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The Architecture of Invisibility: *LKAB, Swedish Mining Law, and the Structural Erasure of Sámi Land Use*

Emelie Andersson

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Lund University  
Sociology of Law Department

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Supervisor: Ida Nafstad

## **Abstract**

This thesis examines how Swedish legal and administrative frameworks governing LKAB's mining operations have historically produced and reproduced the invisibility of Sámi land use, and how these patterns of exclusion continue to be mobilized within contemporary green transition justifications. Drawing on settler colonial theory and anopticism, the study argues that Sámi exclusion within Swedish resource governance is not incidental but structurally generated and continuously reproduced across shifting political and economic contexts.

The thesis employs a qualitative, single-case study design using document analysis across three interconnected analytical dimensions: the historical legal architecture governing mineral extraction and reindeer herding rights; the Mertainen mine permitting proceedings as an empirical site through which to analyze how these structural conditions are re-enacted in contemporary administrative practice, examining court judgments and Reindeer Herding Community submissions; and EU and Swedish green transition policy documents, government statements, and LKAB's corporate communications, analyzed to identify how contemporary extractive justifications reproduce historical patterns of Sámi exclusion under new moral and political cover.

The findings demonstrate that Sámi invisibility operates across three analytically separable but structurally interdependent levels: encoded in law, re-enacted through administrative practice, and ideologically renewed through successive dominant political narratives. The green transition framework does not represent a departure from historical patterns but furnishes them with new moral insulation, framing extraction as a universal collective good while distributing its costs onto communities whose land relationships remain structurally unrecognized. The study contributes to socio-legal scholarship on the regulatory gap between international Indigenous rights standards and Swedish domestic law, while extending existing analysis to the specific institutional role of LKAB as a state-owned actor whose operations both reflect and reinforce the legal subordination of Sámi land use.

**Keywords:** Settler colonialism, anopticism, LKAB, Sámi land use, mining permitting, green transition

**Word Count:** 21950

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Throughout the year she has served as my supervisor, Ida has been exceptionally generous with her time, her knowledge, and her encouragement. Her Sámi reading recommendations opened up perspectives that significantly enriched both my understanding and this thesis. Her kindness and genuine investment in my development as a researcher made what can be a demanding process feel collaborative and rewarding.

Thank you, Ida, for everything you have contributed to this thesis and to this year.

## List of Abbreviations & Translations

|                 |                                                                          |
|-----------------|--------------------------------------------------------------------------|
| <b>Act 1886</b> | Renbeteslagen (SFS 1886:38) [The Swedish Reindeer Pasture Act of 1886]   |
| <b>Act 1928</b> | Renbeteslagen (SFS 1928:30) [The Swedish Reindeer Pasture Act of 1928]   |
| <b>Act 1971</b> | Rennäringslagen (SFS 1971:437) [The Reindeer Husbandry Act of 1971]      |
| <b>CAB</b>      | Länsstyrelsen [County Administrative Board]                              |
| <b>CRMA</b>     | Critical Raw Materials Act                                               |
| <b>EIA</b>      | Environmental Impact Assessment                                          |
| <b>FPIC</b>     | Free, Prior, and Informed Consent                                        |
| <b>MB</b>       | Miljöbalken (SFS 1998:808) [The Swedish Environmental Code]              |
| <b>MI</b>       | Bergmästaren [The Chief Mining Inspector]                                |
| <b>ML</b>       | Minerallag (SFS 1991:45) [The Swedish Minerals Act]                      |
| <b>MMD</b>      | Mark- och miljödomstolen [Land and Environmental Court]                  |
| <b>LKAB</b>     | Luossavaara-Kiirunavaara Aktiebolag (Swedish state-owned mining company) |
| <b>RHC</b>      | Sameby [Sámi Reindeer Herding Communities]                               |
| <b>SLO</b>      | Social License to Operate                                                |
| <b>VL</b>       | Vattenlagen (SFS 1918:523) [The Swedish Water Act of 1918]               |

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## 1. Introduction

For over a century, the minerals beneath Swedish Sápmi have been extracted under shifting justifications but an unyielding structure. Each era of Swedish resource governance has arrived with its own legitimating narrative. In the late nineteenth century, the imperatives of national industrialization and state-building opened the north to extraction. In the mid-twentieth century, the discourse turned to welfare-state development and economic rationalization (Össbo, 2025b:13-25; Broberg and Rönnbäck, 2020:495-496). Today, it is the green energy transition: Sweden's commitment to net-zero emissions by 2045, its ambition to become the European Union's primary supplier of critical raw materials, and the planetary urgency of decarbonization (Regeringen, 2025b; Båld, 2025:218). While the vocabulary shifts with each political generation, what remains constant is the legal subordination of Sámi land use to whatever extractive interest the dominant narrative declares necessary. This pattern of structural continuity links early mining to the contemporary re-industrialization of Sápmi (Össbo, 2025b:13-25; Broberg and Rönnbäck, 2020:495-496).

At the apex of this continuity stands Luossavaara-Kiirunavaara Aktiebolag (LKAB). Founded in 1890 and state-owned, the corporation has functioned as the primary engine of mineral extraction in Swedish Sápmi for over a century, inflicting direct and sustained consequences on reindeer herding practices, traditional land use, and Sámi livelihoods (Broberg and Rönnbäck, 2020:488-494; Kløcker Larsen et al., 2022b). While LKAB did not author the legal framework that enabled this extraction, it was constitutively dependent upon it—and continues to capitalize on its provisions (Broberg and Rönnbäck, 2020:487). It is through LKAB's operations, and the legal and administrative processes that anchor them, that the structural subordination of Sámi land use is made most concretely visible.

The growing scholarly attention to this dynamic reflects a broader shift in the field. The intersection of extractive industry and Indigenous rights in the Nordic region has become an increasingly critical site of inquiry, moving beyond the frameworks developed in the Americas

and Australia to grapple with the specific legal, historical, and political conditions of Northern European settings (Raitio et al., 2020:2; Kløcker Larsen et al., 2022b). Sweden presents a striking paradox within this discourse: internationally celebrated for its commitment to environmental standards and Indigenous Peoples' rights on the global stage, it has simultaneously seen escalating domestic conflict between the state, mining corporations, and Sámi Reindeer Herding Communities (RHCs)<sup>1</sup> over the past decade (Lawrence and Kløcker Larsen, 2017; Raitio et al., 2020; Österlin and Raitio, 2020).

This thesis concerns the structural foundations of that paradox. It asks how Swedish legal and administrative frameworks governing LKAB's mining operations have historically produced and reproduced the invisibility of Sámi land use—and how those patterns of exclusion are sustained and renewed within contemporary green transition justifications. The question is not whether exclusion occurs; that is established by a substantial body of existing scholarship (Raitio et al., 2020:2-9; Broberg and Rönnbäck, 2020:487-496; Össbo, 2025b:14-25). The question is *how* it is institutionally engineered at the level of legal text, procedural design, and policy discourse, and what the specific mechanisms of that production reveal about the structural character of Swedish resource governance.

The analysis employs settler colonialism (Wolfe, 2006; Össbo, 2025b:14-15) and anopticism (Dale, 2019) as mutually constitutive analytical tools. Settler colonialism explains why Sámi land use is persistently subordinated across radically different political and economic contexts: the logic of elimination does not exhaust itself at the moment of conquest but transmutes over time into legal, administrative, and discursive forms (Wolfe, 2006:402). Anopticism provides the institutional vocabulary to trace how that subordination is concretely accomplished—through the specific practices of not-seeing embedded in legal categorization, procedural sequencing, and policy justification (Dale, 2019:596-599). Together, they allow the thesis to demonstrate not only that Sámi erasure persists, but how it is produced at each successive historical juncture, and how

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<sup>1</sup> A RHC (*sameby* in Swedish) is both a geographical area and a state-created legal entity for the administration of reindeer husbandry in Sweden, established under the 1971 Act. There are 51 RHCs in Sweden, each constituting an autonomous economic association whose members hold a usufruct right to herd reindeer across a designated area (Raitio et al., 2020:2-4; Rennäringslagen, 1971:437).

the green transition has furnished it with new moral insulation without disturbing its structural foundations.

The thesis proceeds as follows. Chapter 2 reviews the existing scholarship, Chapter 3 establishes the theoretical framework, and Chapter 4 sets out the methodology. Chapter 5 presents the empirical analysis, while Chapter 6 synthesizes the findings and reflects on the thesis's contributions and limitations.

## **1.1 Aim & Research Question**

This thesis examines how Swedish legal and administrative frameworks governing LKAB's mining operations have historically produced and reproduced the invisibility of Sámi land use and livelihoods, and how these patterns of exclusion continue to be mobilized within contemporary green transition justifications. The research design is situated within the tradition of argumentative research as theorized by Wentzel (2019), in which the investigator builds on an established evidential baseline toward a distinct analytical contribution, rather than setting out to prove a settled empirical reality.

The structural baseline of this study—that Swedish resource governance has historically subordinated Sámi land use to extractive interests—is already thoroughly documented within existing scholarship (Broberg and Rönnbäck, 2020; Raitio et al., 2020; Össbo, 2025; Cambou, 2020). What this literature has not yet provided, however, is a systematic analysis of the precise institutional mechanisms through which this subordination is produced and reproduced over time via LKAB's permitting practices, and how these dynamics are ideologically sustained through modern green transition discourse. As Wentzel (2019:105-106) notes, the research questions are derived directly from this knowledge gap—from what remains untraced—rather than a predetermined conclusion; the structural mechanics of this exclusion can only be unveiled through a close interrogation of the empirical material.

By foregrounding the continuity between historical and contemporary patterns of erasure, this study contributes to socio-legal scholarship on the regulatory chasm between international

Indigenous rights standards and Swedish domestic law, while extending this analysis to the unique role of LKAB as a state-owned enterprise whose operations both manifest and reinforce state power. Ultimately, the thesis conceptualizes the green energy transition not as a rupture from past colonial practices, but as the latest iteration of a resilient legal architecture that systematically privileges extraction over Indigenous land rights.

To achieve this aim, the thesis addresses the following primary research question:

*How have Swedish legal and administrative frameworks governing LKAB's mining operations produced and reproduced the invisibility of Sámi land use, and how are these patterns of exclusion mobilized within contemporary green transition justifications?*

This overarching inquiry is operationalized through three nested sub-questions:

- 1. How have Swedish legal and administrative frameworks historically structured Sámi land use as invisible or subordinate in the context of LKAB's operations in Sápmi?*
- 2. How is Sámi land use addressed — or rendered invisible — within contemporary mining permitting processes involving LKAB?*
- 3. How are LKAB's extractive activities on Sámi land positioned and justified within green transition policy contexts, and how does this reproduce historical patterns of Sámi exclusion?*

## **2. Literature Review**

This literature review examines the key academic debates surrounding extractive industries and Sámi rights in Sweden. The purpose of this section is to situate the thesis within the existing body of scholarship, identify the main analytical perspectives that shape the field, and clarify the specific strands of literature that the thesis engages with. By mapping these debates, the review establishes how the present study contributes to ongoing discussions regarding resource extraction, Indigenous rights, and governance in Swedish Sápmi.

The review is structured around four thematic areas that represent the core bodies of scholarship relevant to the thesis. The first section discusses literature on the regulatory framework governing extractive industries in Sweden, with particular attention to scholarship identifying a regulatory gap between international Indigenous rights standards and Swedish domestic law and practice. This body of work is central to the thesis because it highlights how legal and institutional arrangements structure the relationship between mining development and Sámi land use. The second section examines scholarship that situates extractive activities within the broader context of the green transition, particularly literature describing the expansion of resource extraction and renewable energy projects in Sápmi as a form of ‘green colonialism.’ This debate is significant because it reframes industrial expansion not only as an economic or environmental issue, but also as a political and ethical question concerning the distribution of burdens and benefits in climate policy.

The third chapter maps the critical literature that deploys frameworks of settler colonialism and anopticism within resource governance, reviewing how these theoretical lenses have been operationalized by other scholars to unpack Indigenous erasure. These approaches provide conceptual tools for understanding how extractive expansion and governance structures can reproduce long-term patterns of Indigenous marginalization. Engaging with these theoretical debates allows the thesis to situate contemporary conflicts over resource extraction within broader historical and structural processes. The final section turns to literature specifically addressing LKAB. Although LKAB is a key actor in shaping both regional development and resource governance in Sápmi, the literature examining the company from a critical socio-legal or colonial perspective remains comparatively limited. Reviewing the existing scholarship on LKAB helps identify how different authors interpret the company’s role, ranging from colonial critiques to studies emphasizing corporate legitimacy and social license.

Together, these four strands of literature form the primary body of scholarship with which this thesis engages. They are selected because they collectively address the legal frameworks, political discourses, theoretical interpretations, and institutional actors that shape contemporary extractivism in Swedish Sápmi. By bringing these strands into dialogue, the literature review

highlights how existing research has conceptualized the relationship between mining development and Sámi rights, while also identifying areas that remain underexplored.

This review deliberately focuses on scholarship addressing the Swedish and broader Nordic context. While there is an extensive body of literature on Indigenous rights and extractive industries in countries such as Australia and Canada, these contexts operate under different legal systems, colonial histories, and governance structures (Raitio et al., 2020). Many Nordic scholars have drawn inspiration from these international debates and adapted their insights to the Swedish setting; however, the present study focuses primarily on literature that directly examines Sweden to engage more closely with the institutional and legal framework relevant to the thesis. Consequently, the review does not aim to provide a comprehensive global overview of extractive conflicts involving Indigenous peoples, but instead delimits its scope to scholarship that contributes to understanding the Swedish case.

## **2.1 The Regulatory Gap**

Research on the Swedish permitting process for extractive industries remains notably scarce, and the literature examining permitting processes specifically related to mining activities is more limited still (Lawrence and Kløcker Larsen, 2017; Raitio et al., 2020; Cambou, 2020; Tarras-Wahlberg & Southalan, 2021; Allard & Curran, 2021; Össbo, 2025a). Furthermore, the literature examining the permitting processes specifically related to mining activities is even more limited (Lawrence & Kløcker Larsen, 2017; Raitio et al., 2020; Tarras-Wahlberg & Southalan, 2021; Allard & Curran, 2021). The main theme throughout these texts is a consistent concern with the regulatory gap between international Indigenous rights standards and Swedish domestic law and practice.

The literature putting forth the most advanced and systematic analysis of the mining permitting process in Sweden is Raitio et al. (2020). This article is unique in its comprehensive socio-legal approach, which analyzes the permitting system in its entirety and identifies a persistent regulatory gap between international Indigenous rights standards and domestic legislation (Raitio

et al., 2020:1-3). The authors argue that this gap manifests at three distinct levels: between international law and national legislation, between general statutes recognizing the Sámi and sectoral mining laws, and between written regulations and the practices of permitting authorities (Raitio et al., 2020:2-3).

A central critique put forth is the ‘slicing and dicing’ of the permit process, which prevents a holistic assessment of impacts by separating the mining concession phase from the later environmental permit stage. At the concession stage, identified as the most critical for determining project permissibility, authorities have historically excluded the impacts of infrastructure and operations, such as tailings dams, noise, and dust, from the initial evaluation (Raitio et al., 2020:7-9).

Furthermore, the study highlights a priori assumption of co-existence, where Swedish authorities presuppose that mining and reindeer herding can be successfully combined, which effectively shifts the burden of proof onto Sámi communities to prove incompatibility (Raitio et al., 2020:10). This bias is reinforced by a legal framework that treats reindeer herding as a general public interest or economic industry rather than a specific property right, leaving it vulnerable during the balancing of interests where the socio-economic benefits of mining (such as tax revenue and employment) are prioritized (Raitio et al., 2020:9-11). The analysis also exposes a lack of procedural justice, emphasizing the absence of a codified Swedish State duty to consult the Sámi in accordance with international standards of Free, Prior and Informed Consent (FPIC) (Raitio et al., 2020:5,12). Finally, the authors point to a systemic lack of access to justice, noting that final permitting decisions made by the Swedish Government are not subject to a merits-based appeal in an independent court of law, further limiting RHCs’ ability to protect their traditional lands (Raitio et al., 2020:8,12-13).

Other authors extend their analysis of permitting to other sectors, highlighting shared patterns of dispossession. Cambou (2020) analyzes the green transition, noting that wind permits are often approved in the north due to the perception of ‘empty spaces’. She highlights a procedural injustice where municipalities hold a ‘quasi-veto’ over wind projects, but RHCs do not. Like mining, wind energy permitting often treats reindeer herding as a business ‘industry’ rather than

a cultural property right (Cambou, 2020:316-325). Moreover, Össbo (2025a) provides a historical analysis of the Abelvattnet hydropower permit case in the 1960s. The study introduces the concept of anopticism, where authorities systematically made Sámi land use invisible to facilitate expansion. It shows that the 1918 Swedish Water Act (*Vattenlagen*, hereinafter ‘VL’) omitted reindeer herding from the list of protected industries.

