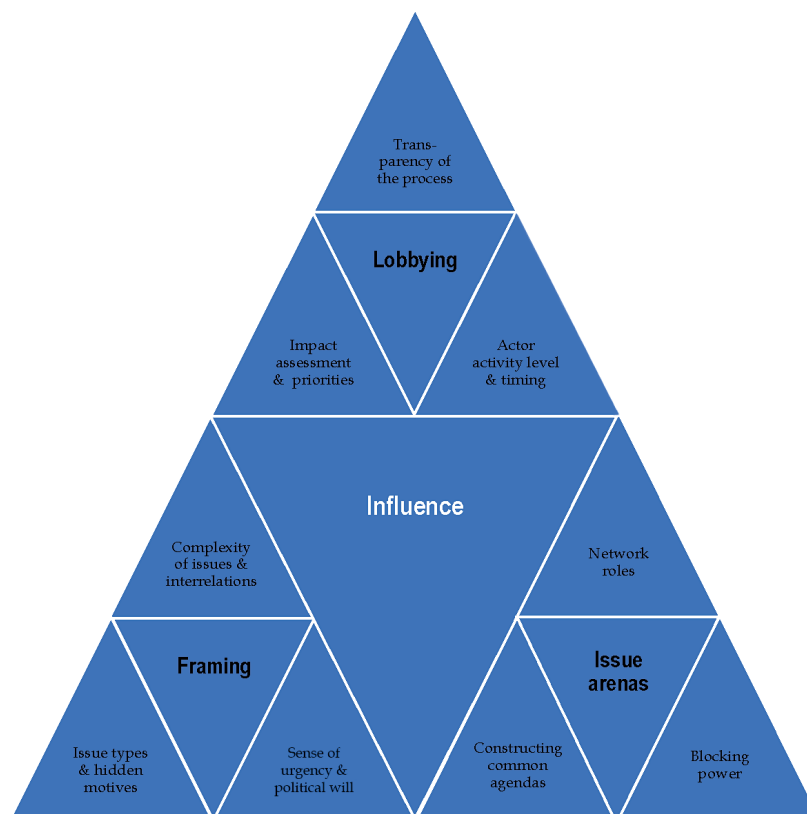


Inker-Anni Sara

## Whose voice?

Understanding stakeholder involvement in  
law drafting affecting Sami reindeer herding

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UNIVERSITY OF JYVÄSKYLÄ  
FACULTY OF HUMANITIES AND  
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**Inker-Anni Sara**

## **Whose voice?**

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law drafting affecting Sami reindeer herding**

Esitetään Jyväskylän yliopiston humanistis-yhteiskuntatieteellisen tiedekunnan suostumuksella  
julkisesti tarkastettavaksi yliopiston Agora-rakennuksen Delta-salissa  
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## ABSTRACT

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A communication and a legal approach are combined to investigate stakeholder involvement in law drafting affecting Sami reindeer herding. The thesis focuses on Finland, participation in law drafting in the Act on Metsähallitus (Forest Management and Park Services) and consultation related to the adoption of the International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The research aims at gaining a better understanding of communication preceding and during law drafting processes regarding indigenous land use. It clarifies the changing context of the law drafting in which the issue of land use is addressed.

Study 1 provides an overview of available studies on participation in matters of land use by the Sami and other indigenous peoples, noting the extent of indigenous peoples' participation in land use management, and limitations and opportunities that explain indigenous influence, or a lack of it in land use.

Study 2 focuses on participation of the Sami in the law drafting process of revision of the Act on Metsähallitus, to increase the understanding of stakeholder involvement and interaction in the law drafting process as an 'issue arena' where multiple actors have a stake. It views law drafting as a communicative process, centres on lobbying and therefore identifies key stakeholders, relevant issue arenas and steps in law drafting that bring opportunities for participation.

In Study 3, the focus is on the consultation concerning the government bill on the ratification of the ILO Convention No. 169 in Finland and, particularly, on types of issue framing and the positioning of the actors in the complicated interplay in multi-actor law drafting arenas. In these spaces of interaction for policy-making, multiple actors participate and ally, discussing various overlapping and conflicting issues.

The results explain the complexity of stakeholder involvement in law drafting from the perspective of multi-actor issue arenas, acknowledging that the economic stakes are high in the debate on ratification. The competitiveness of the land use issue causes a selective nature of the discussion and, consequently, the slow progress in the ILO 169 case.

Keywords: Sami reindeer herding, indigenous peoples, ILO Convention No. 169, law drafting, strategic communication, framing, agenda building, lobbying

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Yhteisöviestintä ja oikeustieteellinen lähestymistapa yhdistetään tutkittaessa sidosryhmien osallistumista lainvalmisteluun, jolla voi olla vaikutuksia saamelaisen poronhoidon asemaan Suomessa. Väitöskirja keskittyy Suomeen, lainvalmisteluun osallistumiseen Metsähallituslain (234/2016) uudistuksessa ja lausuntokierrokseen liittyen YK:n Kansainvälisen työjärjestön (ILO) Itsenäisten maiden alkuperäis- ja heimokansoja koskevan yleissopimuksen nro 169 ratifiointiin. Tutkimuksen tavoitteena on saavuttaa laajempaa ymmärrystä lainvalmistelua edeltävästä ja sen aikana tapahtuvasta kommunikaatiosta koskien alkuperäiskansojen maankäyttöä. Tutkimus selvittää lainvalmistelun muuttuvaa kontekstia, jossa käsitellään maankäytön kysymystä.

Tutkimuksessa 1 on yhteenveto käytettävissä olevista tutkimuksista, jotka koskevat saamelaisten ja muiden alkuperäiskansojen osallistumista maankäytön kysymyksiin, huomioiden alkuperäiskansojen osallistumisen laajuuden maankäytön hallinnassa, sekä sen rajoitukset ja mahdollisuudet, jotka selittävät alkuperäiskansojen vaikuttamismahdollisuuksia tai niiden puutetta maankäytössä.

Tutkimuksessa 2 keskitytään saamelaisten osallistumiseen Metsähallituslain uudistamisprosessissa, mikä lisää ymmärrystä sidosryhmien osallistumisesta ja vuorovaikutuksesta lainvalmisteluprosessissa 'teema-areenana', jossa usealla toimijalla on intressi. Se tarkastelee lainvalmistelua viestinnällisenä prosessina keskittyen lobbaukseen, ja siksi se identifioi keskeisiä sidosryhmiä, merkityksellisiä teema-areenoita ja lainvalmistelun vaiheita, jotka tuovat mahdollisuuksia osallistumiseen.

Tutkimuksessa 3 keskitytään lausuntokierrokseen koskien hallituksen esitystä ILO yleissopimuksen nro 169 ratifioinnista Suomessa, erityisesti fokus on kehystämisen asiatyypeissä ja toimijoiden paikannuksessa lainvalmistelun monitoimija-areenoiden monimutkaisessa vuorovaikutuksessa. Useat toimijat osallistuvat näille politiikan vuorovaikutusareenoille, joissa he liittoutuvat ja keskustelelevat monista päällekkäisistä ja ristiriitaisista kysymyksistä.

Tulokset selittävät monimutkaista sidosryhmien osallistumista lainvalmisteluun monitoimija teema-areenoiden näkökulmasta huomioiden, että ratifiointikeskustelussa taloudelliset tekijät ovat merkittäviä. Maankäyttökysymyksen kilpailuhenkinen luonne tekee keskustelusta valikoivaa, ja täten aiheuttaa ILO 169 sopimuksen ratifioinnin hitaan edistymisen.

Avainsanat: Saamelainen poronhoito, alkuperäiskansat, ILO yleissopimus nro 169, lainvalmistelu, strateginen viestintä, kehystäminen, agendan rakentaminen, lobbaus

## PREFACE

During a five-year period at the Sami University of Applied Sciences, Guovdageaidnu Norway, I realised my long-term dream of writing a doctoral thesis. To reach this objective, many people have contributed to this goal, to whom I am most grateful. First of all, I would like to express my gratitude to my PhD thesis supervisor Professor Marita Vos for her premium expertise and disciplined way of working that, above all, enabled my dissertation to be completed. The virtues I have learned from her I will pursue in my future carieer. Also, I would like to thank my second supervisor Professor Vilma Luoma-aho for her great contribution at the early stages of my dissertation.

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During the four years at the Sami University, many rewarding experiences took place such as coordinating the Masters' programme in Sami Journalism from an Indigenous Perspective. Many contributed to this Master's programme, but especially I would like to thank Dean Nils Johan Päiviö, Dean Johan Strömgren, colleague Torkel Rasmussen for a long-term cooperation and colleague Mikkel Ole Eira for a promotion of the programme.

Monthly faculty meetings provided comfy togetherness and scientific discussions. Many thanks to all colleagues involved: Dean Seija Risten Somby, Laila Aleksandersen Nutti, Inger Ellen Eira Gaup, Hanna Ellen Guttorm, Pigga Kesitalo, Ylva Nutti-Jannok, Mathis Persen Bongo and Elisabeth Utsi-Gaup. Special thanks go to the former Dean Jan Idar Solbakken for precious support in the beginning of the process. For years, my desk was at the open office in the Sami archives at the Sami University building. Many thanks to the staff of the Sami Archive for creating a peaceful working environment.

The library offering indigenous literature is among the finest matters at the Sami University of Applied Sciences. To the library's staff, Svein Egil Hetta, Mette Irene Hætta and Aslak Johansen Gaup, many thanks for great service. In the administration of the Sami University of Applied Sciences I would like to thank especially Mathis M. Skum, Ante Bals, Lena Susanne Gaup, Johan M. Mathisen Gaup, Seija Logje, Johan Anders Sikku, Inger Anne Siri Triumf, Aslak Anders M. Skum and Per Vilhelm Söderbaum. Special thanks go to the entire ICT department but espacially Daniel Gaup for helping with a variety of ICT problems. There are many at the Sami University of Applied Sciences that I would like to thank for their encouraging conversations: Professor Emeritus Johan Klemet Kalstad, Professor Emeritus Ole Henrik Magga, Professor Emeritus Vuokko Hirvonen and Professor Kaisa Rautio-Helander. Also, I would like to

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I grew up in a family where my father is a Sami and my mother has her roots in Finnish and Finnish-Swedish cultures. Warm thanks to my mother Tuomi for always being here for me and taking care of my son when I gave presentations at conferences. Special thanks to my father Iisko, the former Secretary General of the Sami Parliament and a member of the Second Sami Committee, for his tremendous knowledge about the life, history and culture of the Sami and for countless discussions, which helped to understand the causes and background of the complex ILO 169 debate. Many thanks to my brother Uule and his spouse Hanna and their sons Iisko Antti and my young godson Niila Matias. Our family has its Sami roots in Guovdageaidnu, northern Norway where the Sami University of Applied Sciences is located. Due to narrowing pasture lands and because of the closure of the borders between Sweden-Norway and Russia-Finland in 1852, our family moved to the Finnish side of the border in the period between the world wars, in the 1930s. Already at that time, the states' power policies shaped the life and history of the Sami. Sami affairs have always been close to my heart. My interest in the topic of this thesis was kindled when working as a public servant in the Sami Parliament, noticing that little progress was made in law drafting relevant to Sami.

