DiVA
http://www.diva-portal.org

This is the published version of a paper published in .

Citation for the original published paper (version of record):

Laframboise, L. (2023)
Just like Alta?: A comparative study of the Alta and fosen cases as critical junctures for Sámi rights in Norway
Arctic Yearbook

Access to the published version may require subscription.

N.B. When citing this work, cite the original published paper.

The Arctic Yearbook is open access. Readers may download, distribute, photocopy, cite or excerpt this Arctic Yearbook material, provided that it is properly and fully credited. We do not, however, allow commercial use or the making of derivatives without the written consent of the editorial team.

Permanent link to this version:
http://urn.kb.se/resolve?urn=urn:nbn:se:umu:diva-235511

Just Like Alta? A Comparative Study of the Alta and Fosen Cases as Critical Junctures for Sámi Rights in Norway

Luke Laframboise

In February 2023, protests erupted in Olso in response to 500 days of inaction by the Norwegian state following the country's Supreme Court rulings regarding the Fosen wind farm project. Though the events of this case remain ongoing, Fosen has been compared in scope to the Alta conflict in the late 1970s and early 1980s, which is considered one of the most significant events in recent Sámi-state relations in Norway. This article takes that comparison as a baseline question and compares both cases as critical junctures, or, in the case of Fosen, the potential thereof. Making use of an adaption of Hillel David Soifer's model of critical juncture operative conditions, the underlying factors of each case are examined to determine how such politically charged moments come about and what alternative institutional regimes were proposed during these critical pivot points. As this paper discusses, the comparisons between Alta and Fosen are apt, though the material conditions differ substantially. Rather, the ongoing Fosen case highlights the growing conflict between a well-established Indigenous rights regime and green energy policies that risk the tarnishing of the legacy that the events of Alta helped establish.

Introduction

In February 2023, Sámi activists and allies descended on Oslo. After 500 days of waiting for the Norwegian government to act on the rulings regarding the Fosen wind farm project, it became clear that nothing was going to be done (Grimstad, 2023). Sámi and environmental activists, including outspoken climate agitator Greta Thunberg, staged protests across the government quarter, including the temporary occupation of the government ministry for energy and oil (Fouche, 2023). Protesters remained in place for nearly five days before being removed by police. In response, the government has admitted, in a rare moment of contrition, that the Fosen case represented a clear violation of Indigenous human rights and more must be done (Gaino Buljo, 2023).

Though the events of this case remain ongoing, Fosen has the potential to become a pivot point in Sámi-State relations not unlike the Alta conflict of the late 1970s (Andersen & Midttun, 1985;

Luke Laframboise is a PhD Candidate at Umeå University

Hjorthol, 2006). Alta, which began as a protest movement against the damming of the Alta River in northern Norway, resulted in the largest Sámi-led protest movement to date (Minde, 2003). More than fifty years later, Alta has become a symbol of Sámi resistance and a clear break between the old policies of assimilation and marginalisation that characterised the previous state relationship.

Yet are the current protests just like Alta? Certainly, on its face, the current protests appear to follow a similar pattern and are certainly evocative of such. However, a closer look at events reveals that much has changed concerning Sámi politics since the 1970s. Sámi rights, once a key point of contention, have repeatedly been strengthened in the decades since in Norway, though perhaps not to the extent that many Sámi might wish (O. Ravna, 2014). The Fosen case, which has been in progress for nearly a decade, was very much an extension of this paradigm, as the rights of Sámi herders were further confirmed, over and above the political will of the state (Ø. Ravna, 2023). It is this status quo that is now being challenged, however obliquely, by the current Norwegian government in allowing the Fosen wind farm to continue to operate. Whether Fosen will follow a similar trajectory to Alta remains an open question, one that may not be answered for months, if not years. Yet, by looking at the conditions under which both protests occurred, we can better understand the current state of Sámi rights in Norway and why the Fosen protests occurred when they did.

To best draw out these conditions, this paper will pull from Historical Institutionalism. This is a political science theory that is useful for understanding the formation of what are termed critical junctures, or moments in which political regimes or institutions change, often under the pressure of changing norms. This article will make use of Hillel David Soifer's model of operative conditions and Slater and Simmons's critical antecedents (Cappoccia & Kelemen, 2007; Slater & Simmons, 2010; Soifer, 2012). As will be discussed further, this combined model provides a robust structure through which to understand the structural mechanisms that propel political action toward forming a critical juncture through which political institutions may topple or, as Alta will demonstrate, might be reconstituted.

As the outcome of the Fosen protests remains uncertain, it is difficult to compare cases as might be traditionally done in Critical Junctures literature. Instead, the focus will be on a comparison of factors that lead up to the critical moments and, in the case of Alta, what allowed them to fundamentally change the dominant political institution. From there, this comparison will be used as a jumping-off point to discuss what the current moment following the Fosen case ruling represents. Through understanding the conditions that brought these events about we can better understand how such movements turn from political protest to institutional change, and what form this potential change takes.

Background: The Sámi and the Struggle for Self-Determination

Before getting into the case, I will briefly introduce the Sámi themselves, as well as provide an overview of the history of Sámi-State relations in Norway. The Sámi are a Finno-Ugric Indigenous people known for their unique history and culture based, in part, on reindeer herding and a traditionally nomadic lifestyle (John B. Henriksen, 2008, p. 27). Throughout their history they have found themselves living under the rule of a variety of different foreign rulers, creating a fractious history. The result of this came in the 19th century when the Sámi population was cut across the borders of Norway, Sweden, Finland and Northwestern Russia (Lantto, 2010).

