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# THE WIND COMMONS: PUBLIC OWNERSHIP FOR A FULL, JUST ENERGY TRANSITION



*Private interests are currently grabbing an enormous energy resource: wind. The transition away from fossil fuels, therefore, runs the risk of enriching elites – chiefly land-owners, whose property rights extend upwards by Medieval principle. They are reaping royalties while frequently depriving their land-poor neighbors of all economic benefit from wind farms. In response, excluded rural communities are propelling anti-turbine movements powerful enough to slow installation across Europe. So we need to address two problems at once: inequity and resistance to renewables. This paper proposes public, national ownership as the double solution. A commons of the wind will make the energy transition inclusive, universal, and, above all, more rapid than it is now.*

## WIND HITS A WALL

The world-saving energy transition is in trouble where one would least expect it. For the first 15 years of that shift – roughly from 1995 to 2010 - Spain added gigawatt after gigawatt of renewables, chiefly in wind turbines.

Eolian power reached 19% of the electrical grid and 50 gigawatts, the third highest absolute figure in the world. Then, wind farms hit an invisible Iberian wall.

The industry virtually stopped building wind farms. Now, the current third-place country, Germany, is hitting its own wall. Globally, investment has stopped accelerating.<sup>1</sup>

<sup>1</sup> “Renewable capacity growth worldwide stalled in 2018 after two decades of strong expansion,” (International Energy Agency, 6 May 2019), available at [https://www.iea.org/newsroom/news/2019/may/renewable-capacity-growth-worldwide-stalled-in-2018-after-two-decades-of-strong-e.html?utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=newsletter\\_axiosgenerate&stream=top](https://www.iea.org/newsroom/news/2019/may/renewable-capacity-growth-worldwide-stalled-in-2018-after-two-decades-of-strong-e.html?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosgenerate&stream=top); John Treat and Sean Sweeney, “Growth in renewables has stalled. Investment is falling. But why?” (Trade Unions for Energy Democracy, 17 May 2019), <http://unionsforenergydemocracy.org/growth-in-renewables-has-stalled-investment-is-falling-but-why/>; Brian Murray, “Stalling renewables growth raises concerns about global decarbonization efforts,” *Forbes*, 28 June 2019, <https://www.forbes.com/sites/brianmurray1/2019/06/28/stalling-renewables-growth-raises-concerns-about-global-decarbonization-efforts/#bc3e64a62a53>.

Across Europe, that wall is composed of the placards and the raised fists of local opponents. Each turbine takes a toll in beauty from rural inhabitants. Spinning rotors clutter their view and disrupt their silence. Where the machines occupy public land, government can channel the resulting revenue to schools, roads, household payments, or free electricity. Municipalities have often done so – and to great acclaim. Where turbines sit atop private estates, however, landlords monopolize revenue. The rural poor – sometimes composed of people excluded from estates since feudalism – gain no economic benefits. Meanwhile, they pay the full aesthetic price. That is neither fair nor, any longer, sustainable.

We cannot depend upon markets or the wind industry to fix this social problem or to address the climate emergency in full. One might expect the largest firms to offer economic incentives. They could easily compensate rural communities for any harm done. But unblocking the energy transition is not automatically in their interest. At a certain point, wind- and sun-generated gigawatts start to become over-abundant. Wind itself is so abundant as to be unmarketable. As wind-generated electricity proliferates, one would expect market forces to drive its price down or weaken any subsidies that may be supporting their price. The industry would like to avoid that scenario. And so it has stood aside as rural protest squeezes the supply of eolian gigawatts. Their business model depends upon scarcity.

Remember, too, that many “eco-investors” who provide capital for wind and solar farms are the same giant fossil fuel companies: ExxonMobil, BP, Shell, and so on. What is their scenario for success? Imagine that people steadily demand more electricity, resulting in a grid double the size of the current one, with renewables supplying 50% of that capacity. Investors in gas *and* wind would benefit. And, most important, the world would continue to burn fossil fuels at current rates. The grid would become increasingly “green,” while not cutting carbon emissions at all. Spain and Germany are on this un-ecological path right now, and the wind industry is happy to allow rural protest to keep it there.

## LAND AND ELITES

Wind power is extensive. Whereas a small hole in the ground can release enough oil or gas to power a city, the same energy generation from renewables requires windswept ridges and sunlit valleys. Conflict over space and aesthetics cannot be avoided. Solar panels compete directly with plants and agriculture. Wind turbines, fortunately, interleaf with crops or livestock, but their high profile spreads the aesthetic damage. Some see turbines more generously – as sublimely sustainable architecture. For most, however, this technology directly threatens traditional, apparently green ways of life. In relation to cities, rural people pay again. Crowded, built-up areas will, inevitably, harvest breezes and sunlight from less built hinterlands. Many in villages already resent such extraction.

These spatial qualities make wind power agrarian, centered on land tenure. The person who owns the land also owns the wind. So wrote the 14<sup>th</sup>-century Tuscan jurist, Cino da Pistoia. His principle of *ad coelum* – meaning “to the sky” – extends the property line vertically to an indefinite height.<sup>2</sup> Although the rule now permits planes to pass, each acre of wheat effectively comes with its own slab of atmosphere. As a result, landowners who contract with a wind firm earn twice: first, in royalties – paid as a portion of the value of electricity generated – and second in ground rent for the pad around each turbine.

