements of humans. The displacement of climate refugees is already happening today, and although already high in number it is in a way smaller scale than what is to come. Climate refugees being displaced by climate change in 2022 amounted to 32.6 million, and by 2050 the number is believed to increase to over one billion people (European Parliament 2023). These environmental refugees will have to end up somewhere, and they will have to go everywhere.

Using Goodin's and Beitz' thoughts on preventive actions to protect one's territory, it could be argued that by planning ahead and allowing green mines on indigenous land it would protect indigenous communities from an extensive number of climate refugees in the future. This would be a consequentialist way of reasoning. Goodin (and Beitz) is not against indigenous rights and as proven above as they advocate for environmental security for everyone. Their perspective merely acknowledges the future complications of today's actions. In a way, it justifies the building of green mines on indigenous land. The main point to be taken from Goodin's and Beitz' argument is that indigenous rights will be overshadowed by the severe consequences of climate change.

6. Discussion

In this section the thesis will answer the research question: *How can the decision to allow mining on indigenous land to promote the green transition be justified, based on different interpretations of the Good?* The juxtaposed arguments from above will be examined to identify the different interpretations of the Good and to pinpoint the central value of conflict.

The framework created from Kymlicka and Goodin's theories, together with the normative logics' deontology and consequentialism, reaches two different answers to the research question. Goodin ultimately argues that the establishment of green mines on indigenous land can be justified as they contribute to the over-arching goal of environmental safety for everyone. With a near impossible goal there will inevitably be people that will be

negatively affected, but as the goal is such an important one (the prevention of global warming and its negative consequences), this end justifies the means. Goodin argues that there may be something like “too many rights”, which forces us to trade them off against each other, as environmental actions will rarely ensure that all rights are protected. He argues that environmental safety must be one of the basic rights and others, such as indigenous rights (including territorial rights) will have to be less prioritised. Territorial rights for the protection of indigenous culture and the “intrinsic value of equality” will not matter when the world is swallowed by extreme floods, fires, droughts, and other environmental catastrophes.

The deontological perspective of Kymlicka’s multiculturalism, states that there can be no justification of green mines on indigenous land. It is, no matter what consequences, not compatible with equality. The deontological perspective is uncompromising. No act should be committed if it is not in itself equal. Proven by Kymlicka’s argument on group-specific rights, indigenous people need their land rights in order to be equal to the majority population. Corporations that are able to claim indigenous land to generate profit while simultaneously undermining the role of the indigenous communities, are increasing the distance to equality.

As the opposing views use wildly different arguments it is hard to compare them to each other. However, the method is not used to find one answer to the research question but to find what conflict of value that is present. The two perspectives prioritise different values in order to argue for or against the justification of green mining on indigenous land. The conflict lies in the interpretations of the evaluation of the Good, of what is moral and desirable. Is it Good and desirable to allow green mining on indigenous land despite violating indigenous rights, or is it Good and desirable to continue to risk the lives of numerous other groups in the world for something like the right to a certain territory?

The Good can evidently be seen as something which supposedly will benefit everyone in the end, as it is impossible for all individuals to be truly equal every step of the way. Environmental safety is one basic need which, in time, will be more rare and all actions which can be taken today to reduce the impact of climate change should be taken. Otherwise, it is not an act compatible with that interpretation of the Good. It would be immoral to not act in according with the theory of value and prioritise environmental

safety for everyone. In essence, Goodin still believes in equal rights for all individuals, only that he is willing to prioritise some values before others, and not to prioritise one group before the rest of the world.

The second interpretation of the Good believe in intrinsic values and does not allow for a “value-trade-off”. The reason for this is that value trade-offs will most likely back the majority culture leading to systemic inequalities. Thus, minorities need special rights to ensure their safety and protection. Allowing the majority to discriminate the minority for the sake of the environment cannot be compatible with the Good. For if not everyone is treated equally, how can we be sure to do the Good thing?

If there was a way for indigenous people and green mines to co-exist on indigenous land, the framework created from Kymlicka and Goodin’s theories would not be in conflict. In a utopian world, indigenous people would be the ones to allow (or not allow) green mines to be built on their land. The main issue is not necessarily in the concept of green mining or its apparent environmental credentials, but rather by the fact that decisions concerning indigenous lands are made without their consultation or consent. It is a matter of equality and respect—indigenous voices are consistently overlooked, their values and desires side-lined in favour of external actors. Green mines can serve as a symbol, shedding light on the broader issue of systemic oppression faced by indigenous peoples at the hands of the majority. One can discuss pros and cons of green mining on indigenous land for eternity, but as long as indigenous peoples continue to be treated as something less worth than the interests of the majority, there will always be a conflict of value. This line of reasoning can presumably be applied to other areas where indigenous people are being oppressed by the majority.

6.1 Future research

As for future research, there is potential for a deeper exploration by integrating additional theories and normative frameworks to the analysis, for example some of the theories which were not chosen for this thesis that was mentioned in section 4 above. Furthermore, the arguments would be more comprehensive and understandable with help from empirical evidence visualising how indigenous communities navigate the presence of mines on their land, as well as incorporating the perspectives of the

companies developing such mines. However, as the thesis adopts a normative approach empirical data is not always applicable.

Additionally, the thesis's focus has been constrained to specific aspects of the issue due to time and resource limitations. For further research it would be relevant to discuss the impacts of “green mining” as many argue that it is not green at all. Consequences such as the pollution of water and negative impacts on agriculture could be discussed, as well as the green transition as a whole. There has been no mention of economic, political, or global factors, such as environmental organisations and states, as well as a comparison of democratic states versus not democratic states as that surely have an impact on what rights indigenous communities can utilise.

7. Conclusion

The purpose of this thesis was to examine whether it is possible to justify the construction of green mines on the land of indigenous peoples, according to different interpretations of the Good. Two interpretations of the Good were a deontological view of equality according to Will Kymlicka's multiculturalism, and a consequentialist view on environmental security according to Robert Goodin's theory of value.

The juxtaposed perspectives reach different answers to the research question. Kymlicka's theory of multiculturalism with a focus on the equality arguments argues that there is nothing that can justify green mines on indigenous land. Because of the deontological perspective, the eventual consequences of not allowing the construction of green mining on indigenous land are irrelevant. The inequality stems from indigenous peoples being part of a minority population and thus being negatively affected by the actions of the majority culture in many areas. The area of main focus in the thesis was territorial rights as that is the most evident right that the construction of green mines is violating.

Contrary to the above, Goodin's theory of value and belief in environmental security argues that some ends justify the means. When it comes to the environment, there are many value trade-offs which are justified, and as Goodin believes that environmental safety is a basic right which all humans should be able to utilise, it should be prioritised.

Because the majority of all green are located on indigenous land, we are forced to choose between different values, and according to Goodin, some consequences are too drastic to ignore. Goodin's argument leads to the conclusion that everyone, not least the indigenous communities, will benefit if we successfully reduce the impact of climate change. Therefore, it can be justified for green mining to continue on indigenous land.

In conclusion, this thesis has explored the different perspectives and arguments for and against a justification of mines built for the green transition being located on indigenous land. Two different perspectives lead to separate conclusions, where one argues that such justification is never possible, and the other argues that value trade-offs are the only way to save the environment.

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