In this era, the Norwegian government implemented a series of policies that formed what became known as Norwegianisation (*Fornorskning*) (Minde, 2005). Designed to assimilate national minorities into the majority population, Sámi cultural practices and languages were heavily discouraged among other destructive practices (Sannhets- og forsoningkommisjonen, 2023). The result was a policy of marginalisation that remained in place until well after the Second World War. In 1968 the official Norwegianisation policies were repealed, however little was done afterwards to replace these policies with anything more supportive (Hjorthol, 2006; Sannhets- og forsoningkommisjonen, 2023). As such, the Alta conflict became a key flashpoint in changing this policy environment. Today, the conflict has become a cultural touchstone amongst Sámi in Norway, as the defining moment in which they fought for and won the constitutionally granted rights and protections they are entitled to today (Aanesland, 2021). It is for this reason that Fosen activists look to Alta for inspiration, as it set the stage for the current state of Sámi rights that has been both enshrined in Norwegian law and the constitution.

Theory: Historical Institutionalism

Historical Institutionalism is an approach in political science that works towards explaining how past institutions and events shape current and future political outcomes (Hall & Taylor, 1996; Steinmo, Thelen, & Longstreth, 1992; Thelen, 1999). Institutions are the primary focus of the theory and are defined as "the rules, norms, and practices that organize and constitute social relations" which are, in turn, "examined for their role in creating constraints and opportunities for political action" (Fioretos, Falleti, & Sheingate, 2016, p. 7). This analytical work is done by examining institutions according to the logic of constancy and change which are conceptualised according to two concepts: path dependence and critical junctures.

Path dependence refers to the idea that once a particular path is taken, it becomes increasingly difficult to change course. This is due to the tendency wherein, as institutions become more and more embedded in society, individuals develop habits and expectations based on them (Peters, Pierre, & King, 2005). In turn, the greater the embeddedness in society, the less likely that change will occur. Should change be desired, that would mean a disruption to the status quo which other institutions and actors have come to rely upon, making change difficult. As a result, even if a more efficient or effective alternative emerges, they are unlikely to be adopted, as the costs and disruptions associated with changing established practices would be considered too high. That is, of course, unless an institution is weakened in some way.

Critical junctures, then, are moments of instability or crisis that create opportunities for institutional change and are considered the answer to the question of institutional change (Cappoccia, 2016; Thelen, 1999). They tend to occur when existing institutions are no longer able to cope with changing circumstances, be it due to changing norms, external shocks or other major moments of stress. At these moments, there is often a window of opportunity for actors to push for institutional change as the cost to do so is unusually low (Schmidt, 2010). Scholars debate to what degree critical junctures can be understood as coming from the institutions themselves or whether other factors play a part (Fioretos et al., 2016, p. 10). However, accordingly, it is in these moments of stress that an institution might "break" and, as a result, be replaced or revised to follow a different path, establishing a divergent path dependency until another such moment should occur.

Critical Antecedents, Permissive and Productive Conditions

Despite the central importance Critical Junctures play in Historical Institutionalist thinking, how they come about is relatively underdeveloped, though this is slowly changing. One such framework, proposed by Hellel David Soifer in 2012, posits that such moments come about and build momentum when certain preconditions are in place which in turn build momentum strong enough to cause institutional change (Soifer, 2012).

According to this framework, he defines two specific factors that should be considered: the permissive conditions under which institutional constraints are eased or in conflict which allow for change to occur, and the productive conditions, which represent the range of possibilities and outcomes that arise during and after the closing of a Critical juncture (Soifer, 2012, pp. 1573-1576). Expanding on these twin conditions briefly, permissive conditions can be viewed as the factors, events or norm changes that allow for change to occur, while productive conditions represent the ideas and conceptions of how the institution should be changed should a critical juncture produce institutional change. Soifer argues that neither sort of condition is sufficient on its own to produce lasting institutional change (Soifer, 2012, p. 1575).

However, when such conditions arise alongside other factors, a critical moment may grow into something more. Soifer highlights two further factors in his work, however for brevity, I will focus on only one which is termed critical antecedents (Soifer, 2012, pp. 1576-1577). First developed by Slater and Simmons in 2010, critical antecedents, or critical causes, are defined as "factors or conditions preceding a critical juncture that combine with causal forces during a critical juncture to produce long-term divergence in outcomes" (Slater & Simmons, 2010, p. 889). Conceptualised to build a more robust foundation to understand how critical junctures take place, Slater and Simmons further differentiated between successive causes and conditioning causes (Slater & Simmons, 2010, pp. 889-890). Successive cases can be understood as antecedents which directly cause critical junctures to occur, which are often difficult to determine, while conditioning causes are those that help determine what direction the institution will take once the critical juncture passes.

Taken alongside the conditions Soifer proposes, critical junctures are built on a series of contingent parts that form a chain of operation that, in turn, produce institutional change. Should such change be considered, but ultimately rejected, however, a distinct possibility in critical juncture literature, this is termed a "near miss". Such near misses are defined as a period in which change is proposed, considered and ultimately rejected, resulting in the reinstatement of the previous path of institutional development, with perhaps a few minor concessions towards change (Cappoccia, 2016, p. 95) As we turn into discussions of how these movements come about, this possibility should be kept in mind, as to consider otherwise assumes a degree of determinism that minimises the agency of the actors operating during these moments.

Methodological approach: Comparative Case Study

As the term suggests, Historical Institutional work is not often done on current cases. Rather it is used to research past institutional events and the development of new political paradigms. However, the continued and sustained comparison between the ongoing Fosen case and the Alta conflict of the 1970s represents an intriguing opportunity to consider what factors go into developing a critical moment of institutional change as one is potentially emerging. In addition, as

will be shown, the current events surrounding the Fosen case protests are directly interlinked with the institution of Sámi rights that came as a direct result of Alta. As such, the rest of this paper will focus on developing the two cases of Alta and Fosen according to an adaption of Soifer's model using the permissive and productive conditions he discusses to form the structure of comparative analysis. This analysis will be further foregrounded using Slater & Simmons's critical antecedents, as prior political conditions and history are key factor in understanding the formation of the current state of Sámi rights in Norway. The basis for this research includes historical accounts, academic treatments and concurrent news reporting, the latter of which is particularly relevant regarding the ongoing Fosen case and subsequent protests. Using these relevant sources, each case will be constructed as a historical narrative, divided up into sections highlighting the critical antecedents and the events that propelled the critical juncture into reality or, in the case of Fosen, may constitute the formation of such.