Great thanks go to my best friend for decades Armi Rasmus and her family, who always has time for refreshing, deep and confidential discussions. Many thanks for years of friendship and special thanks to my godson Miska. Great thanks to my friend Mari Jaakkola for a lasting friendship. Many thanks also to my dearest friends Anne Laila and Nils Ole Skum and their family, with whom I've spent many nice moments in Guovdageaidnu. Special thanks to our relatives Risten Anne and Nils Peder Siri for renting an apartment to me in Guovdageaidnu and who always are willing to help.

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# 1 INTRODUCTION

After all, it's human interaction between people. Influencing means finding a way in which to reach another person and present a wish to take some form of action. For this, you cannot say that there is just one way to succeed. (inf1)

Public policy and public opinion are shaped in political processes in which multiple actors participate. This includes stakeholders, media and public servants that communicate and affect each other's agendas (Miller & Riechert, 2001, p. 107). In such processes, communication is used to exert influence by steering public opinion (Nelson & Oxley, 1999, p. 1040).

In this thesis a communication approach and a legal approach are combined to investigate stakeholder involvement in law drafting projects regarding land use. More particularly, the thesis examines stakeholder involvement in law drafting affecting Sami reindeer herding. The focus is on participation in law drafting in Finland, concerning the Act on Metsähallitus (Forest Management and Park Services) and the Committee on the enhancement of the participation rights of the Sami<sup>1</sup>, and the government bill on the adoption of ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries<sup>2</sup>.

The International Labour Organization (ILO) provides standards and policies involving governments, employers and workers from 187 states. It was founded in 1919 and became an agency of the United Nations in 1946 (<http://www.ilo.org/global/about-the-ilo/lang--en/index.htm>). The ILO Convention No. 169, also called ILO 169, is "the only legally-binding international instrument for the protection of the indigenous peoples' rights" (International

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<sup>1</sup> In Finnish: Saamelaiden osallistumisoikeuksien lisäämistä valmisteleva työryhmä, MMM005:00/2013. Hanke oli käynnissä 1.8.2013–28.2.2014. ([https://www.eduskunta.fi/FI/tietoeduskunnasta/kirjasto/aineistot/kotimainen\\_oikeus/LATI/Sivut/ILOn-alkuperaiskansoja-koskevan-yleissopimuksen-nro-169-ratifiointi.aspx](https://www.eduskunta.fi/FI/tietoeduskunnasta/kirjasto/aineistot/kotimainen_oikeus/LATI/Sivut/ILOn-alkuperaiskansoja-koskevan-yleissopimuksen-nro-169-ratifiointi.aspx))

<sup>2</sup> In Finnish the full title of the government bill: Hallituksen esitys eduskunnalle itsenäisten maiden alkuperäis- ja heimokansoja koskevan yleissopimuksen hyväksymisestä ja sekä laeiksi yleissopimuksen lainsäädännön alaan kuuluvien määräysten voimaansaattamisesta ja Metsähallituksesta annetun lain muuttamisesta (HE 264/2014 vp).

Labour Organization, 2009, p. 14). In Finland, this concerns the Sami. Sami reindeer herders with large herds are dependent on wide areas. Thus, they are placed in the frontline where the rights of the Sami to land and waters are contested by other land users.

The Act on Metsähallitus and its Sami provisions “was considered to constitute a major part of the Sami land right solution in relation to ratification of ILO 169 to raise the participation rights of the Sami as indigenous human rights in accordance to international law” (Heinämäki, 2017, pp. 27, 36). ILO 169 and the Act on Metsähallitus are interrelated: “The government proposal on the ILO Convention No. 169 includes the government bill to the Parliament on the adoption of the ILO Convention No. 169 concerning Indigenous and Tribal Peoples, as well as laws on the enforcement of the provisions of the convention and amending the Act on Metsähallitus”<sup>3</sup>. In general, the Sami paragraphs of the Act on Metsähallitus would have removed some of the obstacles to the ratification of ILO 169.

International human rights norms stipulate that indigenous peoples should be able to participate in and to be consulted by the state bodies in legislative drafting directly affecting them (Henriksen, 2008, pp. 19–20). Achieving transparency and legitimacy in policymaking calls for the inclusion of all possible stakeholders and their issue aspects in decision-making, not just some groups and their aspects (Meriläinen, 2014, p. 11).

Understanding conflicts, power relations and stakeholder involvement, it is necessary to investigate strategic actions taken by various actors in both legislative drafting cases affecting circumstances around Sami reindeer herding.

The government bill on ILO 169 was submitted to the Parliament on 27 November 2014. The Finnish Parliament discussed the government bill on ILO Convention No. 169, however, further proceedings were suspended and were to continue for the next parliamentary term. The Act on Metsähallitus was adopted by the Parliament in 2016, but certain provisions were excluded, for example, the provision concerning the prohibition to undermine Sami culture. This thesis explores participation processes in the period leading up to these outcomes. In the spring of 2015, the preparations for the adoption of the ILO Convention No. 169 in the Finnish Parliament had gained wide public attention in the Sami but also Finnish media. Members of the Sami Parliament, members of the Finnish Parliament, Sami academics, NGOs, interest groups and active citizens debated ILO 169 in the media. How the media tell the story is considered significant since it affects the final decisions (Entman, 1991, p. 7).

This also happens regarding Sami reindeer herding. An indigenous industry may have few possibilities to influence the outcomes of the debate, due to existing power relations in land use management that place the indigenous industry in an uneven power position (Widmark, 2009, p. 13). Stakeholders in decision-making processes are individuals and groups affected by a decision (Miller & Riechert, 2001, p. 110). Land use conflicts are common around the world

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<sup>3</sup> HE 264/2014 vp

and may signal an unequal distribution of power (Widmark, 2009, p. 13). As nation states may not be willing to respect and implement indigenous peoples' customs and customary laws in legislation and policies affecting them (Henriksen, 2008, p. 58), this makes traditional livelihoods "vulnerable to interference by both the State and private third parties" (Bulkan, 2011, p. 467).

In general, vulnerability can cause disadvantages for reindeer herding, e.g., due to climate change being most acute in the northern areas (Turi, 2009, p. 9). However, the concept of vulnerability is in this thesis applied to stakeholder groups in land use management "who cannot use the resource—when the resource is consumed" (Widmark, 2009, p. 27). The forest industry and reindeer herding compete for the use of the same forest ecosystems. Herders graze their reindeer in the areas where forestry is logging the trees. In grazing the land biological diversity decreases. Logging provides economic profits to forest companies, but it reduces, for example, the amount of lichen that is important to reindeer in winter. Narrowed grazing land and the reduction of the natural reindeer diet indicate a loss of the carrying capacity of the environment. In Sweden, some researchers have predicted that reindeer herding may even disappear in one hundred years, if logging continues in the way it does nowadays (Widmark, 2009).

In complicated issues, there are multiple stakeholder groups representing numerous issue aspects, which vary in importance and prominence (Miller & Riechert, 2001, p. 107). Other newer forms of competing land use like community planning, mining, tourism and wind power use the same areas as reindeer herding does, bringing welfare to the area, yet have a huge impact on the environment in terms of narrowing the amount of grazing land. The decisions related to land use management affect different groups in different ways. "What is important to one group is a trifling matter to another" (Miller & Riechert, 2001, p. 107).

An issue can have multiple aspects constructed by various stakeholder groups each having an impact on its target audiences' values and judgements (Zhou et al., 2012, p. 678). In dialogue, facts and values behind issues are presented to gain attention in public. That is to say, "stakeholders frame things differently" (Miller & Riechert, 2001, p. 111). When communicating, stakeholders emphasise different aspects. Interacting with one another, sharing opinions and values, hence participating in public arenas and contesting other issue aspects, "is to frame" (Pan & Kosicki, 2001, p. 39). To better understand participation in law drafting concerning indigenous land use, this thesis will focus on communication and explore concepts such as lobbying and framing.

## 1.1 Research problem and aim

This thesis scrutinises communication preceding and during law drafting concerning indigenous land use, which is a gap in the research. It analyses the related communication by multiple actors, while taking "general structural and political mechanisms as well as everyday practices of the Finnish legislative drafting" into consideration (Tala et al., 2011, p. 4). Participative processes when preparing for



law drafting and law-making bring chances as well as challenges for the stakeholder groups involved. In this thesis, the focus is on indigenous peoples that aim at maintaining their status and agenda, more precisely, the Sami people in Finland and especially the traditional Sami reindeer herding for which matters of land use are of great importance. Particularly, the process of incorporating indigenous human rights from international treaties in national legislation comes with many challenges. It forms a discussion arena of great complexity, where the progress of law drafting becomes almost impossible in the interplay of multiple stakeholders showing different interests and views. Understanding the communication processes involved poses the research problem of this thesis.

A controversial topic globally, indigenous peoples have legal rights, yet often struggle for real influence. The Constitution of Finland (731/1999) grants the Sami the status of indigenous people and asserts "The Sami, as an indigenous people, as well as the Roma and other groups, has the right to maintain and develop their own language and culture"<sup>4</sup>. Literature suggests that although indigenous people are recognised to have rights, ILO 169 stresses indigenous peoples' rights to land by distinguishing minority rights and indigenous peoples' rights (Henriksen, 2008). In practice, indigenous peoples often lack voice and influence (Lehtola, 2012). The Sami in Finland form an indigenous people and a linguistic minority. Although the Constitution of Finland protects the Sami language, it also frames the status of the linguistic minorities in Finland differently. According to the Constitution of Finland, public authorities are obligated to guarantee the rights of Finland Swedes, while for the Sami people it mentions a right to preserve its language and culture (Moring, 2004).