Many authors, similar to Raitio et al. (2020), highlight the absence of a formally established state obligation to engage in consultation with the Sámi people, thereby underscoring a significant regulatory gap within the legal framework (Allard, 2018; Kløcker Larsen & Raitio, 2019; Cambou, 2020; Dahlström, 2021; Tarras-Wahlberg & Southalan, 2021; Allan & Curran, 2021). Lawrence and Kløcker Larsen (2017) and Össbo (2025a) both address how Indigenous knowledge is dismissed. While Össbo (2025a) speaks of historical strategic ignorance, Lawrence and Kløcker Larsen (2017) demonstrate it in modern mining via the Laver case, where the company’s ‘objective’ Environmental Impact Assessment (EIA) clashed with the community’s ‘subjective’ Community-Based Impact Assessment<sup>2</sup>. Raitio et al. (2020) and Cambou (2020) both criticize the reliance on proponent-driven assessments, which often assume the co-existence of industry and herding without holistic evidence. Tarras-Wahlberg and Southalan (2021) connect mining to forestry and wind power, noting that while reindeer herders have usufruct rights, they are discriminated against because they lack the benefit-sharing opportunities (like mineral fees) afforded to landowners. In summary, the main body of literature in the field underscores the inadequacies of the permitting processes in Sweden, which fail to sufficiently recognize and incorporate the rights and traditional knowledge of the Sámi people amid ongoing industrial developments.

Åhrén (2016) deepens this critique by arguing that the recognition of Sámi land use as a property right under international law implies a general rule requiring free and informed consent for resource extraction, which can only be bypassed through lawful expropriation. He identifies a significant failure in the Swedish legal system, specifically within the ML, which employs a

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<sup>2</sup> CBIA emerged as an alternative to company-driven assessments, which have consistently performed poorly in accounting for Sámi rights and knowledge. A notable example is the CBIA undertaken by the Semisjaur Njarg *RHC* and researchers for a proposed copper mine in Laver (Lawrence and Kløcker Larsen, 2017; Raitio et al., 2020:9).

‘simplified expropriation’ process that treats Sámi herding communities the same as non-Indigenous landowners (Åhrén, 2016:177-187). Åhrén contends this is a form of structural discrimination because it assumes the proportionality criterion, a requirement that a fair balance be struck between societal benefits and individual rights, is satisfied through market value compensation. This approach ignores the fact that Sámi communities value their territories not as monetary assets, but as the irreplaceable foundation of their cultural identity and way of life. Consequently, he argues that for a project to be truly proportionate, the state must conduct a full-scale evaluation of whether the societal benefits (such as job creation) truly outweigh the potential destruction of the community’s cultural survival (Åhrén, 2016:177-187).

This body of scholarship collectively highlights a significant regulatory gap between international standards for Indigenous rights and the existing legal and administrative frameworks in Sweden that govern extractive industries. While these studies offer crucial socio-legal critiques of Sweden’s regulatory environment, this area remains substantially underexplored within the academic discourse. Furthermore, there has been insufficient attention to the practical operation of these legal and administrative structures, particularly concerning the specific activities of mining companies and the projects they undertake.

## **2.2. The Green Transition: A Form of ‘Green Colonialism’**

One of the principal discourses surrounding extractive industries and Sámi rights revolves around the green transition (Cambou, 2020; Kolonierna, 2023; Össbo, 2023; Allard, 2025; Båld, 2025; Del Duca et al., 2025; Össbo, 2025b). This conversation critically examines the intersection of environmental sustainability and Indigenous rights, highlighting the complexities of balancing resource extraction with the preservation of Sámi cultural and land rights within an evolving global ecological paradigm.

The notion of the Sámi being forced to carry a double burden is central to contemporary scholarly critiques of the green energy transition's impact on Sápmi (Össbo, 2023; Båld, 2025). The double burden refers to the unique vulnerability of the Sámi people, who must

simultaneously contend with the direct biophysical effects of a rapidly warming climate and the land-intensive industrial measures intended to mitigate that same crisis (Össbo, 2023:113; Båld, 2025:217-218,223-224). As the Arctic warms nearly four times faster than the global average (Rantanen et al., 2022:168), reindeer herding is increasingly threatened by unpredictable ice conditions, changing vegetation, and extreme weather (Båld, 2025:223-224). Compounding this, the state's response to the climate crisis, the 'green' transition, demands vast tracts of Sámi land for wind power plants, hydropower expansion, and the mining of critical raw materials (Båld, 2025:217-218).

Össbo (2023) describes the process of traditional lands being used for extractive industries as 'green sacrifice zones', a term characterizing the environmental degradation and violence inflicted upon specific landscapes and Indigenous peoples who carry a disproportionate burden due to asymmetric power relations. These zones are constructed when projects previously contested for their environmental impact are rebranded as essential 'green' initiatives, leading state authorities to bypass standard procedural protections and local deliberation (Össbo, 2023:117-118).

Össbo's primary contribution to the discourse is her comparative analysis of two energy emergencies: the hydropower expansion under the 1939 Hydropower Crisis Act during World War II and the current rapid expansion of wind power intended to mitigate the climate crisis (Össbo, 2023:112-113). She argues that Swedish energy policy has returned 'back to square one' by repeating historical patterns of colonial neglect (Össbo, 2023:127-129). During the 1940s, the urgency of the war enabled the state to streamline permit processes and withhold compensation for flooded Sámi lands, effectively sacrificing the legal security of RHCs in order to sustain national energy (Össbo, 2023:119-121).

In the contemporary context, Össbo highlights a similar streamlining of permit processes for wind power, where the state again prioritizes efficiency and predictability for industrial developers over Indigenous rights (Össbo, 2023:122-124). She points out that recent governmental investigations into wind power permits deliberately excluded Sámi representatives, under the justification that the proposals did not involve weighing interests against one another.

This procedural exclusion treats reindeer herding as a mere interest rather than a fundamental Indigenous right, mirroring the industrial colonialism of the mid-20th century (Össbo, 2023:115-116,125-128).

Furthermore, Össbo identifies a systemic ‘cost shift’ from the industrial core to the geographical periphery of Sápmi. This shift relies on the exploitation of ‘cheap’ electricity from the north at the expense of Sámi livelihoods and land (Össbo, 2023:120-130). By drawing on the frameworks of coloniality and modernity, Össbo argues that green colonialism is not a new phenomenon but a continuation of a colonial wave that has persisted since the 14th century. Her work demonstrates that the pursuit of fossil-free growth often masks the persistence of exploitative colonial structures, reinforcing the reality that for the Sámi, the ‘green’ transition frequently results in the further erosion of self-determination and the creation of permanent sacrifice zones (Össbo, 2023:113, 128-130).

Taken together, this body of literature critically demonstrates how the green energy transition can reproduce and intensify colonial patterns of dispossession in Sápmi, particularly through the framing of extractive and energy projects as necessary for climate mitigation. Concepts such as the ‘double burden’ and ‘green sacrifice zones’ highlight how Sámi communities are positioned to absorb both the impacts of climate change and the costs of the transition itself. However, while this scholarship provides a strong critique of the political and ethical dimensions of green extractivism, it places less emphasis on the specific legal and administrative frameworks that enable and justify such projects in practice. In particular, there remains limited analysis of how these justifications are embedded within the governance of mining and the role of state-owned actors such as LKAB.

### **2.3. Settler Colonialism & Anopticism**

One of the emerging theoretical frameworks within the evolving field of study is the concept of settler colonialism. This paradigm seeks to understand the distinct dynamics and implications of

colonization driven by the establishment of permanent settlements, as opposed to other forms of imperial domination.

Össbo (2020) notes that settler colonial theory, though prominent internationally in countries such as Australia and Canada (Wildcat, 2015:391-409; Keynes, 2019:119-133), has seen limited application in Sweden and the broader Nordic region. Its emergence is tied to a shifting scientific awareness and the realization that existing theoretical frameworks, such as postcolonialism, may not fully capture the ongoing structural relationship between the Swedish state and the Sámi people (Össbo, 2020:420-424). Historically, both political and academic spheres in Sweden adhered to the belief that for a relationship to be ‘colonial,’ an ocean must exist between the motherland and the colony. Under this logic, when Sweden relinquished its overseas colonies in the 19th century, it was believed that Swedish colonialism had effectively ended (Össbo, 2020:420-421). Several authors ascribe to this train of thought, which is known as the ‘Salt Water Thesis’ (Robbins, 2015; Lawrence and Moritz, 2019).

Within Swedish scholarship on Sámi-related topics, a number of researchers have employed postcolonial perspectives as analytical frameworks (Ledman, 2012; Össbo, 2014; Reimerson, 2015; Lehtola, 2015). Yet, other researchers make the argument that postcolonial theory is often inappropriate for the Nordic context because it implies a period ‘after’ colonialism. In Sápmi, the settlers never left, and the state structures remain in place, making a settler colonial framework, which views invasion as a permanent structure rather than a singular event, more accurate (Össbo, 2020).

Others have explained Sweden’s colonial activities in Sápmi as internal colonialism (Lawrence, 2014; Lawrence and Åhren, 2016; Schorkowitz et al., 2019). Lawrence (2014) argues that internal colonization is a vital framework for understanding the unresolved processes through which Western society and Indigenous peoples inhabit the same territories. Unlike external colonialism, which relies on geographical distance between the motherland and its colonies, internal colonization occurs when a colonizing society is established directly upon the lands of Indigenous peoples who refuse to surrender their sovereignty (Lawrence, 2014:1039-1045).

Contrarily, other scholars (Lantto, 2005; Lindmark, 2013; Fur, 2013; Össbo, 2020; Lopez, 2021) argue that the term internal colonialism is limited because it presupposes that Sámi homelands were always Swedish territory. Settler colonialism, by contrast, accounts for the specific processes, such as the 1886 Reindeer Pasture Act (*Renbeteslag*, SFS 1886:38, hereinafter 1886 Act)<sup>3</sup> and the creation of the Lapp Administration (*Lappväsendet*)<sup>4</sup>, used to segregate and control Sámi life to make room for national industrial interests (Lopez, 2021:93-96).

These arguments, among others, have significantly strengthened the scholarly application of settler colonialism in Swedish and broader Nordic contexts, as it provides a critical framework for analyzing the historical and ongoing relations between the Swedish state and the Sámi people (Naum and Nordin, 2013; Larsson, 2014; Keskinen et al., 2016; Ojala and Nordin, 2019).

Össbo is a prominent scholar who has contributed significantly to the discourse on Swedish Sápmi analyzed through a settler colonial framework. Össbo (2020) utilizes settler colonialism as a lens through which to provide a comprehensive historical analysis of Swedish policy toward the Sámi people. Her work explores the structural relationship between the Swedish state and Sápmi from the 17th century to the present. Össbo's primary thesis is that Swedish handling of Sámi issues follows a settler colonial principle: a continuous effort to secure territory by eliminating both Indigenous presence and self-determination (Össbo, 2020:420-421). The author highlights how the state used borders, such as the Lappmark border (*Lappmarksgränsen*)<sup>5</sup> and the Cultivation Border (*odlingsgränsen*)<sup>6</sup>, not just to manage land, but to control population

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<sup>3</sup> Sweden's first legislation specifically governing Sámi reindeer herding. The Act introduced the administrative unit of the *lappby* ('Lapp village') — the precursor to today's *RHC* — designed to police relations between herders and settlers and to assign collective legal liability for reindeer damage to the whole village (Lopez, 2021:93-94).

<sup>4</sup> A Swedish colonial state institution that existed from 1885 to 1971, operating through officers (*lappfogdar*, 'Lapp bailiffs') with extensive authority over reindeer herding Sámi life in Norrbotten, Västerbotten, and Jämtland — including forced relocations, slaughter quotas, and children's schooling (Össbo, 2020; Lantto, 2012; Lopez, 2021:95-96).

<sup>5</sup> A geographical boundary established in 1749 dividing northern Sweden into a western zone where Sámi rights to land and resources were recognized, and an eastern coastal zone where settler interests prevailed. It was significantly redrawn in the 1870s, substantially reducing Sámi access to fishing, hunting, and grazing lands (Broberg and Rönnbäck, 2020:485).

<sup>6</sup> A geographical boundary formally fixed in 1890 demarcating northwestern mountain areas of Västerbotten and Norrbotten counties as a zone of year-round Sámi reindeer herding rights where no new agricultural settlement was permitted. It replaced the Lappmark Border but represented a considerable reduction in recognized Sámi land, and continues today to artificially divide reindeer pastures (SFS 1971:437 §71; Lopez, 2021:97-99).

movement and rights. She terms these ‘administrative relocations,’ where Sámi rights were legally ‘moved’ or erased, even if people remained physically present (Össbo, 2020:428-429).

Ultimately, Össbo (2020) employs the framework of settler colonial theory to advance the discourse beyond the scope of postcolonialism, which posits that the colonial era has concluded. Össbo’s analysis reveals that in Sápmi, the legacy of colonialism is not merely a historical artifact; rather, the settlers' presence persists, and the mechanisms of displacement continue to exert influence within contemporary legal frameworks and resource extraction practices (Össbo, 2020). This argument underscores the relevance and applicability of settler colonial theory in understanding the complexities of Swedish Sápmi, particularly in relation to the ongoing implications for Indigenous rights and resource governance.

In another of her works, Össbo (2025b) further develops these ideas. By viewing settler colonialism as a structure, Össbo can trace a continuum of colonialism through three distinct eras: early mining in the 1600s, industrialization in the 1800s, and the contemporary green transition re-industrialization. This lens reveals how the Swedish state has consistently utilized settlers as the infrastructure for resource extraction, effectively aiming to terminate Indigenous rights and connections to the land to ensure state and corporate access (Össbo, 2025b;13-25).

In addition to this framework, Össbo (2025b) adopts anopticism, which can be defined as the ‘politics of not seeing’. This additional framework is particularly relevant in the use of settler colonialism. Össbo utilizes anopticism to explain how Sámi presence has been legally and culturally disregarded and erased from key frameworks, which over time risks their elimination (Össbo, 2025b:14). For example, the early 20th-century VL entirely ignored reindeer herding and Sámi presence, focusing only on agriculture, forestry, and fishing (Össbo, 2025b;21-22).

She explains how the Swedish authorities generalized and narrowed the diversity of Sámi communities into a single, manageable view, allowing for one-sided policies that ignored actual land-use practices (Össbo, 2025b:17). The central idea was the ‘parallel theory,’ the notion that settlers and Sámi could coexist. By anopticizing, or refusing to see, the full extent of Sámi subsistence needs, the state could claim that settler farming did not encroach on Sámi

livelihoods, even as it gradually replaced them (Össbo, 2025b:17). Fundamentally, Össbo (2025b) describes how anopticism helps identify settler self-indigenization, where settlers project an Indigenous identity onto themselves as “natives” of the north while simultaneously omitting or ‘not seeing’ actual Sámi history and colonial experiences (Össbo, 2025b:21).

Moreover, the concept of anopticism is pivotal in Össbo’s (2025a) examination of the early stages (1963-1967) of the hydropower permit case at Lake Abelvattnet in Sápmi, Sweden. Here, Össbo uses anopticism to examine how different parties negotiated the consequences of industrial expansion for the Sámi people and reindeer husbandry. Össbo further exemplifies the centrality of this concept in the context of Swedish authorities and Sámi relations. She explains that anopticism functioned alongside panopticism, which involves the surveillance and disciplining of individuals through constant visibility (Össbo, 2025a:21-22).

While the state exercised panoptic power by monitoring reindeer herders through the Lapp Administration and the 1886 Act, it simultaneously used anoptic power to degrade, limit, and make invisible the land use and rights of other Sámi groups, such as homesteaders and non-herding Sámi. This ‘not seeing’ was institutionalized in legislation like the VL, which originally omitted reindeer herding as a protected industry, effectively anopticizing Sámi livelihoods (Össbo, 2025a:19-22).

