

Article III

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The Arctic Railway Project: A Socio-Legal Review of the Encroachment of the Homeland of the Indigenous Sámi*

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Abstract: This article provides a socio-legal review of the Arctic Railway project, which aims to connect Norway's northernmost coast to the Finnish railway system. The research addresses the legal and political implications of railway planning, particularly when it encroaches on the Sámi Homeland in Finland. The article examines the framework of railway planning, which is driven mainly by security politics and industrial interests. The research draws on various sources, including stakeholder interviews, a round-table discussion, legislation, and reports. The study highlights the need for discussion on, firstly, how to ensure that the interests of all the parties are considered and, secondly, that the project is developed sustainably, justly, and in compliance with the law. The article argues that regardless of whether the railway project extends to the Sámi Homeland or not, the state should consider how to build trust in local communities. Strengthening the land use rights of Indigenous peoples would be one way to improve state-citizen relations in the Sámi Homeland.

Keywords: Law, Land use, Arctic, Railway, Indigenous rights, Politics, Governance

1. Introduction

The Arctic Railway is a centuries-old plan to connect the northernmost Norwegian coast to the Finnish railway system. The climate catastrophe has increased interest in railway building since the melting Arctic Ocean opens new sea lines. Irrespective of the success of global climate change mitigation, a seasonally ice-free

Arctic Ocean is projected to occur as early as the 2030s–2050s in all Co2 emission scenarios (Kim et al., 2023; see: Map 1.). Our research addresses the urgent need to increase understanding of the legal and political implications of railway planning, particularly when interfering with the Sámi Homeland (Sápmi) in Finland¹. (See: Act on the Sámi Parliament 17.7.1995/974). A new understanding is needed to avoid repeating historical wrongs in state relations to Indigenous land rights.

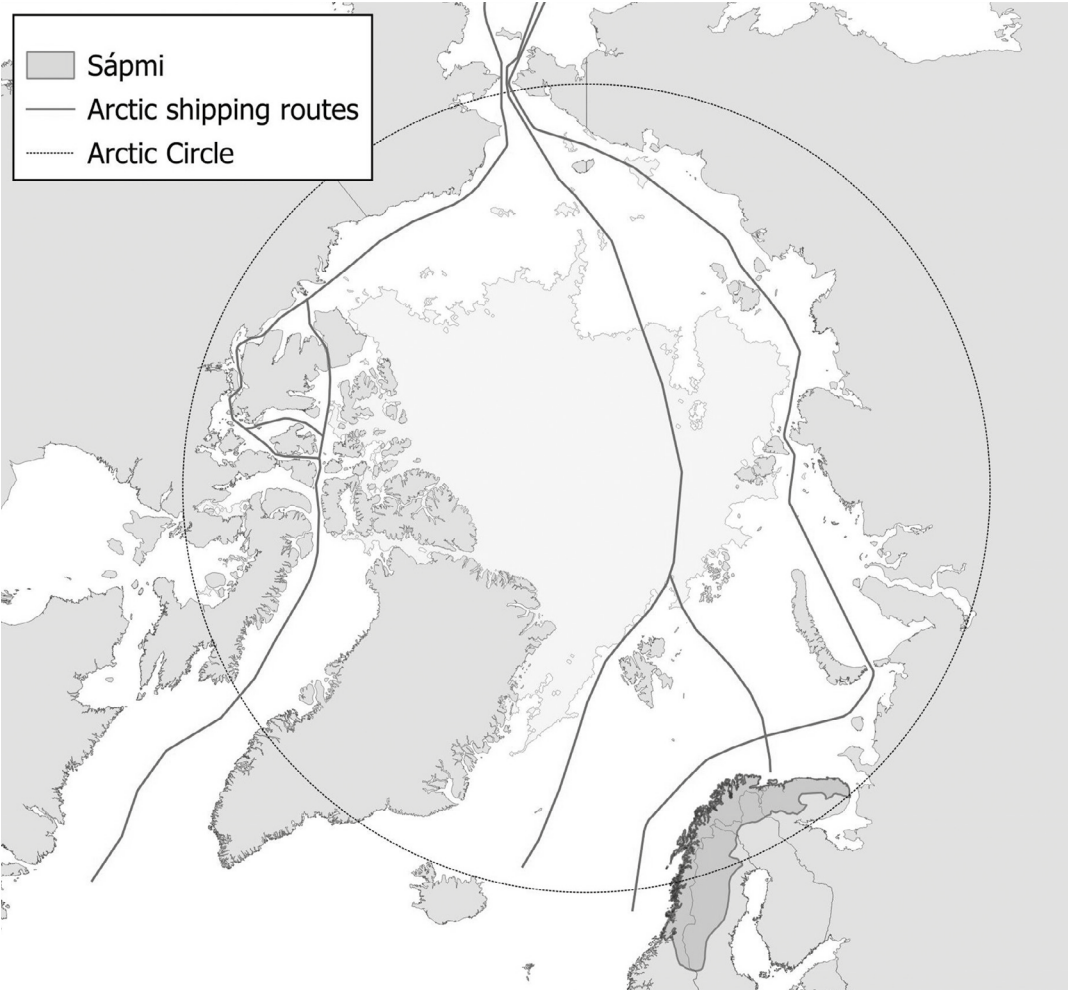
In this article, our novel contribution is to knit together the complex legal and political

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1. In this article, we have used the term 'Sámi Homeland' rather than 'Sápmi', since it is the term used in the Act on the Sámi Parliament (17.7.1995/974).