*This thesis seeks to gain a better understanding of the communication preceding and during law drafting processes in Finland regarding indigenous land use and, especially, participation of the Sami as an indigenous people in relation to the use of land and opportunities to engage in traditional sources of livelihood, particularly reindeer herding. This contributes to increased transparency in law drafting processes, and insight into the complex process of incorporating indigenous human rights from international treaties in national legislation.*

For this purpose, the thesis pays attention to indigenous participation in matters of land use, and the changing context of the law drafting on ILO 169 and the Act on Metsähallitus and related participation rights of the Sami. It builds on theory regarding communication in issue arenas and adds the perspective of communication to law drafting processes. It also contributes by observing not only public debate but especially the interaction in related stakeholder involvement, and when preparing a draft law in several steps in ministerial working groups. This adds insights into the complexity of involving stakeholders in law drafting and the related communication strategies including framing, agenda building and lobbying in law drafting arenas. This contributes to communication literacy which, in turn, may help give a voice to all involved, and in this case in particular, the indigenous people (as suggested by the International Labour Organization, 2009, p. 6).

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<sup>4</sup> The Constitution of Finland Section 17, Subsection 3

## 1.2 Approach

Reindeer herding Sami as an indigenous industry have engaged in this livelihood for thousands of years and acquired traditional knowledge and skills at a high-level, for example, “regarding weather, the climate, nature and animals” (Gaup Eira et al., 2010, p. 3). Yet their voice may not be reflected in law drafting and law-making regarding this traditional industry.

A need for this research departs from my personal and professional history and experience as a civil servant in the Sami Parliament since 2001. Experience has shown that despite involvement in legislative processes by participating in committees and being consulted by the state bodies, the Sami Parliament is hardly making progress in the field of legislation. The government bill on the ILO Convention No. 169 did not pass in the Finnish Parliament in March 2015. Another recent example from the year 2016, the Act on Metsähallitus with its Sami paragraphs aiming to increase the Sami participation rights in decision-making in the state-owned land in Finland, was widely debated in the Sami media for having failed to reach its objective to raise the participation rights of the Sami to the international level. Both legislative projects are essential to Sami reindeer herders because Sami reindeer herding as the last existing traditional indigenous industry needs vast territories, which brings them in constant competition for land use with other industries like mining and forestry.

An important question is what caused the delay of ratification of ILO 169 and the omission of the provision concerning the prohibition to undermine the Sami culture when the Act on Metsähallitus was enacted in the Finnish Parliament in 2016. ILO 169 was prepared within the framework of the International Labour Organization in the year 1989 and, at the time, Finland was actively involved in its preparation<sup>5</sup>. However, since then in Finland the ratification of ILO 169 has been an unresolved matter for 28 years, whereas developments have gone ahead internationally concerning this public policy issue. Until the present day, states have had sovereignty in lawmaking but as Sethi (2003, p. 6) puts it “as globalisation has progressed political boundaries have blurred and the control of national governments in the domestic arena has diminished”. Globalisation has positively affected indigenous issues by putting pressure on national governments to solve unsettled social, political, economic and educational matters between states and indigenous peoples, supported by attention in publicity. However, legislative changes in national legislation can be slow.

Reese (2007, p. 148) poses the question what makes someone “lose the framing war”? To be able to answer such a question in this case, there are many missing pieces that need to be put together. Participative legislation processes and the related interaction in a multi-actor environment are not well understood. For ex-

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<sup>5</sup> Release of the Ministry of Justice 27.6.2012; Referral of the Ministry of Justice 16.12.2011/OM 32/49/2011

ample, how framing is used in early stages of law drafting to affect political decision-making (Van Gorp, 2007, p. 61) through lobbying and agenda building. Such knowledge could empower all participants and bring balance to the debate. To better understand such communication processes, research has left the old-fashioned organisation-centred model of sending and receiving messages behind and has accepted that the interaction is formed in an uncontrollable way between various organisations, media, groups and individuals (Schultz et al., 2012, p. 98).

Building on theory regarding communication in issue arenas (Luoma-aho & Vos, 2010), several issue arenas can be distinguished, where the Sami and the Sami reindeer herding issues are discussed. Central issues include legislation processes and reforms, such as the mentioned ILO 169, including topics like the use of land and water for which the Sami people are engaged to maintain their legitimacy and rights. How do we understand the roles of the different actors that have a voice in these issue arenas and whose voice it is that makes a difference? Which stakeholders set the agenda regarding the future of reindeer herding and which stakeholders have a stake in the case of land use? According to Smith (2012, p. 841), "A stake may be considered a resource or potential contribution that an individual or group may offer or seek from a relationship". Wu (2007, p. 417) argues that identifying stakes comes first in stakeholder analysis. Stakes are sources of conflicts of interests between various stakeholder groups and may explain competition between those groups (Kim et al., 2010, pp. 215–216; Wu, 2007, p. 417). This triggers a need to manage or negotiate issues important to different stakeholder groups (Clarkson, 1995, pp. 103–104) in various related issue arenas in the social environment (Vos et al., 2014).

This research builds on legal, political and communication studies and brings together insights on framing (by e.g., Entman, 1993; Wise & Brewer, 2010; Supadhiroke, 2012), agenda building (Ohl et al., 1995; Walters et al., 1996; Curtin & Rhodenbaugh, 2001; Kioussis & Shields, 2008), stakeholder theory (Freeman, 1984; Werther & Chandler, 2006), issue management (Moss et al., 2012) and lobbying (Haug & Koppang, 1997; Van Schendelen, 2010).

This study suggests that stakeholders in law drafting represent diverse frames and competing messages. Framing is an elementary part of political communication involving sense making of an issue and communicating the relevance of one's agenda (Pan & Kosicki, 2001, p. 59). Therefore, this study also examines how framing and agenda setting are related to each other (Weaver, 2007, p. 146; Schultz et al., 2012, p. 97). In addition to issue framing when participating in an ongoing public policy debate, stakeholders also frame their identities and relations with other stakeholders (Pan & Kosicki, 2001, p. 59).

This thesis comprises three studies. The three studies investigate different aspects of indigenous participation in matters of land use. Study 1 takes a broad international view, as a literature study bringing together earlier studies and their insights on limitations and opportunities in the Sami and other indigenous peoples' participation in matters of land use, explaining indigenous influence or a lack of it in land use management. This brings together elements, or, in other words, international standards, of indigenous participation in law drafting.

Study 2 regarding the Act on Metsähallitus investigates lobbying and takes a public servant's perspective on legislative drafting processes. It views law drafting as a communicative process, providing opportunities to stakeholders to lobby and influence the outcomes of the process. It focuses on lobbying and, therefore, identifies key stakeholders, relevant issue arenas and steps in the process that bring opportunities for participation.

Study 3 addresses strategic framing and focuses on the consultation statements concerning the government bill on the ratification of the ILO Convention No. 169 in Finland, explaining how actors use different types of issue framing in the debate. Issue arena interplay is also addressed when the study scrutinises how the different actors position themselves and ally to promote their interests in ILO 169 discussions.

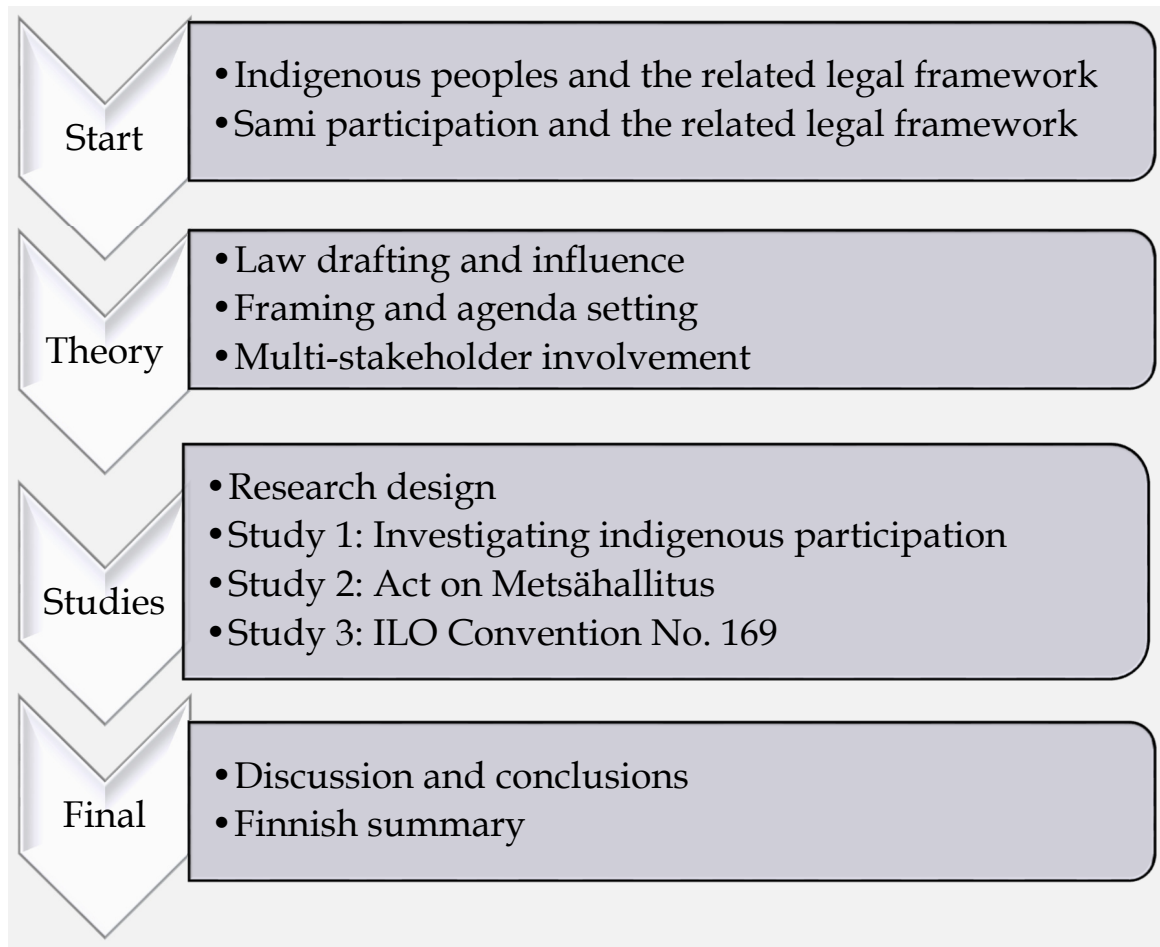
Together, the three studies aim to understand Sami and other indigenous participation in matters of land use, moving from the international and the Nordic level to national law drafting and ultimately the debate on ratification in Finland.