Össbo’s (2025a) perspective is echoed by Broberg and Rönnbäck (2020), who detail that anopticism is not a passive oversight but is institutionalized within Swedish law to remove Sámi interests as obstacles to industrial expansion. Similar to how Össbo (2025a) details how anoptic power is manifested in the VL, Broberg and Rönnbäck (2020) detail that anopticism was institutionalized in the mining legislation and a racialized property regime (Broberg and Rönnbäck, 2020:496). By refusing to recognize Sámi land use as formal ownership, the state made Sámi stakeholders anoptic in the eyes of the law, meaning they could not claim the same economic compensation as recognized Swedish landowners (Broberg and Rönnbäck, 2020:495-496). Both authors identify strategic ignorance as ‘anopticism in practice’—the deliberate act of omitting or devaluing Sámi knowledge and livelihoods to support capitalist and colonial expansion (Broberg and Rönnbäck, 2020:479; Össbo, 2025a:21-22,32). Broberg and

Rönnbäck (2020) further extend the concept of anopticism to the historiography of Sweden, noting that the Sámi are largely invisible in standard economic histories (Broberg and Rönnbäck, 2020:483).

In the Swedish Sápmi context, settler colonialism can be delineated as the foundational structure that marginalizes Sámi peoples. Anopticism serves as the epistemic mechanism through which this marginalization is stabilized and perpetuated. Unlike classical colonialism, where sovereignty is enforced through overt coercion and subjugation, Swedish sovereignty over Sápmi is primarily upheld through legal frameworks, bureaucratic processes, and the framing of governance as neutral. This characterization complicates the identification and contestation of the settler colonial structure, rendering it challenging to address.

## **2.4. LKAB**

Contemporary academic discourse on the relationship between extractivism and Sámi rights often fails to adequately examine the principal driver of extractivism in Swedish Sápmi: LKAB. As a state-owned enterprise with a substantial influence on the regional economy and environmental landscape, LKAB plays a pivotal role in shaping the social, economic, and ecological dynamics of Sápmi.

Within the limited literature, one of the most prominent works is that of Broberg and Rönnbäck (2020). Broberg and Rönnbäck (2020) analyze the exploitation of iron ore deposits in Kiruna during the late 19th and early 20th centuries through a colonial perspective, focusing on the power dynamics between the Swedish state, private mining interests, and the Sámi population. As detailed above, the authors use theoretical lenses such as anopticism and racialized property regimes to explain how the modernization of Sweden was built upon the systematic dispossession and marginalization of the Sámi people. By centering the Indigenous experience, the text seeks to fill a significant gap in Swedish economic history, which has traditionally ignored the colonial nature of resource extraction in Sápmi (Broberg & Rönnbäck, 2020:476-480).

Broberg and Rönnbäck's (2020) analysis of LKAB highlights its central role in this extractive project. Founded in 1890 and later acquired by Grängesbergssbolaget in 1903, LKAB became the dominant force on the Stockholm Stock Exchange and a primary engine for Swedish exports, with the Kiruna fields providing the highest profit margins (Broberg & Rönnbäck, 2020:488-489). Central to LKAB's early operations was its first manager, Hjalmar Lundbohm, whose paternalistic leadership was deeply influenced by racial biology and the 'Lapp-shall-be-Lapp' (*lapp skall vara lapp*)<sup>7</sup> ideology. Under Lundbohm, LKAB actively excluded Sámi people from modern education and mining employment, ostensibly to 'protect' their traditional culture, while simultaneously constructing infrastructure like the Ofotenbanan railway that massacred reindeer and disrupted vital migration routes. Despite acknowledging the terrible chaos the mine caused for herders, LKAB provided only minimal compensation for dead animals and ignored the broader structural damage to Sámi livelihoods (Broberg & Rönnbäck, 2020:491-494).

This text contributes to the discourse on LKAB by exposing the anoptic strategies used to make the Sámi invisible in corporate and legal records. The authors critique standard corporate histories, such as Nils Meinander's 600-page chronicle of Grängesbergssbolaget/LKAB, for mentioning the Sámi only in passing and failing to address the colonial exploitation of their land (Broberg & Rönnbäck, 2020:477, 483). By framing LKAB's history as part of a global 'mining frontier', Broberg and Rönnbäck challenge the nationalist narrative of LKAB as a neutral tool of progress. Instead, it reveals LKAB as a colonial actor that benefited from a legal system that refused to recognize Sámi land ownership, allowing the company to extract immense wealth while the Indigenous population bore the economic and cultural costs of that extraction (Broberg & Rönnbäck, 2020).

Össbo's (2025b) specific contributions to the discourse on LKAB build upon Broberg and Rönnbäck's historical critique by analyzing the company's role in the contemporary re-industrialization of Sápmi. While Broberg and Rönnbäck (2020) highlight how LKAB's early

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<sup>7</sup> A Swedish state doctrine from the late 19th and early 20th centuries that, rather than pursuing the forced assimilation of Sámi, sought to segregate reindeer herding Sámi — deemed the 'true' or authentic Sámi — from both settlers and Sámi with more mixed livelihoods (Lundmark, 2008:155; Lopez, 2021:73, 92, 127).

leadership under Hjalmar Lundbohm used paternalistic ideologies to exclude the Sámi from the modern economy, Össbo illustrates how these exclusionary patterns persist under the guise of environmentalism. She points to LKAB's recent announcement regarding the discovery of rare earth metals on Gabna RHC territory and as a prime example of modern anopticism; the company framed the find as a victory for Europe and the climate while failing to inform or consider the impacted Indigenous community (Össbo, 2025b:23-24).

Furthermore, Össbo (2025b) identifies Kiruna as a 'sacrifice zone'—a resource periphery in a state of constant making where over a century of LKAB mining has led to a complex urban transformation. She argues that the company's current focus on fossil-free steel production in Gällivare relies on a modern version of the "parallel theory," the flawed assumption that industrial extraction and reindeer husbandry can easily co-exist. By connecting these current green initiatives to the long history of Swedish settler colonialism, Össbo demonstrates that LKAB remains a central actor in a system that blatantly anopticizes the Sámi, prioritizing industrial expansion over Indigenous land rights and cultural survival (Össbo, 2025b:16, 24).

In contrast to the perspectives of Broberg and Rönnbäck (2020), and Össbo (2025b), which frame LKAB as a colonial actor driven by paternalistic exclusion and anoptic strategies of dispossession, Tarras-Wahlberg et al. (2017) and Koivurova et al. (2015) present the company as a broadly accepted and trusted institution within the Swedish welfare model. While the historical text emphasizes LKAB's role in the systematic marginalization and invisible status of the Sámi, Tarras-Wahlberg et al. (2017) find that LKAB is currently viewed as the "backbone of local society" and is regarded as a trustworthy company that operates in a transparent and honest manner. Similarly, Koivurova et al. (2015) report that LKAB enjoys high levels of a Social License to Operate (SLO), characterized by community approval, support and even "co-identification" in areas like Kiruna, where approximately 95 percent of villagers in Svappavaara hold a positive view of the company (Koivurova et al., 2015:25).

Regarding the impact on Sámi livelihoods, Koivurova et al. (2015) and Tarras-Wahlberg et al. (2017) highlight collaborative engagement and mitigation rather than the 'massacre' of reindeer and structural damage described by Broberg and Rönnbäck (2020). While Tarras-Wahlberg et al.

(2017) critique LKAB for offering minimal compensation and disrupting migration routes, the authors also note that LKAB has been “comparatively successful in negotiating agreements” with affected Sámi reindeer herding cooperatives, such as Laevas and Gabna (Tarras-Wahlberg et al., 2017:658). The text emphasizes that LKAB and reindeer herders have collaboratively worked on methodologies to assess cumulative impacts and have established detailed, albeit confidential, agreements to govern their respective rights and obligations (Tarras-Wahlberg et al., 2017:657). Koivurova et al. (2015) further suggest that such efforts have led to ‘fruitful dialogue’ and outcomes aimed at ensuring reindeer herding can persist alongside mining activities (Koivurova et al., 2015:25).

Finally, where Broberg and Rönnbäck (2020), and Össbo’s texts see anopticism and the invisibility of the Sámi in corporate tactics, Tarras-Wahlberg et al. (2017) and Koivurova et al. (2015) point to active public engagement and localized presence as evidence of LKAB’s legitimacy. Tarras-Wahlberg et al. (2017) and Koivurova et al. (2015) detail the use of local information offices, regular face-to-face dialogue, and the distribution of local newspapers to keep the community informed. While these sources acknowledge that Swedish legislation remains mining-friendly and lacks FPIC requirements, they tend to frame these as structural gaps in the national legal framework rather than a specific colonial strategy employed by LKAB (Tarras-Wahlberg et al., 2017:658; Koivurova et al., 2015:29). This view contrasts sharply with that of Össbo (2025b) and Broberg and Rönnbäck (2020), instead of viewing LKAB as an actor benefiting from the denial of Indigenous land ownership, Koivurova et al., portray the company as a state-owned entity that often goes “beyond legal requirements” to maintain its social license (Koivurova et al., 2015:24).

In contrast to the findings of Tarras-Wahlberg et al. (2017) and Koivurova et al. (2015), MacNeil (2018) offers a nuanced examination of extractive violence and power dynamics within Indigenous contexts. In her study involving the Laevas RHC, research participants reported feeling very uncomfortable criticizing LKAB in their town of Kiruna. One participant likened the situation to a ‘David and Goliath’ relationship, expressing fear that challenging the ‘giant’ would turn the entire region and the whole municipality against them. This hesitancy was also strategic; the research participants noted that even small mistakes in their interactions with the industry

could have far-reaching negative consequences for their own community and other reindeer herding groups (MacNeil, 2018:89).

MacNeil (2018) frames these interactions through structural and cultural violence. Structural violence manifests as systemic inequalities and resource disparities. While LKAB operates as a multibillion-kronor state enterprise with vast communication capabilities, Laevas lacks the resources to effectively assert its interests. This imbalance results in coercive negotiations, where Sámi board members are pressured into signing agreements without sufficient time or insight (MacNeil, 2018:90, 95-96).

Furthermore, state-imposed legal frameworks, such as the ML (*Minerallag*, 1991:45), force RHCs to comply with regulations dictated by the same state apparatus that historically colonized their lands (MacNeil, 2018:96). Structural violence also breeds internal conflict; for instance, an LKAB-published article by the Laevas chair created a false rift between the RHC and the Sámi Parliament, fracturing community relationships (pp. 89–90).

Finally, MacNeil identifies cultural violence, where dominant ideologies legitimize structural harm (2018: 94-98). Through a neoliberal ‘ideology of progress,’ extractive industries are framed as ‘pro-progression’ (the Self), while resisting Indigenous groups are cast as ‘anti-progression’ or ‘backward’ (the Other). This dualism allows the broader society to view the erosion of Indigenous rights as a necessary sacrifice for development (MacNeil, 2018:94-98).

This literature reveals a fragmented understanding of LKAB’s role in Swedish Sápmi, with perspectives ranging from critiques of the company as a key agent of colonial dispossession to affirmations of its legitimacy and cooperation. While existing research provides valuable historical context and case studies, it falls short in systematically analyzing the legal and administrative frameworks that structure and enable LKAB’s operations over time. Specifically, there is a lack of focus on how these frameworks marginalize Sámi land use and legitimize extractive activities within the narratives of national development and the green transition.

## 2.5 Conclusion

The existing literature highlights a significant regulatory gap between international standards and Swedish domestic law, particularly regarding the lack of a codified duty to consult the Sámi. This legal environment is increasingly shaped by the green transition, which scholars characterize as a form of ‘green colonialism’ that imposes a double burden on Sámi communities, who navigate both climate impacts and expanding extractive projects on traditional lands.

Theoretical frameworks of settler colonialism and anopticism have emerged as vital tools to analyze these dynamics, reframing the Swedish state-Sámi relationship as an enduring structure of dispossession rather than a series of historical events. Anopticism, in particular, illuminates how Swedish legal frameworks have historically institutionalized the erasure or ‘not seeing’ of Sámi land use to facilitate industrial expansion.

Despite LKAB’s central role as a driver of extractivism in Sápmi, scholarly perspectives on the company remain fragmented. While some literature emphasizes LKAB’s high SLO and its status as a ‘backbone of society,’ critical socio-legal analyses reveal deeper patterns of structural and cultural violence, alongside a severe power imbalance between the state-owned giant and Sámi RHCs.

Ultimately, there remains a lack of systematic analysis regarding the specific legal and administrative frameworks that enable and justify LKAB’s operations over time. This thesis addresses this gap through a unified socio-legal analysis, examining how these frameworks have historically marginalized Sámi livelihoods and how they continue to legitimize extractive activities under the guise of the green energy transition. By analyzing LKAB as a state-owned actor, this study demonstrates how law functions not just as a regulatory mechanism but as a means of normalizing exclusion and sustaining narratives of national development, thereby offering an integrated understanding of extractivism and Indigenous marginalization in Swedish Sápmi.

### **3. Theoretical Framework**

This chapter develops the analytical framework of the thesis through two complementary theoretical lenses, anopticism and settler colonialism, before demonstrating how they function together as structure and mechanism in the analysis.

#### **3.1 Anopticism**

This thesis applies the concept of anopticism to analyze how Swedish legal and administrative frameworks governing LKAB's mining operations have historically rendered Sámi land use, livelihoods, and experiences invisible. Anopticism, defined as the exercise of power through the production of invisibility (Dale, 2019:596), provides a critical lens for understanding how law does not merely regulate extraction but actively structures whose knowledge, harms, and claims are recognized within state decision-making.

Developed by Emily Dale (2019:598), anopticism, which contrasts Michel Foucault's (1977) theory of panopticism, shifts the analytical focus from surveillance and hyper-visibility to the strategic absence of recognition. While Foucault's panopticism emphasizes how power operates through making subjects visible and governable, anopticism captures how power is also exercised through not seeing, by excluding certain populations from legal, administrative, and historical narratives. In this sense, invisibility is not accidental but produced through institutional practices (Dale, 2019:596-598).

Applied to Swedish Sápmi, anopticism helps explain how Sámi interests have been systematically marginalized within mineral legislations, land-use regulation, and state ownership regimes. Through legal categorizations, procedural exclusions, and dominant economic narratives, Sámi presence is minimized or erased, allowing extractive activities to proceed without full acknowledgment of their impacts. The framework is particularly useful for tracing how these historically established patterns of invisibility persist into the present, where mining is

increasingly justified through the language of the green energy transition and climate change adaptation.

By using anopticism, the thesis conceptualizes Sámi erasure not only as a historical omission but as a continuing legal and administrative practice that enables the reproduction of extractive harm under shifting policy rationales.

### **3.2 Settler Colonialism**

This thesis also draws on settler colonial theory to analyze the historical and ongoing role of Swedish law in enabling extractive projects on Sámi land. Settler colonialism is distinguished from classical colonialism by its primary objective of territorial acquisition and the establishment of a new social order through the elimination of Indigenous presence, rather than the maintenance of a permanently subordinated labor force (Wolfe, 2006:388; Veracini, 2011:1; Össbo, 2025:14-15). As such, settler colonialism operates not as a singular historical event but as an enduring structure that is continuously reproduced and reconfigured over time (Veracini, 2011:3).

Another distinction that is particularly significant for this thesis is that between settler colonialism and classical colonialism, is that the latter is organized primarily around resource exploitation. Veracini (2011:1-2) argues that colonialism and settler colonialism are structurally distinct: while classical colonialism operates through the imperative ‘you, work for me’— requiring the colonized population to remain as a source of labor — settler colonialism operates through the imperative ‘you, go away,’ aiming at the elimination of Indigenous presence rather than its ongoing subordination. The Sámi case fits the settler colonial model because the historical objective of Swedish policy was not to exploit Sámi labor but to secure territorial possession and enable settler expansion on Sámi land (Össbo, 2020:420-421; Wolfe, 2006:388). Extraction is thus one historically recurring mechanism through which the settler colonial structure operates, not its defining purpose. This distinction matters analytically for the examination of Swedish law in this thesis. Legal

instruments such as the 1886 Act, the Lapp Administration, and the doctrine of ‘Lapp Shall be Lapp’ are not reducible to resource conflicts; they are instruments of population management and identity erasure whose colonial logic extends well beyond the mining sector. The mining sector, specifically LKAB’s operations, is just one iteration of the settler colonial project, albeit a very consequential one.

Central to settler colonial theory is what Wolfe (2006:387-388) terms the logic of elimination, whereby Indigenous societies are displaced, assimilated, or rendered legally and politically insignificant in order to secure settler claims to land. This process does not necessarily require physical removal; it may also occur through legal mechanisms that nullify Indigenous land rights, reclassify land use, or marginalize Indigenous knowledge and governance systems (Wolfe, 2006:402). In contrast to classical colonialism, which maintains a clear distinction between colonizer and colonized, settler colonialism seeks to dissolve this distinction by normalizing settler presence as natural and permanent (Veracini, 2011:2-3).

