

## Introduction

In this submission, the Swedish Institute for Human Rights (the institute, established in 2022) places focus on Sami human rights, including Indigenous rights, in relation to the extractive industry, climate change and human rights in Sweden.

Our submission is by no means comprehensive but highlights a few well documented weaknesses and suggestions for ways forward regarding the protection of Sami rights in legislation, including sectoral laws, regulations and processes, meaningful participation, and cumulative impact assessments.

These are areas that are undergoing rapid change. The institute is new and has not undertaken any primary research in this field, but in dialogue with the institute, Sami rights holders describe it as one of the most challenging and central human rights concern. Informed by this, the institute has made a limited inventory of some recent relevant research, with the welcome support of the Rights and Equity Team at The Stockholm Environment Institute, an independent and international research organization.<sup>1</sup>

We thank for the opportunity to make this submission.

Indigenous Peoples in the Arctic are exposed to significant future risks due to climate change.<sup>2</sup> But already today, climate change has negative impacts on the Sami people and culture, including on reindeer herding practices, through changing weather patterns and events.<sup>3</sup> Simultaneously, the transition to carbon neutrality is increasing the pressure and interferences in Sami traditional areas, including through the exploration and extraction of minerals, as part of the Swedish government's green transition strategy.<sup>4</sup> As other Indigenous peoples, Sami culture and way of life are intimately linked to land and nature, which makes the Sami one of the groups in Sweden that are already experiencing significant effects of warming, which is significantly faster in the Arctic region than the global average.<sup>5</sup> Research demonstrates how climate change interacts with other drivers, where the loss of land and flexibility due to other forms of land use exacerbates vulnerabilities and limits adaptation options.<sup>6</sup> As natural resource extraction such as mining, forestry industry and hydropower is growing, along with tourism and climate change, the impact

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<sup>1</sup> <https://www.sei.org/about-sei/>

<sup>2</sup> IPCC AR6, Climate Change 2022: Impacts, Adaptation and Vulnerability, Cross-chapter Paper 6, pp. 2344-2349.

<sup>3</sup> CHARTER. (2019). *Drivers and Feedbacks of Changes in Arctic Terrestrial Biodiversity, EC Horizon 2020 Project*. Arctic Centre, University of Lapland, p. 9); Tyler, N., Hanssen-Bauer, I., Førland, E. J., & Nellemann, C. (2021, February). The Shrinking Resource Base of Pastoralism: Saami Reindeer Husbandry in a Climate of Change. *Frontiers in Sustainable Food Systems* (Volume 4); Hansen, I., Eilertsen, S., Kapfer, J., M Wagner, G., Bjørn, T.-A., Smuk, S., (2021). *Kartlegging av forskning på reindriftsområdet - kunnskapsgrunnlag og forskningsbehov*. NBIØ, pp. 38-39); (IPCC, 2022, pp. 4-56); (Zentner, Kecinski, Letourneau, & Davidson, 2019, p. 534); Saami Council, "Climate Change in Sápmi – an overview and a Path Forward", 2023, p. 84.

<sup>4</sup> En strategi för norra Sverige och för omställningen (2023) <https://www.regeringen.se/debattartiklar/2023/01/en-strategi-for-norra-sverige-och-for-omstallningen/>

<sup>5</sup> Rantanen, M., Karpechko, A.Y., Lipponen, A. et al. The Arctic has warmed nearly four times faster than the globe since 1979. *Commun Earth Environ* 3, 168 (2022). <https://doi.org/10.1038/s43247-022-00498-3>

<sup>6</sup> Stoessel, M., Moen, J., Lindborg, R., 2022. Mapping cumulative pressures on the grazing lands of northern Fennoscandia. *Scientific Reports* 12, 16044.

on reindeer herding is increasing. There is ample evidence that for mining alone “causes loss and fragmentation of reindeer herding and grazing area at the site itself, as well as associated damage through dams, tailings, transport corridors, power lines, disturbance zones, and avoidance due to dust and noise from blasting”<sup>7</sup>. Unless human rights sit at the core of the climate transition, there is a risk of more and growing conflicts, with increasing ineffective processes with many losers.