### **1.3 Preview**

After having introduced the research purpose, in Chapter 2 the changing context of law drafting in the issue of indigenous land use is addressed. Chapters 3, 4 and 5 provide the theoretical framework of the thesis, presenting theory on law drafting, framing, agenda setting and multi-stakeholder involvement. In Chapter 6 the research design, research questions and methods are explained and a justification of the methods of each study is given. The results of the literature study and the two empirical studies are reported in Chapters 7, 8 and 9. Chapter 10 culminates in the discussion and conclusions, presenting a model acknowledging the complexity related to participation in law drafting concerning matters of land use in traditional indigenous territories.

A schematic overview of the structure of the thesis is provided in Figure 1.

FIGURE 1 Schematic overview of the thesis structure



## **2 PARTICIPATION OF INDIGENOUS PEOPLES IN LAW DRAFTING**

A controversial topic globally, indigenous peoples have legal rights, yet often struggle for real influence. In many countries, the Constitution and other laws protect the rights of indigenous peoples and guarantee well-established procedures whenever measures are taken that may impact indigenous communities. However, the findings of this study show that despite this, the legislation procedures often contain elements that prevent indigenous participation, e.g., in terms of missing information, selective stakeholder participation and the lack of attention for building confidential relationships with the indigenous peoples concerned. Next, indigenous peoples' participation is scrutinised by presenting the changing views on ILO Convention No. 169 over time, and an explanation of the relevance of the Act on Metsähallitus for this topic. This is followed by an introduction of Sami participation and representation in Finland.

### **2.1 Legal context: ILO 169 and Act on Metsähallitus**

In this section, ILO Convention No. 169, its aims and changing views over time, the key Articles of the Convention and the statements of the Finnish government bill on ILO 169 to which the attention was drawn in stakeholder consultation are addressed. In addition, the importance of national laws is explained, especially, the Act on Metsähallitus in relation to the adoption of ILO 169.

#### **2.1.1 ILO Convention No. 169 and changing views over time**

Undoubtedly, indigenous peoples' rights to land and natural resources are the most salient rights recognised in ILO Convention No. 169 and the focus of public debate, not only in Finland but around the world where indigenous peoples live. However, ILO Convention No. 169 also deals with other matters in indigenous

societies, like traditional economies, employment, health, vocational training, social security, education and cross-border contacts (ILO Convention on Indigenous and Tribal Peoples, 1989 (No. 169): A Manual, 2003). Swepston, an official of the International Labour Office for 34 years, describes the versatility of approaching indigenous issues in ILO 169, not merely addressing labour issues as the ILO normally does, as follows.

“In fact, the Convention takes a broad approach to the rights of indigenous and tribal peoples. Its central provisions refer to the need to respect the continued existence and ways of life of indigenous and tribal peoples, and to involve them fully in taking decisions that concern them. It provides that indigenous peoples have rights to lands traditionally occupied by them, and for the first time in international law states that they also have rights to the natural resources connected with those lands.” (Swepston, 2005, p. 57)

In recent years, the Nordic countries have progressed in promoting the rights of their indigenous Sami minorities, ILO 169 serving as a model for legislative amendments. However, Finland and Sweden continue to consider ratification and how to settle the most controversial land right provisions in it (Joona, 2010). Meanwhile, “Norway has recognized that the Sami are an indigenous people according to the ILO definition” (Ravna, 2015, p. 62). In Norway, the ratification of ILO 169 in 1990 resulted in initiating investigations on Sami land rights (Ravna, 2011, p. 425) and incorporating commitments of ILO 169 into the current national legislation, for example, the Finnmark Act (FA) that transferred ownership of an area entered into force in 2005 (Ravna, 2015, p. 62).

The ILO Convention No. 169 points to other projects and workshops in its framework, emphasising the issue of land spotlighted by multiple other indigenous peoples (International Labour Organization, 2009, p. 4). The land use is a key issue, which is why indigenous peoples began networking and organising themselves worldwide in the 1960s and 70s, participating in public debate and demanding the right to participate in political decision-making (Bolanos, 2011). ILO 169 being “the only legally-binding international instrument for the protection of indigenous peoples’ rights, aims to guarantee an equal access to land use” (International Labour Organization, 2009, p. 14) for approximately 370 million indigenous individuals who live in 70 different countries, which ILO 169 seeks to protect (<http://www.ilo.org/global/topics/indigenous-tribal/lang--en/index.htm>).

As acknowledged in the Finnish government bill on ILO Convention No. 169 from the year 1990, a purpose of ILO 169 is to secure equal treatment to indigenous and tribal peoples, and to prevent the extinction of their cultures and languages. ILO 169 obligates states to treat indigenous peoples on an equal basis compared to the majority population and prevent discrimination against members of indigenous peoples. It also requires special measures from the states concerned to protect cultures, languages, social and economic statuses, as well as environments of the indigenous peoples<sup>6</sup>. However, ILO 169 does not list who

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<sup>6</sup> HE 264/2014 vp, 1-2

are indigenous peoples, but it lists criteria determining the indigenous peoples. Self-determination is regarded as the most fundamental precondition determining a definition of the indigenous peoples (<http://www.ilo.org/global/topics/indigenous-tribal/lang--en/index.htm>). ILO Convention No. 169 does not further address the political concept of self-determination of indigenous peoples, and the critical issue of land rights is not specified (Bulkan, 2011, p. 466).

Even if indigenous peoples do not have a formal role within ILO 169, the states concerned are obligated to establish procedures for participation and consultation, those being the cornerstones of ILO 169, and to initiate an ongoing dialogue with indigenous peoples to reach consensus on each issue affecting indigenous peoples at hand. Considering the diversity of indigenous cultures, in its Article 34, it “provides for flexibility by stipulating that the nature and scope of implementation measures should be determined in accordance with the conditions characteristic of each country” (Handbook for ILO Tripartite Constituents, 2013, p. 6).

Besides, ILO Convention No. 169 creates a worldwide indigenous arena to debate indigenous peoples’ rights, e.g., determining measures and means to establish indigenous representative institutions, proposing long-term practices of political participation and consultation, and how to secure indigenous peoples’ economically sustainable development in nation states. ILO 169 affords various rights for indigenous peoples including the “right to decide their own priorities” (article 7), right to “exercise control” (article 7) and right to “effective representation” (articles 6, 16) (Henriksen, 2008, p. 21). Similarly, “states are obligated to cooperate” with indigenous peoples (articles 7, 20, 22, 25, 27, 33), “not to take measures contrary to the freely expressed wishes of indigenous peoples” (article 4), to seek “agreement” (article 6) and “free and informed consent” from indigenous peoples’ (article 16) (Henriksen, 2008, p. 21).

Thus, ILO 169 provides to indigenous peoples an extended right to participate and to be consulted in cases where indigenous land use and livelihood issues are at stake (Broderstad, 2010, p. 900). Its four obligations protecting the land rights of indigenous peoples are “a participation obligation, an extended consultation obligation, a benefit – sharing obligation and a compensation obligation” (Ravna, 2015).

In Finland, ratification of ILO Convention No. 169 would concretely result in the extension of the Sami participation rights “in the use, management and conservation of the natural resources pertaining to the land they traditionally occupy” (Saarikoski et al., 2013). The Articles 16–19 and 23 defining land use are of great significance to indigenous peoples’ traditional industries based on their traditional knowledge, as they emphasise “the need to recognise indigenous and tribal peoples’ specific knowledge, skills and traditional technologies as basic factors in traditional economies and the need to strengthen and promote these economies with the participation of indigenous and tribal peoples” (Joona, 2005). Those who are critical about ILO 169 argue that it provides too much autonomy to indigenous peoples, whereas those who support it are of the view that it lacks



fundamental issues such as “self-determination, protection of intellectual property rights (which were not on the agenda at the end of the 80s) and decision power to indigenous peoples” (Swepston, 2005, pp. 56, 57).

The 76<sup>th</sup> International Labour Conference in 1989 in Geneva adopted the ILO Convention No. 169, that in dealing specifically with the rights of indigenous and tribal peoples in the independent countries, replaced the earlier Indigenous and Tribal Populations Convention No. 107 from the year 1957 (<http://www.ilo.org/global/topics/indigenous-tribal/lang--en/index.htm>).

Since the early 1950s the International Labour Organization, which mainly deals with labour and social policy issues, began to promote indigenous rights and launched the term “indigenous and tribal peoples or populations” in its first survey published on living and working conditions of indigenous peoples across the world (Swepston, 2005, p. 53). Since those days attitudes have changed both in Finland and internationally. Whereas ILO Convention 107 from 1957 still saw assimilation of indigenous peoples into the majority population as inevitable, ILO 169 from 1989 proposed measures to preserve indigenous cultures and languages. The purpose of the amended ILO Convention, which entered into force internationally in 1991, is to preserve the way of life of indigenous peoples and guarantee indigenous peoples’ right to participate in national decision-making in matters concerning them<sup>7</sup>. This aimed to promote indigenous peoples’ social and economic conditions from their own premises and reject the objective of assimilation (Bulkan, 2011, p. 466). Instead of mainstreaming, indigenous peoples were seen to have the right to their own culture (Scheinin, 2000). However, Swepston (2005, p. 56) reminds us that without ILO 107, ILO 169 may never have been amended and adopted.