This article will then conclude with an analysis of the events of Alta and Fosen in context with the wider green shift. As will be discussed throughout, the current state of the Fosen protests highlights a clear potential for a break between the established normative system put in place in post-Alta Norway. This has been driven, in part, by a shift in political priorities that have placed the Norwegian state in direct collision with the legally protected rights of the Sámi. Whether this will continue to its logical extreme remains unknown as of writing, but it is this potential that the rest of this article will attempt to highlight through the contrasting political factors present in the Alta and Fosen cases.

Case 1: The Alta Conflict (1968-1982)

To begin, many factors led to the formation of opposition to the Alta dam project and the protests that arose in 1979. These include the wider international movement towards decolonisation, changing political norms within the Sámi communities towards radical Sámi identification well as the greater role Norway played in protecting indigenous rights across the work (Kalstad, 2013; Minde, 2003; Vik & Semb, 2013). However, there are three processes in particular that I think set the stage best: the formal end of Norwegianisation, the policy gap left by it, and the ultimate decision to dam the river itself.

Critical Antecedents of Alta

In 1959, the Norwegian government officially ended the series of policies that collectively formed the Norwegianisation efforts (Hjorthol, 2006; Minde, 2003). Built on the recommendations from what had been termed the Sámi Committee (*Samekomiteen)* this represented the formal end to a regime that systematically worked to assimilate the Sámi into the Norwegian majority. After more than a century of direct political assimilation, the government relaxed its efforts and began work to establish a more accommodating policy environment towards the Sámi. However, despite these efforts, including the forming of a sort of proto-Sámi Parliament known as the Norwegian Sámi Council (*Norsk Sameråd)*, little material change occurred(Minde, 2003). Attitudes in government remained little different than they had been under Norwegianisation and, as such, the tangible benefits of the formal end of Norwegianisation were few. As such, which had been attempts to build a more accommodating policy scape resulted in an environment of extreme distrust between the state and Sámi.

The Sámi themselves had not been idle following the end of the Second World War. After a failed attempt at organising during the early 1900s and 1910s, a new generation of Sámi activists, organisers and politicians arose (Lantto, 2000). This began the second wave of Sámi mobilisation, as civil, cultural and, increasingly, political organisations arose to represent their interests. The largest of these was Norgga Sámiid Riikasearvi (*Norsk Samers Riksforbund*) (NRK), which was formed in 1968 and remains a key figure in Sámi politics today (Gaski, 1993; NSR, 2021, p. 124). On the international level, the Sámi became more directly tied across borders through the formation of Nordisk Sameråddet/the Nordic Saami Council, which brought Sámi organisations from across the three Nordic borders to organise and discuss how best to promote their culture and protect their culture interests (Rantala, 2004). Through ostensibly divided borders, these cross-border connections, combined with the rise of robust and self-interested political organisations meant that Sámi built a strong foundation for greater political mobilisation. In the wider international sphere, the Nordic Saami Council connected the conditions faced by the Sámi with that of other Indigenous groups across the world (Crossen, 2017). Through this, the Sámi became not just a singular people, but one that shared a struggle with other Indigenous groups across the world. With this came a sense of solidarity that would serve them well in what was to come.

Critical Juncture: Alta

It is in this context that the events that would lead to Alta began. In 1968, the Norwegian Water Resources and Energy Directorate (NVE) proposed a dam across the Álttáeatnu/Alta River to power the inner Finnmark region (Andersen & Midttun, 1985, pp. 318-319). In the early plans, the construction would result in the flooding of the small village of Maze (*Masi*), which had been a majority Sámi settlement for centuries (Andersen & Midttun, 1985, p. 319). Initial reactions to this proposal were mixed in the Norwegian parliament and generally negative in the region affected, but particularly amongst the Sámi of the region. This was because Maze was considered a symbol of Sámi identity, which was further strengthened by the plans to inundate it. Thus, the plans to dam and submerge the settlement without any sort of consultation or discussion was seen as a confirmation that the Norwegian government held little care for the wellbeing of the Sámi people. When government planners arrived in 1970 to inspect the site they were greeted by nearly 400 protesters armed with signs and a statement for the government that they would not move from the village until the damming was stopped (Andersen & Midttun, 1985). Perhaps due to these early protests or due to other considerations, Maze was protected from damming in the revised plans for the dam in 1973. However, this did not stop the development of the dam itself, as it was deemed far too important to shelf.

In the summer of 1979, construction was set to begin on the Alta Dam. However, the NVE ran into unexpected resistance. In the time since the ratification of construction, the villagers of Mazi and local Sámi groups had united under the banner of opposing the government through a grassroots organisation they called People's Action against the Building of the Alta-Kainokeino Watercourse (*Folkeaksjonen mot utbygging av Alta-Kautokeinovassdraget)* (Hjorthol, 2006, p. 32) In short order, a standoff began between government workers and Sámi protesters, centred over the worksite of Stilla. There Sámi and environmental activists chained themselves to the gates of the worksite and stood directly in front of bulldozers, creating stalling construction (Broderstad, 2011, p. 899). As the Sámi and their allies had hoped, their actions swiftly became national news. By October demonstrations sprung up across Norway, but the largest was centred in Oslo, which is

where the most famous images of the event spring from. Sámi in gakti marched in the streets, a lavvu was set up on the grounds of the *Storting* and, significantly, a group of Sámi women occupied the Prime Minister's offices (Hjorthol, 2006).

Behind the scenes, Sámi activists pursued all manner of legal channels to get the dam development stopped. In 1980 the legality of the Alta project was brought before the Norwegian courts (Minde, 2003). Despite the criticism levelled towards the process through which the permissions were granted, it was ultimately ruled in 1981 that the development was legal. As such work began on the Alta Dam once more. In a final show of resistance, a final demonstration was held at Stilla, resulting in mass arrests through one of the largest police actions seen in Norway (Hjorthol, 2006).