## 1) State duty to protect human rights

### **Measures, both mandatory and voluntary, at national level to foster business respect for human rights in the extractive sector?**

- The state has a range of laws, policies and measures that protect or promote the rights of the Sami people, including the constitutional recognition as an Indigenous people provided since 2010 and the rights that come with this recognition, as well as legislation and international obligations on the protection of national minorities.
- A new Act (2022:66) on consultation on issues concerning the Sámi people entered into force 2022 at national level, (in 2024 for regional and local levels) with the aim to promote the Sámi people's influence over issues affecting them. The new Act (2022:66) on consultation on issues concerning the Sámi people excludes a number of processes, including land use planning and environmental licensing. (The Act does not extend to companies, including even state-owned enterprises.)
- The Swedish government policy on sustainable business states that “the government expects Swedish businesses operational in Sweden or abroad to follow a number of different international guidelines on responsible business as a basis for their work.”<sup>8</sup> The policy refers explicitly to the UN Guiding Principles on Business and Human Rights (UNGPs), the OECD Guidelines for Multinational Enterprises and UN Global Compact.”<sup>9</sup>
- Swedish legislation does not provide for requirements on companies to undertake sustainability or human rights due diligence processes. In the strategy under SDG 12 on sustainable production and consumption, Sweden commits to encouraging “businesses, in particular large and multinational companies, to introduce sustainable methods and to integrate sustainability information in its reporting cycles.”<sup>10</sup> The term “encouragement” reflects the absence of binding regulations for businesses to respect human rights.

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<sup>7</sup> Herrmann et al., 2014; Kivinen and Kumpula, 2014; Skarin and Åhman, 2014; Lawrence and Kløcker Larsen, 2019

<sup>8</sup> In the Swedish language original: Regeringen förväntar sig att svenska företag som är verksamma i Sverige eller i utlandet följer ett antal olika internationella riktlinjer för ansvarsfullt agerande som utgångspunkt för sitt arbete.”

<sup>9</sup> The Swedish government policy for sustainable business:  
[https://www.regeringen.se/contentassets/a37e57cb322948c09cb7e963875c2e6d/faktablad\\_hallbart\\_foretagande\\_160510\\_webb.pdf](https://www.regeringen.se/contentassets/a37e57cb322948c09cb7e963875c2e6d/faktablad_hallbart_foretagande_160510_webb.pdf)

<sup>10</sup> Our translation, <https://www.regeringen.se/regeringens-politik/globala-malen-och-agenda-2030/agenda-2030-mal-12-hallbar-konsumtion-och-produktion/>

- The Swedish government has welcomed the proposal for a directive of the European Parliament and of the Council on Corporate sustainability due diligence (CSDDD) and amending directive EU 2019/1937 (Procedure 2022/0051/COD), which will require companies within the scope to account of the human rights, climate and environmental impacts. However, the Swedish government has stated that the proposal needs further analysis, and some ambiguities must be clarified in the course of the negotiation work.<sup>11</sup>

- Sweden has an OECD National Contact Point (NCP), which is located under the Ministry of Foreign Affairs and is headed by the Ambassador for Sustainable Business<sup>12</sup>. Different stakeholders can report companies that they believe have violated the OECD guidelines for multinational companies. The NCP is also tasked to inform about and promote the guidelines and be a forum for dialogue on issues related to the implementation of the guidelines.

- The Swedish government has a national human rights policy from 2016.<sup>13</sup> The government has stated that the strategy will be monitored and evaluated on an ongoing basis, and the most recent evaluation concerned human rights training of public officials.<sup>14</sup> The strategy has not been updated since 2016 and its current status is unclear.

- Sweden has committed to becoming “the world’s first fossil-free welfare state, reaching net zero emissions by 2045 at the latest,” and highlights that in the implementation of this shift, “consideration should be given to safeguarding nature’s contribution to people and ecosystem services, biodiversity and strengthening land tenure rights, with a particular emphasis on the vulnerability of people living in rural areas.”<sup>15</sup> The Swedish government’s climate policy underscores the need for technological transitions through an innovation policy and support for green technology.<sup>16</sup>