### 2.1.2 ILO Convention No. 169 and views in Finland

A change of insights as noted internationally between the 1950s and the 1980s was also noted in Finland. The Finnish government bill (39/1959) from the year 1959 concerning ILO Convention No. 107 had stated that there was no need for the ratification of ILO 107 by Finland, since there were no indigenous people in Finland, merely some minor Sami tribes. However, the later government bill from the year 1990, in dealing with ILO Convention No. 169, stated that the aim of ILO 169 is to prevent the loss of minority languages and cultures in general. Therefore, the small number of the Sami in Finland cannot be an obstacle to the ratification of ILO 169.<sup>8</sup> While linguistic and cultural issues may seem relatively easy to solve, dealing with indigenous peoples’ collective rights to land and natural resources on the basis of indigenous customary law is a complex matter (Henriksen, 2008, pp. 63-64). The issue of land use regarding ILO 169 formed a challenge to Finnish legislation. Accession to ILO Convention No. 169 requires its member states to secure indigenous peoples’ land rights and rights to natural

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<sup>7</sup> HE 264/2014 vp, 5

<sup>8</sup> 1990 vp. – HE n:o 306, 1-2

resources in their ancestral land in existing legislation. Such gaps in Finnish legislation explain why Finland did not accede to ILO 169 in 1990.<sup>9</sup>

At the time, the Ministry of Justice, Ministry of Interior, Ministry of Agriculture and Forestry, Ministry of Education, Ministry of Social Affairs and Health, Advisory board on Sami Affairs, Sami Parliament and the main labour organisations were consulted concerning the preconditions for the ratification of ILO Convention No. 169. Most of the stakeholders to be consulted delivered favourable statements, except for the Ministry of Agriculture and Forestry, and the Confederation of Finnish Industries, who both did not support the ratification. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) stated that there were insufficient conditions for the ratification of ILO 169 in Finland. Therefore, it recommended Finland to develop its legislation to remove the obstacles for the ratification. The government bill regarding ILO Convention No. 169 proposed not to ratify it yet, because the Finnish legislation did not match the ILO requirements as imposed by the convention. This related mainly to Sami property rights to land.<sup>10</sup>

When, in 1990, the Finnish Parliament discussed the ratification, it decided in accordance with the government bill not to accept ILO 169 at that stage.<sup>11</sup> Albeit the Finnish Parliament rejected the adoption of ILO 169 in 1990, in the parliamentary proceedings the attention was drawn to the further processing of the ratification. At that stage, the Social Affairs Committee stated that Finland should take actions to create the conditions for ratification, which was supported by the Foreign Affairs Committee. In practice, the Constitutional Law Committee required the government to clarify how the barriers to the ratification of ILO 169 could be removed.<sup>12</sup> Since 1952, six reviews<sup>13</sup> have been conducted by the government to clarify the rights of the Sami to land and natural resources, but none has been dealt with in Parliament (Hyvärinen, 2010, p. 120).

Ever since, international monitoring bodies have repeatedly addressed Finland about the delay in the ratification of ILO 169. The Finnish government programmes in 2011 and 2014 included the aim to ratify ILO Convention No. 169. An aim of Prime Minister Katainen's government programme for the year 2011 was to ratify ILO 169 during the parliamentary term 2011-2015 (Oikeusministeriö, 2014). Therefore, in 2011, the Ministry of Justice initiated a reform of the legal framework to remove the barriers for its ratification. Essential for the ratification of ILO 169 in terms of developing legislation is the involvement of the administrative sectors of the Ministry of Justice, the Ministry of Agriculture and

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<sup>9</sup> 1990 vp. – HE n:o 306

<sup>10</sup> 1990 vp. – HE n:o 306, 1 – 2

<sup>11</sup> Release of the Ministry of Justice 27.6.2012; Referral of the Ministry of Justice 16.12.2011/OM 32/49/2011

<sup>12</sup> HE 264/2014 vp, 5-6

<sup>13</sup> Saamelaisasiain komitean mietintö 1952; Saamelaiskomitean mietintö 1973; Saamelaisasiain neuvottelukunnan mietintö I 1990; Selvitysmies Pekka Vihervuoren raportti 1999; Saamelaistoimikunnan mietintö 2001; Juhani Wirilanderin lausunto maanomistusoloista ja niiden kehityksestä saamelaisten kotiseutualueella 8.8.2001

Forestry and the Ministry of the Environment.<sup>14</sup> The government programme of Prime Minister Stubb in June 2014 stated: “ILO Convention No. 169 will be ratified during the autumn, provided that the government has reached a consensus on the definition of a Sami” (Oikeusministeriö, 2014). However, ILO 169 was not adopted in the Finnish Parliament in 2015, and the related “government bill on ILO Convention No. 169<sup>15</sup> is still pending in the Parliament” although it was not included in the next government programme of Prime Minister Sipilä (Heinämäki, 2017, p. 38).

The amendment of the Act on Metsähallitus and its provisions on the activities of Metsähallitus in the Sami homeland, which aim at “coordinating the use, management and conservation of natural resources in such way that the rights of the Sami to maintain and develop their language and culture would be secured” (Heinämäki, 2017, p. 35), could have removed some of the obstacles to ratification, as is explained next.

### 2.1.3 Related national legislation: The Act on Metsähallitus

Regarding the national legislation, the Act on Metsähallitus is especially relevant, as this relates to land use. Metsähallitus can be translated as the Finnish Forest Management and Park Services. It is a state enterprise operating under the guidance of the Ministry of Agriculture and Forestry. Its purpose is explained in the Act itself: “Metsähallitus uses, manages and protects the state’s land and water assets under its control sustainably. Metsähallitus must act profitably.”<sup>16</sup>

According to the government bill on the adoption of ILO 169, “related to the adoption of ILO Convention, the Act on Metsähallitus was proposed to be amended to include provisions on the planning and management of the state-owned land and waters in the Sami homeland and the related provision on the prohibition to undermine the Sami culture”<sup>17</sup>. The former Minister of Justice, Henriksson, described the aim of the amendments to be added to the Act on Metsähallitus as follows: “In accordance to policy guidelines of the former government, in July 2013 the Ministry of Agriculture and Forestry appointed a working group to prepare a proposal on the extension of the participation rights of the Sami in the decision-making concerning the state-owned land and waters in the Sami homeland to be included in the newly amended Act on Metsähallitus. Participation rights of other local people will be included in the provisions.” (Henriksson, 2013, p. 20)

The amended Act on Metsähallitus (234/2016), investigated in Study 2, entered into force on 15 April 2016 and according to its provision 6(1) on general social obligations of Metsähallitus:

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<sup>14</sup> Release of the Ministry of Justice 27.6.2012; Referral of the Ministry of Justice 16.12.2011/OM 32/49/2011

<sup>15</sup> HE 264/2014 vp

<sup>16</sup> Act on Metsähallitus 234/2016. (Laki Metsähallituksesta 8.4.2016/234)

<sup>17</sup> HE 264/2014 vp

“The management, use and protection of natural resources managed by Metsähallitus must be coordinated in the Sami homeland as referred to in the Act on the Sami Parliament (974/1995), in such a way that the conditions for practicing the Sami culture are maintained, as well as in the Reindeer Husbandry area referred to in the Reindeer Husbandry Act, so that the obligations laid down in the Reindeer Husbandry Act are met.” (Act on Metsähallitus, 234/2016)

However, for some reason the Finnish Parliament had stricken some other provisions from the amended Act on Metsähallitus in 2016. This concerned provisions on planning in the Sami homeland, in other words, the extended participation rights of the Sami in the planning and management of the state-owned land and waters in the Sami homeland, and the prohibition to undermine the Sami culture from an obligation of Metsähallitus to, in cooperation with the Sami Parliament and the Skolt Sami Village Administration, carry out impact assessment on the Sami culture. In other words, to investigate the implications of the management and use of state land and water resources for the Sami as an indigenous people, and to consider the necessary measures to reduce and prevent potential harm, which would have developed the consultation procedure towards a cooperation procedure as required by international law (Heinämäki, 2017, p. 35).

As noted above, in 1990 the Finnish Parliament had decided in accordance with the government bill<sup>18</sup> not to ratify ILO 169 at that stage, since the current Finnish legislation did not meet the requirements. Exactly those provisions concerning the extended participation rights of the Sami that now had been stricken from the Act on Metsähallitus could have facilitated the ratification of ILO 169, as they would have removed some of the legal obstacles for its ratification<sup>19</sup>.

The participation process on the Act on Metsähallitus, carried out by the working group appointed by the Ministry of Justice drafting the Sami paragraphs regarding the extension of participation rights of the Sami, was investigated in Study 2.

## 2.2 Representation of the Sami people

The Sami are the oldest Fennoscandian population and the only indigenous people in Europe who live in Finland, Norway, Sweden and the Kola Peninsula in Russia. “The Sami people call their land Sapmi and call themselves Sami”, says Baer. (2005, p. 247) Since the 5<sup>th</sup> century, “European history knows the Sami as archers and fur producers” (Aikio A., 2010, p. 186).

In the following sections the participation of Sami people, the legal framework of the Sami representation, and legislation guiding Sami reindeer herding in Finland are explained in more detail.

<sup>18</sup> 1990 vp. – HE n:o 306

<sup>19</sup> Release of the Ministry of Justice 27.6.2012; Referral of the Ministry of Justice 16.12.2011/OM 32/49/2011

### 2.2.1 Participation of Sami people

Indigenous participation in Nordic countries, as well as worldwide, has a long tradition. The roots of the Sami representation lie more than a hundred years ago (Valkonen, 2009). The Sami people organised themselves for the first time, caused by the external pressure on traditional Sami industries, as early as 1917 in Trondheim, Norway (Josefsen, 2001, p. 70). The representation of the Sami occurs at many different levels including the international UN level (Baer, 2005, p. 245), as well as the national, regional and municipal levels (Broderstad, 2010). Political parties in the Nordic context also offer opportunities for Sami representation to influence public policymaking concerning Sami issues (Josefsen, 2001, p. 70). In Norway, reindeer herders' representation in policymaking concerning reindeer pastoralism is ensured, however, the traditional industry is governed by institutions of mainstream society (Sara, 2011), where reindeer herders' traditional knowledge is absent, both in laws and regulations (Joks, 2008, p. 23). In Finland, reindeer herding associations established by the Reindeer Husbandry Act are the representatives of all reindeer herders (Hyvärinen, 2010) despite ethnic background. But the current legislation in Finland does not recognise or protect the connection of the traditional Sami industries' reindeer herding, fishing and hunting to the land in northernmost Finland, where the state owns more than 90% of the land and water (Joona, 2005).

In Finland, the Sami began to organise during the Second World War and established their first association, Samii Litto, in 1945 when many had lost their homes and property, such as reindeer herds, and when an understanding of the Sami ethnic divergence in relation to the majority population grew. Sami issues that today are high on the agenda were already promoted at that time, for example, the establishment of the Sami Bureau in the State administration and the foundation of the still existing Sami homeland. (Lehtola, 2012, p. 422) At the Nordic level, the Sami saw the need for an all-Sami organisation already in the 1950s, and in 1956 established the Saami Council "for Sami organisations in Finland, Norway, Russia and Sweden that promotes the economic, social, and cultural position of the Sami at the Nordic level" (Kulonen et al., 2005, p. 344). The same issues that are still high on the agenda, such as "Sami education, languages, literature, handicrafts and arts, mass communication and organisations", were also the concerns of the first all-Sami cultural agenda launched at the Sami Conference, the highest decision-making entity of the Saami Council in Gällivare, Sweden in 1971 (Kulonen et al., 2005, p. 7).