Applied to Swedish Sápmi, the settler colonial framework highlights how legal and administrative regimes governing land use, mineral extraction, and reindeer herding have systematically constrained Sámi sovereignty and facilitated state-led resource exploitation. The operations of the state-owned mining company LKAB can be understood within this structure, where extraction is justified through narratives of national development and progress. These narratives obscure ongoing dispossession by framing extraction as necessary or inevitable, while Sámi land use and legal claims remain subordinated.

### **3.3 How the Two Frameworks Work Together: Structure and Mechanism**

Settler colonialism and anopticism are not deployed in this thesis as parallel or competing frameworks, but as analytically distinct and mutually constitutive tools. Settler colonialism provides the structural explanation for *why* Sámi land use is rendered subordinate to extractive interests; anopticism identifies the institutional mechanism through which that subordination is actively produced and maintained. Neither is sufficient alone: settler colonialism without

anopticism explains the motive but not the method, while anopticism without settler colonialism risks treating invisibility as a technical or administrative failure rather than as the product of a purposive colonial logic.

Wolfe's foundational argument that settler colonialism is a structure rather than an event is the starting point here (Wolfe, 2006:388). The logic of elimination, the imperative to remove or neutralize Indigenous presence in order to secure access to land, does not exhaust itself at the moment of initial conquest. It transmutes over time into legal, administrative, and discursive forms, persisting and adapting as the structure finds new institutional expressions (Wolfe, 2006:402). In Swedish Sápmi, the structure is not simply the mining industry's presence on Indigenous land; it is the legal architecture that consistently subordinates Sámi territorial claims to extractive interests, an architecture that reproduces this outcome regardless of whether the dominant justification is national industrialization, economic rationalization, or the green energy transition.

What settler colonialism cannot fully account for is the specific institutional work through which this subordination is produced at any given moment. Dale's concept of anopticism, the exercise of power through the production of invisibility rather than visibility, provides the analytical vocabulary to trace how that logic operates at the level of legal text, permitting procedure, and policy discourse (Dale, 2019:596-599). Invisibility, in this framework, is not passive omission but an active institutional practice: the deliberate exclusion of certain claims, knowledges, and populations from legal and administrative recognition in ways that serve the interests of those with power over the process (Dale, 2019:598-599).

Together, the two frameworks prevent any single act of exclusion from being read as exceptional or unintentional. Each instance of Sámi invisibility identified in the analysis is interpretable not as a regulatory failure but as the predictable institutional expression of a structure that depends on that invisibility for its reproduction. Settler colonialism explains why that structure persists across time; anopticism explains how, concretely and institutionally, it does so at each new historical juncture.

## 4. Methodology

This chapter sets out the methodological foundations of the study. It begins by situating the research within an argumentative design framework (4.1), before addressing terminological scope and the specific background of the Mertainen case (4.2-4.3). It then details the data material, collection strategy, and analytical approach (4.4-4.5), and closes with ethical considerations and limitations (4.6-4.7).

### 4.1 Research Design

This thesis employs a multi-layered qualitative methodology that combines document analysis with a case-study design in order to examine the legal, institutional, and narrative structures shaping LKAB's mining practices in Swedish Sápmi. The study adopts a single-case study design, with LKAB's mining operations, specifically the Mertainen mine permitting proceedings, serving as the primary empirical case through which broader structural dynamics are examined. The case study design is well-suited to this inquiry because it enables an in-depth, contextually grounded investigation of a complex socio-legal phenomenon within its real-world setting (Yin, 2018:45).

This thesis is situated within what Wentzel (2019:3) describes as argumentative research, a mode of inquiry in which the researcher has something to say, builds a position from evidence, and engages with the views of others. In the social sciences, Wentzel (2019:3-4) argues, argument is not merely a stylistic choice but an epistemological necessity, because social reality “is often created by people and their beliefs” (Wentzel, 2019:4), and therefore “almost everything we study will be open to argument” (Wentzel, 2019:57). Crucially, operating within this argumentative tradition does not mean that the conclusion is known before the analysis begins. Wentzel (2019:102-106) draws a precise distinction between the *background claim*, the established, literature-grounded assertion that a real-world problem exists for a particular group, and the *knowledge problem*, which identifies what researchers do not yet know about that

problem and from which the research questions are directly derived. These are separate arguments with different evidential demands.

The background claim of this thesis, that Swedish legal frameworks have historically subordinated Sámi land use to extractive interests, is warranted by a substantial body of prior scholarship reviewed in Chapter 2 and is not itself in question. The knowledge problem — how these dynamics are institutionally produced and reproduced in LKAB's specific case, and how they are sustained through green transition justifications — is open to investigation, and the research questions are derived from it. The analytical conclusions cannot be known until the empirical material has been examined.

## **4.2 Terminological and Scope Clarification**

A terminological clarification is necessary regarding the use of 'the Sámi' throughout this thesis. The Sámi are a heterogeneous people with diverse livelihoods, languages, and relationships to land. However, the domestic legal and administrative frameworks examined in this study—primarily the 1971 Act, the ML, and the environmental permitting processes tracked through the Mertainen case—formally recognize land use rights exclusively for Sámi individuals who are members of a RHC. Due to the historical legacy of Swedish state policy, two categories of Sámi have been codified in legislation: members of an RHC, who hold exclusive usufruct rights to herd reindeer, and non-members, who are legally excluded from exercising these rights (Allard, 2006; Raitio et al., 2020). Out of the total Sámi population, only approximately 2,500 individuals practice reindeer herding as their primary livelihood (Sametinget, 2020). Consequently, the vast majority of Sámi people are formally written out of the land use protections that form the focus of this analysis.

Accordingly, where this thesis discusses land use rights, permitting impacts, and the regulatory gap, references to 'the Sámi' should be understood as referring specifically to Sámi RHCs and their members. This matches the scope adopted by Raitio et al. (2020), who note that while the exclusion of non-herding Sámi from legal recognition carries profound injustice, analysis must

engage with RHCs as the primary rights holders recognized under Swedish legislation. This legal bifurcation is not, however, analytically neutral; it is itself a core structural feature of the regulatory gap under analysis, tying Indigenous rights strictly to RHC membership and the active practice of pastoralism.

Crucially, this narrow legal scope does not mean the impacts analyzed here are minor or isolated. As the landmark Fosen wind energy case in Norway illustrates, reindeer herding cannot be reduced to a mere economic sub-activity confined to a minority subset of the population; rather, it is widely understood as the material foundation of the Sámi language, culture, and identity (Fjellheim, 2023). Therefore, while the mechanics of Swedish law compel this thesis to focus on the RHC as the formal legal actor, the systemic pressures and exclusions imposed on herding communities must be understood as a direct threat to Sámi cultural survival more broadly.

#### **4.3 Case Selection & Background: The Mertainen Mine**

The Mertainen iron ore mine is situated approximately 32 kilometers south-east of Kiruna in Norrbotten County, northern Sweden, within the traditional territory of Gabna RHC and Laevas RHC (Umeå Tingsrätt, 2013a)<sup>8</sup>. The surrounding landscape, characterized by lichen-rich old-growth forests, lowland mire systems, and the Mertaseno river, constitutes critical seasonal grazing ground and forms part of a nationally significant reindeer migration corridor (Kiruna Kommun, 2013:29, 47–48; Aktbil 153, 2018; Aktbil 154, 2018).

The site has a layered industrial history that substantially predates LKAB's current permitting proceedings. Iron ore deposits at Mertainen were first identified in 1897, and early surveys commenced immediately. Trial exploration was conducted by the state between 1918 and 1920, but development plans were abandoned due to declining ore prices. In 1956, the old open-cast pit was excavated by Norrbottens Jernverk, only to be closed again in 1958 when global market

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<sup>8</sup> While both Gabna RHC and Laevas RHC are counter-parties in the Mertainen proceedings, Gabna bears the more direct impact. The mine sits within the northern sections of the shared territory, which constitute Gabna's year-round grazing lands, whereas Laevas uses the southern parts primarily for seasonal migration. Gabna members use water sources and grazing land immediately adjacent to the operational area, and their calving grounds lie directly east of the mine site (Aktbil 202, 2024; Kiruna Kommun, 2013:5, 28-30, 47-48).

conditions deteriorated (Kiruna Kommun, 2013:28). No further extraction occurred until LKAB's trial mining commenced in 2011. Throughout this industrial history, the surrounding landscape has been continuously used by Gabna RHC and Laevas RHC; archaeological surveys conducted in 2010 and 2011 identified cultural remains — hearths, storage pits, bark extractions, and a reindeer migration route of national interest — documenting Sámi presence in the area over a period estimated to span approximately 500 years (Kiruna Kommun, 2013:27-28).

LKAB's current operational phase began with the granting of exploitation concession Mertainen K nr. 1 on 19 April 2000 (Kiruna Kommun, 2013:16; Umeå Tingsrätt, 2013a:7). The formal permitting proceedings were initiated when LKAB submitted its environmental permit application in March 2012. Both Gabna RHC and Laevas RHC were registered as counter-parties (Umeå Tingsrätt, 2014:3). As of May 2026, the case remains open.

The Mertainen case is selected not because it is exceptional, but precisely because it is representative. Spanning more than two decades of recorded proceedings, it documents in detail the structural dynamics of the Swedish mining permitting system's treatment of Sámi land use in the LKAB context.

#### 4.3.1 Timeline of the Mertainen Case

| Year      | Event                                                                                                                                                                                                 |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1897      | Iron ore deposits at Mertainen are first identified. Surveys and blasting work commence immediately (Kiruna Kommun, 2013:28).                                                                         |
| 1918-1920 | The state conducts investigation work at Mertainen, including a tunnel gallery driven approximately 400 meters into the mountain. Plans abandoned due to falling ore prices (Kiruna Kommun, 2013:28). |
| 1956      | <i>Norrbottnens Jernverk</i> excavates an open-cast pit at Mertainen (Kiruna                                                                                                                          |

|                    |                                                                                                                                                                                                                                                                                                                                                       |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    | Kommun, 2013:28).                                                                                                                                                                                                                                                                                                                                     |
| <b>1958</b>        | Operations cease due to deteriorating world market prices. The site is left partially flooded (Kiruna Kommun, 2013:28).                                                                                                                                                                                                                               |
| <b>2000</b>        | Bergsstaten <sup>9</sup> grants LKAB exploitation concession Mertainen K nr. 1 (Umeå Tingsrätt, 2013a:56).                                                                                                                                                                                                                                            |
| <b>2011</b>        | CAB grants permission for trial mining of up to 380,000 tonnes. Physical intervention commences while consequences for reindeer husbandry remain formally unresolved (Umeå Tingsrätt, 2013a:8, 28-29).                                                                                                                                                |
| <b>2012 (Mar.)</b> | LKAB submits a formal application for full-scale mining to the Land and Environment Court ( <i>Mark- och miljödomstolen</i> , MMD) (Umeå Tingsrätt, 2014:3).                                                                                                                                                                                          |
| <b>2013 (Jul.)</b> | First partial judgment declares the mining activity permissible and grants LKAB a permit for preparatory works and water infrastructure. The judgment approves the EIA and grants dispensations for Natura 2000 and species protection. Final conditions and a full operating permit are deferred to a subsequent judgment (Umeå Tingsrätt, 2013a).   |
| <b>2013 (Dec.)</b> | Second partial judgment grants the operating permit for mining, crushing, and sorting. The court finds that impacts on reindeer husbandry do not constitute an obstacle to permissibility; conditions on water discharge (U1) and reindeer husbandry measures (U3) are placed on trial periods pending further investigation (Umeå Tingsrätt, 2013b). |
| <b>2014</b>        | The Land and Environmental Court of Appeal ( <i>Mark- och miljööverdomstolen</i> ) upholds the 2013 permit on appeal. The appellate court endorses the eastern siting of the waste rock deposit on the grounds                                                                                                                                        |

<sup>9</sup> While the Chief Mining Inspector/ MI (*Bergmästaren* in Swedish) is the official title of the individual person who heads *Bergsstaten*. *Bergsstaten*, or the Mining Inspectorate, is the organizational body or government office itself. It is the department responsible for handling all the paperwork, applications, investigations, and map-making regarding mining permits in Sweden (Förordning, 2008:1233).

|                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                      | that it is ‘least unsuitable’ for reindeer husbandry ( <i>Mark- och miljööverdomstolen</i> , 2014).                                                                                                                                                                                                                                                                                                                                            |
| <b>2015-2016</b>                     | Further partial judgments resolve subsidiary trial period conditions. The U1 and U3 trial periods remain open pending operational data (Umeå Tingsrätt, 2015; 2016).                                                                                                                                                                                                                                                                           |
| <b>2017</b>                          | LKAB submits its trial period report for U3, proposing final conditions on reindeer husbandry measures (Aktbil 144, 2017).                                                                                                                                                                                                                                                                                                                     |
| <b>2018</b>                          | Gabna RHC and Laevas RHC submit statements opposing LKAB’s proposed conditions, raising concerns about cumulative impacts, migration route disruption, and reindeer disturbance (Aktbil 153, 2018; Aktbil 159, 2018; Aktbil 160, 2018).                                                                                                                                                                                                        |
| <b>2019 (Dec.)</b>                   | The partial judgment closes the U3 trial period and prescribes a final condition requiring LKAB to take ‘reasonable measures’ to minimize and compensate for reindeer husbandry impacts, through consultation with both RHCs. No substantive performance standard, measurable threshold, or enforceable entitlement is established. The U1 trial period is extended pending further data (Umeå Tingsrätt, 2019).                               |
| <b>2021 (Oct.) -<br/>2022 (Mar.)</b> | LKAB conducts a campaign extraction of approximately one million tonnes of raw ore to build a buffer stock. Critically, no dewatering of the open pit is undertaken, resulting in no data on the composition of mine drainage water under operational conditions (Umeå Tingsrätt, 2025).                                                                                                                                                       |
| <b>2024</b>                          | LKAB submits its trial period report for U1 and requests a further extension of the trial period (Umeå Tingsrätt, 2024). Gabna RHC opposes the extension, raising concerns about the supervisory authority’s inability to monitor water discharges and noting potential health and environmental risks to community members and their reindeer (Aktbil 202, 2024). LKAB disputes Gabna RHC’s characterization of supervisory oversight (Aktbil |

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|                    |                                                                                                                                                                                                                                       |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    | 204, 2024).                                                                                                                                                                                                                           |
| <b>2025 (Mar.)</b> | The court grants LKAB a four-year extension of the U1 trial period. Gabna RHC's substantive concerns regarding diffuse discharges and the lack of operational monitoring data are noted but remain unresolved (Umeå Tingsrätt, 2025). |
| <b>2025 (Dec.)</b> | Gabna RHC terminates its cooperation agreement <sup>10</sup> with LKAB (Amnesty Sápmi, 2025).                                                                                                                                         |

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#### 4.4 Data Material, Collection & Analytical Approach

The empirical material is organized into three corpora corresponding to the three sub-questions, each analyzed through the frameworks of settler colonialism and anopticism as elaborated in Chapter 3.

Section 5.1 addresses sub-question 1 through legal-historical document analysis, drawing on the primary legislation governing mineral extraction and reindeer husbandry in Sweden, principally the ML and the 1971 Act, together with their legislative predecessors. Relevant preparatory works are consulted where they illuminate legislative intent. The analysis traces, against earlier research on the history of Swedish mineral governance and its consequences for Sámi land use, the legal categorizations through which successive frameworks have constituted reindeer herding as a subordinate interest. Although this chapter broadly addresses the legal system, it establishes the structural conditions within which LKAB's contemporary permitting practices, examined in section 5.2, must be understood.

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<sup>10</sup> A cooperation agreement (*samverkansavtal*) is a private-law contract negotiated between a Sámi RHC and a commercial project proponent. These agreements typically establish protocols for information sharing, consultation procedures, and financial compensation or mitigation measures for disrupted herding practices. However, socio-legal scholarship highlights that these contracts are negotiated under profound structural asymmetries; because the domestic permitting framework does not grant the RHC a right of veto, communities often sign them under duress to secure marginal concessions from a project whose approval is already structurally assured (Kløcker Larsen et al., 2022a; Raitio et al., 2020; Cambou, 2020).

Section 5.2 addresses sub-question 2 through a two-stage legal-structural and documentary analysis. The first stage examines the design of the permitting system, the sequencing of concession, environmental permit, and consultation phases, drawing on earlier research on the regulatory gap between Swedish mining law and Sámi rights. The second stage turns to LKAB's specific permitting record at Mertainen. The case file contains 429 court attachments; selection was purposive, prioritizing documents that illuminate the institutional treatment of Sámi land use claims and the resource asymmetry between the parties. The corpus includes the partial judgments of July 2013, December 2013, 2014, 2019, and March 2025; statements from Gabna RHC (Aktbil 150, 153, 154, 160, 202) and Laevas RHC (Aktbil 159); LKAB's submissions and responses (Aktbil 84, 144, 204, 208); the Detailed Development Plan for Mertainen (Kiruna Kommun, 2013); and the court's procedural diary.