Map 1. Arctic Shipping Routes. Arto Vitikka, Arctic Centre, University of Lapland.

Border data: Runfola, D. et al. (2020) geoBoundaries: A global database of political administrative boundaries. PLoS ONE 15(4): e0231866. <https://doi.org/10.1371/journal.pone.0231866>.

realms of Arctic railway planning in the Sámi Homeland in Finland. In other words, we present the dispute around the Arctic Railway in its socio-legal context, including empirical research from research interviews and round-table discussion organised. We focus on the Sámi Homeland, as some of the most pressing problems occur on the traditional Indigenous land. Our two research questions are:

- What is the legal framework in the Indigenous Sámi homeland in Finland surrounding megaprojects like the Arctic Railway?
- How do diverse stakeholder interests shape the planning and decision-making processes?

In the turbulent days of writing this paper, security politics put unforeseen pressure on railway development towards the Arctic Ocean. Following Russia’s war on Ukraine, there is heavy



Map 2. Proposed route options for the Arctic Railway © Arto Vitikka, University of Lapland.

interest in railway planning in the European Arctic. Following sanctions on the 1,340-kilometer-long Finnish-Russian border, already more than 90 per cent of Finland's foreign trade goes through the Baltic Sea, making the country vulnerable to additional tension in the shipping routes (Kähkönen, 2022b). NATO's interest is to have the capacity to move troops to Northern Finland, located adjacent to Russia's strategic Kola peninsula (Kähkönen, 2022b; The Finnish Defence Forces, 2024).

The EU also aims to mitigate transportation emissions by 90 per cent by 2050, plans which include increasing rail line connections across the continent (European Commission, 2024). The EU's interest is connecting its remote regions more closely to the most densely populated areas, including a vision to connect Finland through an undersea tunnel to Rail Baltica (Map 2.). Ultimately, a rail line from central Europe would lead to the Arctic Ocean (Gaens et al., 2021). Simultaneously, the European Green Deal fosters massive industrial development in

the European Arctic, increasing the demand for more robust logistical infrastructure (Koivurova et al., 2022).

The latest research clarifies several aspects of the Arctic Railway. Sara, Rasmussen and Krøvel (2022) focus on the role of media within Sámi society, and Junka-Aikio (2022) addresses the subject from a decolonial perspective. Kähkönen and Nystén-Haarala review the latest rail line plan (2021) and the transformation of geopolitical reality (2022). Gaens et al. (2021) assess geopolitical and geoeconomic opportunities and risks, and Nystén-Haarala (2018) addresses the risks of reindeer herding. Heinilä (2022) analyses legal implementations of railway planning in Finland. Magga (2024) studies the complex interrelation and sometimes different principles of legal understanding between the Sámi and the state of Finland in land use. *The Sámi World*, edited by Valkonen et al. (2022), is vital for understanding values in Sámi society. Our socio-legal contribution broadens the understanding of the procedure behind railway planning, particularly the empirical work we have included in the research, which sheds new light on how local stakeholders experience infrastructure planning. The article argues that regardless of whether the railway project extends to the Sámi Homeland or not, the state should consider how to build trust in local communities. Strengthening the land use rights of Indigenous peoples would be one way to improve state-citizen relations in the Sámi Homeland.

After this introduction, we first introduce the theoretical framework and method. The subsequent section presents the background and interests behind the railway planning. To understand the impacts of rail lines and the justice dilemmas they raise, we review the latest attempt to build rail lines, which started in 2017. Later in our article follows the legal framework where the procedure and stakeholders are reviewed. Building even a regular railway is a massive project. However, the Arctic Railway would cross harsh mountainous environments

and cut through the homeland of the Indigenous Sámi in Finland and Norway. Sámi parliaments, local municipalities, and influential environmental actors like Greenpeace oppose the project. Finally, the article is concluded by discussing the results of the analysis.

2. Theoretical framework and methods

This research builds on socio-legal theory and methodology (Creutzfeldt et al. 2019); as with the Arctic Railway, social and political contexts need to be applied to legal research to overcome the limitations of doctrinal legal research in empirical and vastly developing research phenomena. We aim to avoid what Cloatre and Cowan (2019) describe as *disciplinary imperialism*, where multidisciplinary socio-legal research is forced into a single discipline (see Cloatre and Cowan 2019: 98). For example, Heinilä (2022) underlines that railway planning in Finland is deeply intertwined in legal and political realms. Overreliance on doctrinal legal research could therefore limit the breadth of legal understanding (McConville and Wing Hong Chui 2017: 5). Similarly, political science perspectives would not be adequate either to comprehend the legal reality of railway planning, such as the complexity of legislation on Indigenous peoples.

Applying a socio-legal approach, we utilised all relevant information available to increase our understanding of the topic at hand (see Creutzfeldt et al. 2019). Our methodology provides a broad understanding and precise analysis based on diverse sources, but is limited in the sense that it cannot include all existing perspectives. Our data included legal and political material from the EU, national, regional and local sources, such as legislation, reports and political statements. We also conducted stakeholder interviews to understand the procedure, experiences and societal changes surrounding the Arctic Railway. Empirical data include a round-table discussion and 22 semi-structured interviews with local, national and international stakeholders. A total of 33 individuals partici-

pated in the interviews or the roundtable. In our research, we identified individuals and organisations who have an interest in or impact on the railway or the planning process as stakeholders. Stakeholders could be labelled as groups of *politicians, local people, representatives of interest groups, civil servants, and business representatives*. Besides these interviews, an anonymous roundtable discussion was organised to discuss the previous process of the Arctic Railway and to learn whether working together would be possible in the future.