Though the Norwegian government had seemingly won the conflict, it now faced a problem: how to respond to such still and sustained resistance. Their solution was a committee establishment of *Samerettsutvalget* (the Sámi Law Committee) with a mandate to determine potential remedies to the state of Sámi rights protection (Broderstad, 2011, p. 899; Minde, 2003). The work of the commission, which heavily involved Sámi actors, took nearly a decade but the results changed the state of Sámi rights fundamentally. In 1987 the Sámi languages were recognised as official languages through an official act of parliament with further rights enshrined in the constitution. Finally, in 1989 the Norwegian Sámi Parliament was founded, setting the stage for the modern current state of Sámi-State relations (Josefsen, Mörkenstam, & Saglie, 2014).

Permissive Conditions of Alta

As the dust of Alta settled, it was hard to see that it would be the critical juncture it ultimately became. The defeat of the Alta case in the courts was viewed as the end of the hopes for institutional change. This was not the case. By looking at the conditions of Soifer's model it becomes more clear how these events came about.

Going into the 1979 protests, the first permissive condition can be seen as the mismatch between the end of Norwegianization and the political facts on the ground. Going into the 1979 protests, the Norwegian government had done little material work to build goodwill with the Sámi. The formal end of the Norwegianisation policies had done little to change the legacy those policies had built. Nor did the government seem willing to work to correct this situation. Instead, to paraphrase Henry Minde, "The continuation of the old assimilation policy was due to a special power structure that was strengthened unintentionally by the Sámi Committee"(Minde, 2003, p. 77). As such, Sámi actors, organisations and activists had little reason to trust the motivations of NVE and, by extension, the Norwegian government. As such, the choice to build the Alta dam despite protests against its construction brought the Norwegian government's seeming contempt into clear focus.

The second permissive condition was one built by the Sámi themselves. In the years leading up to Alta the groundwork had been laid to create a parallel civil and political society built a strong foundation for political activism. However, it was through its international connections that these organisations transformed from, to quote Henry Minde again, a "pressure group for the disadvantaged to becoming a mouthpiece for international human rights"(Minde, 2003, p. 79). As such, through the protests, court battles and police actions, the Sámi brought with them the understanding that this was about more than just a dam, it was about defending their rights to their lands and their culture, a struggle that was paralleled across the world (Crossen, 2014).

Thus, as the Alta crisis took off, it was these activists who offered up the productive condition of the conflict: an institutional shift towards the enshrinement of Sámi rights. The alternative was the continuation of a state of political hostility and potential instability that the Norwegian government, through its efforts in establishing the Sámi Committee in 1965, did not wish to continue (Minde, 2003). The Alta conflict resulted in institutional change that broke from the old institutional thinking, towards the new. It is in this environment that the current Fosen case protests take place, and it is on this basis that we consider the conditions that face the potential breakthrough.

Case 2: The Fosen Case (2010 - Present)

The Flourishing of Legal Sámi Rights

In the four decades following the end of the Alta conflict, the state of Sámi rights transformed. No longer the subject of assimilation and marginalisation, Sámi rights, languages and culture became strictly protected under what became Article 108 of the Norwegian constitution in 1988 (Vik & Semb, 2013). Two years later this was followed up with the adoption of the International Labour Organisation's Convention No. 169 concerning Indigenous and Tribal Peoples (ILO 169), making it the first state to do so (Henriksen, 2008, p. 5). This legally binding treaty, amongst other points, further strengthened the protections for Sámi culture and language rights, which were considered fundamental Indigenous rights (ILO, 1989). More directly to this case, however, ILO 169 required free, prior and informed consent to be obtained for any development regarding Indigenous rights and territory. Taken as a whole, Article 108, ILO 169, and the ratification of the International Convent on Civil and Political Rights (ICCPR) in 1999 have built a strong and seemingly unassailable right for the Sámi to live as they see fit on their own lands, using their own language (Ravna, 2020).

In 2007, Norway further added to these protections, which were already quite bespoke, by adopting the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), strengthening an already robust institution of Sámi rights being at the forefront of Norwegian law (Ravna, 2020). This is perhaps why Fosen is so surprising. After three decades of increasing rights protection for Sámi culture, language and land rights, as evidenced by the ongoing Finnmark estate, the relative silence from the government after the Fosen verdict appears, on its face, to be out of step (Ravna, 2023; Spitzer & Selle, 2019). Whether this will become a critical juncture remains to be seen, but let us now turn to look at how this current moment has developed and what conditions are in place for a shift in policy priorities.

Critical Antecedent 1: The Facts of the Fosen Case

The events that ultimately resulted in the Alta case coming to the Supreme Court began in 2010. In June of that year, NVE, the same directorate that gave the go-ahead for the construction of the Alta dam, issued licenses to build four wind farms on the Fosen peninsula, which is located in Trondelag county ("HR-2021-1975-S (Fosen)," 2021, p. 3). Of the four wind farms, two in particular became the focus of the case, the Roan and the Storheia installations. Due to reorganisation, these licenses would then fall into the hands of Fosen Vind, a state-backed energy company in 2016 ("HR-2021-1975-S (Fosen)," 2021). After these licenses were transferred, the way was made clear for construction on the peninsula. In 2019 the Roan wind farm was put into operation, with the Storheia site following in 2020 ("HR-2021-1975-S (Fosen)," 2021). With

Storheia's completion, the Fosen peninsula became home to the largest onshore wind power project in Europe to date.

Since the beginning, however, two siidas, the Sør-Fosen sijte and NordFosen siida, have legally pushed back against this process ("HR-2021-1975-S (Fosen)," 2021). This resistance has formed the basis for the ongoing court case that came to rest in front of the Supreme Court in 2021. The first judgement came in 2013 when the licenses were ruled legal, though minor changes to the footprint of the Storheia wind farm were required. In 2014 Fosen Wind, which was in the process of acquiring the licenses in question, demanded an appraisal of the damages that the Sámi Siidas faced from the operation of the windfarms in question ("HR-2021-1975-S (Fosen)," 2021). Sør-Fosen sijte countered that such an appraisal should be ruled inadmissible because the licenses in question were already in violation of ICCPR, specifically article 27 which gave specific protections of culture, which set the stage for what was to come. As this case wound through the courts, four questions became core to this case: whether the Fosen peninsula was lost to the Sámi as a winter grazing area, to what degree it damaged their livelihood, what sort of compensation was warranted, if at all and, finally, whether the Article 27 rights of the Sámi were violated (Ravna, 2023). However, there was a wider context under which these questions were considered.