Section 5.3 addresses sub-question 3 by analyzing EU and Swedish policy documents and LKAB's public communications, and by examining them against earlier research on the green transition's consequences for Indigenous land rights. The primary material includes Sweden's national minerals strategy, the EU Critical Raw Materials Act (CRMA), government statements, LKAB's corporate communications, and an Amnesty International Report as corroborating contextual material. The analysis identifies the structural continuity between contemporary green transition justifications and the historical narratives of national development examined in section 5.1.

Section 5.4 synthesizes the findings from sections 5.1-5.3 to answer the overarching research question, and thus does not incorporate any new materials.

#### **4.5 Case Study & Document Research Design**

Following Yin (2009), a case study is understood as “an empirical investigation of a particular contemporary phenomenon within its real life context using multiple sources of evidence”, a strategy specifically suited to research in which the boundary between a phenomenon and its

context is not clearly defined. This characterizes the present study precisely: the legal frameworks, institutional practices, and policy discourses under examination cannot be separated from the specific case through which they are traced. LKAB's permitting proceedings at Mertainen serve as that case, not as an end in themselves, but as the site through which the structural dynamics of Swedish mining governance and Sámi land use are examined. As Robson and McCartan (2016:153) note, where prior scholarship has already established the terrain, a degree of pre-structure in the design is methodologically appropriate; the single-case design here reflects the depth of existing knowledge while enabling a level of longitudinal, contextually grounded analysis.

Document analysis is the natural methodological counterpart to this design. The study is positioned within the domain of policy and legal research, and the evidence for how Swedish frameworks structure Sámi land use is codified in formal texts: court judgments, permit applications, legislation, governmental statements, and corporate communications. Document analysis allows researchers to examine how policymakers' intentions are interpreted, enacted, and adapted in practice; an orientation particularly valuable for identifying deficiencies in frameworks and evaluating their actual impact on specific groups such as the Sámi (Tight, 2019:65). It further enables analysis of the underlying values and ideologies embedded in formal texts, including how concepts are constructed in ways that frame extractive ambitions while marginalizing those outside the dominant logic (Tight, 2019:126; Codd, 1988:235).

The historical dimension of the thesis reinforces this choice. Documents function, as May (2001, cited in Tight, 2019:67) describes, as "sedimentations of social practices," reflecting the institutional logics of the periods to which they belong — making them essential for tracing how Sámi land use was categorized and subordinated across successive legislative frameworks. Public documents in particular serve as primary instruments of state management (Scott, 1990:59), constituting direct evidence for how the Swedish state has historically administered and justified its authority over Sámi land. As Mason (2002:105) argues, documents are meaningful constituents of the social world, produced by particular actors for particular purposes — a framing especially pertinent here, given that the documents under analysis are themselves the mechanisms through which Sámi invisibility is produced. Following Robson and McCartan

(2016:351), these documents are read for both their *witting* content — the stated reasoning — and their *unwitting* evidence: what their framings, categorizations, and silences reveal about the institutional logic they express.

#### **4.6 Ethical Considerations**

The material analyzed consists exclusively of publicly available legal documents, policy texts, corporate communications, and academic publications. Nevertheless, engaging in research that concerns Indigenous peoples carries ethical responsibilities that extend beyond procedural compliance with institutional frameworks.

A central consideration is positionality. As Scheyvens et al. (2014:196) note, Indigenous communities have frequently been subjected to research conducted by outsiders whose work extracted knowledge for the benefit of Western academia rather than the communities concerned. The researcher in this study is a white, privileged, non-Sámi academic, positioned outside the communities whose circumstances are at the center of the analysis. Scheyvens et al. (2014:198) argue that non-Indigenous researchers have an obligation to conduct research that is culturally appropriate and produces outcomes of genuine benefit, not merely to the researcher's own scholarly agenda, and warn that subscribing to an ideology believed to be in the best interests of those researched does not automatically grant greater insight into their situation (Scheyvens et al., 2014:211).

This thesis does not claim to speak on behalf of the Sámi. The analysis draws on the documented positions of Gabna RHC and Laevas RHC as expressed in their own written submissions, treating these as authoritative statements of the communities' concerns, and seeks to contribute to the broader scholarly discourse on Indigenous rights and the regulatory gap between international standards and Swedish domestic practice — a contribution that Indigenous organizations and allied scholars have consistently identified as necessary (Raitio et al., 2020; Amnesty, 2025).

## 4.7 Limitations

The most significant practical limitation concerns the depth of engagement with the Mertainen case file. The case file contains 429 documents, each with several attachments. The EIA application alone contains more than 1,200 file attachments, the acquisition of which would have cost approximately 2,500 SEK. For this reason, the selection of documents is purposive, guided by the sub-questions and a coherent analytical logic — prioritizing documents that illuminate the institutional treatment of Sámi land use claims, resource asymmetry, and the procedural architecture of the proceedings (Mason, 2002:124-137). It remains possible that unanalyzed documents contain material that would complicate or nuance the findings. This is itself partly analytically significant: the sheer volume of documentation reflects the administrative overload that section 5.2 identifies as a structural feature of the proceedings, a burden borne most heavily by the Sámi communities who must engage it (Aktbil 160, 2018).

A second limitation concerns the exclusive reliance on documentary material. Mason (2002:105-106) argues that documents may be understood as meaningful constituents of the social world in their own right, produced by particular actors and for particular purposes, and that the researcher must attend to the ontological and epistemological basis on which they are used as evidence. Robson and McCartan (2016:351) further note that when documents have been produced outside the research context, questions of accuracy and potential bias arising from the document's original purpose are a serious consideration. Documents produced within legal and administrative proceedings reflect the institutional logic and discursive norms of those proceedings, and may systematically underrepresent perspectives and knowledge forms not legible within that logic, including the experiential and spatial knowledge of RHCs. The thesis partially addresses this by centering the RHC's own written submissions, which provide a documentary record of their concerns as expressed within the proceedings. However, these submissions are themselves shaped by the procedural constraints of the legal process and should not be treated as a complete or unmediated account of Sámi experiences and concerns.

## 5. Analysis

This analysis examines how Swedish legal and administrative frameworks governing LKAB's mining operations have produced and reproduced the invisibility of Sámi land use across three interconnected dimensions. Drawing on the theoretical frameworks of settler colonialism and anopticism, the analysis traces a continuous structural logic through which Sámi land use has been rendered subordinate to extractive interests — not through a series of isolated decisions or administrative failures, but through a legal architecture that has been systematically constructed, inherited, and adapted over time.

The analytical starting point — that Swedish legal frameworks have structurally subordinated Sámi land use in the context of mineral extraction — is not an assumption introduced here but a finding extensively documented in the existing literature reviewed in Chapter 2. What that literature has not yet provided, as the literature review identifies, is a systematic analysis of how these dynamics operate specifically through LKAB's permitting practices over time, and how they are reproduced within the discursive architecture of the green transition. This analysis addresses that gap. The three chapters that follow do not set out to prove that dispossession occurs; they trace how it is institutionally produced and continuously reproduced across legal texts, administrative practices, and policy justifications, and what that reveals about the structural continuity of Sámi invisibility within Swedish resource governance and LKAB practices.

The analysis is organized into three chapters that correspond to the three sub-questions guiding this study. Together they build a cumulative argument: that anopticism is not a historical artifact but a living mechanism that attaches itself to successive legitimating narratives, national industrial progress, welfare state development, and now climate necessity, while the underlying legal subordination of Sámi land use remains structurally constant.

Chapter 5.1 establishes the legal and historical foundation of this argument. It examines how Swedish mining and reindeer herding legislation has historically categorized Sámi land use in ways that structurally subordinate it to extractive interests, tracing this dynamic from the late 19th-century foundations of Swedish mineral law through to the contemporary ML and the 1971

Act. By situating LKAB's early operations within this legal architecture, the chapter demonstrates that the company's expansion was not merely enabled by but constitutively dependent upon a legal framework that rendered Sámi territorial claims invisible. Settler colonialism provides the structural framework for this analysis, while anopticism illuminates the specific legal mechanisms, categorization, omission, and the racialized property regime, through which Sámi presence was institutionally erased.

Chapter 5.2 moves from legal architecture to administrative practice, examining how the structural invisibility established historically is actively reproduced within contemporary mining permitting processes involving LKAB. Through an analysis of Bergsstaten concession decisions, LKAB's EIA, and available consultation records, the chapter shows how the permitting system's procedural design, particularly the separation of the concession and environmental permit stages, functions as an anoptic mechanism that prevents any holistic assessment of mining's cumulative impacts on Sámi land use. The chapter further examines how the absence of a codified state duty to consult, combined with the severe resource asymmetry between LKAB and affected RHCs, structurally limits meaningful Sámi participation at every stage of the permitting process. Where chapter 5.1 shows that anopticism is built into the legal text, chapter 5.2 shows that it is reproduced in administrative practice every time a permit is processed.

Chapter 5.3 examines the contemporary green transition context within which LKAB's current and planned operations are positioned and justified. It analyzes how the policy and legal architecture of Sweden's green transition, including the EU Critical Raw Materials Act and Sweden's national minerals strategy, creates a structural presumption in favor of extraction that operates above and prior to the permitting level, rendering Sámi land use invisible before any individual permitting decision is made. Through an analysis of LKAB's positioning within these frameworks, the chapter demonstrates how green transition justifications do not represent a departure from historical patterns of Sámi exclusion but rather their most recent adaptation. Anopticism, the chapter argues, is not static; it attaches to whatever legitimating narrative is politically dominant, but the underlying legal mechanism of Sámi invisibility remains structurally unchanged.

Chapter 5.4 draws together the findings of the three preceding chapters to answer the overarching research question.

## **5.1 The Legal Architecture of Invisibility: Historical Frameworks and Sámi Land Use**

### **5.1.1 The Foundational Legal Categorization of Sámi Land Use**

Understanding the legal position of Sámi land use in contemporary Sweden requires tracing a framework that was not designed neutrally but has been constructed, and continuously reconstructed, to render Indigenous territorial sovereignty politically invisible within the regulatory system. This analysis is essential not only as historical background but as a precondition for understanding LKAB's operations. The company's expansion was not merely enabled by this legal architecture but was constitutively dependent upon it (Broberg and Rönnbäck, 2020). The legal subordination of Sámi land rights is the structural condition that made extraction possible, and it is the same condition that continues to shape how LKAB's activities are permitted and assessed today.

The primary instrument governing Sámi land use in Sweden is the 1971 Act. At its conceptual foundation, the Act recognizes that the right to herd reindeer is grounded in immemorial prescription, a legal doctrine signifying that these rights predate the modern state and derive from long-standing traditional use rather than state grant (Rennäringslagen, 1971:437; Torp, 2012:715). This acknowledgment of historical legitimacy is, however, simultaneously constrained. The Act reframes what could constitute a proprietary claim into a usufruct right; a right to utilize land irrespective of formal title or ownership (Raitio et al., 2020:2). While it acknowledges the inherent antiquity of Sámi claims, this configuration reduces a profound territorial relationship to a constrained right of use that is structurally subordinated to extractive interests. By classifying reindeer herding as a usufruct interest rather than an ownership claim, the state renders Indigenous territorial sovereignty politically invisible within the regulatory framework.

This invisibility is compounded by a significant internal exclusion. Although the right to reindeer husbandry belongs collectively to the Sámi people on the basis of their Indigenous history, the Act restricts its exercise to formal members of an RHC. Given that an estimated 20,000 to 40,000 Sámi live in Sweden and only approximately 10% hold RHC membership (Amnesty, 2025:44-45), the legal framework narrows the legally recognized Indigenous subject to a small administrative category, rendering the broader Sámi population invisible to legal protection (Össbo, 2025a:26; Raitio et al., 2020:2).

The cumulative effect is a legal architecture in which Sámi reindeer herding is categorized as a form of public interest or economic industry rather than a distinct Indigenous property right (Raitio et al., 2020:9). The gap between judicial recognition and legislative reality is not incidental, rather it is the structural condition through which Sámi land use continues to be overridden. The historical construction of this condition is examined in the following subsection.

### **5.1.2 Historical roots: from the 1886 Reindeer Herding Act to Contemporary Legislation**

The legal categorization of Sámi land use described in the preceding section did not emerge with the 1971 Act. It is the product of a continuous legislative trajectory stretching back to the late nineteenth century, the same period in which LKAB was founded and began its expansion across Sápmi. If the legal framework governing LKAB's operations today is the direct successor to one built to facilitate industrial extraction at the expense of Sámi territorial claims, then contemporary permitting outcomes are not aberrations but structural continuities. Each legislative revision examined below reconfigured, rather than broke with, this foundational subordination.

The 1886 Act marks the point at which Sámi land rights were first formally reclassified within the modern Swedish legal order. Prior to this period, certain Sámi holdings, known as *skattefjäll*<sup>11</sup>

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<sup>11</sup> *Skattefjäll* (literally 'tax mountains') were highland territories historically possessed by individual Sámi households under a hereditary, customary title recognized by the Swedish Crown through the payment of taxes. While the exact legal status of these lands was increasingly contested by the state over the 19th century, they represented the closest approximation to individual land ownership available to the Sámi. The 1886 Act effectively displaced these individual claims by establishing a collective usufruct

had been recognised with a legal status approaching ownership, with individual households enjoying protection of possession and hereditary succession comparable to that of Swedish peasants (Fur 2006:53, cited in Lopez, 2021:39). The 1886 Act displaced this framework by converting Sámi rights into a collective usufruct over Crown and private lands, applicable to grazing, living, fishing, hunting, and the gathering of materials (Össbo, 2025b:18).

As Broberg and Rönnbäck (2020:484-487) document, the Act coincided with the late nineteenth-century mining boom, producing a dual legal regime with profoundly asymmetric consequences for the Sámi. The first was a mineral extraction regime governing the relationship between the state and private capital, granting companies the right to explore and extract mineral resources and treating the northern territories as a national economic asset. The second was a racialized nomadic regime that defined the Sámi exclusively through their status as reindeer-herding nomads, classifying their relationship to land not as ownership but as a collective usufruct; a right to use the land seasonally, not to possess it. These two regimes developed simultaneously but with almost no connection to each other (Broberg and Rönnbäck, 2020:487).

The result was a legal trap: the mineral extraction regime could disregard Sámi interests because the Sámi held no recognized ownership, while the racialized nomadic regime ensured they could never attain that status by restricting legitimate property claims to ‘civilized’ forms of labor, principally settled agriculture (Broberg and Rönnbäck, 2020:487, 495). Together, the two regimes enabled the state and private companies to extract mineral wealth from Sámi territories without any legal obligation to compensate for the structural damage caused to traditional livelihoods. Because the Sámi held usufructuary rights rather than ownership, the financial and legal obligations that would have applied to any recognized property holder simply did not arise (Broberg and Rönnbäck, 2020:485, 491). Anopticism was thus not a by-product of the dual regime; it was its function.

The 1886 Act also institutionalized the ‘Lapp Shall be Lapp’ doctrine, rooted in social Darwinist thought, which enforced a racial boundary between reindeer-herding Sámi, coded as the

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administered through the RHC, shifting the legal framework away from recognized property possession toward state-regulated usage rights (Fjellgren and Nord, 2021:27-28; Fur 2006:53, cited in Lopez, 2021:39).

‘authentic’ Indigenous subject, and those with more diverse economies, who were excluded from even the limited protections the Act provided (Lopez, 2021:39; Össbo, 2025b:14-15; Lantto, 2000:40-42). The Act simultaneously created the Lapp Administration, a colonial bureaucracy that subjected reindeer-herding families to intensive surveillance while exercising strategic ignorance toward Sámi who fell outside this narrowly defined category (Össbo, 2025b:14-15).

The pattern deepened in the early twentieth century. As mentioned in Chapter 2, the 1918 VL, enacted as the state promoted hydropower expansion in northern Sweden, omitted reindeer herding entirely from its list of protected industries, ensuring Sámi livelihoods had no legal existence within the calculus of industrial development (Össbo, 2025a:21; 2025b:21-22). The 1928 Act further entrenched exclusion by codifying gendered hierarchies, defining Sámi women exclusively through their relationship to male RHC members and making herding rights contingent on marriage. Although the explicit gendered language was removed in 1971, its legacy persisted: subsequent decades saw a sharp decline in the number of full-time female reindeer herders, with voting rights within modern RHCs weighted by herd size (Lopez, 2021:94-95).