In theory, small- and medium-scale farmers could get in on this game. But the expense and size of turbines keep them out of villages. Capital intensity and economies of scale work against communities. Installers of wind farms would prefer not to negotiate with multiple parties; so the ideal wind farm corresponds to one soil-based farm. As the machines have grown taller and larger, the plots have grown wider. Increasingly, the class richest in real estate is becoming rich in eolian wealth too. In some parts of Europe – notably southern Spain – *latifundios* as old as Pistoia are renewing their fortunes. Modern technology has revived archaic, retrograde social forms.

2 Troy A. Rule, *Renewable Energy: Law, Policy, and Practice* (St. Paul, MN: West Academic Publishing, 2018), pp. 160-63.

## THE ENERGY TRANSITION WITH PRIVATE WIND

Activists and politicians have proposed three means of facilitating the energy transition. As the first of these, market-based solutions are not likely to work for reasons explained above. Credit and price supports – lately proposed in the so-called European Green Deal – may influence the calculus of investors, but they will not placate or compensate rural resisters.<sup>3</sup> In fact, many of those measures may further enrich operators and land-owners, leaving rural communities even more deeply excluded. A second half-measure would confine wind farms to public land, where royalties naturally flow to the government and can be put to public purposes. So far so good, but public land is limited. Even if we build turbines offshore, we do not have enough government-owned, accessible, and buildable sites to achieve 100% grid density for renewables.

Finally, there is a growing movement in Europe against the liberalization and privatization of energy. Trade unionists and Leftists activists groups would put the infrastructure of electrical distribution, and possibly generation too, under public ownership for public benefit.<sup>4</sup> Adopting those fundamental reforms would check profiteering in the electricity sector. Through new forms of accountability, public ownership might even release funds for compensating the neighbors of wind farms. But landowners would still hold the upper hand. By raising the charge for royalties, they could still suck rents from the grid. So nationalizing electrical infrastructure is a necessary while insufficient condition. Ultimately, the public needs to appropriate the raw, wild, vastly valuable resource itself.

3 European Commission, “The European Green Deal,” (Brussels: 11 December 2019), [https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en).

4 See, for example, Vera Weghmann, “Going public: a decarbonized, affordable, and democratic energy system for Europe,” (European Federation of Public Service Unions, 2019), [https://www.epsu.org/sites/default/files/article/files/Going%20Public\\_EPSU-PSIRU%20Report%202019%20-%20EN.pdf](https://www.epsu.org/sites/default/files/article/files/Going%20Public_EPSU-PSIRU%20Report%202019%20-%20EN.pdf); “Bringing energy home: Labour’s proposal for publicly owned energy networks,” (London: the Labour Party, 2019), <https://www.labour.org.uk/wp-content/uploads/2019/03/Bringing-Energy-Home-2019.pdf>.

## SHARING THE WIND

A commons of the wind begins with one simple legal reform, overturning the *ad coelum* rule. In juridical terms, we must “sever” wind rights from land rights. This has been done before. Long ago, most states severed – or never attached – mineral rights to land rights. The owner of an estate has no claim on oil, gold, and so on just a few meters below. Those resources belong to government or to the people via the government. That form of socialism makes sense even to capitalists – at least to capitalists of the own-what-you-produce type. The farmer does not plant, water, and harvest gold. The farmer does not work for the breeze either. Indeed, few landowners even know that they also own wind. Think of that: a huge resource – far larger, in energy terms, than oil – is available for the people virtually at the turn of a legislative switch.

After flipping that switch, things do get a little more complex. Having nationalized the wind, governments must determine how to distribute royalties from wind farms. Landowners will still earn ground rents for turbine pads and access roads; so they do not merit any special share of royalties. Villages and municipalities surrounding wind farms may merit a disproportionate share – or the entire share – of those royalties as a compensation for aesthetic harms. Perhaps the “viewshed” of a turbine or of a transmission tower becomes the logical unit of beneficiaries. Where land is owned collectively – as in the Mexican *ejidos* – royalties could simply return to that cooperative unit. These questions will need to be adjudicated, perhaps struggled over. Even in the most contentious cases, though, rural people will probably find it easier to wring royalties out of distant governments than out of local landlords.

Finally, a word on the electricity bill: reforms in wind ownership and royalties should not affect either the producer or the consumer price of electricity. Operators have already paid the cost of royalties and passed it along to their customers. Where those royalties now circulate back to the customers, some people may earn more from wind power than they pay for it. In effect, they will receive free electricity.

That arrangement is ideal: to unblock the energy transition, public ownership will need to reward precisely the people now paying the toll for renewables. Remember, such rural, land-poor people are increasingly vetoing wind farms. And, as I write, corona virus is shuttering the hotels and restaurants that employ so many workers along Europe's windiest coasts. Advocates of eolian power have to win over these increasingly vulnerable people – to, at least, compensate them for harm done directly by the wind industry.

Royalties are the best tool. No other application of wind rights will satisfy this demand for fairness. The wind commons should, therefore, figure in a robust European Green Deal (and in the American Green New Deal) to push renewable energy and to push the economic benefits therefrom into the hands of vulnerable people and affected communities. . Ultimately, in order to stabilize the climate - wind needs justice.

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