In the interviews, we used purposive sampling (Robson 1993: 141–142), including snowball sampling methodology. First, we interviewed the most apparent stakeholders. Subsequently, after additional research, more interviews were conducted. While our understanding of the phenomena increased, we developed an understanding of the complex interrelation of different stakeholders. The rail line development opened to us like a complex chess game with diverse interests and strategies. We are glad that nearly everyone we invited accepted the request for an anonymous interview. Some national civil servants hesitated to participate. This hesitation raised questions for us researchers about the perceived role of civil servants in this game of chess: perhaps they experienced their role simply as pawns, but they could also be described as knights, able to do power moves.

Notably, stakeholders reported that they experienced mainly negative feelings during the process, such as a lack of power to resist the megaproject or being accused of cultural genocide for working on rail line development. The roundtable was a highly beneficial feature of the research, as it allowed the informants to discuss and gave us researchers a holistic understanding that we would not have been able to gain otherwise. The high lack of trust towards actors presenting different interests was one such lesson which we did not expect to learn. This said, the participants generally gave our roundtable

positive feedback; several felt it was helpful to apprise the project, which many found personally uncomfortable.

In a representative democracy, different values, interests, and opinions are a natural part of political decision-making. Based on the data available and interviews made for this research, it is clear that Sámi institutions and organisations heavily opposed the Arctic railway². As the Sámi Parliament is the supreme representative political body of the Sámi in Finland, it's justified to sum up that the Sámi people opposed the Arctic railway project.

Since our research deals with sensitive issues, the University of Lapland Ethics Board conducted a full ethical review, and our research follows the Indigenous ethical principles and The Finnish Code of Conduct for Research Integrity (TENK 2023). Given the topic's sensitive nature, we apply Indigenous ethical principles to our research to protect both Indigenous and non-Indigenous persons interviewed. We refrain from using direct quotations because the number of active stakeholders is small, and it would be easy to associate direct quotations with individuals. The last thing we would want to do is to cause harm to anyone who made this research possible.

3. Fundamentals of the socio-legal realm

3.1 The Sámi world through legal lenses

The Sámi Homeland in Finland consists of three of the country's northernmost municipalities and the northernmost part of a fourth. The area of the Homeland is 35,000 square kilometres, and the population is 18,700, of which only a minority are Sámi. Only in Utsjoki, the northernmost municipality of Finland, the Sámi form the majority of the population. The Sámi, about 10,500 people in the Sámi Parliament register covering the whole country, have cultural and

2. We are also aware that in the Sámi community, there are also individuals who support the railway.

linguistic autonomy.³ The autonomy is based on the Finnish Constitution (1999/Ch. 2, s. 17.3 and Ch. 11, s. 121), in which the rights of the Sámi to their own culture and language are established.

The Sámi Parliament is the supreme representative political body of the Sámi in Finland. The Act on the Sámi Parliament regulates that “the authorities shall negotiate with the Sámi Parliament in all far-reaching and important measures which may directly and in a specific way affect the status of the Sámi as an indigenous people” (Section 9). Since reindeer herding is part of Sámi culture, and everything that could *significantly* deteriorate reindeer herding should first be negotiated. This specific section regulates *the obligation to negotiate*. The obligation to negotiate covers all public authorities, which means that all larger industrial projects, such as logistics, mining, wind power, and forestry, should be discussed with the Sámi Parliament. Even if Finland has not ratified the ILO Convention on the Rights of Indigenous Peoples (1989, No 169), the Convention stood as the model for the Act, and the obligation to negotiate means that a free, prior and informed consent (FPIC) should be obtained. The Finnish State interprets that the Sámi should only be consulted. If a consensus is not reached in sincere negotiations, the project could, according to this interpretation, still continue (Section 9 of the Act on Sámi Parliament; Memo of the Ministry of Justice on the Instructions on the Negotiation Procedure, 2017). Main Sámi representative organs, however, would like to interpret the FPIC principle so that their permission is required for any large project in the

Homeland since they all may negatively affect the Sámi culture. As a result, they feel that they are heard, but not listened to (Guttorm, 2018).

The reindeer herding area, 114,000 square kilometres, covers nearly the whole of Lapland and extends to areas south of Lapland. The Sámi Homeland is a special reindeer herding area with more substantial rights; state land in this area should be used in a manner that does not cause significant harm to reindeer herding (Reindeer Husbandry Act, s. 2). In the Homeland Area, herding is more often the main livelihood of the herders. According to the Reindeer Husbandry Act, reindeer herding as a livelihood enjoys legislative protection, particularly in the Sámi Homeland. In more southern areas, reindeer herders have tried to prevent, for example, the building of wind farms, but have not been nearly as successful as those living in the Sámi Homeland (Nysten-Haarala et al., 2021).