- The Swedish government’s ownership policy regarding state-owned enterprises,<sup>17</sup> including large land- and resource dependent businesses,<sup>18</sup> comprise a mix of requirements and non-binding expectations, calling on state-owned enterprises to act in an “exemplary way in the area of sustainable business”, using international guidelines (the UN Global Compact, the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises), the 2030 Agenda and the global Sustainable Development Goals. The ownership policy also states that rules on sustainability reports in the Swedish Annual Accounts Act that apply to large companies, require state-owned enterprises to include information on matters related to the environment, personnel and social conditions, respect for human rights and anti-

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<sup>11</sup> Regeringskansliet, Faktapromemoria 2021/22: FPM71 Direktiv om tillbörlig aktsamhet för företag i fråga om hållbarhet

<sup>12</sup> <https://www.regeringen.se/regeringens-politik/handelspolitik-och-framjande/nationella-kontaktpunkten/>

<sup>13</sup> Regeringens skrivelse 2016/17:29. Regeringens strategi för det nationella arbetet med mänskliga rättigheter

<sup>14</sup> Statskontoret, Uppföljning av vissa insatser inom området mänskliga rättigheter (2022:13).

<sup>15</sup> Prop. 2019/20:65 En samlad politik för klimatet – klimatpolitisk handlingsplan,

[https://sustainabledevelopment.un.org/content/documents/26672Sweden\\_and\\_LNOB\\_2020.pdf](https://sustainabledevelopment.un.org/content/documents/26672Sweden_and_LNOB_2020.pdf)

<sup>16</sup> Prop. 2019/20:65, En samlad politik för klimatet – klimatpolitisk handlingsplan, s. 43.

<sup>17</sup> <https://www.regeringen.se/rapporter/2020/03/statens-agarpolicy-och-principer-for-bolag-med-statligt-agande-2020/>

<sup>18</sup> E.g Vattenfall, LKAB och Sveaskog.

corruption where these are judged material to the enterprise or its stakeholders. (The current sustainability reporting will be replaced by the EU Corporate Sustainability Reporting Directive.)

**If so, are these measures effectively enforced and do they provide the necessary coverage in light of evolving circumstances, including energy transition plans? Is greater clarity necessary in some areas of law and policy? What measures may reasonably correct this situation?**

- The constitutional protection of Indigenous rights is not reflected in legislation that relates to Sami culture or activities, nor is international human rights law that protects Indigenous rights reflected in sectoral laws or regulations. Recent research shows this to be true for both substantive and procedural protection.<sup>19</sup> The gap makes the Sami culture and Sami way of life vulnerable in light of the substantive re-industrialisation that the state envisions in Swedish Sápmi.<sup>20</sup> Recent studies have shown how actual impacts of mining on Sami lands greatly exceeded the estimates of the impacts made by the companies or Swedish government actors prior to the developments – an issue partly provoked by a host of weaknesses in Swedish legislation on environmental assessments, notably when it comes to social and cultural impacts.<sup>21</sup> In its concluding observations in 2018, the CERD committee expressed concern over among other things “(a) the insufficient legislation to fully guarantee the right to free, prior and informed consent, while natural resource extraction, industrial and development projects continue; (b) the insufficient legislation to protect the rights of the Sami people in their traditional lands”.<sup>22</sup>

- A practice to undertake a “reindeer herding impact assessment” (RHIA, rennäringsanalys in Swedish) has emerged among mining companies. These assessments have been carried out, at least to some extent, in cooperation with affected RHCs. Yet, a review of Environmental impact assessment from 56 mining concession applications (Kløcker Larsen et al., 2018) shows that the performance of these voluntary measures remains poor, even for those companies who are considered relative frontrunners.

- The Swedish Sami Parliament was established by law in 1992 to institutionalise Sami self-determination. Yet, there are long-running concerns over to what degree its structure, functioning and decision-making allows it genuinely participate in and influence decisions that affect the Sami people.<sup>23</sup>

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<sup>19</sup> See e.g. Kaisa Raitio, Christina Allard and Rebecca Lawrence, “Mineral extraction in Swedish Sápmi: The regulatory gap between Sami rights and Sweden’s mining permitting practices,” *Land Use Policy* 99 (2020): chapter 3. <https://doi.org/10.1016/j.landusepol.2020.105001>.