Simultaneously with those post-war developments, in 1949 the Council of State in Finland nominated the first Sami Committee, half of whom were Sami, and whose task was to promote the interests of the Sami, e.g., to propose a solution on the definition of a Sami and to determine the Sami area, the still existing Sami homeland. The Sami Committee also raised the reform of the Reindeer Husbandry Act to the agenda. (Lehtola, 2012, pp. 434, 435) The very first population

survey on the Sami people in Finland was conducted by the Society for the Promotion of Saami Culture<sup>20</sup> in 1945 (Valkonen, 2017, p. 181). Onward, in 1952 the first Sami Committee collected in its report information on the size of the Sami population in Finland (Sammallahti, 2013, p. 36). This was followed by the first demographic study of the Sami population as a statistics thesis, written by Nickul, supervised by Allardt and assisted by Nordic Statistic Offices. The study was based on research material collected by 12 Sami students, interviewing all Sami individuals in an area of the present Sami homeland “who themselves spoke the Sami language as a mother tongue, or at least one of their parents or grandparents did so” (Valkonen, 2017, p. 181).

As a result of long-term Nordic cooperation, according to Baer (2005, p. 248), in the 1970s various indigenous communities, NGOs and committed governments began to work on the recognition of the indigenous peoples’ fundamental and human rights at the UN level. In 1982 the Working Group on Indigenous Populations (WGIP), under the Sub Commission on the Promotion and Protection of Human Rights, was established by a decision of the United Nations Economic and Social Council, that in 1993 provided a draft of a declaration on the rights of indigenous peoples, accepted by the UN General Assembly in 2007, indicating the commitment of the international community to protect the individual and collective rights of indigenous peoples (Baer, 2005). During the 1993 International Year for the World’s Indigenous Peoples, the foundation of the UN Permanent Forum for Indigenous Peoples was proposed, then formally established in 2000. According to Baer (2005, p. 249), this was to deal with six main areas: economic and social development, culture, the environment, education, health and human rights. The UN Declaration on the Rights of Indigenous Peoples launched a new era in indigenous peoples’ rights, determining indigenous peoples as peoples who have the right to self-determination (Koivurova, 2010, p. 29). Self-determination is a key tool in indigenous representation, and according to Kuokkanen (2000, p. 412) it is seen as “connected to the deconstruction of the consequences of colonialism”.

The Sami Parliaments, the supreme representative bodies of the Sami, were established in each Nordic country – in Norway in 1989, in Sweden in 1993, and in Finland in 1995 – when the former Sami delegation established in 1973 was converted into the Sami Parliament by the Act on the Sami Parliament (Lehtola, 2005, p. 142). The Sami Parliament executing the linguistic and cultural autonomy of the Sami is determined as a form of Sami representation within the Finnish political system in which the linguistic and cultural affairs of the Sami have been placed under the authority of the Sami Parliament (Valkonen, 2009, p. 149). The foundation of the Sami Parliaments is interpreted as “one attempt to and a method of, political inclusion of indigenous people within the framework of a nation state”, including the allocation of power to the Sami Parliament followed by the return of that power to state control (Oskal, 2001, p. 254). However, Broderstad (2001) criticises that the high degree of cultural autonomy of the Sami results in the exclusion of the Sami from the national level of political decision-

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<sup>20</sup> In Finnish: Lapin Sivistysseura

making. Similarly, Carstens (2016, p. 78) states that, compared to the situation in Norway and Sweden, in Finland the status of the Sami Parliament is rather seen as a communication channel between the Sami and the State excluding the Sami from the actual decision-making.

## 2.2.2 The legal framework of the Sami representation in Finland

In Finland, the representation of the Sami people can be roughly divided into the civil Sami society and the linguistic and cultural self-government of the Sami provided by the Constitution of Finland and executed by the Sami Parliament. For the first time in the Finnish legislation, in 1973, the status of a linguistic minority group was provided to the Sami by "an issued decree on the Sami delegation, the predecessor of the Sami Parliament" (Hyvärinen, 2010, p. 120).

According to Kokko (2010, p. 7), "International law constitutes the primary basis for protecting the legal status of the Sami people in Finland". For example, the International Covenant on Civil and Political Rights (ICCPR) and its Article 27 from the year 1976 allow special treatment or positive discrimination of the Sami (Kokko, 2010, p. 8). This obligates the state to take measures to protect the future of the Sami culture in Finland (Brax, 2010, p. 21) so that effective participation of the Sami and the right to be consulted as provided by ICCPR is realised (Scheinin, 2000). However, as Carstens (2016, p. 84) clarifies, "the regulations of the ILO Convention No. 169 – only ratified by Norway – are more far-reaching than the protection offered by Article 27 ICCPR".

At the national level, the Constitution of Finland and other laws protect the cultural and linguistic rights of the Sami and provide the framework for the representation of the Sami in Finland. The Constitution of Finland and its section 17(3) recognise the Sami as an indigenous people in Finland:

"The Sami, as an indigenous people, as well as the Roma and other groups, have the right to maintain and develop their own language and culture. Provisions on the right of the Sami to use the Sami language before the authorities are laid down by an Act." (The Constitution of Finland 731/1999)

The provision has a close connection to constitutional equality (§6) (Brax, 2010, p. 18), aimed at protecting the Sami culture, which is broadly understood to include the various traditional Sami sources of livelihoods – fishing, hunting and reindeer herding. Onward, the Constitution of Finland and its provisions 17 and 22 obligate public authorities to allow and support the development of the Sami culture (Brax, 2010, pp. 18-19). This is also stated in the government bill on the adoption of ILO Convention No. 169:

"The rights of the Sami are widely protected in the constitution and in other legislation. Section 17(3) of the Constitution provides for the Sami the right to their own language and culture. The provision obliges public authorities to allow and support the development of Sami's own language and culture and provides a constitutional basis for the development of the Sami living conditions while respecting their own cultural heritage." (HE 309/1993 vp, 65; HE 264/2014 vp, 25-26)

According to the Constitution of Finland and its provision 121(3), the Sami as an indigenous people have linguistic and cultural self-government in Finland:

“In their native region, the Sami have linguistic and cultural self-government, as provided by an Act.” (The Constitution of Finland 731/1999)

The linguistic and cultural autonomy of the Sami is “the administrative and political position of the Sami guaranteed by the Constitution of Finland” to ensure a greater influence of the Sami in decision-making concerning their own language, culture and their position as an indigenous people<sup>21</sup>. The Sami Parliament executing the linguistic and cultural autonomy of the Sami in Finland operates under the administrative sector of the Ministry of Justice that coordinates Sami affairs in the Council of State (Henriksson, 2013, p. 20). As it is provided by the Act on the Sami Parliament (974/1995), the Sami Parliament is responsible for managing affairs related to Sami languages and cultures and the position of the Sami as an indigenous people:

“The Sami, as an indigenous people, have linguistic and cultural autonomy in the Sami homeland as provided in this Act and in other legislation. For the tasks relating to cultural autonomy the Sami shall elect from among themselves a Sami Parliament.” (Section 1(1) of the Act on the Sami Parliament (1279/2002))

The provisions on who is considered a Sami according to Finnish legislation are also included in the Act on the Sami Parliament (974/1995). In other words, this decides who as Sami in Finland have a right to participate in the representative democracy of the Sami provided by the current Finnish legislation and, by doing so, maintain and develop Sami languages and culture and their position as an indigenous people in Finland. The Act on the Sami Parliament (974/1995) and its provision 3 provide the definition of a Sami as follows:

“For the purpose of this Act, a Sami means a person who considers himself a Sami, provided:

- (1) That he himself or at least one of his parents or grandparents has learnt Sami as his first language;
- (2) That he is a descendant of a person who has been entered in a land, taxation or population register as a mountain, forest or fishing Lapp; or
- (3) That at least one of his parents has or could have been registered as an elector for an election to the Sami Delegation or the Sami Parliament.” (974/1995)

The term ‘indigenous people of the Sami’ provided by the current Act on the Sami Parliament (974/1995) was formed on the basis of both the concept of the Sami provided by an issued decree on the Sami delegation from 1973 and its contemporary term ‘the nomadic Lapp’ provided by the Nature Conservation Act (Hyvärinen, 2010, p. 120). The current definition of a Sami provided by the Act on the Sami Parliament is, however, considered problematic since it does not include group identification required by international law (Sammallahti, 2013, p. 37). To correct

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<sup>21</sup> HE 264/2014 vp, 6-7



the lack of group approval in the definition of a Sami<sup>22</sup>, the working group drafting the Act on the Sami Parliament proposed its most debated amendment to the definition of a Sami: “or that he or she has, through his or her family ties, adopted the Sami culture and maintained contact with it”<sup>23</sup>.

The Act on the Sami Parliament (974/1995), its section 4, determines the area of the Sami homeland:

“The Sami homeland means the areas of the municipalities of Enontekiö, Inari and Utsjoki, as well as the area of the reindeer owners’ association of Lapland in Sodankylä.” (974/1995)

The Act on the Sami Parliament (974/1995) and its provision 9 provide an obligation to negotiate:

- (1) “The authorities shall negotiate with the Sami Parliament in all far-reaching and important measures which may directly and in a specific way affect the status of the Sami as an indigenous people and which concern the following matters in the Sami homeland:
- (1) community planning;
  - (2) the management, use, leasing and assignment of state lands, conservation areas and wilderness areas;
  - (3) applications for licences to stake mineral mine claims or file mining patents;
  - (4) legislative or administrative changes to the occupations belonging to the Sami form of culture;
  - (5) the development of the teaching of and in the Sami language in schools, as well as the social and health services; or
  - (6) any other matters affecting the Sami language and culture or the status of the Sami as an indigenous people.
- (2) In order to fulfil its obligation to negotiate, the relevant authority shall provide the Sami Parliament with the opportunity to be heard and discuss matters. Failure to use this opportunity in no way prevents the authority from proceeding in the matter.”

As the above shows, the existing legislation in Finland, the Constitution of Finland and the Act on the Sami Parliament recognise the Sami as an indigenous people and secure the right to linguistic and cultural autonomy to maintain and develop Sami languages and culture. However, according to Heinämäki (2017, p. 12), “in terms of the rights of the Sami it is worrying that the ratification of ILO Convention No. 169 is linked to the definition of a Sami in a way, which has no legal basis in international law”. Next, a snapshot of the Sami reindeer herding is provided.