The challenge with all megaprojects is that there are two clashing value systems: a Western approach, which wants to utilise the environment for industrialisation, and an Indigenous, which sees such a Western way of exploiting the environment as an abuse of nature (Valkonen et al., 2022). Indigenous values pass through generations and build the knowledge and identity of Indigenous people, such as the Sámi (Østmo, 2013). For the Sámi, reindeer herding, as well as other traditional livelihoods, such as fishing, hunting and berry picking, has been a significant part of their identity for ages and is included in their values of using natural resources sustainably (Valkonen et al. 2022). In modern democracies, the states have often ignored this clash of values and solved disputes through majority rule. The closest comparison to the plans of the Arctic Railway is the Swedish-Norwegian Iron Ore Line, which for more than a hundred years has connected Fennoscandian minerals and industries to the deep-water port of Narvik across the Sápmi. Also, visions of the Arctic Railway predate centuries when the status of Sámi rights were not comparable to the current

3. Finnish citizens are not registered based on their ethnic background or identity in the general population register. However, they can register their mother tongue either as Finnish, Swedish or one of the three Sámi languages. The Sámi, who want to register themselves to vote in the Sámi Parliament elections, have to apply this right from the Sámi Parliament itself.

legal situation. The Sámi Parliaments and the Saami Council⁴ often oppose extractive industries within the Sámi Homeland. For example, iron ore mining and rail lines pose plenty of challenges and risks to reindeer herding.

3.2 *The Arctic Railway bounces back to the political agenda*

The latest attempt to build a railway from Finland to Norway occurred in 2017 (Alternatives in Map 2.) out of the Ministry-level interests (interview: e.g. civil servant). The vision of the Finnish Government was to open the shortest sea lane between Europe and Asia. Apart from business interests, the Arctic Railway has robust security aspects (Finnish Transport Infrastructure Agency, 2018; Finnish Government, 2018). The project was nevertheless buried in 2019, after the Finnish-Norwegian working group found the project economically unviable and harmful to the environment as well as the Sámi way of life (Ministry of Transport and Communications 2019).

The Sámi have opposed the Arctic Railway across geographical borders, seeing it as a risk to their traditional livelihoods and way of life, particularly reindeer herding and the environment (Sámi Council, 2021). Local opposition influenced the decision to stop the railway planning (Kähkönen & Nystén-Haarala, 2021; Kähkönen 2022a). Ultimately, the Finnish Government renovated the old railway connection from Finland to Sweden (Tornio-Haparanda), re-opening the only railway connection between the countries in 2024 (Map 2.).⁵ Yet, constant

difficulties and accidents with the Iron Ore Line give little hope of getting Finnish cargo into Narvik (Yle, 2024).

Arctic logistics is highlighted again in the Programme of Prime Minister Petteri Orpo's Government (2023). However, the controversial name "the Arctic Railway" is not used in this programme, as illustrated by the quotation below:

The Government will pay increasing attention to the reliability and resilience of the transport network. Alternative transport routes will be developed, and their capacity increased to ensure the security of supply in all circumstances. Bottlenecks in road and rail networks will be resolved to increase transport capacity. Together with Sweden and Norway, Finland will seek EU and NATO investment opportunities to improve logistics connections in northern Scandinavia (Programme of Prime Minister Petteri Orpo's Government 2023).

While the route option proposed in 2017 would have followed near the Russian border to the port of Kirkenes in Norway, after Russia's full-scale attack on Ukraine, the Arctic Railway project is realistic only through western Lapland to the Tromsø port (Kopra et al. 2023: 39). Now the Kolari Railway, which runs towards Tromsø, will be electrified as a part of the government programme (Programme of Prime Minister Petteri Orpo's Government 2023). (See the railway following the border between Finland and Sweden in Map 2.). Moreover, at the moment of writing this article, 20,000 soldiers from 13 NATO countries were practising operational capability in western Lapland, where the railway would cross to Norway (see The Finnish Defence Forces, 2024). The Finnish Minister of Transportation and Communication stated that

2023–2024. The cost was 30 Meuros (<https://vayla.fi/laurila-tornio-haaparanta>).

4. The Saami Council is a cooperation organ of the Sámi in Finland, Russia, Norway, and Sweden (The Saami Council – Sámiráddi).
5. Although the Tornio-Haparanda connection was presented as one route option for an Arctic Railway, the investment would have been made in any case. The track has been re-built gradually on both sides of the border and required only electrifying of a 22-kilometre-long track on the Finnish side, which was done in

“The need for infrastructure investments and their prioritisation will be examined after the exercise, especially from the perspective of military mobility and security of supply” (Ministry of Transport and Communication, 2024), signalling that the analysis for needs of logistics and transportation is in process.

The last decades of regional development in Finnish Lapland have shown that megaprojects mainly fail, especially plans directly impacting the Sámi Homeland. The Finnish state has pursued multiple land uses on the traditional lands of the indigenous Sámi without local acceptance (e.g., Mustonen, 2017; Lehtola, 2015) and legislation is still in conflict with, for example, the needs of Sámi reindeer herding (Magga, 2024). Moreover, the roads in Lapland are in poor condition, and railways exist only in the southern parts of Lapland, so passenger traffic, mining, forestry and other industries use road transportation (see Väylä 2024). Lapland is among the most sparsely populated areas in the EU. For this reason, political and business stakeholders without an in-depth understanding of the region see it as a region where new projects should be welcomed and where they would cause minimal or no distraction.