<sup>20</sup> <https://www.regeringen.se/debattartiklar/2023/01/en-strategi-for-norra-sverige-och-for-omstallningen/>

For recent research see e.g. Össbo, Å., 2023. Back to square one. green sacrifice zones in Sápmi and Swedish policy responses to energy emergencies. *Arctic Review on Law and Politics* 14, 112–134.

Löf, A., Raitio, K., Forbes, B.C., Labba, K., Landauer, M., Risvoll, C., Sarkki, S., 2022. Unpacking reindeer husbandry governance in Sweden, Norway and Finland: A political discursive perspective, in: *Reindeer Husbandry and Global Environmental Change*. Routledge, pp. 150–172.

<sup>21</sup> <https://doi.org/10.1016/j.exis.2022.101051>

<sup>22</sup> CERD/C/SWE/CO/22-23, 2018. Concluding Observations on the Combined Twenty-second and Twenty-third Periodic Reports of Sweden.

<sup>23</sup> See e.g. Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, Addendum The situation of the Sami people in the Sápmi region of Norway, Sweden and Finland\* (A/HRC/18/35/Add.2) and <https://www.jstor.org/stable/26557834>. Mörkenstam, U., 2019. Organised hypocrisy? The implementation of the international Indigenous rights regime in Sweden. *The International Journal of Human Rights* 23, 1718–1741.

- The reindeer herding right is a usufructuary, the protection of which is on par with the constitutionally protected property right. Reindeer herding constitutes both a public and an individual interest. The individual interest (civil law) must be represented by reindeer husbandry communities (RHC, in Swedish *samebyar*). The public interest (reindeer herding as a basis for Sami culture and a traditional livelihood) must be monitored by the authorities, and the authorities must also make balances when interests collide. The protection of Sami people's rights to land, water and natural resources is specified above all through the Reindeer Husbandry Act (RNL 1971:437). This primary law concerning Sámi rights and regulations of natural resource exploitation has not been updated in accordance with the state's duty to protect the rights of Sami.<sup>24</sup><sup>25</sup> <sup>26</sup> The legal protection does not extend to non-reindeer herding Sami, who are in the majority.

- In 2020, a significant Supreme Court decision, referred to as the Girjas case (“Girjas” NJA 2020 s. 3, p. 93-94), international standards were clarified as having bearing on Sweden. The court expressed that it considered international law, including the ILO Convention 169 to which Sweden is not a party, is of vital importance in such cases. As argued by Allard and Brännström (2021): “The Court referred to Article 8.1 and Article 14.2 of the Convention, and concluded that Article 8.1 (Indigenous customary norms) expressed a general principle of law, as well as to UNDRIP Articles 26 and 27 its legal relevance in cases like this, calling for “evidentiary relaxation” in Sami law cases.”<sup>27</sup>

“The Court considered that despite the fact the Swedish law adheres to the dualistic principle, it was natural that public international law principles influence the interpretation of domestic law even where such norms have not been transposed via legislation. This is an enormously significant step taken by a Court in Sweden. The Supreme Court repeats in several places in its decision that the Sami are an Indigenous people (and ethnic minority) and thus warrant special protection because of their status.”<sup>28</sup> In 2021, the Swedish government appointed a parliamentary committee - Committee on Reindeer Lands - to review the Reindeer Act and present reformed legislative proposals in line with the Supreme Court decision and Sweden's international human rights obligations, with a deadline in 2025.<sup>29</sup>

- There is no legislation that includes standards for giving Sami people free, prior and informed consent for measures or projects impacting on their traditional land or resources, even when impact on Indigenous communities is substantial, such as those resulting from large-scale natural

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<sup>24</sup> Allard, Christina and Brännström, Malin, Girjas Reindeer Herding Community v. Sweden: Analysing the Merits of the Girjas Case, Arctic Review on Law and Politics, Vol. 12, 2021, pp. 56–79

<sup>25</sup> SFS 1971:437 Rennäringslagen, §1

<sup>26</sup> The reindeer herding right is a usufructuary right, the protection of which is on par with the constitutionally protected property right. Reindeer herding constitutes both a public and an individual interest. The individual interest (civil law) must be represented by the Sami village. The public interest (reindeer herding as a basis for Sami culture and a traditional livelihood) must be monitored by the authorities, and the authorities must also make balances when interests collide. Regeringsformen 2 kap. 18 §