### **2.2.3 Sami reindeer herding in a changing national and global context**

Legislation regulating reindeer herding in Finland is not a new issue. The history of the organised Sami reindeer herding dates back far into the past, from the 16<sup>th</sup>

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<sup>22</sup> HE 264/2014 vp, 6-7

<sup>23</sup> HE 167/2014 vp

and 17<sup>th</sup> centuries (Aikio S., 1977, p. 92). The State began to organise reindeer herding at the end of the 18<sup>th</sup> century in the southernmost parts of the reindeer herding area, due to competition for land use and the integration of reindeer herding to the national economy. The reindeer herding cooperative institution was confirmed in writing by the Senate in 1898 and 1903. The First Reindeer Husbandry Act in Finland came into force in 1932 (Aikio P. & Helle, 1985, pp. 203–204). Its purpose was to regulate the status of reindeer herding in relation to other sources of livelihood (Lehtola, 2012, p. 137; Sara & Sara, 2004). Thus, Sami reindeer herding is considered to be a source of livelihood of an indigenous people, the Sami, which constitutes, in addition to its cultural significance, the basis of the indigenous economic activity (Korpijaakko-Labba, 1999).

The issue in this research appears to be land and more specifically who has the right to use the land in the Sami homeland, an area of the northern municipalities Enontekiö, Inari and Utsjoki, and the northernmost parts of the municipality of Sodankylä, in Finland. The issue of the land is one of the most important issues to Sami reindeer herding, because there are 77,100 reindeer in an area of the Sami homeland in Finland in the 13 northern most reindeer herding cooperatives. The very same region has only around 10,000 inhabitants.

In Norway and Sweden, as an indigenous industry, reindeer herding is “the exclusive right of the Sami in existing legislation” (Widmark, 2009, p. 15; Eira et al., 2009, p. 21) while in Finland practicing reindeer herding is open all EU citizens according to the existing legislation (Eira et al., 2009, p. 21). On an even larger scale, Sami reindeer herding is a part of the reindeer herding practiced in the northern regions of the world, “including 2,5 million reindeers, 100 000 people, 20 various indigenous peoples in nine countries” (Oskal, 2009, p. 5). The indigenous industry gradually evolved from wild reindeer hunting some 2000 years ago. One theory suggests that the Nenets of Yenisei generated reindeer herding from where it extended throughout the Northern Eurasia, while another theory says that “the Sami, the Nenets and Khanty-Mansi, the Evenks and the Chukchi and Koryaks” simultaneously developed reindeer herding (Pennanen, 2002, p. 60).

In Finland, the issue of the land has been on the agenda between the State and Sami Parliament for four decades, remaining unresolved at least since the 1960s. It emerged approximately at the same time when, in society, the need for issues management was understood. Issues management was born as a result of the global civil movements in the 1960s, when citizen groups began to demand legislation to correct various grievances related to, for example, environmental care. In order to respond to legislation and regulation, issues management arose in the business world and then the term ‘issues management’ was launched in the 1970s (Heath & Palenchar, 2009, pp. 5, 7). As a part of the same global movement in the 1960s and 70s, Sami people in Nordic countries spoke up to defend their rights, witnessing major social changes when roads were built across the Sami area, industries like forestry gained further ground, and migration from south to north resulted in the Sami no longer being alone in the area they tradi-

tionally occupied. The Sami began organising themselves to protect their language, traditions and the sources of living of the indigenous people from influences by the majority language and social structures and competing land use by industries of the majority population, such as forestry. The Sami Parliament was founded in 1973 to balance interests of the Sami among other interests (Lehtola, 1997; 2012).

The Finnish population represented different forms of land use, compared to the Sami people. The Sami reindeer herding was challenged by competing forms of land use such as forestry, agriculture, tourism, and the hydroelectric and mining industries. Natural resources of the Arctic Region attract many players to the area of the traditional Sami reindeer herding. Each of the competing forms of land use results in a narrowing of the reindeer grazing areas and, consequently, the loss of livelihood of the indigenous industry. The international mining industry had not extended its activities into the Sami reindeer herding area, until in May 2014 a big mining company obtained a diamond search warrant in the area of Utsjoki, the very heart of the Sami homeland. Later, however, this company withdrew from the area.

Nowadays, many Sami have a variety of values and ideas about what constitutes the good life. Sami are as well engaged in modern industries based on traditional livelihoods, such as reindeer safaris, as they are in industries other than the traditional ones, such as forestry, gold panning and a wide range of other services. Still, the traditional Sami way of thinking and way of life as an indigenous people is based on the integrity of nature. However, development cannot be stopped, as Lapland and the Sami homeland need employment opportunities. The key to this case is understanding how indigenous participation is arranged and how the traditional industries participate in the planning of issues that affect the environment in the Sami homeland. The aim might, for example, be to influence those legislative drafting projects going on in various issue arenas simultaneously in such a way that their adverse effects on the traditional industries of the Sami could be minimised.

The history of the Sami Parliament shows that the issue of land has dominated the relations between the State and the Sami Parliament for more than four decades and several decades prior to the foundation of the Sami delegation and the Sami Parliament.

### 3 LAW DRAFTING AND INFLUENCE

Legislative processes refer to “goal setting and to those who participate in the process” (Tala, 2001, p. 86). Among the multiple stakeholders some resist the change embodied by new legislation, whereas others try to change the existing situation and may support, wish to amend or even initiate related legislation. In the legislative process, many stakeholders with different objectives are involved trying to make their voices heard (Tala, 2001, p. 83). Legal studies analyse power relations in society and define legislative power in its broad sense as “the actual influence of the different actors over the content of the legislation” (Pakarinen, 2011, p. 2). Thus, the term ‘influence’ relates to having impact on the content of the legislation. In this chapter, this is further explained in the sections about lobbying and participation.

The legislative process in Finland is divided roughly into two parts: law drafting and lawmaking. Most law reform projects in Finland are prepared by the Finnish government and submitted as a government bill to the Finnish Parliament. Special parliamentary Committees continue to process the government bill, after which the Finnish Parliament enacts the law (Pakarinen, 2012, p. 2; Tala, 2007; Tala, 2001, pp. 9, 98). In “broad-based law drafting” the ministries nominate, for example, Committees that prepare a draft law in cooperation with officials (Tala, 2001, p. 98). Legal studies emphasise the role of the Finnish Parliament in legislative processes. However, the Finnish government has gained a stronger position in legislative drafting since the Constitutional Reform took place in 2000, stressing the preparatory work for government bills, e.g., by deciding what will be included in the government bill (Tala, 2005a, p. 22). Thus, Study 2 pays special attention to the early stages of the legislative process related to indigenous land use. In the legislative process, government organisations form their own category of stakeholders with a unique stake and role, whereas the responsible ministry has the role of a mediator. At an early stage in law drafting, committees nominated by a ministry have great influence on the government bills being prepared. Members of a Committee include officials of the ministry preparing the draft law and at least one stakeholder outside the ministry (Pakarinen, 2011, p. 30). In this chapter, lobbying, participation in the process of law drafting, the premises and

theories behind legislative drafting and the process of legislative drafting are explained in more detail.

### 3.1 Lobbying

Strategic communication is determined by Hallahan et al. (2007, p. 3) as “the purposeful use of communication by an organisation to fulfill its mission”. It is to foster an organisation’s interests (Farwell, 2012) by maintaining the organisational reputation (Holtzhausen & Zerfass, 2015, p. 5) as a precondition for achieving the strategic goals of an organisation (Hallahan et al., 2007, p. 25). Strategic communication builds on theories of public relations (Holtzhausen & Zerfass, 2011, pp. 72–73), especially valuing long lasting stakeholder relations (Holtzhausen & Zerfass, 2015, pp. 8, 10). It can utilise images and symbols to influence stakeholder opinions and actions in such a way that it serves organisational interests (Farwell, 2012). It also includes creating common meanings in social media environments that call for “message flow” and “a flow of dialogue”, where actors appear not only to be consumers but active prosumers of media content, receiving and creating meanings with other actors (Cunningham, 2010, p. 111). Prosumers influence and redistribute original message inputs created by an organisation in multiple online arenas (Cunningham, 2010, p. 111). This is why organisations need to engage in goal-orientated relationship building with other actors by means of strategic communication, including lobbying efforts (Coombs & Holladay, 2014, p. 24).

In an organisational context, lobbying is considered a communication practice (Verčič & Verčič, 2012, p. 14) that fosters relations and the building of common voice (Kugler, 2004, p. 74). It organises communication activities that may influence current policymaking and guide public opinion on certain policy issues (Thomas & Hrebenar, 2008, p. 4). Lobbying efforts exist wherever political activities occur, and may be implemented by specialised agencies, being an industry with ever-growing power and salience (McGrath, 2006, pp. 67, 68).

In political arenas, multiple stakeholder groups with various goals strive to influence each other and the decision-makers (Bonardi et al., 2005, p. 398). Thus, lobbying is often undertaken by organisations, but also by stakeholder groups involved in the issues concerned. When categorised within strategic communication, lobbying is described as an integral element of democracies that provides citizens more than a voting right every four years (McGrath, 2007, p. 269). Lobbying characterises transparency in democracies that maintain the system’s legitimacy by enabling civil society’s continuous participation in policymaking through lobbying efforts (Thomas & Hrebenar, 2008, p. 7).

Modern online communication platforms offer possibilities that enable networking and fast actions for lobbying (John & Thomson, 2003, p. 10), as they are virtual places where individuals connect online (Kugler, 2004, p. 79) to bring in “outside influence” in the political process, in a way different than was possible

in the past (Verčič & Verčič, 2012, pp. 15, 16). Such innovations impact democracies by providing opportunities to those who previously sat in the audience to be involved in policymaking (John & Thomson, 2003, pp. 9, 10). Establishment of permanent communication platforms for stakeholder groups and the government can enhance transparency and participation rights of citizens in decision-making (Hrebenar et al., 2008, pp. 51, 52). Therefore, the EU institutions recommend that online communication platforms should be implemented for this purpose (Taminiau & Wilts, 2006, p. 128).

Influence exerted and proposed societal change can also produce conflicts in policymaking where multiple groups, such as businesses and non-profit organisations, meet and promote their interests (Aitken-Turff & Jackson, 2006, pp. 84, 86). Conflicts arise from different goals between the different stakeholders and the state (Aitken-Turff & Jackson, 2006, p. 86), highlighting the need for broad public support for stakeholder points of view (McGrath, 2007, p. 271). Even though the ultimate target of lobbying efforts is the government, obtaining public consent for the issues involved makes the difference (Bradshaw, 2009, p. 177). Influencing public opinion and convincing media to address the issue puts pressure on decision-making (McGrath, 2007, pp. 277, 278). By driving various interests, lobbying may also preserve and confirm democratic processes.