When Indigenous values are not recognised, local livelihoods are not understood, and the history of state-citizen relations is ignored, a clash of value systems is predictable. The Sámi parliaments and the Sámi Council often oppose extractive industries within the Sámi Homeland. The Sámi parliament in Finland has successfully kept, for example, mining and wind farms out of the Sámi Homeland, at least for the time being.⁶

6. There are three wind turbines in Lammasoavi. They are the oldest wind turbines in Lapland, built in 1996 and now stagnant (Milla Salminen, Lapin Kansa 24.11.2017). The Municipality of Enontekiö decided in 2023 to stop wind power planning, including already previously halted renewing of Lammasoavi wind turbines. [https://enontekio.cloudnc.](https://enontekio.cloudnc.fi/fi-FI/Toimielimet/Kunnanvaltuusto/Kokous_692023/Enontekion_tuulivoimarakentamista_ohjaav(10015).)

4. The Legal Framework and the Interests of Stakeholders

4.1 The Multiplicity of Stakeholder Interests

There is a complex web of legislation, stakeholder roles and interests which all shape the Arctic Railway project. Since the planning process stopped when the project was considered unfeasible based on tentative reports (Finnish Transport Infrastructure Agency, 2018; Norconsult, 2018), we do not analyse the Environmental Impact Assessment (EIA) or other important legal procedures. Instead, we address the questions of what the role of different stakeholders was and would be if such a project were to start, as well as what their role was in burying the plan.

The roles of different levels of governance in such a megaproject can be thought of in terms of the chess analogy referred to above. In practice, the stakeholders have their own strategies and objectives. Likewise, in Lapland alone, 21 independent municipalities with strong self-government are founded in the Finnish Constitution (Finnish Constitution Chapter 11, Section 121, see also Act on Municipalities (Kuntalaki 10.4.2015/410), Ch. 1, s. 1). Furthermore, a single politician may serve without limits as a Member of Parliament, a representative in the local council, a position of trust in a political party, and a member of the Board of the Regional Council. Just as an imaginary example of the rooks and bishops of chess on the gameboard of a small, sparsely populated area, the very same persons might decide and influence on railway planning in several positions. This game can also be overwhelming for a citizen unfamiliar with both the legally binding and unwritten rules of the game of rail lines.

fi/fi-FI/Toimielimet/Kunnanvaltuusto/Kokous_692023/Enontekion_tuulivoimarakentamista_ohjaav(10015).

4.2 Global Interests and National Planning

The costs of a railway from Finland to Norway would be so high that EU funding would be needed (Finnish Transport Infrastructure Agency, 2018; Norconsult, 2018). The Arctic Railway was already promoted on the EU level, and it fits well with the EU's plans for connecting remote regions more closely to the densest areas of the union (interview; see European Parliament 1998). The EU also has a long history in Europe-Asia connectivity strategies (Gaens, 2021: 219–221). The formal rules of the game for planning and implementing megaprojects are created on the legislative level according to the rules of representative democracy, sometimes unfavourable to minority groups without representation. The decision-making, however, is highly political and dependent also on the informal rules of the game.

On behalf of the Finnish State, the Ministry of Traffic and Communication is responsible for the long-term development plan of the railway infrastructure. This plan also has to include a financing plan for the railway infrastructure for at least the next eight years (Railway Act Ch. 1, s. 4a). When plans are made, the central actor is the Finnish Transport Infrastructure Agency, which works together with the regions, municipalities and industry, transportation and environmental authorities, and is obliged to make sure that both national and regional land use plans are intertwined (Railway Act Ch. 2, s. 8). The funding and investment program is firmly in the hands of the Government. The financing plan has to be reviewed as a part of the transportation strategy and development planning when a new government starts its work (Railway Act Ch.1, s. 4a). The Arctic Railway Plan never ended up in the Ministry's long-term plan.

Nowadays, such projects in Finland are also included in the government programme, which the new government elaborates on before starting its work. The procedure guarantees that

the project plan is taken to the Parliament and included in the state budget. The Arctic Railway now seems to have appeared in disguise in the new government programme (Programme of Prime Minister Petteri Orpo's Government 2023).

According to the national transportation strategy and development plan, a private company is nowadays, as a rule, established to run such megaprojects⁷ and take care of the EIAs and other research required by legislation. The private firm also takes charge of seeking funding. In railway projects, municipalities through which the rail line crosses will manage the project with the private company as partners.⁸

The national transportation development plan must be coordinated with other national land-use plans, particularly the plans based on the Land Use and Building Act (132/1999, LBA). The highest level of land-use planning under the LBA is the national objectives of land use, which have to be duly considered in regional and other planning of using areas in such a way that their implementation is fostered (LBA Ch. 3, s. 24). The national objectives have a guiding influence on land use planning on the lower levels, but they do not create basic legal requirements for zoning. National objectives are there also to secure the implementation of national projects and decisions on land use. In lower-level land use planning and decision-making, national objectives and projects, such as railway projects, are reconciled with local, regional and other national objectives (Jääskeläinen et al. 2018).

7. VNS 2/2021 vp, the government report on the national plan on the traffic system for the years 2021–2023.
8. This is how the plan for a railway from Turku to Helsinki (one-hour train) is planned to advance. Compared to the Arctic Railway, the one-hour-train is a smaller project. (See www.tunninjuna.fi.)