Critical Antecedent 2: Environmental Politics

In contention more broadly was the question of whether the cultural rights of Sámi reindeer herders would be upheld over the economic and environmental interest of the Norwegian state through its partner Fosen Vind. Although the Fosen case appears to be about Sámi rights, it is part of a much political conversation ongoing with Norway (Inderberg, Rognstad, Saglie, & Gulbrandsen, 2019). Speaking in a more international context, the construction of the Fosen windfarms is part of a much wider push by nations across the world to transition from non-renewal energy sources to renewable sources, all as part of combating climate change. Norway has been at the forefront of this transition(Skjærseth & Rosendal, 2023). Its normative bono fides, favourable conditions for both hydro and wind power and wider societal and political favourability have meant that a veritable renewable boom has taken place (Anker, 2020).

However, this boom has been perceived by many Sámi, particularly reindeer herders, as a threat to their way of life and the rights they had fought hard for. One major concern is the effect wind power has on the well-being of reindeer, which have been argued to be negatively impacted by close exposure to wind turbines, resulting in a change in migration patterns (Eftestøl, Tsegaye, Flydal, & Colman, 2023; Tsegaye et al., 2017). As a result, Sámi herders and their allies have fought fiercely against such developments on traditional lands and herding pastures, as the development of such projects further limits the range of an already embattled industry (Normann, 2021). The term that has increasingly been used to refer to this conflict, is "Green colonialism", a term with resonant connotations (Kårtveit, 2021; Singh, 2021). The Fosen case ruling, then put this conflict into sharp relief, as one of the major arguments forwarded by the Fosen wind was the "green shift" that the industry was undertaking.

The Supreme Court Ruling and Initial Reception

As such, in early October the Norwegian Supreme Court made its ruling regarding the Fosen windfarms. In their view, the operating licenses had been granted in direct contravention of Sámi rights and the Norwegian government's obligations under Article 27 were violated ("HR-2021-

1975-S (Fosen)," 2021; NHRI, 2023; Ø. Ravna, 2023). More broadly, in their ruling, the supreme court of Norway argued that the licenses were invalid as a result of the windfarm developments being built contrary to the protection of reindeer herding activities, which had been further protected by Article 27 and in context with article 108 of the Norwegian constitution. Further, they argue that as the developments of these windfarms had changed the land completely, the result was that "the siidas' winter pastures are lost in important areas connected to reindeer husbandry - and thus to the reindeer herders' culture – in late winter ("HR-2021-1975-S (Fosen)," 2021, p. 24). What this means for the Siidas in question was the ultimate eradication of the grazing resources available, to such an extent that alternative compensation is not possible ("HR-2021-1975-S (Fosen)," 2021, p. 25). Finally, perhaps the most significant ruling for this article is the rejection of the "green shift" as a potential justification for wind farm development. As the court noted, "Article 27 ICCPR does not allow for a balancing of interests"("HR-2021-1975-S (Fosen)," 2021, p. 25). Human rights, and by extent, Sámirights come first. How this situation would be rectified, however, was left to the Norwegian government to decide.

In the wake of this ruling, the Fosen case was hailed as a reaffirmation of Indigenous rights and a curtaining of green industry overreach during a time in which Sámi's livelihoods had been put at risk (Buli & Terje, 2021). It was expected that the offending wind farms would be torn down and the land returned to the pasture land it originated as (Buli, 2021; Ravna, 2023). However, in the year following the ruling little work has been done. The Norwegian government, through the Ministry of Petroleum and Energy, has shown little willingness to comply with the verdict. Instead, the Ministry looked toward further remedies to compensate the Siidas while keeping the wind farms in operation. As Öyvind Ravna noted in his treatment of the case, "It is difficult to imagine that the wind turbines can continue to roll at Fosen, at least to a significant extent, without questions being asked about Norway's ability and willingness to comply with its obligations to the Sámi under international law, and not least, Norway's ability to comply with its own court decisions under national law" (Ravna, 2023: 175) In February 2023, just such questions were asked, not but outside observers, but by Sámi themselves.

Critical Juncture: the '500 Days' Protests and Government Response

Following five hundred days of inaction by the Ministry and the government at large, mass protests erupted in Oslo and across Norway. Activists came together in a manner not seen since Alta spearheaded by the youth wing of NSR, NSR-Nourat, and supported by various Sámi and environmental organisations (Natur og Ungdom, 2023). Marchers in gahki were once again seen on the streets, now with their traditional outfits turned inside out, something considered a striking statement of protest (Fouche, 2023). At one point activists occupied the entrance to the Ministry of Oil and Energy before being removed by police shortly afterwards (Eivind, 2023; Fouche, 2023). Their demands were simple, respect the verdict of the Supreme Court that the licenses were deemed invalid and have the windfarms removed (Natur og Ungdom, 2023).

The initial response from the Norwegian government was contrition, as the then minister for Oil and Energy, Terje Aasland, recognised that human rights had been violated and something had to be done to rectify the situation (Gaino Buljo, 2023). However, in the weeks and months since, government response has been muted, while the windfarms continue to stand. One of the stated reasons for this is concerns over what effect the loss of energy production would have on Trondolag County (Gaino Buljo, 2023). This is a stance that has been supported in the affected

region itself, but less so within the wider country (Eivind, 2023). Sámi activists remain wary of what will come next. Protests have continued sporadically both in Oslo and around Fosen, however in the latter case the police temporarily removed protesters, further muddying the waters (Grimstad, 2023; Utsi, 2023). What is clear, however, is that the Sámi and the Norwegian government remain at an impasse that has not been seen since Alta and that has implications for what comes next.