The 1971 Act consolidated rather than reformed this subordination. By dissolving the Lapp Administration and recasting herding communities as economic associations modeled on agricultural enterprises, the Act operationalized a logic of elimination that tied Sámi rights exclusively to active, full-time herding — stripping those who departed the industry of any claim to ancestral land and narrowing the legally visible Indigenous subject to an ever-smaller category (Lopez, 2021:165-167; Össbo, 2025a:26; Össbo, 2025b:22). The 1991 ML completed this trajectory, making no reference to Sámi rights as Indigenous peoples; it treats reindeer herding as a minor public interest to be weighed against the national interest in mineral extraction (Raitio et al., 2020:9). The gap between judicial recognition and legislative reality remains structurally intact to this day (Allard, 2006:12; Raitio et al., 2020:2). The transition from the 1886 Act to the contemporary ML represents a continuous reconfiguration of a single mechanism rather than a series of reforms—namely, the legal subordination of Sámi territorial claims to extractive and state interests, a structural condition upon which LKAB’s operations have always depended.

### 5.1.3 LKAB and the Early Legal Framework: Extraction Enabled

The historical legislative trajectory traced in the preceding section was not merely an abstract regulatory development; it was the direct structural condition upon which LKAB's operations were built and sustained. LKAB's expansion in Sápmi occurred within a state-constructed architecture specifically designed to facilitate industrial extraction by anopticizing Sámi land use (Broberg and Rönnbäck, 2020:488; Lopez, 2021:39). As Broberg and Rönnbäck (2020) argue, LKAB did not create the racialized property regime it operated within; rather, it relied upon and benefited from it (2020:487).

In the early 1900s, LKAB quickly became a dominant force on the Stockholm Stock Exchange and the primary engine of Swedish iron ore exports, with the Kiruna ore fields generating its highest profit margins (Broberg and Rönnbäck, 2020:488-489). Its expansion occurred precisely as the dual legal regime was being institutionalized. By stripping RHCs of the legal standing to obstruct permits or claim land-equivalent compensation, the state effectively insulated corporate capital—transforming ancestral Sámi territory into a frictionless, open resource frontier for LKAB (Broberg and Rönnbäck, 2020:485).

The material consequences of this legal architecture became visible through infrastructure. The Ofoten railway (*Ofotenbanan*), completed in 1902 to transport ore from the Kiruna mines to the Norwegian coast, cut directly through traditional Sámi migration corridors used by the Gábna RHC and other communities (Lopez, 2021:39). Sámi accounts from 1901 describe how railway construction led to reindeer being run over in large numbers (Broberg and Rönnbäck, 2020:490). Despite internal acknowledgment of these harms, the legal response was minimal. The Railway Board awarded only modest compensation for animals killed directly by trains, while the permanent destruction of calving grounds and the compulsory reorganization of entire migration systems were never legally recognized as compensable losses. Under this usufructuary framework, structural damage to an Indigenous livelihood remained entirely invisible to the law, freeing the state from the compensatory obligations it would have owed to any private property owner (Broberg and Rönnbäck, 2020:485, 491).

LKAB's management culture under its first administrator, Hjalmar Lundbohm, illustrates how this legal exclusion was reinforced at the corporate level. As established, Lundbohm was a leading proponent of the 'Lapp Shall be Lapp' doctrine, which enforced a segregationist logic positioning reindeer-herding Sámi as authentic but incompatible with modern industrial life (Broberg and Rönnbäck, 2020:480-481, 492-493; Lopez, 2021:99). At the corporate level, this meant LKAB largely excluded Sámi workers from mining employment. At the state level, reduced-curriculum nomadic schools were sponsored to discourage their integration into the industrial workforce (Broberg and Rönnbäck, 2020:496; Lopez, 2021:126-127, 145). This paternalistic logic was further reinforced by Lundbohm's personal financing of racial biology research among Sámi and Tornedalen communities — conducted with logistical and financial support from LKAB — which provided a pseudo-scientific scaffolding for this exclusion, categorizing the Sámi as a racially 'inferior' group requiring segregation from the emerging settler city (Lopez, 2021:73; Persson, 2013). Lundbohm's paternalism was therefore not a benevolent eccentricity but a functional mechanism of settler colonial governance, one that operationalized the logic of elimination by ensuring Sámi people remained outside the economic and spatial landscape of modern Kiruna (Wolfe, 2006:388).

This exclusion was also materialized in urban space. Kiruna was constructed as a non-Indigenous 'model city' on land that had previously served as calving grounds and living areas for the Gábna community (Lopez, 2021:109). The Kiruna Church, designed by LKAB's architects to mimic a traditional Sámi *goahti*<sup>12</sup> was built on a hill the Gábna had used precisely for these purposes; a settler-controlled monument replaced active Indigenous presence while performing a symbolic appropriation of Sámi cultural form (Lopez, 2021:124-125). Together, these legal, corporate, and spatial strategies produced a form of anopticism in practice by categorizing Sámi as non-owners. By omitting their rights from mining and infrastructure legislation and physically reorganizing the landscape to suit industrial production, the state and LKAB collectively ensured that Indigenous land use was rendered institutionally invisible before any individual permitting decision was required.

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<sup>12</sup> *Goahti* (North Sámi) is a traditional Sámi dwelling with a wooden inner frame, covered with fabric, peat moss, or timber. It is typically larger and more substantial than the *lávvu* (a lighter, tent-like structure) and was used as a transportable seasonal home by reindeer herding families (Lopez, 2021:9, 124-126, 130).

This early institutional architecture is directly relevant to the analysis that follows in chapters 5.2 and 5.3. The structural patterns established in LKAB's founding decades — the non-recognition of Sámi land rights as ownership, the absence of meaningful consultation, the asymmetric compensation frameworks, and the assumption that extraction and Sámi land use can be made to coexist — are not simply historical artifacts. As the subsequent analysis of contemporary permitting processes and green transition justifications will demonstrate, these patterns have been continuously reproduced across changing political and economic contexts, with the legal architecture refined rather than dismantled.

## **5.2 Permitting in Practice: LKAB, Mertianen, and the Administration of Sámi Land**

### **5.2.1 The Permitting System and its Structural Gaps**

The Swedish mining permitting system is governed primarily by the ML and the Environmental Code (*Miljöbalken*, 1998:808, hereinafter MB), and operates across three sequential phases: an exploration phase, a concession phase, and an environmental permit phase. While this multi-stage structure is formally grounded in principles of environmental protection and public interest balancing, its fragmented design produces a series of structural gaps that systematically constrain the effective protection of Sámi rights at every stage. Understood through the frameworks of anopticism and settler colonialism, these gaps are not administrative oversights but reflect a legal architecture that has been continuously reproduced to render Sámi land use subordinate to extractive interests; a continuity this section traces across each phase of the permitting process.

The first phase involves an exploration permit, issued by the Chief Mining Inspector (*Bergmästaren*, hereinafter, MI), which authorizes a proponent to investigate the economic viability of mineral extraction within a designated area for an initial period of three years (ML, 1991:45, ch. 1, § 4). At this stage, Sámi participation is largely confined to formal notification

and the submission of written objections by affected RHCs and the Sámi Parliament<sup>13</sup>. The duty to consult under the Consultation Act (*Lag om Konsultation*, 2022:66) does not generally apply unless the proposed area is of substantial importance for reindeer herding — a threshold whose initial determination falls outside Sámi communities' control.

Where an application satisfies the relatively low statutory criteria, the MI is legally mandated to issue the permit, meaning that substantive objections from RHCs carry no formal legal weight in determining the outcome (ML, 1991:45, ch. 2, §2; Raitio et al., 2020:6). Despite numerous attempts by RHCs to challenge exploration permits, there are no documented cases in which such challenges have succeeded (Raitio et al., 2020:6). The exploration phase thereby forecloses meaningful Sámi influence before a project has established commercial viability, normalising the proponent's access to Sámi land as an administrative starting point rather than a contested territorial claim.

Once an exploration permit is granted, the proponent must submit a Work Plan before physical exploration can commence (ML, 1991:45, ch. 3, §1). Where objections from RHCs remain unresolved, the MI retains broad authority to approve the Plan provided the proposed activities are deemed essential for adequate exploration and adverse effects are not considered to outweigh the proponent's interest in proceeding (ML, 1991:45, ch. 3, §5d). This formulation already presupposes the legitimacy of the extraction project rather than treating it as genuinely contested, a discursive configuration that, as Dale (2019:596-598) identifies, is characteristic of anoptic institutional practice, wherein the framing of decisions structurally excludes certain claims from being fully seen or heard. A concrete illustration is found in Girjas RHC's attempt to restrict LKAB's drilling to summer months to protect reindeer during critical winter grazing. When both the CAB and LKAB rejected the proposal, the MI sided with them, permitting winter drilling subject only to notification and compensation conditions (Raitio et al., 2020:7). The outcome illustrates how the Work Plan process, despite its formal consultation requirements, operates

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<sup>13</sup> The Sámi Parliament (*Samediggi* / *Sametinget*) is a unique institution established by the Swedish state under the Sámi Parliament Act (Sametingslag SFS 1992:1433). It operates under a dual mandate: it functions simultaneously as a popularly elected body representing the Sámi people and as a state administrative agency tasked with implementing Swedish government policy regarding Sámi language, culture, and husbandry. This institutional duality creates an inherent structural tension between its role as an organ for Indigenous self-determination and its subservience to state authority (Sametinget, 2021).

within a settler colonial logic that positions Sámi land use as an obstacle to be managed rather than a right to be protected (Wolfe, 2006:388; Össbo, 2020:428-429).

The second and most consequential phase is the mining concession. It is here that the fundamental question of whether mining constitutes a permissible land use at a given site is formally determined. There are no recorded instances in Sweden where a mining concession was granted but a subsequent environmental permit was formally denied, meaning that the concession decision effectively determines the overall permissibility of the project (Raitio et al., 2020:7). The interest-balancing conducted at this stage is legally binding on all subsequent environmental permit decisions and cannot be reassessed, even when realised impacts prove greater than those assumed at the time of the original decision (Raitio et al., 2020:8).

The concession phase further embeds a structural assumption that shapes how Sámi interests are weighed throughout the entire process. As aforementioned, Swedish permitting authorities operate from an a priori presumption of co-existence—a default position that mining and reindeer herding can, as a general matter, be conducted in parallel (Raitio et al., 2020:10). Rather than requiring the mining applicant to demonstrate compatibility with existing Sámi land use, this presumption structurally shifts the burden of proof onto RHCs to establish that a specific project renders co-existence impossible. This framing is significant not only procedurally but conceptually; it positions reindeer herding as an interest that must justify its incompatibility with mining, rather than as a pre-existing land use whose continuity must be affirmatively protected. This is an optic operating at the level of legal assumption — the parallel theory that Össbo (2025b:17) identifies as a recurring feature of Swedish settler colonial governance, wherein the state claims that Indigenous and extractive land uses can simply co-exist, thereby rendering invisible the structural conditions that make genuine co-existence impossible.

This burden is compounded by the legal categorisation of reindeer herding as a form of public interest or general economic industry rather than a distinct property right, making it structurally easier to override in the interest-balancing exercise where the socio-economic benefits of mining, such as tax revenues, employment, and national resource security, are explicitly weighted in the assessment criteria (ML, 1991:45, ch. 4, §5; MB, 1998:808, ch. 4, §5). As Raitio et al.

(2020:9-11) note, this categorization means that reindeer herding is assessed as one public interest among several, rather than as a specific right whose protection places obligations on the state, a framing that systematically diminishes its weight in any balancing determination.

At the proceeding phase, the environmental permit, the MB does not prohibit environmentally hazardous activities but rather seeks to mitigate and manage their impacts (Raitio et al., 2020:8). As the question of permissibility has already been resolved at the concession stage, the environmental permit process is confined, in practice, to determining the conditions under which extraction will occur. The separation of these two stages means that no single decision-making authority is ever required to assess the full consequences of a proposed project for Sámi land use. This is what Raitio et al. (2020:8-9) describe as the ‘slicing and dicing’ of the permit process. Read through the lens of anopticism, this fragmentation operates as a structural mechanism of invisibility. By distributing assessment responsibilities across separate legal regimes and institutional stages, the system ensures that cumulative impacts are never confronted holistically. As Dale (2019:596) observes, anoptic power functions precisely through this kind of institutional dispersal — the production of invisibility is achieved not through a single act of erasure but through a configuration of procedures that collectively prevent a complete picture from ever coming into view.

A further structural gap compounds these constraints. This is that the Swedish state has no codified duty to consult Sámi communities in accordance with international standards of FPIC. In the mining context, consultation obligations under the MB are assigned to the proponent rather than the state, delegating a substantively public obligation to an actor with a direct commercial interest in the project’s approval (MB, 1998:808, ch. 6, §24). Voluntary measures such as reindeer herding impact assessments have been shown to remain inadequate even among companies regarded as frontrunners in stakeholder engagement (Kløcker Larsen et al., 2018; Raitio et al., 2020:9), suggesting that proponent-driven consultation mechanisms are structurally insufficient to close the gap between procedural compliance and substantive protection. This is settler colonialism operating through administrative delegation. Here, the state withdraws from its obligations while the legal framework continues to function as though those obligations are being met (Össbo, 2020:428-429). These structural conditions are not external to LKAB’s

operations but constitutive of them, providing the essential framework within which the company's specific permitting context, examined in the following section, must be understood.

### **5.2.2 The LKAB Mertainen Case: Anopticism in the Documentary Record**

The permitting proceedings for the Mertainen project commenced with LKAB's granted exploitation concession in 2000. This body of documentation serves as a foundational empirical record that elucidates the structural dynamics outlined in the preceding section. Throughout these proceedings, Gabna RHC and Laevas RHC were registered as counterparties (Umeå Tingsrätt, 2013a:7; Kiruna Kommun, 2013:16). However, as Dale (2019:598) posits, anoptic power manifests not through outright exclusion, but rather through the production of invisibility within processes that appear inclusive. It is this intricate dynamic that the Mertainen record, spanning over two decades of procedural history, meticulously captures. A detailed chronological overview of the case is provided in the case background section above (section 4.3.1).

The exploitation concession for Mertainen K nr. 1 was granted by Bergsstaten in April 2000, twelve years before the environmental permit application was filed. As established in section 5.2.1, the interest-balancing conducted at the concession stage serves as a powerful legal anchor for all subsequent permitting decisions (Raitio et al., 2020:8). The court's review was therefore confined from the outset to *how* extraction would occur, not *whether* it should (Umeå Tingsrätt, 2013a:56). This sequencing is not a procedural technicality, it is the foundational anoptic mechanism of the entire process. By the time Bergsstaten exercised the co-existence presumption and determined that mining and reindeer herding could proceed in parallel, the territorial claims of Gabna RHC and Laevas RHC had already been rendered subordinate in a legally binding form, before any comprehensive assessment of the mine's consequences for their land use had taken place (Raitio et al., 2020:10).

By the time the CAB granted permission for trial mining of up to 380,000 tonnes in 2011, physical intervention had commenced while the consequences for reindeer herding remained formally unresolved (Umeå Tingsrätt, 2013a:8, 28-29). This operational normalization preceded

and foreclosed the judicial review that followed. As Össbo (2025a:19-22) identifies, anopticism in Swedish resource governance functions not as passive oversight but as an institutionalized practice. The legal architecture ensures that the question of Sámi territorial displacement has, in a meaningful sense, already been answered before the community formally enters the proceedings. This is the structural logic Wolfe (2006:388) characterizes as central to settler colonialism, in which the state's imperative to access Indigenous land is prior to and constitutive of the legal processes that purport to manage it.

The permitting proceedings formally afforded Gabna RHC and Laevas RHC the status of counter-parties, and their submissions were included in the documentary record. However, the proceedings reveal a profound asymmetry in resources, epistemic authority, and institutional framing that systematically disadvantaged Sámi voices. Notably, LKAB was represented throughout by specialist environmental law counsel, and its applications were supported by extensive technical investigations: hydrogeological modeling, EIAs, geochemical characterizations, and cumulative impact analyses prepared by specialist consultants over multiple years (Umeå Tingsrätt, 2013a:7-18). The submissions of Gabna RHC and Laevas RHC were, in most instances, single-page letters signed by the respective RHC chairpersons, addressing their concerns in accessible rather than technical language (Aktbil 153, 2018; Aktbil 159, 2018; Aktbil 160, 2018). By the final stages of proceedings in 2024, this disparity had intensified: LKAB submitted a multi-page technical statement on the ongoing water discharge trial period (U1) — addressing monitoring data, chemical parameters in the receiving watercourse Mertaseno, and legal arguments against the need for extended conditions — while Gabna RHC's opposition was a single-page letter from its chairperson (Aktbil 204, 2024; Aktbil 202, 2024). The court's reasoning engaged primarily with LKAB's technical framing.