4.3 National Interests and Municipal Self-Government

National objectives regarding land use have been discussed in legal literature from the point of view of the division of public power (Hovila, 2016). When railway planning is concerned, it involves a range of municipalities and regions on the line of the route. Finland's robust system of municipal self-government empowers local governments to make decisions that profoundly affect their communities (Hovila, 2016). Thus, the municipalities are also the most important stakeholders whose decision-making power on railway building is required. From the standpoint of municipal self-government, it can be argued that there will be no project without the consent of every municipality along the planned route. Such a conclusion can be drawn from a case of the Finnish Supreme Administrative Court (KHO 2015:116) in which the court saw that the municipality council of Muonio had the right to refuse an agreement on building a wind farm in Mielmukkavaara even if the plan would have served the national land use objectives designated for the area.⁹ Yet, there is a difference between building wind turbines in one municipality and a railway through many municipalities.

According to Aleksi Heinilä, it would be possible to oblige a municipality to make these changes based on Chapter 24 Section 177 of the LBA. He argues that otherwise the planning system would not ensure that the planning starts and is implemented. However, Heinilä further points out that requiring a certain type of decision alternative, such as a track alignment, is

not possible in an administrative enforcement procedure (Heinilä, 2022). Basing his opinion on the preparatory works of the law, Heinilä argues that Section 178 goes further than Section 177 and that the ministry in question could give orders to change a land use plan to implement a project, which is very important for the public interest (Heinilä, 2022). Following Heinilä's line of thought in the Arctic Railway case, the Ministry of Environment could, with an enforcement decision, order a municipality to include the project in its plan, and the Regional Council could overrule one municipality in its decision-making. However, we cannot be sure how the Supreme Administrative Court would rule in such a case since there is no precedent on railway planning. Municipal self-government has gradually strengthened in Finland after the ratification of the European Charter of Local Self-Government in 1991 (Heuru 2002; Heuru et al. 2011), and there are only a few enforcement decisions by ministries, even if there have been requests for enforcement on municipalities based on section 178 of the LBA (Heinilä, 2022).

Regional planning is crucial when implementing national plans, which are important for the public interest. In planning railway lines, the Regional Council is required to include the lines in its regional land use plan (Railway Act Chapter 2, Section 10). The Regional Council is a public authority in charge of land use planning in the region and represents the municipalities (Law on Development of Regions and Implementation of the EU Regional and Structural Policy 13.8.2021/756, section 7). The consent of the municipalities is thus taken into consideration in several stages. The Sámi also have a representative in the Regional Council of Lapland, although without the right to vote in decision-making. In the dispute on the Arctic Railway, the role of the Regional Council of Lapland was central.

The Regional Council plays a crucial part in early planning when they include the rail line route in the regional plan. Even when the Min-

9. The municipality, the National Forestry Service as the landowner, and a wind power company had made an agreement to build a wind farm consisting of 10–15 wind turbines. However, the municipal council did not approve the agreement. The KHO argued its decision with the “planning monopoly of municipalities” based on the Self-Government Act of 1995 and the Land Use and Building Act of 1999.

istry had buried the idea, the Regional Council of Lapland included the Arctic Railway in the updated Northern Lapland regional land use plan, as they have the right to do. The idea was to keep the railway in the plan and wait until the time became ripe for the project (interview: civil servant). When the regional land use plan was made publicly available for comments, 29 public notifications were given regarding the land use plan proposal. These include all notifications about land use in Northern Lapland, not only ones about the Arctic Railway. The Arctic Railway is mentioned over 80 times in the document. None of the municipalities had submitted notifications.

In a nutshell, the Regional Council favoured the Arctic Railway, even though the northernmost municipalities opposed the plan. Mega-projects likely caused opinions for and against in each municipality. This division was also visible in the Board of the Regional Council of Lapland, which never supported the project unanimously, frequently displaying one dissenting opinion expressed by the representative of the political party Left Alliance. The actions taken by the Regional Council of Lapland regarding the Regional Land Use Plan for 2040 represented fierce self-government through the will of the majority of representatives from member municipalities.

From a procedural point of view, Northern Lapland's regional land use plan 2040 (Regional Council of Lapland 2021) indicates that the process was open and democratic in the sense that every interested stakeholder could comment on the plan. Another question is, however, who was invited to give comments. The relatively small number of comments indicates that perhaps not all interested stakeholders were consulted or found information about the process, even though from a legal viewpoint, the Act on the Openness of Government Activities (621/1999; amendments to 907/2015 included) was followed.

The process continued until the Assembly of the Regional Council finally voted on the railway plan in 2021, and the plan's proponents lost the vote very clearly. The procedure was exceptional, as the Board of the Regional Council strongly supported the railway planning – the Board acts on the mandate given by the Assembly. The intense opposition of the Sámi and other opponents was successful, though the upcoming municipal elections might have influenced the surprising decision on the controversial theme (interview: politician). After the vote, the Chairman of the Board quickly commented to the press that the plan for the Arctic Railway is not totally buried despite the vote,¹⁰ thereby rendering the outcome of the unambiguous vote somewhat unclear.