Analysis: The Conditions of Fosen and the Potential Tarnishing of Alta's Legacy

In 1979, the largest Sámi led protests ever seen in Norway erupted across Norway. The Alta conflict was a moment at which the rights of the Sámi to practice their culture and language and protect their traditional lands were forwarded as the alternative to the outdated and colonial policies of Norwegianisation (Minde, 2003). The Fosen case represents a clear challenge to this ongoing institution. Through the Norwegian government's continued inaction beyond minor concessions to the violation in question, the stability of the institution has been put into question (Ryland Ørnhaug, 2023). The legacy of Alta, in essence, faces being undermined. Returning to Soifer's model, we can see the underlying conditions that have been building to this point.

As mentioned previously, Historical Institutionalism is not usually used in ongoing cases. As such, it is difficult to determine Soifer's conditions as easily as for the Alta case. There remain many unknowns regarding the government's response, as well as what other factors have affected the Ministry of Oil and Energy's decision to withhold on calling for the removal of the wind farms (Grimstad, 2023). With that said, there are two potential conditions I wish to highlight which I consider proto-conditions, or conditions that may drive this situation to become a formal critical juncture. The first is the proto-permissive condition of the court's judgement, and the second is the proto-productive condition of the wider move towards renewable energy.

The permissive condition within this case can be most clearly seen in the decision of the Supreme Court to pass off remedial action to the Norwegian government ("HR-2021-1975-S (Fosen)," 2021; Ø. Ravna, 2023). Though perhaps unintentionally, this choice has created a gap between action and implementation that has had the consequence of the Ministry of Oil and Energy proverbially dragging its heels in determining an adequate response. As such, this has meant it has meant that the wind farms on Fosen continue to operate (Lønnum Andreassen, 2023). This state of affairs puts into direct question the government's willingness to follow through with the findings of its own legal system, which in turn has shaken the foundations on which the current institution of Sámi rights stands.

Second, there is the productive condition that is currently driving this move against this established regime, which is the ongoing green shift that has taken place over the past decade. Sámi reindeer herders are no strangers to renewable energy sources displacing their herds, but the current boom in green energy is markedly different (Fohringer, Rosqvist, Inga, & Singh, 2021; Össbo & Lantto, 2011). Spurred by the ongoing green push, the popularity of renewables in Norway has never been higher. In addition, the wider energy crisis that has swept Europe, and the wider world, has made this boom all the more acute. As such, the priorities of the Norwegian government, much like its European peers, have been fixed on building up this infrastructure and creating further sources of electricity (Skjærseth & Rosendal, 2023). As the ongoing Fosen case protests have shown, these priorities are now in conflict not just with the legal requirements handed down to the Supreme

Court, but also with the legal rights of the Sámi to their cultural practices. The question remains whether the Norwegian government intends to pursue this conflict to its logical conclusion.

Sámi activists, organisations and allies have signalled their concern regarding this clash of priorities since the start of this green transition. It is for this reason that the term "green colonialism" has begun to take hold (Kårtveit, 2021). It is no wonder then that a wind power farm, this generation's hydroelectric dam, would become the focal point of such a profound protest. The stakes are similar, but the scope is different. During the protests of Alta, the conditions that allowed it to come about were, in part, brought about because of the policy gap left by the official end of Norwegianisation, and the attitudes held over from that era. Today, the Fosen case represents a similar gap. Though much smaller, the approach that the Norwegian government has taken represents a potential breaking point. In essence, the Fosen case is not just like Alta, it is its mirror image. Whether it will result in the continuation of its legacy, or if this will mean a dramatic shift in policy, remains to be seen.

Looking, however briefly, towards the future outcomes it is clear that there will not be a return to the institution of the past. The Supreme Court's ruling on Fosen makes that abundantly clear, as do the ongoing structures of governance that have arisen in past years such as the Finnmark Estate and the continued commitments expressed as a result of the findings of the *Sannhets- og forsoningskommisjonen* (Truth and Reconciliation Commission) (Josefsen, Søreng, & Selle, 2016; Sannhets- og forsoningkommisjonen, 2023). The more likely outcome instead will be that the Norwegian government will continue to avoid the licensing issue while attempting to find a compromise that will keep its Green credentials intact while keeping to the spirit, if not the letter, of the Supreme Court ruling. Early indications demonstrate exactly this approach (Ryland Ørnhaug, 2023). Whether this will amount to a further push towards development remains undetermined, as does much about the current actions of the Norwegian government. The fact remains, however, that the Sámi, and their allies, will be closely watching whatever happens next.

Conclusions: The Continual Defence of Sámi Rights

To conclude, this article set out to discuss the comparison between the Alta conflict and the ongoing Fosen case protests from the perspective of Historical Institutional theory. The goal was to ask a simple question: how similar are the events and political conditions of Alta in the 1970s to ongoing events surrounding Fosen? To do this, I made use of Hillel David Soifer's model of critical junctures, which introduced the concepts of permissive and productive conditions to understand how such moments of institutional rupture come about. Combined with Slater and Simmons' concept of critical antecedents, which Soifer himself builds upon, I constructed a comparative case study to look at the two events.

Through these case studies, the major antecedents to the events and the most probable permissive and productive conditions were highlighted. In the case of Alta, it was the end of the policy of Norwegianisation collapsing without a viable alternative that allowed for a strong and sustained protest to offer up a rights-based alternative. In the case of Fosen, the ongoing events have centred around the failure of the Norwegian government to follow through with an adequate remedy regarding the now illegal wind farms. As Sámi activists have highlighted, this represents a clear threat to the ongoing institution of Sámi rights that have been in place since the 1980s.

Whether Fosen will ultimately become a true critical juncture, or whether it shall become a near miss is not currently known and will remain unknown for some time. Returning to the initial question posed: Is Fosen just like Alta? There are certainly parallels and there are similar conditions for a rupture to happen. However, should such a critical juncture happen, it may not be to the degree of the Alta conflict, as the core institution of Sámi rights in Norway remains much stronger than the older assimilationist policies in place at the time of Alta. The threat remains, however, that it would perhaps require a much more compelling force to shift the institution. Instead, this represents a challenge towards an institution that has, so far, held strong.