This is not a matter of individual capacity but of structural production. The evidentiary standards of the permitting process are calibrated to technical-scientific knowledge, which renders the experiential and relational dimensions of Sámi land-use knowledge institutionally marginal. Lawrence and Kløcker Larsen (2017) demonstrate this dynamic in Swedish mining and, more broadly, in permitting, showing how company-led EIAs are systematically framed as objective while Community-Based Impact Assessments grounded in Indigenous land-use knowledge are

treated as subjective—a distinction that structurally disadvantages Sámi participation regardless of the substantive quality of their knowledge claims. This epistemic asymmetry is itself a form of anopticism, as the procedural framework does not overtly exclude Sámi knowledge but renders it illegible by measuring it against standards it was not designed to meet (Dale, 2019:596-599; Raitio et al., 2020:9-11).

The framing of Sámi interests within the court's reasoning further illustrates this asymmetry. In both the 2013 judgments and the 2014 appellate decision, reindeer husbandry impacts are consistently categorized as one consideration within a broader balancing exercise rather than as a foundational right capable of generating a veto. The MMD acknowledged that the impacts were 'indisputably' negative—involving loss of winter grazing land, disruption to a nationally significant reindeer migration route, and disturbance through blasting and dust—but characterized these as manageable through safeguarded measures, concluding they did not constitute an obstacle to permissibility (Umeå Tingsrätt, 2013a:57-58). The appellate court endorsed the eastern siting of the waste rock deposit partly on the grounds that it would be the least unsuitable for reindeer husbandry, a formulation that accepts harm as the baseline and asks only which configuration minimizes it (*Mark- och miljööverdomstolen*, 2014:28).

The cooperation framework deepened this displacement further, with both the 2013 and 2019 judgments relying on the existence of cooperation agreements between LKAB and Gabna RHC as evidence that impacts would be adequately managed (Umeå Tingsrätt, 2013b:62; Umeå Tingsrätt, 2019:15-16)—transposing the assessment of Sámi interests from the public judicial arena into a contractual domain lacking comparable transparency or contestability. This is settler colonialism operating through administrative delegation, as the state withdraws from its obligations while the legal framework continues to function as though those obligations are being met (Össbo, 2020:428–429).

In its second partial judgment of 10 December 2013, the court granted the full operating permit while deferring determination of final conditions for water discharges and reindeer husbandry impacts to the trial period investigations (Umeå Tingsrätt, 2013b). The consolidated appellate judgment of 18 June 2014 confirmed the permit and required only that LKAB salvage dead

wood from the clearance zone for translocation to a future compensation area (Mark- och miljööverdomstolen, 2014:27-29). The nature compensation process, resolved in a separate partial judgment of 25 September 2014, required LKAB to protect a designated area of old-growth forest, Kuosajänkkä, located adjacent to the mining site for fifty years as an ecological offset for the habitat lost to the waste rock deposit (MMD, 2014:7-9).

For the RHCs, the Kuosajänkkä offset constitutes a substitution that is structurally incommensurable with what is lost. Reindeer herding does not relate to land as an abstract ecological asset capable of replacement; the mobile, seasonal, and intergenerational practice of herding produces deep place-based relationships between specific landscapes and Sámi communities, relationships through which both cultural continuity and livelihood are reproduced (Össbo, 2025b:17; Kiruna Kommun, 2013:28-29). As Össbo (2025b:17) argues, the state's consistent failure to see this relational dimension — its reduction of Sámi land use to a manageable and interchangeable interest — is the defining expression of the anoptic logic in Swedish resource governance. Within the settler-colonial structure analyzed by Wolfe (2006:387-388), land is treated as a fungible, commodified resource, stripped of its territorial and cultural significance. By treating the protection of an alternative area as an equivalent exchange, the court erases precisely this dimension of Sámi territorial practice. The compensatory logic thus produces anopticism as the value is measured through the settler state's logic of exchangeability, while the irreplaceable, site-specific character of the impacted reindeer herding landscape is rendered structurally invisible.

The years following 2014 document the progressive marginalization of Sámi voices as the trial period framework, combined with operational intermittency, created persistent regulatory uncertainty. As noted in the methodology, the court's 2013 judgments placed two key sets of conditions on the trial periods: U1, governing water discharges from the mine into the receiving watercourse Mertaseno, and U3, governing measures to minimize and compensate for impacts on reindeer husbandry (Umeå Tingsrätt, 2013a; Umeå Tingsrätt, 2013b:61).

The 2018 proceedings provide the most concrete illustration of this dynamic. By that point, LKAB had operated the mine only sporadically and sought an extension of the U1 water

discharge trial period on the grounds that insufficient operational data existed to set final conditions (Umeå Tingsrätt, 2025:9-10). In response, Gabna RHC submitted a statement explaining that extreme snow conditions during winters 2016-2018 had prevented the community from migrating to the eastern areas around Mertainen at all, meaning they had been unable to evaluate the mine's effects on grazing, migration, or reindeer behavior. Chairperson Lars-Anders Kuhmunen stated that, for this reason, the trial period must be extended (Aktbil 153, 2018). A supplementary filing elaborated that climatic instability over the preceding three to four years had prevented full utilization of winter grazing areas, generating deep uncertainty about the community's future (Aktbil 154, 2018).

These submissions illuminate a dimension of the proceedings wholly absent from the formal judicial reasoning. Sámi knowledge of impact is necessarily derived from lived, seasonal practice rather than technical monitoring. Where LKAB's case rested on hydrochemical models and compliance data gathered during operational periods, Gabna RHC's knowledge could not have been accumulated during years of climatic disruption or operational dormancy. As the permitting process is calibrated to technical-scientific evidentiary standards that structurally disadvantage Sámi communities, privileging operator-generated compliance data over experiential and relational knowledge of land use (Raitio et al., 2020:8-9), the community's inability to migrate and observe the site is translated by the legal system into an absence of negative impacts. The structural uncertainty generated by climate change and operational intermittency is thus effectively weaponized against the community; it is not registered as a compounding harm but as an evidentiary gap that delays regulatory closure while LKAB retains its permit. This is anopticism functioning at its most structurally precise, not through exclusion, but through a procedural framework that renders Sámi spatial practices invisible by measuring them against evidentiary standards they are structurally incapable of meeting (Dale, 2019:598-599).

Gabna RHC's November 2018 submission further disclosed that the community had been struggling with the number and complexity of the parallel proceedings, and that this had limited the time available for substantive engagement (Aktbil 160, 2018). This candid acknowledgment of administrative overload is itself analytically significant. It documents the material conditions under which a small herding community, without dedicated legal counsel, must engage a

multi-decade industrial permitting process managed by a state-owned corporation with specialist legal representation at every stage.

The partial judgment of December 2019, closing the U3 trial period, illustrates the logic's endpoint. The court prescribed a condition requiring LKAB to take 'reasonable measures' to minimize and compensate for impacts through consultation with both RHCs, a formulation establishing no substantive performance standard, measurable threshold, or enforceable entitlement (Umeå Tingsrätt, 2019:2). The 2025 judgment extending the U1 trial period by a further four years repeats this pattern. Gabna RHC's substantive concerns regarding diffuse discharges were noted but not resolved, and the extension was granted because LKAB had conducted only a single campaign extraction in 2021 and had not yet generated the operational data required for final conditions (Umeå Tingsrätt, 2025:9-10). As a result, permanent landscape transformation is permitted to proceed precisely because binding regulatory closure is indefinitely deferred. This is the trial period mechanism functioning as an anoptic instrument: a regulatory illusion where continuous administrative investigation substitutes for the substantive protection of rights, maintaining the appearance of rigorous scrutiny while steadily eroding the conditions for effective Indigenous claim-making.

Taken together, the Mertainen record confirms what Dale (2019:599) identifies as the defining feature of strategic anopticism: populations are not excluded from formal processes but are included in ways structurally guaranteed to produce no determinative effect. Sámi territoriality is not suppressed through explicit prohibition; it is dissolved into procedural categories that acknowledge its existence while ensuring it generates no legally effective claim of refusal. This is the institutional apparatus through which settler colonialism reproduces itself within the contemporary permitting regime LKAB benefits from.

### **5.2.3 Access to Justice and the Limits of the Appeals Process**

The institutional invisibility of Sámi land use documented in the Mertainen proceedings does not arise solely from the conduct of individual cases; it is embedded in the architecture of the

Swedish mining permitting system itself. As Dale (2019:598) argues, anopticism operates as a strategy of power through which those with institutional authority render certain populations invisible, not through overt exclusion but through structural design. The appeals architecture governing Swedish mining permits constitutes precisely such strategic anopticism, in which one formally admits Sámi voices while systematically foreclosing their capacity to generate legally effective outcomes.

The most consequential structural constraint is the legal lock-in produced at the concession stage. The interest-balancing conducted at this point is binding on all subsequent environmental permit decisions and cannot be reassessed, even when realised impacts prove greater than those anticipated at the time of the original decision (Raitio et al., 2020:8). As established in section 5.2.1, the legal lock-in produced at the concession stage means that by the time the MMD reviews an environmental permit application, the foundational question of whether extraction should proceed on Sámi land has already been resolved in favour of the operator. The appeals architecture does nothing to disturb this — it compounds it (Raitio et al., 2020:8). While the MI's concession decision can be appealed to the Swedish Government, the Government's final decision is not subject to a merits-based appeal; the Supreme Administrative Court may only review technical points of law under the Act on Judicial Review of Certain Government Decisions (2006) (Raitio et al., 2020:8). This structural gap — the absence of independent judicial review on the merits at the most determinative stage of the permitting process — constitutes, as Raitio et al. (2020:8) note, a serious flaw in the regulatory framework with respect to Sámi rights.

The scope of who may appeal a concession decision is narrow. Only communities whose reindeer grazing land falls within the formally designated concession zone have the right to challenge the decision. This means that a community whose land is disrupted by the mine's associated infrastructure — access roads, haulage corridors, processing facilities — but whose pastures lie just outside the drawn boundary of the concession area, has no right to appeal at all (Raitio et al., 2020:8–9). Since the fundamental question of permissibility is decided at the concession stage, this exclusion cannot be remedied by the community's later participation in the environmental permit phase.

At the environmental permit stage, formal standing is broader, and Sámi communities may appeal permit decisions to the Land and Environmental Court of Appeal (MB, 1998:808, ch. 16, §12). In practice, however, no environmental permit for a mining project has been overturned on appeal by a RHC (Raitio et al., 2020:8). The MB is not designed to prevent environmentally hazardous activities but to manage and mitigate their impacts; a permit may only be denied if the site is found to be exceptionally unsuitable or the environmental consequences unacceptably severe (MB, 1998:808, ch. 2, §§6, 9). Applied to a context in which the co-existence presumption has already been given legal force at the concession stage, this threshold is structurally difficult to meet. The appeals process thus produces the appearance of an available remedy while ensuring, through prior legal commitment, that the remedy cannot be obtained.

When domestic appeals are exhausted, international bodies represent a residual avenue for recourse. In 2013, the Swedish government granted exploitation concessions to a nickel mining project in Rönnbäcken, located within the traditional, ancestral territories of the Vapsten Sámi RHC. Because the mining permits were issued without the community's consent or an adequate human rights impact assessment, the Vapsten Sámi took the case to the United Nations. In a landmark decision (*Vapsten Sámi Reindeer Herding Community v. Sweden*), the UN Committee on the Elimination of Racial Discrimination (CERD) ruled that Sweden's mining and environmental laws systematically discriminated against the Sámi by failing to provide FPIC, ultimately demanding that Sweden halt the project and overhaul its mining legislation (CERD, 2020; Amnesty, 2025:55). However, the Swedish Government has taken no steps to implement CERD's recommendations, and the concessions remain in force (Amnesty, 2025:57). The international route thus confirms the violation without producing restitution — a recognition that is, in itself, without legal consequence for the communities whose rights were breached.

The practical consequence of these structural gaps is that Sámi communities are denied not only substantive influence over permitting outcomes but also access to the resources necessary to contest those outcomes effectively. The Consultation Act makes no provision for funding the legal or technical expertise required for Sámi participation (Institut för Mänskliga Rättigheter, 2023:8; Amnesty, 2025:50). This absence is not incidental. By requiring communities to engage

on formally equal procedural terms while withholding the material conditions of equality, the system ensures that substantive Sámi concerns remain beyond the reach of effective legal determination. This illustrated the rendering of Indigenous claims invisible not through exclusion from the process, but through the structural guarantee that inclusion will be without effect (Dale, 2019:599).

### **5.3 Green Futures, Invisible Peoples: LKAB and the Green Transition Narrative**

#### **5.3.1 The Legal and Policy Context Enabling Green Transition Extraction**

The contemporary phase of extractive expansion in Sápmi does not simply continue earlier industrial policy under the same justificatory logic. Rather, it operates within a qualitatively distinct legitimating architecture, one in which the imperative to extract is grounded no longer primarily in national economic development but in a compound of planetary ecological necessity and geopolitical security. Tracing how this shift operates requires examining the specific legal and policy instruments through which Sámi land has been reconstituted as a strategic resource for the global green transition, and how that reconstitution affects the visibility of Indigenous territorial claims within governance frameworks. It is through this policy architecture and LKAB's positioning within it that the structural continuity with earlier patterns of Sámi exclusion becomes analytically legible.

At the European level, the CRMA, which entered into force in May 2024, establishes binding benchmarks for the domestic extraction, processing, and recycling of materials deemed essential to the green and digital transitions (European Parliament and Council of the European Union, 2024). The CRMA designates a set of strategic raw materials and mandates that member states facilitate and accelerate the permitting of projects meeting defined strategic criteria, through streamlined procedures, prioritized financing, and enhanced inter-authority coordination (European Parliament and Council of the European Union, 2024, Art. 11-15). Crucially, as Amnesty International and the Sámi Parliament have documented, the CRMA contains no provisions requiring member states or project proponents to respect Indigenous Peoples' right to

give or withhold FPIC for projects affecting their rights, territories, or resources (Amnesty, 2025:17). Nor does it require remedies where such rights are breached (Amnesty, 2025:17). The supranational policy layer thus reproduces at the European scale the same structural lock-in identified at the national concession level—as discussed in section 5.2: the permissibility of extraction is pre-constituted by a framework that fails to register Sámi territorial claims as relevant inputs.

At the national level, Sweden has positioned itself as the EU’s leading mining nation and as a primary supplier of critical raw materials for Europe’s green transition (Båld, 2025:224). Sweden’s national minerals strategy has for over a decade explicitly linked domestic mineral extraction to climate transition commitments, framing Sápmi’s mineral wealth as a national asset whose development serves the public interest (Näringsdepartementet, 2013). Sweden’s target of net-zero emissions by 2045, driven by fossil-free energy, industrial electrification, and carbon-capture technologies, positions northern Sweden as the engine of this transition (Båld, 2025:218; Regeringen, 2025b). In parallel, both Sweden and the EU have moved to accelerate and streamline permitting processes for industries involved in the green transition — a development that, as Båld notes, directly intensifies land encroachment pressures on Sámi communities (2025:218). The combined effect of these policy moves is to remove the question of extraction from the domain of contestable politics and relocate it within the domain of ecological and security obligations, significantly narrowing the legal and political space within which Sámi refusal can be articulated or heard.

This narrowing operates on terrain already severely diminished by cumulative encroachment. Only approximately four per cent of reindeer grazing land across Sweden, Norway, and Finland remains undisturbed by existing land uses, including wind power, forestry, hydropower, mining, and other human activities (Båld, 2025:223). Green transition projects are therefore not introduced into an intact landscape but into one already subject to sustained and overlapping pressure. As Össbo documents, research consistently demonstrates that cumulative effects are systematically overlooked in impact assessments, and that this failure is not incidental but structural, as it is reproduced across each successive permitting framework regardless of the dominant legitimating narrative attached to extraction (2023:115). The green transition thus adds

a new layer of justificatory urgency to a pre-existing pattern of invisibilization, without resolving, or even engaging with, the cumulative burdens it compounds.