4.4 The Arctic Railway and Participation

Citizens get to participate directly in public hearings in connection with the EIA and all the other formal plans included in the process. The immediate plan, which citizens can respond to, is the municipality land use plan. Usually, when responding to land use plans leads to such a legal process, the court will most likely reject the claims against the plan after a lengthy process. When the rail line route has been decided, landowners can complain, and if the plan goes further, they get redemption compensation. When a massive project is already running, ordinary people are not likely to be able to stop the project by legal means. Only compensation is realistic at that point. Projects can nevertheless be stopped before they start with lobbying politicians through media campaigns and demonstrations. This is precisely what Sámi activists have been doing while underlining that there is no procedure that could involve citizens at the earliest stage of planning. Furthermore, participation rights are minimised or made ostensible with the current practice to involve a private

10. For more details on political manoeuvres, see Kähkönen & Nystén-Haarala 2021.

company in planning and undertaking legal procedures such as the EIA. When decisions have already been made, there is no real possibility to question the project (Heinilä, 2022). For this reason, both the legal framework and practices developed outside legislation may explain why possible opposition to such a project is often fierce starting from the beginning. The further projects develop, the harder they are to stop.

In northern Lapland, where the opposition was most fierce, Sámi rights are critical. Our study suggests that Sámi institutions often fear a lack of influence on land use planning. The Arctic Railway would increase the profitability of extractive industries, many of which the Sámi Parliament has opposed taking place in the Sámi Homeland. To this end, experiences of legal and justice implications vary among stakeholders, but negative historical experiences still significantly impact the legitimacy of public authorities and the legal system.

5. Discussion

Lapland has a long history of capital-driven megaprojects, which still influence today's mindset toward new projects. Based on research interviews, it seems clear that colonial history strengthens regional stakeholders' existing lack of trust and polarised attitudes. Our interviewees constantly brought up the discussion on the history of state-citizen relations from different perspectives. State interests have conflicted with the interests of both Sámi and Finnish citizens in the north multiple times.

The particular history and transgenerational traumas of Lapland are not well known and often ignored in the rest of Finland (e.g. Suopajärvi 2001). One of such megaprojects, which left deep wounds and strong feelings of injustice for both Sámi and Finnish groups, was after the Second World War, when the river Kemijoki, the longest river and at the time a famous salmon river in Finland, was harnessed for waterpower. The project was justified because of the need

to generate hydropower for the country, which had lost 30 per cent of its energy power in the areas ceded to the Soviet Union. The justification, to some extent, resembles the political security reasoning behind the current Arctic Railway. However, the way megaprojects were implemented after the Second World War, was different. People were not informed properly beforehand, and the compensation for the locals was negligible. The salmon disappeared from the river after the first dam was built in 1957. For those who lived off salmon fishing on the riverside, it caused a major shock. The building of the reservoirs Lokka in 1967 and Porttipahta in 1970 was particularly catastrophic for reindeer herding and the well-being of both the Sámi and the Finns living in the area. Three and a half villages, together with 200,000 cubic meters of forest, were inundated. Six hundred people lost their homes and four reindeer herding associations suffered substantial losses. Their pastures were flooded and a lot of reindeer drowned (Kauhanen, 2014).

A wave of crimes and alcohol problems was reported in the aftermath of the drowning villages (Kauhanen 2014). However, the injustice of land use, the above described as one of the worst, as well as the long oppression of Sámi cultures and languages, sparked Sámi activism from the 1960s onwards and a long negotiation process to grant more rights to the Sámi. The Sámi Delegation, a negotiating organ, was established,¹¹ and later, the process led to the establishment of the Sámi Parliament and the Sámi Homeland in 1995 (Act on the Sámi Parliament (974/1995), as well as adopting cultural and linguistic rights of the Sámi in the Finnish Constitution in 1999 (Guttorm 2018¹²).

11. According to Veli-Pekka Lehtola, the Sámi started to call the Delegation their parliament, and the years 1969–1973 were epoch-making in Sámi politics (Lehtola 2005).
12. Juha Guttorm's Ph.D. in law sheds light on the long process for recognizing the rights of the Sámi as well as the disappointment of the new

Although these legislative changes were a great achievement for the Sámi, activism has only increased since. The disputes are currently about the legal interpretations of the principle of the FPIC in the Act on the Sámi Parliament. Interpretations which are more inclusive of Indigenous voices, in contrast to the narrow national ones, have been found in international law (e.g. Guttorm 2018: 55–75). The disputes have originated from differing values. The representatives of the State and those in the region who are in favour of economic progress generally resort to path-dependent informal working practices and thinking modes, which stem from Western worldviews. National legal interpretations stem from the interpretation methods of the Finnish legal system also anchored in the Western worldview. The majority of the Sámi Parliament, on the other hand, opposes most industrial projects in the Sámi Homeland. They fight both for their traditional livelihoods and for their indigenous identity. For the Sámi, their identity was maintained through centuries of reindeer herding, which requires wide land use. As some interviewees put it, every inch of Lapland's "pristine nature" is efficiently used, e.g., through reindeer herding or environmental protection. Every industrial project reduces space from reindeer herding. The Arctic Railway is heavily opposed, because it not only reduces space from reindeer herding and puts reindeer in danger, but also because it will serve the needs of the industry and draw more industrial activities to the area. Thus, the Arctic Railway perfectly showcases the clashing worldviews and inherent dilemmas of infrastructure building in the Sámi Homeland.