Once the Fosen case protests come to whatever conclusion awaits, a further evaluation of this conclusion will be needed, as well as a further assessment of the factors involved. Until then, this piece should serve as a strong jumping-off point for further discussion. Further work is needed to better understand the effect decarbonisation efforts have on the wider struggle for greater Indigenous rights, as Fosen demonstrates such tension exists even in a state that has ostensibly striven to strike a balance between the two interests.

References

Aanesland, S. M. (2021). *Altasaken: fra likeverd mot selvstyre: Altasaken og dens betydning for norsk samepolitikk, samiske rettigheter og samisk nasjonsbygging i Norge*. University of Agder,

Andersen, S. S., & Midttun, A. (1985). Conflict and Local Mobilization : The Alta Hydropower Project. *Acta Sociologica, 28*(4), 317-335.

Anker, P. (2020). *The power of the periphery: How Norway became an environmental pioneer for the world*: Cambridge University Press.

Broderstad, E. G. (2011). The promises and challenges of self determination: The Sami Case. *International Journal, 66*(4), 983-907.

Buli, N. (2021). Norway wind turbines should be torn down, reindeer herders say. Retrieved from https://www.reuters.com/business/environment/norway-wind-turbines-should-be-torn-down-reindeer-herders-say-2021-11-12/

Buli, N. S., Terje. (2021). Two Norway wind farms lose licence in landmark ruling over indigenous rights. *Reuters*. Retrieved from https://www.reuters.com/world/europe/two-norway-wind-farms-lose-licence-landmark-ruling-over-indigenous-rights-2021-10-11/

Cappoccia, G. (2016). Critical Junctures. In O. Fioretos, T. G. Falleti, & A. Sheingate (Eds.), *The Oxford Handbook of Historical Institutionalism* (pp. 89-106). Oxford: Oxford University Press.

Cappoccia, G., & Kelemen, R. D. (2007). Theory Narrative and Counterfactuals in Historical Insitutionalism. *World Politics, 59*(5), 341-369.

Crossen, J. (2014). *Decolonization, Indigenous Internationalism, and the World Council of Indigenous Peoples.* (PhD). University of Waterloo, Waterloo.

Crossen, J. (2017). Another Wave of Anti-Colonialism: The Origins of Indigenous Internationalism. *Canadian Journal of History, 52*(3), 533-559.

Eftestøl, S., Tsegaye, D., Flydal, K., & Colman, J. E. (2023). Effects of Wind Power Development on Reindeer: Global Positioning System Monitoring and Herders' Experience. *Rangeland Ecology & Management, 87*, 55-68.

Eivind, M. M., Håkon. (2023). Én av to mener Fosen-anlegget bør stoppes. *NRK*. Retrieved from https://www.nrk.no/sapmi/meningsmaling-om-fosen_-en-av-to-mener-anlegget-bor-stoppes-1.16376449

Fioretos, O., Falleti, T. G., & Sheingate, A. (2016). Historical Institutionalism in Political Science. In O. Fioretos, T. G. Falleti, & A. Sheingate (Eds.), *The Oxford Handbook of Historical Institutionalism* (pp. 3-28). Oxford: Oxford University Press.

Fohringer, C., Rosqvist, G., Inga, N., & Singh, N. J. (2021). Reindeer husbandry in peril?—How extractive industries exert multiple pressures on an Arctic pastoral ecosystem. *People and nature (Hoboken, N.J.), 3*(4), 872-886. doi:10.1002/pan3.10234

Fouche, G. K., Victoria. (2023). Greta Thunberg detained by Norway police during pro-Sami protest. *Reuters*. Retrieved from https://www.reuters.com/world/europe/greta-thunberg-detained-by-norway-police-during-demonstration-2023-03-01/

Gaino Buljo, M. L. S., Ingrid. (2023). Advokat: – Staten har medvirket til å gjøre samer til «skyteskiver». *NRK*. Retrieved from https://www.nrk.no/sapmi/mener-staten-har-gjort-samene-til-_skyteskiver_-_-de-blir-utsatt-for-press-og-hets-1.16327972

Gaski, H. (1993). The Sami People: The" White Indians" of Scandinavia. *American Indian culture and research journal, 17*(1), 115-128.

Grimstad, T. N., Siamak; Eltervåg Cisse, Mariam; Skei, Lisbeth. (2023). Aktivister er klare for å aksjonere på nytt i Fosen-saken. *NRK*. Retrieved from https://www.nrk.no/norge/aktivister-er-klare-for-a-aksjonere-pa-nytt-i-fosen-saken-1.16333666

Hall, P. A., & Taylor, R. C. R. (1996). Political Science and the Three New Institutionalisms. *Political Studies, 44*(5), 936-957. doi:10.1111/j.1467-9248.1996.tb00343.x

Henriksen, J. B. (2008). The continuous process of recognition and implementation of the Sami people's right to self-determination. *Cambridge Review of International Affairs, 21*(1), 27-40. doi:10.1080/09557570701828402

Henriksen, J. B. (2008). Research on best practices for the implementation of the principles of ILO Convention No. 169. *OIT, Sitio web: http://www. ilo. org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_118120. pdf*, 49-51.

Hjorthol, L. M. (2006). *Alta : kraftkampen som utfordret statens makt*. Oslo: Gyldendal akademisk.

HR-2021-1975-S (Fosen) (Norwegian Supreme Court 2021).

C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169), (1989).

Inderberg, T. H. J., Rognstad, H., Saglie, I.-L., & Gulbrandsen, L. H. (2019). Who influences windpower licensing decisions in Norway? Formal requirements and informal practices. *Energy Research & Social Science, 52*, 181-191.

Josefsen, E., Mörkenstam, U., & Saglie, J. (2014). Different Institutions within Similar States: The Norwegian and SwedishSámediggis. *Ethnopolitics, 14*(1), 32-51. doi:10.1080/17449057.2014.926611

Josefsen, E., Søreng, S. U., & Selle, P. (2016). Regional governance and indigenous rights in norway: the Finnmark estate case. *Indigenous peoples' governance of land and protected territories in the Arctic*, 23-41.