### **5.3.2 LKAB's Positioning and What it Does to Sámi Land Use Claims**

Within this policy architecture, LKAB occupies a position of structural advantage that precedes and conditions any individual permitting process. As a state-owned corporation whose operations are explicitly tethered to national climate targets (Näringsdepartementet, 2013; Båld, 2025:224), LKAB's extractive activities are not framed as mere commercial interests to be weighed against competing claims; rather, they are elevated to public interests in their own right — interests that the permitting framework is structurally designed to facilitate rather than scrutinize. The analytical point is not that LKAB acts in bad faith toward Sámi communities, but that its positioning within the green transition narrative reframes the question from whether extraction should occur on Indigenous territory to how Sweden will meet its climate commitments.

LKAB's proposed Per Geijer mine, a large-scale rare earth and iron ore project in Kiruna municipality within the traditional territories of Gabna RHC, has been designated a Strategic Project under the CRMA (Amnesty Sápmi, 2025). This designation imports a pre-formed justificatory conclusion in which the project serves a legitimate aim of EU-wide significance that member states are obligated to facilitate (European Parliament and Council of the European Union, 2024, Art. 11-15). Cambou (2020) has demonstrated in the parallel context of wind energy that the green transition framing effectively recategorizes extractive projects previously contested for their environmental and rights impacts as essential national contributions, narrowing the space in which Indigenous rights claims can gain legal traction (2020:310). The same dynamic operates here with compounded force: the Strategic Project designation does not merely accelerate permitting — it pre-constitutes the answer to the question that permitting is designed to ask, rendering the formal examination of the project's legitimacy largely ceremonial.

The company presents its expansion program—including Per Geijer (officially designated as an EU Strategic Project under the CRMA) and its involvement in fossil-free steel production—as an

indispensable contribution to European decarbonization (LKAB, 2025b; European Commission, 2025). In doing so, LKAB does not need to actively erase Sámi claims. The green transition framework has already performed that work at the policy level, constituting extraction as a collective good whose benefits are framed as universal while distributing its costs locally onto communities whose territorial relationships are not legible within the framework's terms (Össbo, 2023:117-118; Båld, 2025:217-218). Sámi land use does not appear in the green transition calculus as a competing right to be weighed; it appears, if at all, as a consultation obligation to be discharged (Kløcker Larsen et al., 2022b) — procedurally demonstrated by the existence of a cooperation agreement or the formal notation of objections in a permitting file.

LKAB's treatment of its Sámi consultation obligations reflects this positioning precisely. The company consistently presents compliance with Swedish procedural law as evidence of responsible engagement, treating the existence of consultation as a proxy for the adequacy of its outcomes (Aktbil 208, 2024; Umeå Tingsrätt, 2019:15-16). The breakdown of the cooperation agreement between LKAB and Gabna RHC in December 2025 renders the limits of this equation visible. While LKAB characterized the termination as a mutual step toward building better long-term cooperation frameworks (LKAB, 2025a), Gabna RHC's account is categorically different. The community described the consultations as a process in which the RHC was permitted to speak but never exercised real influence, and described the overall arrangement as state-sanctioned land seizure on Indigenous territory (Amnesty Sápmi, 2025). Gabna RHC's position on Per Geijer is unambiguous: coexistence between the mine and reindeer herding is impossible, and no cooperation agreement or compensation can remedy the cultural and livelihood collapse that would follow if the project proceeds (Amnesty Sápmi, 2025). This is not a negotiating position within the existing framework; it is a territorial rights claim that the framework is structurally incapable of registering as such. It becomes, at most, a factor in the conditions attached to a permit whose ultimate grant is treated as effectively predetermined. This is anopticism operating at its most structurally efficient, where Sámi territoriality is rendered invisible through the prior construction of a policy architecture within which inclusion can only take a consultative rather than determinative form (Dale, 2019:598).

### 5.3.3 Continuity with Historical Patterns: Anopticism Adapting

The green transition context does not represent a rupture with the historical patterns of Sámi exclusion documented in the preceding chapters. It represents their most recent and most globally legitimized adaptation. As Össbo observes, the green transition industry is already affecting the Sámi as the construction of the Nordic welfare society did during the last century, deepening an ongoing colonial wave whose origins stretch to the fourteenth century (2023:112). Swedish energy and extractive policy has consistently returned to the same structural logic — invoking emergency, whether wartime necessity, industrial modernization, or climate crisis, to justify streamlined procedures that bypass Sámi participation and legal protection. Policymaking, Össbo argues, is back to square one, leaving out both accumulated knowledge of the past and contemporary voices regarding ongoing and probable consequences (2023:127).

The analytical core of this pattern is that anopticism is adaptive. As Dale establishes, it operates as a strategy of power that attaches to whatever legitimating narrative is institutionally dominant at a given historical moment (2019:599). The justificatory logic has shifted — from national racial civilization in the nineteenth century, to industrial progress and welfare state construction in the twentieth, to a compound of climate necessity and geopolitical security in the twenty-first — but the underlying legal mechanism remains structurally identical. In each case, Sámi land use is constituted as a subordinate interest managed through compensation and consultation rather than a primary right capable of generating a legally effective refusal. Össbo demonstrates this continuity with particular clarity through the hydropower context: during the 1940s, the urgency of the wartime Crisis Act allowed the state to streamline permitting processes, put compensation on hold for several years, and proceed with hydropower expansion without meaningful Sámi involvement (Össbo, 2023:119-121). Today, the justification has broadened as extraction is framed as necessary not only for European decarbonization but for strategic autonomy and defense supply chains, as codified in the CRMA's explicit grounding in defense and aerospace applications alongside the green transition (European Parliament and Council of the European Union, 2024). The emergency register is now planetary and geopolitical rather than merely national, which makes it structurally harder to contest and produces a wider moral insulation from critique (Össbo, 2023:128).

This insulation is being actively reinforced through institutional reform. Sweden's government has initiated a comprehensive review of environmental permitting under the MB, with the stated objective of removing barriers to the climate transition. The governmental inquiry (SOU 2024:98) has proposed creating a new dedicated environmental permitting authority to consolidate and accelerate permit processes, explicitly framing the existing procedural framework as an obstacle to industrial decarbonization (Regeringen, 2025a). In January 2026, the government remitted further proposals to implement contact points, binding timelines, and streamlined procedures for strategic industries under both the CRMA and the Net-Zero Industry Act (Regeringen, 2026a). Approximately 240 billion Swedish kronor of industrial transition investment is currently in some stage of the permitting process (Regeringen, 2026b). The pace of permitting reform, framed as necessary to keep pace with global industrial competition, is itself a continuation of the historical pattern Össbo (2023) identifies: crises are used to legitimize the removal of procedural protections, and Sámi participation is an early casualty of that removal.

The cumulative effect is a layered system of further invisibility in which Sámi territorial claims are rendered invisible at each successive scale without being explicitly suppressed at any single one. The concept of green sacrifice zones captures this structurally: Sápmi is constituted as a resource periphery whose landscape absorbs the costs of industrial production at both national and European core levels, with the added moral weight that this cost-shifting is now framed as ecological obligation (Össbo, 2023:117). Sweden's national framework for mineral extraction as a protected public interest, combined with the CRMA's Strategic Project designation, produces a landscape in which the permissibility of extraction is constituted at the supranational and national policy levels before any individual permitting decision is made. As Össbo observes, facing that architecture, it is difficult for an Indigenous minority not to end up at a disadvantage and in a green sacrifice zone (2023:128).

As Wolfe argues, settler colonialism is relatively impervious to regime change (2006:402); political arrangements may shift in form and justification while the substantive territorial outcome remains constant. Sweden's nineteenth-century crown ownership doctrine, its twentieth-century industrial planning framework, and its twenty-first-century green transition

and strategic security architecture all perform the same structural function, constituting Sápmi as a national resource space whose use is determined by the state's current priority interest. As Veracini argues, the institutional incorporation of Indigenous difference through recognition and partnership frameworks — absent substantive territorial protection — functions as the domestication of Indigenous sovereignties for the benefit of the settler state (2011:8). The green transition does not escape this logic; it perfects it, by rendering that domestication not merely legally convenient but morally obligatory.

#### **5.4 Discussion: Connecting the Findings**

The three analytical sections of this thesis each addressed a sub-question about how Sámi land use has been rendered invisible within Swedish resource governance. This section draws those answers together to respond to the overarching research question: *How have Swedish legal and administrative frameworks governing LKAB's mining operations historically produced and reproduced the invisibility of Sámi land use and livelihoods, and how do these patterns of exclusion continue to be mobilized within contemporary green transition justifications?*

Taken together, the three sections show that Sámi invisibility within Swedish resource governance operates across three analytically separable but structurally interdependent levels: encoded in law, re-enacted in administrative practice, and ideologically renewed through successive dominant political narratives. The settler colonialism framework explains why the structure persists — the continuous imperative of access to Indigenous land produces the institutional conditions for that access across radically different historical contexts. Anopticism explains how it operates at each specific juncture — through the concrete practices of not-seeing embedded in legal text, procedural design, and policy discourse. Neither alone is sufficient: settler colonialism without anopticism identifies the motive without specifying the method; anopticism without settler colonialism risks treating each instance of Sámi exclusion as a technical failure rather than the predictable expression of a purposive structure. The Mertainen case, spanning over two decades and culminating in Gabna RHC's termination of its cooperation agreement with LKAB in December 2025, is the empirical record of what that combined

structure produces: not resolution, but the indefinite deferral of substantive protection until the cooperative relationship the institutional process was designed to manage can no longer be sustained.

The overarching research question can be answered as follows: Sámi invisibility within Swedish resource governance is structurally produced through a legal architecture built for that purpose, institutionally reproduced every time a permit is processed, and ideologically sustained by attaching itself to successive legitimating narratives. What changes across historical phases is the dominant justification for extraction; what remains structurally constant is the outcome.

## **6. Conclusion**

The thesis set out to examine how Swedish legal and administrative frameworks governing LKAB's mining operations have historically produced and reproduced the invisibility of Sámi land use and livelihoods, and how those patterns continue to be mobilized within contemporary green transition justifications. That aim has been carried out across three distinct layers of material, each corresponding to one analytical dimension.

The historical construction of the legal architecture in section 5.1 was examined through the legislative texts themselves (primarily the ML and the Act 1971), read alongside preparatory works, Court judgments, and academic legal scholarship, with the analysis tracing back to the Act of 1886 to examine how the subordination of Sámi land use has been reproduced across successive legislative generations. The institutional reproduction of invisibility in section 5.2 was traced through the Mertainen case file: the partial judgments spanning from the initial 2013 judgment to the March 2025 partial judgment, the RHC's written submissions, LKAB's technical responses, and the court's procedural reasoning. The ideological renewal of exclusion through green transition discourse in section 5.3 was examined through EU policy documents, principally the CRMA, official Swedish government statements on the national minerals strategy, and Sweden's implementation of the CRMA, and academic scholarship on green colonialism in Sápmi. The use of these three distinct material layers reflects the three-dimensional nature of the

research question itself: the legislative material established structural conditions, the proceedings documents showed those conditions operating in practice, and the policy and academic sources situated the contemporary phase within both institutional and critical scholarly contexts.

Research on Sámi rights in Sweden remains, despite growing scholarly attention over the past decade, a relatively limited field. As Raitio et al. (2020) observed, while the question of Indigenous rights and mining has generated substantial academic inquiry in countries such as Canada and Australia, relatively little research has addressed comparable issues within a Swedish or Nordic context, and what does exist deals primarily with environmental law or policy, often comparatively rather than through close institutional analysis. Within this limited field, research specifically concerned with LKAB as a state-owned operator, rather than the regulatory system in general, is more limited still. Research focused on the specific Mertainen proceedings as a case study tracing the institutional reproduction of Sámi exclusion is, to the knowledge of this author, absent from the existing literature. This thesis, therefore, operates at three nested levels of contribution; it adds to a field that is itself underdeveloped, within a sub-field focused on a specific operator that is narrower still, through a case study that has not previously been examined in depth.

Within what research does exist, the thesis's primary contribution sits in relation to Raitio et al.'s (2020) regulatory gap analysis, the most systematic account to date of how Swedish mining permitting fails to provide meaningful opportunities for RHCs to influence decisions about extraction on their lands. This thesis builds on that analysis in two ways. First, by concentrating on a single case, it moves from gap-as-absence to gap-as-mechanism, showing not merely that inadequate protection exists at the doctrinal level but how it is actively generated through the ordinary functioning of the sequencing logic, the epistemic hierarchy, and the deferral mechanism of the trial period in a specific set of proceedings. Second, it extends the analysis into the green transition period and the CRMA, showing how a supranational policy layer adds a pre-permitting dimension of exclusion that Raitio et al.'s framework, which focused on the permitting process itself, did not address. In relation to Cambou (2020) and Össbo (2025), whose analyses of green colonialism dynamics in wind energy and historical hydropower provide the closest analytical parallel, this thesis confirms that the same structural logic operates in the

critical minerals domain and argues that it is compounded when strategic project designation at the EU level pre-constitutes permissibility before national proceedings have concluded. Kløcker Larsen et al.'s (2022b) knowledge synthesis on mining impacts across three reindeer herding districts further corroborates the generalisability of the procedural and epistemic dynamics identified here, lending weight to the argument that the Mertainen case reflects a systemic pattern rather than an isolated instance.

The combination of settler colonialism and anopticism adopted within this thesis was productive precisely because the two frameworks operate at different levels of abstraction. Settler colonialism, as developed by Wolfe (2006) and applied to the Swedish context by scholars including Össbo (2025), provides the structural account of why Sámi land rights are persistently subordinated across radically different political and economic contexts. Anopticism, as theorized by Dale (2019), provides the institutional vocabulary to trace how that subordination is concretely produced in the specific mechanisms of legal text, procedural design, and policy discourse. The pairing worked analytically because it prevented both of the risks that single-framework analyses carry: treating Sámi erasure as a purely historical structural condition without attending to its specific institutional mechanisms, or treating specific mechanisms as administrative failures without understanding the structural logic that makes them systematic and predictable.

Reflecting on how the choices made in this thesis have shaped its findings, two observations are worth making. The theoretical pairing directed analytical attention toward structure and mechanism — toward how invisibility is produced and reproduced systemically — and this orientation meant that the findings are stronger on explaining the persistence of exclusion than on accounting for moments of Sámi agency, resistance, or partial success within the same institutional processes. A different theoretical point of departure, such as a legal pluralism framework or a justice-centered approach, might have foregrounded those dimensions and produced a more contested picture of the proceedings. Methodologically, the decision to work exclusively with documentary material meant that the analysis is shaped by what the institutional process itself made visible and recorded. Documents produced within legal proceedings reflect the logic and evidentiary standards of those proceedings, which, as the analysis itself

demonstrates, are calibrated in ways that systematically privilege technical-scientific knowledge over Sámi experiential knowledge. There is, therefore, a circularity worth acknowledging. The material through which the epistemic asymmetry is analyzed is itself a product of that asymmetry. This does not invalidate the findings, but it does mean they mostly capture the structure of exclusion as it appears from within the institutional record, rather than as it is experienced by the communities most affected.

The findings of this thesis pave the way for future research by raising a number of questions that it cannot itself resolve. The first concerns LKAB's state-ownership specifically. The thesis has shown that LKAB benefits from and operates within the structural conditions it reproduces, but it has not examined whether state-ownership generates distinctive institutional incentives or constraints in comparison to private mining operators. Comparative research between LKAB and private concession-holders in Swedish Sápmi could illuminate whether the company's state character produces any specific features in the reproduction of Sámi invisibility, or whether the structural conditions are sufficiently determinative to produce the same outcomes regardless.

The second concerns the communities themselves. Gabna RHC's termination of its cooperation agreement with LKAB in December 2025 is the most significant recent signal of how the institutional process has ultimately been assessed from the community's side. Understanding what that decision means from the community's own perspective, what it forecloses, what it opens, and what forms of alternative claim-making it anticipates would require qualitative engagement with community members that this thesis, by design and on account of positionality, did not attempt. That research remains both necessary and overdue, and the moment of rupture that the termination represents may itself constitute an important site for understanding the limits of institutional processes as mechanisms for the protection of Indigenous land rights.

The third follows directly from the documentary limitations of this thesis. While the analysis has traced how Sámi invisibility is produced within the institutional record, it cannot speak to what is actually happening on the ground — how the impacts of LKAB's operations are experienced in practice, how communities navigate and resist the processes that formally include them, and what everyday life in Gabna RHC's territory looks like as extraction proceeds. Fieldwork-based

research, drawing on first-hand accounts from community members, herders, and local actors, would provide a dimension of knowledge that document analysis cannot access and that is essential for a full understanding of what the structural conditions identified here actually mean for the people most affected by them.

Ultimately, what this thesis has shown is that the persistence of Sámi exclusion within Swedish resource governance is not a failure of the system but a feature of it — and that understanding it as such is the necessary starting point for any intervention that aims to do more than manage its symptoms.

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