Heinilä's (2022) interpretation of the need to coordinate the law on land use planning and the railway planning system so that municipalities could be forced to change their plans to ensure the national project of building a railway can be

accepted from the point of view of the rationality of the national planning system. Yet, such an interpretation would be extremely harmful in the Sámi Homeland because of the strong mistrust towards the state. As a consequence, an interpretation which emphasises the need to enforce national projects would be considered colonial among the local people of Lapland, particularly the Sámi, who see the railway plans as a threat to their identity and values.

The difference in values has earlier been solved through the majority rule of representative democracy. A change of mindset towards respecting the Indigenous value systems of the Sámi would actually be an enormous leap in recognising the differing stances of minorities in a democratic state. Yet, such a change of mindset cannot happen without dialogue. Strikingly many of the participants of our roundtable were positively astonished and told that they had never before participated in a dialogue with representatives from "the other side". To us, such comments are findings which prove that, on the one hand, there is no current dialogue and the discussion is highly polarised, but that on the other hand, future dialogue is not excluded. Examples of a new dialogue can be found in the interactions between Western science and the Traditional Knowledge of the Indigenous. Climate change has awakened scientists' to find assistance from indigenous knowledge. Environmental activists have also criticised Western ways of exploiting nature without realising the consequences for the environment and future generations. Such developments signal that the time is ripe for serious dialogues between Western and Indigenous value systems.

If the state really wants to avoid the colonial mistakes of the past, but still plans to build the railway, it should take clear steps towards shared trust and new practices. The negative experiences of not being able to influence land use increase local opposition to risky projects (interview: local). The complex chess-like game of rail lines shows that legal interpretations cannot be

Sámi institutions on the narrow legal interpretations of their rights.

made in a silo, but have to be viewed in their socio-political environment. The colonial past and differing values should not be ignored and the specific circumstances of Lapland ought to be taken seriously. Now, when the plan for the rail line to the Arctic Ocean is again on the table because of security reasons, participatory procedures and co-participation should be considered. However, it may be too late, as the process seems to be going forward, according to the latest Finnish Government programme. Planning a rail line to the Arctic Ocean without calling it an Arctic Railway is an already well-known tactic in Finnish Lapland. The state-citizen relation is similar to that of another decades-old legally and politically complex megaproject called Vuotos (see, e.g., KHO 2017:87), where the planned reservoir in Eastern Lapland got new names when the project reappeared on the political agenda after being shut down. Naturally, changing names will not make the concerns of local people and the environment disappear. Currently, however, the Finnish plans seem to avoid issues with the Finnish Sámi and additionally transfer the problem to the Swedish Sápmi since the existing railway up to Kolari is planned to be electrified. From there, a railway is planned to go westwards to the Swedish Iron Ore Railway. Although the Swedish Arctic Railway is currently overloaded, it is, in the long run, planned to be broadened with a second track.¹³

We recommend that policymakers and stakeholders carefully consider the concerns of the Sámi people and other local communities when planning and implementing transporta-

tion or any other infrastructure projects in the region. Our findings can help inform sustainable and just development in the Arctic and contribute to promoting the rights, values and interests of indigenous people in the area. Less chess strategies and more early dialogue would be the relevant starting point for favourable co-operation. Strengthening Indigenous people's land rights, as well as more Indigenous friendly interpretation of legislation could neutralise the tense status quo and open a discussion of how differing ways to see the world could exist in greater harmony. The limited power of the Sámi Parliament is also a factor which prevents a constructive dialogue. If the Sámi Parliament, for example, was able to halt projects, it is likely that civil society would not need to seek to stop the projects at the earliest stage.

6. Conclusion

In conclusion, we found that the Arctic Railway project has been heavily opposed, but at the same time, there is increasing demand for logistical development in the European Arctic. Our research is timely as global warming extends the season for utilising sea lines in the Arctic Ocean. Also, the war in Europe has put exceptional pressure on Finland to find logistical alternatives to the Baltic Sea.

Our research provides a multifaceted socio-legal overview of the Arctic Railway planning. We have highlighted the importance of considering the legal and political implications of railway planning in the Sámi Homeland, especially when traditional livelihoods and the environment are at risk. The Finnish government plans to upgrade the existing rail lines and strengthen the Finnish-Norwegian transportation capacity. Ultimately, while the Arctic Railway may have business and security interests, all kinds of logistics in the Sámi Homeland should be developed in a way that is respectful of the values, rights and interests of the indigenous Sámi people and their Homeland.

13. See more Iron Ore Line Issues Continue to Impact LKAB: Cut in Production and Other Possible Measures (highnorthnews.com). and "Ofoten Railway Line Needs a Double Track by 2035" (highnorthnews.com) Building a second track is going to be highly expensive, but the state company LKAB and iron ore production are so important for Sweden, that such a mega-project does not seem totally utopistic.

The state should consider the impacts of the logistical projects more carefully to avoid further escalating land use conflicts. According to our findings, building infrastructure in the Sámi Homeland and vulnerable environments still needs to be adequately discussed. Only fair solutions can rebuild trust between the state and minoritised groups. Strengthening the land use rights and recognising the values of the Sámi people in the Homeland could mitigate the political dilemmas and make cooperation feasible. We suggest that the legislation concerning the Sámi rights (Act on Sámi Parliament), not the uniformity of national legislation, should be the starting point in interpreting national legislation in the Sámi Homeland. If the Finnish State finds it an unavoidable necessity to build the railway, reinforcing the Sámi culture and land rights would be one way to sustain the dialogue and avoid turning the situation into a stalemate where there are no winners.

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