Kalstad, J. K. H. (2013). ČSV–sámi nationalisttaid dahje sámenašuvnna doaimmalaččaid muitun. *Koloratiivakonstrukšuvdna Hans Aslak Guttorma girjjiin*, 29-48.

Kårtveit, B. (2021). Green colonialism: The story of wind power in Sápmi. In *Stories of Change and Sustainability in the Arctic Regions* (pp. 157-177): Routledge.

Lantto, P. (2000). *Tiden börjar på nytt: en analys av samernas etnopolitiska mobilisering i Sverige 1900-1950*. Umeå University,

Lantto, P. (2010). Borders, citizenship and change: the case of the Sami people, 1751–2008. *Citizenship Studies, 14*(5), 543-556.

Lønnum Andreassen, B. (2023). Reindeer herders want Norwegian wind farm demolished Retrieved from http://www.nordiclabourjournal.org/i-fokus/in-focus-2022/theme-the-green-shift/article.2022-03-18.6489804485

Minde, H. (2003). The Challenge of Indigenism: The Struggle for Sami Land Rights and Self-Government in Norway 1960-1990. In S. Jentoft, H. Minde, & R. Nilsen (Eds.), *Indigenous Peoples: Rsource Management and Global Rights* (pp. 75-104). Delft: Eburon Academic Publishers.

Minde, H. (2005). *Fornorskinga av samene: hvorfor, hvordan og hvilke følger*: Kompetansesenteret for urfolks rettigheter.

Natur og Ungdom. (2023). 500 dager med menneskerettighetsbrudd: vi okkuperer Olje- og Energidepartementet. Retrieved from https://www.nu.no/500-dager-med-menneskerettighetsbrudd-vi-okkuperer-olje-og-energidepartementet/

NHRI. (2023). About the wind farms on Fosen and the Supreme Court Judgement. Retrieved from https://www.nhri.no/en/2023/about-the-wind-farms-on-fosen-and-the-supreme-court-judgment/

Normann, S. (2021). Green colonialism in the Nordic context: Exploring Southern Saami representations of wind energy development. *Journal of community psychology, 49*(1), 77-94.

NSR. (2021). NSRs historie. Retrieved from https://nsr.no/om-oss/nsrs-historie/

Össbo, Å., & Lantto, P. (2011). Colonial Tutelage and Industrial Colonialism: reindeer husbandry and early 20th-century hydroelectric development in Sweden. *Scandinavian Journal of History, 36*(3), 324-348. doi:10.1080/03468755.2011.580077

Peters, B. G., Pierre, J., & King, D. S. (2005). The Politics of Path Dependency: Political Conflict in Historical Institutionalism. *The Journal of politics, 67*(4), 1275-1300. doi:10.1111/j.1468-2508.2005.00360.x

Rantala, L. (2004). *Sámiráđđi 50 jagi – Historihkka*. Sámi Conference. Saami Council, Honningsvåg.

Ravna, O. (2014). The Fulfilment of Norway's International Legal Obligations to the Sámi - Assessed by the Protection of Rights to Lands, Waters and Natural Resources. *International Journal on Minority and Group Rights, 21*(3), 297-329. doi:10.1163/15718115-02103001

Ravna, Ø. (2020). *Sami law and rights in Norway – with a focus on recent developments*: Taylor & Francis.

Ravna, Ø. (2023). The Fosen Case and the Protection of Sámi Culture in Norway Pursuant to Article 27 iccpr. *International Journal on Minority and Group Rights, 1*(aop), 1-20.

Ryland Ørnhaug, E. L. S., Ingrid (2023, 15/05/2023). Nå møter Fosen-samene Riksmekleren for første gang: – Ingenting skal være uprøvd. *NRK*.

Sannhets- og forsoningkommisjonen. (2023). *Sannhet og forsoning - grunnlag for et oppgjør med fornorskingspolitikkk og urett mot samer, kvener/norskfinner og skogfinner*. Retrieved from Oslo:

Schmidt, V. A. (2010). Taking ideas and discourse seriously: explaining change through discursive institutionalism as the fourth 'new institutionalism'. *European political science review, 2*(1), 1-25. doi:10.1017/S175577390999021X

Singh, S. (2021). Green colonialism. *Fourth World Journal, 21*(2), 117-122.

Skjærseth, J. B., & Rosendal, K. (2023). Implementing the EU renewable energy directive in Norway: from Tailwind to Headwind. *Environmental Politics, 32*(2), 316-337.

Slater, D., & Simmons, E. (2010). Informative regress: Critical antecedents in comparative politics. *Comparative political studies, 43*(7), 886-917.

Soifer, H. D. (2012). The causal logic of critical junctures. *Comparative political studies, 45*(12), 1572-1597.

Spitzer, A. J., & Selle, P. (2019). Claims-Based Co-management in Norway's Arctic? Examining Sami Land Governance as a Case of Treaty Federalism. *Canadian Journal of Political Science, 52*(4), 723-741. doi:10.1017/S0008423919000301

Steinmo, S., Thelen, K. A., & Longstreth, F. (1992). *Structuring politics : historical institutionalism in comparative analysis*. Cambridge ;: Cambridge University Press.

Thelen, K. (1999). Historical Institutionalism in Comparative Politics. *Annual Review of Political Science, 2*, 369-404.

Tsegaye, D., Colman, J. E., Eftestøl, S., Flydal, K., Røthe, G., & Rapp, K. (2017). Reindeer spatial use before, during and after construction of a wind farm. *Applied animal behaviour science, 195*, 103-111.

Utsi, J. A. (2023, 09/07/2023). Tviler på politiets maktbruk på Fosen. *NRK*.

Vik, H. H., & Semb, A. J. (2013). Who Owns the Land? Norway, the Sami and the ILO Indigenous and Tribal Peoples Convention. *International Journal on Minority and Group Rights, 20*(4), 517-550. doi:10.1163/15718115-02004002