<sup>27</sup> Allard, Christina and Brännström, Malin, Girjas Reindeer Herding Community v. Sweden: Analysing the Merits of the Girjas Case, Arctic Review on Law and Politics, Vol. 12, 2021, pp. 56–79

<sup>28</sup> Ibid. see Conclusions

<sup>29</sup> Dir. 2021:35, En ny renskötsellagstiftning – det samiska folkets rätt till renskötsel, jakt och fiske.

resource extraction on their traditional territories.<sup>30</sup> There are to date no guidelines developed by the state and rights holders that operationalize UNGP and/or the principle of Free, Prior and Informed Consent (FPIC), and measures to address the power imbalance between Reindeer Herding Communities and companies are lacking.<sup>31</sup>

- Tools for regulating and ensuring Sámi influence over land use governance and permission processes are weak.<sup>32</sup> Weak protection of the right to participation and consultation has been central in international criticism of Sweden. In its most recent resolution on Sweden's implementation of the Framework Convention for the protection of national minorities, in 2018, the Committee of Ministers called on Sweden to immediately "increase and formalise opportunities for the Sami to participate in a meaningful and effective way in decision-making processes affecting them at municipal, county and national levels and ensure that the Sami can maintain and develop their culture whenever decisions are taken that affect areas inhabited traditionally by them."<sup>33</sup> In an opinion communicated to Sweden in 2020 in relation to a the Rönnbäcken mining concessions, CERD specifically stated that: "Development and exploitation of natural resources, as a legitimate public interest, does not absolve States parties from their obligation not to discriminate against an Indigenous community that depends on the land in question by mechanically applying a procedure of consultation without sufficient guarantees or evidence that the free, prior and informed consent of the members of the community can be effectively sought and won."<sup>34</sup>

- There is ongoing review of legislation to strengthen the sustainable supply of innovation critical minerals is in draft form in a government inquiry report (SOU 2022:56, En tryggad försörjning av metaller och mineraler). The inquiry is assigned to review permit processes and regulations to create preconditions for a resilient provision of innovation-critical metals and minerals from primary and secondary sources. The inquiry report, currently reviewed by the Swedish government offices, contains human rights language in general terms, and underlines the particular conditions and situation for the Sami, including reindeer herders. It includes suggestions on strengthening local dialogue, including a draft requirement on companies with exploration licences to pay Sami villages for their work in planning and consultations. The Sami parliament has expressed regret that the proposal falls short of bridging the gap between Indigenous people's rights and the regulatory framework, and that a preambular statement on the purpose of the law had been removed, namely "The purpose of this law is to enable exploration and processing of concession minerals, ensuring such take place in an economic, social and

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<sup>30</sup> See e.g. EMRIP, Progress report on the study on Indigenous peoples and the right to participate in decision-making - Report of the Expert Mechanism on the Rights of Indigenous Peoples, 23 augusti 2010, A/HRC/15/35, paras 34.

<sup>31</sup> Kløcker Larsen, R., & Raitio, K. (2019). Implementing the State Duty to Consult in Land and Resource Decisions: Perspectives from Sami Communities and Swedish State Officials. *Arctic Review on Law and Politics*, 10, 4–23. <https://doi.org/10.23865/arctic.v10.1323>.

<sup>32</sup> Raitio et al. 2020, Löf, A., Raitio, K., Forbes, B.C., Labba, K., Landauer, M., Risvoll, C., Sarkki, S., 2022. Unpacking reindeer husbandry governance in Sweden, Norway and Finland: A political discursive perspective, in: *Reindeer Husbandry and Global Environmental Change*. Routledge, pp. 150–172.

<sup>33</sup> ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES (Published on 16 oktober 2017) ACFC/OP/IV(2017) 004, Fourth Opinion on Sweden – adopted on 22 June 2017.

<sup>34</sup> CERD/C/102/D/54/2013, 18 December 2020.

ecologically sustainable manner, in which Indigenous peoples rights are taking into consideration”<sup>35</sup>

- At the EU level, the regulatory proposal for a framework for ensuring a secure and sustainable supply of critical raw materials is under review. This proposal includes human rights requirements on projects under the regulation: “The proposal requires that the Strategic Projects receiving support are implemented sustainably. Sustainable implementation means that the projects must be not only environmentally sustainable but also that they will respect the human rights set out in international instruments, guidelines and principles.” The proposal also states that “Projects should also ensure engagement in good faith as well as comprehensive and meaningful consultations with local communities, including with Indigenous peoples.”<sup>36</sup>

**What mechanisms or processes should exist at the State level (e.g., inter-ministerial committee, ex ante human rights impact and risk assessment) to assess and ensure that extractive sector operations, including the production and distribution of transition minerals, do not impact negatively human rights? Are these measures effectively enforced and do they provide the necessary coverage in light of energy transition plans, programs and activities?**

- In general terms, the recommendations from human rights experts could provide valuable roadmaps, including “to ensure that their mineral laws and policies are in line with international standards related to the rights of Indigenous peoples, including those requiring adequate consultations with the affected Indigenous communities and their free, prior and informed consent, mitigation measures, compensation and benefit sharing.”<sup>37</sup>

- The Swedish committee system has a central role in producing documentation in the form of reports for the Swedish government decisions and bringing in perspectives and knowledge. A proposal for a coherent regulation on comitology impact assessments has been developed with the aim of strengthening and clarifying the regulatory framework to ensure an appropriate basis for decision-making. The institute considers that the proposed impact regulation should explicitly apply to impact assessments in relation to the ECHR, the Act (2018:1197) on the United Nations Convention on the Rights of the Child (CRC), and Sweden's other obligations under international law in the area of human rights.<sup>38</sup>

- The Sami's traditional reindeer herding is a central part of Sami culture, protected by e.g. domestic and international law, the latter including the Council of Europe's Framework Convention for the Protection of National minorities (art 5) and the ICCPR (art 27).<sup>39</sup> A rights-based approach to developments would ensure that reindeer husbandry is not only framed as an

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<sup>35</sup> ” 1 kap. 1 § Syftet med denna lag är att möjliggöra undersökning och bearbetning av koncessionsmineral och säkerställa att detta sker på ett ekonomiskt, socialt och ekologiskt hållbart sätt, vari ingår att beakta ur-folks rättigheter.” (Our translation.)

<sup>36</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52023PC0160>

<sup>37</sup> In the words of the United Nations Special Rapporteur on the rights of Indigenous peoples, Victoria Tauli-Corpuz, on mission in Sapmi in 2015. <https://www.ohchr.org/en/press-releases/2015/08/land-and-resource-rights-are-key-sami-peoples-self-determination-un-rights>

<sup>38</sup> [https://mrinstitutet.se/wp-content/uploads/2022/01/remissvar\\_ds\\_2002\\_22\\_institutet\\_for\\_manskliga\\_rattigheter\\_anpassad.pdf](https://mrinstitutet.se/wp-content/uploads/2022/01/remissvar_ds_2002_22_institutet_for_manskliga_rattigheter_anpassad.pdf)

<sup>39</sup> Hagsgård, Renskötselfrågan och de allmänna intressena av samisk kultur och renskötsel i nationalparker och naturreservat (2016)

industry, but as a protected expression of Sami culture, in which reindeer herders **are** identified as rights holders and the broader cultural and livelihood dimensions associated with herding practices are considered.<sup>40</sup>

- Researchers describe a collaborative approach to cumulative impact assessments as advantageous in terms of taking account of cumulative effects of competing land-uses.<sup>41</sup> The County Board of Norrbotten has identified governance failure regarding cumulative environmental assessments as a specific obstacle to reducing the conflict level between mining companies and Sami communities (County Board of Norrbotten and Sweco, 2016:31-32).

- In strengthening rights-based approaches to environmental impact assessments, the Canadian example relating to Indigenous peoples could be explored. As Swedish legislation on EIA does not include an explicit duty for the state to consult the Sami as an Indigenous people,<sup>42</sup> the state expects developers to consult with Sami communities, who see limited possibility to exert real influence at that stage.<sup>43</sup> In Canada there is a development towards more consent-based decision making and growing partnership between nations. EIAs are independent from the developer and the exploration application process, with clearer regulations for consultation and assessing wider aspects, including social and cultural aspects.<sup>44</sup>

- Community-based impact assessments (CBIAs) provide an alternative to applicant-driven impact assessments and their poor outcomes for RHCs. For example, a CBIA was undertaken by Semisjaur Njarg RHC and researchers concerning a proposed copper mine in Laver. The CBIA was submitted to the Mining Inspector and County Administrative Board prior to the determination of the mining concession (Lawrence and Kløcker Larsen, 2017). The arguments within the CBIA regarding the mine's potential impacts on the RHC were used by the County Administrative Board in their own official submissions to the Minerals Inspectorate, indicating the value of such a report.<sup>45</sup>

- In terms of developing rights-based consultations between Sami communities and businesses in risk sectors, including the extractive industry, the state may consider to, together with rights holders, develop guidelines that operationalise UNGP and FPIC. Such a collaborative approach

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<sup>40</sup> See e.g. Löf et al (2022) Unpacking reindeer husbandry governance in Sweden, Norway and Finland. A political discursive perspective (In *Reindeer Husbandry and Global Environmental Change Pastoralism in Fennoscandia* (pp.150-172)) Sarkki, S., Heikkinen, H.I., Löf, A., 2021. Reindeer Herders as Stakeholders or Rights-Holders? Introducing a Social Equity-Based Conceptualization Relevant for Indigenous and Local Communities, in: Nord, D.C. (Ed.), *Nordic Perspectives on the Responsible Development of the Arctic: Pathways to Action*. Springer International Publishing, Cham, pp. 271–292. [https://doi.org/10.1007/978-3-030-52324-4\\_13](https://doi.org/10.1007/978-3-030-52324-4_13)

<sup>41</sup> Sami-State collaboration in the governance of cumulative effects assessment: a critical action research approach Kløcker Larsen, Raitio, et al (2017), Lawrence and Kløcker Larsen, 2019).

<sup>42</sup> Allard, C. 2016. Nordic Legislation on Protected Areas: How does it Affect Sami Customary Rights?, in: Elenius, L., Allard, C. and Sandström, C. (eds.), *Indigenous Rights in Modern Landscapes – Nordic Conservation Regimes in Global Context*. London: Routledge, 9-24.

<sup>43</sup> Sami-State collaboration in the governance of cumulative effects assessment: a critical action research approach Kløcker Larsen, Raitio, et al (2017).

<sup>44</sup> IAAC, plus Lindahl, Allard (2022).

<sup>45</sup> Raitio, Allard (2019).



to development of consultation guidelines has been actively requested by state officials in key regulatory agencies.<sup>46</sup>

- The climate policy action plan is to be updated in the autumn 2023<sup>47</sup> provides an opportunity to clarify the state's commitment to protecting Indigenous people's rights in a just climate transition, including providing an updated analysis on international standards on respect and protection of human rights broadly and Indigenous rights specifically on the state and business stakeholders.

- Engage in development of Indigenous data. The lack of disaggregated, anonymous data on some aspects of climate change effects, including mitigation and adaptation measures, on different groups in Sweden, especially in relation to ethnicity, makes monitoring and evaluation on effects and results difficult.<sup>48</sup>

**What roles should business enterprises in the extractive sector play to integrate human rights into ongoing energy transition plans and programs to address adverse human rights impacts? Please provide examples if possible.**

- The adoption of the EU CSDD Directive is an opportunity for the mining industry and other natural resource businesses to renew the relationship with Sami people, based on recognition of rights, respect, cooperation and partnership, which aligns with the aspirations of SDG 16. For companies to undertake proper HRDDs, they need stakeholder engagement as an ongoing process, developing knowledge and awareness at all levels so that external changes or new information are reflected in operations.

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<sup>46</sup> Kløcker Larsen, R., & Raitio, K. (2019). Implementing the State Duty to Consult in Land and Resource Decisions: Perspectives from Sami Communities and Swedish State Officials. *Arctic Review on Law and Politics*, 10, 4–23. <https://doi.org/10.23865/arctic.v10.1323>

<sup>47</sup> [Klimatpolitiska handlingsplanen](#)

<sup>48</sup> See Per Axelsson et al, samt OECD report [Linking the Indigenous Sami People with Regional Development in Sweden | en | OECD](#)