Expertise in lobbying can increase “the transparency” of political decision-making by clarifying complex issues and situations (Coldwell, 2003, pp. 99, 100) and by adding relevant aspects to the debate (McGrath, 2006, pp. 75, 76). On the one hand, by attempting to influence the debate one aims to “sell policy preferences” (McGrath, 2007, p. 273). On the other hand, it is reliable and knowledgeable information that is being sought, presenting a more complete picture, with a variety of issue aspects and stakeholder perspectives around the issue at hand (McGrath, 2006, pp. 75–77).

Lobbying, as part of strategic communication, assumes an intention of the stakeholders, while consultation processes in law drafting are initiated by the government. Lobbying takes place during all phases of the legislative process, seen from a stakeholder perspective. This thesis assumes that insights in lobbying, as a form of strategic communication, are applied by stakeholders in the phases before a formal consultation process has been arranged by the government, but also during formal oral and written consultation events arranged by the government where this becomes visible in the way in which stakeholders communicate.

When tracing lobbying, various methods reveal themselves (Verčič & Verčič, 2012, p. 17) by which lobbyists seek to change views of decision-makers (Koeppel, 2000, p. 70) by targeting their activities to certain public policy issues (McGrath, 2007, p. 271) in order to influence legislative and administrative decision-making (Koeppel, 2000, p. 70). Monitoring decision-making processes precedes the submission of information, to know when to time the activities (Thomas & Hrebenar, 2008, p. 4).

Lobbyists can be considered to play the role of a mediator contributing to conflict solving processes, so that all actors could benefit in some way from their

activities in public policy arenas (Aitken-Turff & Jackson, 2006, p. 87). A stakeholder group represented by a lobbyist briefs this lobbyist on its viewpoint and provides background facts and real-life stories that can be interesting to politicians and public servants, as they may facilitate their work (Terry, 2001, pp. 267, 268). As politicians and public servants cannot have expertise in every possible area, background information is valued in policymaking (Wise, 2007, p. 360) as “an input to the political administrative system” (Koeppel, 2000, p. 70). This includes details and complexities of an issue (McGrath, 2007, p. 271), with usable facts that may reflect the values and interpretations of the receiver (Koeppel, 2000, p. 70). In this way, lobbying creates a mutually beneficial exchange that benefits interpersonal relationships between decision-makers and those that engage in lobbying (Wise, 2007, pp. 365, 358). In this “public policy orientated communication” public servants receive input needed in decision-making, while stakeholders become influential (Terry, 2001, pp. 268, 269).

In lobbying, real-life stories are also provided that clarify the problem situation and may suggest causal relations. The use of understandable phrases places an actor in the political field and presents the matter in a time-saving way in decision-making (McGrath, 2007, p. 273). In lobbying, frames are used to present a topic from a certain angle (see also section 4.1). Hence, when lobbying, one may choose a frame that expresses the problem from a certain angle and depicts the proposed solution as a favourable choice for decision-makers (McGrath, 2007, pp. 271, 276). In other words, a simplification is given of what, in reality, is often a more complex issue. Lobbying aims to offer frames that are easy to adopt by anyone.

To increase their power individuals and groups with similar views, that may be powerless when acting by themselves, form stakeholder networks to strengthen their shared voice (Terry, 2001, p. 266). A stakeholder network connects various actors, being individuals, groups or organisations, with similar interests. Expressing one’s own interests is not enough to gain recognition, instead one needs to show that problems are felt more broadly and solutions connect with broader values. Building an interest or pressure group’s identity on widely-accepted frames helps gain the attention of decision-makers (Wise, 2007, p. 358). Thus, a balance needs to be found between a group’s identity and how it links to other stakeholders with similar views and interests (Wise, 2007, p. 358). The chosen viewpoints reflect the preferences of the group and the group’s identity, locating it in the political field (McGrath, 2007, p. 269).

Stakeholders protect their interests against competing and more powerful groups by building stakeholder networks around difficult issues (Elliott-Teague, 2008, pp. 102, 103). The strategy chosen may strengthen the cohesion inside the network, enabling joint activities (Kugler, 2004, p. 77). Less central groups especially may seek possibilities offered by coalitions (Elliott-Teague, 2008, pp. 102, 103). In general, network building when sharing similar interests provides many advantages. It adds urgency if a larger community expresses its opinion in public. When many groups are involved this also enhances credibility, a broader social consent and “a sense of not being alone” (Aitken-Turff & Jackson, 2006, p. 92).

Next, the concepts of consultation and participation are defined.

## 3.2 Participation in the process of law drafting

Besides being the cornerstones of ILO 169, consultation and participation are the cornerstones of democratic processes that guarantee participation of all citizen groups. ILO 169 especially ensures the rights of indigenous peoples to be consulted and to participate in decision-making affecting them. Consultation and participation that are intertwined in many ways characterise the interface between an indigenous people and the government. Consultation obligates the government to negotiate with an indigenous people “in good faith” and to seek agreement whenever legislative amendments, administrative measures or development projects are considered. Even if ILO 169 does not provide veto right to indigenous peoples, “influence in decision-making affecting them” should be ensured. Participation is broader than consultation. According to the ILO, participation should go beyond consultation in giving indigenous peoples the opportunity to decide on their own development priorities (Handbook for ILO Tripartite Constituents, 2013, pp. 11-19).

According to Wiberg (2016, pp. 1-2), “The law is essentially a regulatory instrument” that aims at societal change by influencing people’s behaviour in the manner desired by the legislature. The EU level “better regulation” refers to a regulatory reform of the legislative process itself by adapting a wide range of “regulatory instruments to guarantee high-quality regulation” and by doing so ensuring growth and jobs (Radaelli, 2007, pp. 1, 2). In parallel, in 2006 the Finnish government launched its ‘Better Regulation Programme’ “to guarantee a high quality, i.e., transparency and openness, in legislative drafting achieved through stakeholder participation early in the process” (Tala et al., 2011, pp. 7-8). Transparency and consultation of stakeholders, as general principles in legislative drafting, are guided by the Constitution (731/1999), the Administrative Procedure Act (434/2003) and the Act on Openness of Government Activities (621/1999) in Finland (Ahtonen et al., 2011, p. 3). This programme aimed at improving civil society’s influence in legislative drafting through stakeholder involvement (Valtioneuvoston kanslia, 2006, p. 16), while legislation also controls the role of stakeholders in legislative drafting.

This fits a trend that expanded in Europe and globally since the 1960s (Pakarinen, 2012). In accordance with the Organisation for Economic Co-operation and Development (OECD), the principle of safeguarding stakeholder participation and influence in legislative drafting “aims to increase welfare and competitiveness” (Valtioneuvoston kanslia, 2006, p. 16; OECD, 2001). Below, the premises and theories affecting legal studies and legislative drafting are discussed.

### 3.2.1 The premises and theories behind the legislative drafting

According to the theory of rational choice, legislative drafting is regarded as “rational decision-making based on reason and scientific knowledge” (Savola, 2014, p. 212). The process begins with the evaluation of the current situation and the definition of the factors that have led to it (Keinänen & Wuorela, 2015, p. 170).



Next, among policymakers a shared understanding may be sought of how social problems and the development of society in general will be determined by legislation (Dahlberg, 2015, p. 321).

After setting the objectives, possible solutions are identified “measuring the benefits and costs of each option to guide the choice within the framework of limited resources” (Keinänen & Wuorela, 2015, pp. 170–171). In other words, impacts and objectives of each choice are taken into account as guiding factors in the legislative process. Furthermore, “scientific evidence is included to assess legislative instruments” (Dahlberg, 2015, p. 321), known as “evidence-based policy-making” (Ervasti, 2015, p. 74).

It should be noted that decision-making may not always be rational, as decision-makers may have many possibly conflicting goals, and some decisions have primarily symbolic value (Brunsson, 1990). Moreover, decision-making can be seen as a competitive game (Simon, 1959), involving actors with different interests. Instead of all actors having social interests in the agenda, collective action theory suggests that the interests dominating the policy agenda are often promoted by small stakeholder groups that aim at winning the game, whereas others in the game, losers, play to be in the game (Stone, 2002, pp. 217–219).

The legislator also needs to ensure that the legislation under preparation constitutes a solid continuum with existing legislation and is coherent with the entire legal system (Dahlberg, 2015, p. 321). Noteworthy, each government bill can include issues related to fundamental and human rights, which therefore should be considered in each bill issued to the Parliament. When Finland transformed into an information society the views on fundamental rights have changed as well, from “the ignorance of fundamental rights to the emphasis of fundamental rights” (Hautamäki, 2014, p. 256). Rational decision-making still dominates the field of legal studies but is not the only theory applied.

The theory of private interests or the theory of public choice, in turn, according to Pakarinen (2012, p. 49), claims that “various interest groups, power relations and institutional factors affect legislative drafting”. It is a guiding instrument in a society where different interests are presented by multiple stakeholders involved (Dahlberg, 2015, p. 321). It is noted as well that lawmaking is “affected by networks of interaction and power relations” (Pakarinen, 2012). According to Tala (2001, p. 86), the concept of legislative process refers to “the goal setting of decision-makers, authorities and powerful actors involved, which aims at the realisation of a certain state of affairs”. Furthermore, a variety of goal-orientated stakeholders participate in the legislative process and strive to promote their interests (Tala, 2001, p. 83). Hence, legislative research considers “legislative power” in its broad sense to be the real power of each stakeholder to influence the final decision making and thus the outcome of the legislative drafting project at hand (Pakarinen, 2011, p. 2).

Criteria for better regulation “such as transparency, stakeholder involvement and the opportunity to assess the legislative process” may help balance the existing power relations and prevent some actors from promoting merely their own interests in legislative drafting (Keinänen & Paasonen, 2015, pp. 3, 4). An

everlasting question, however, is who should be consulted in legislative drafting, if the aim of high-quality consultation is to improve the quality of legislative drafting and increase the transparency of the legislative process. Pakarinen (2011, p. 3) groups the stakeholders into interest groups including various organisations, and pressure groups that seek to exercise public power for societal change. Tala (2007, pp. 7, 16) argues that some interest groups are particularly influential because of their information channels and since they are highly motivated to influence the content of the draft law solely in their own interests.

Keinänen and Lehtoviita (2014, p. 3) and Vuorela and Keinänen (2014, p. 777) noted that parliamentary Committees consult government stakeholders such as various ministries, but also other government bodies, next to “experts such as professors in the given field, and those who are affected by the draft law under preparation” (Keinänen & Lehtoviita, 2014, p. 3). Much may happen before a plenary session, when many actors in society have already contributed to the draft law, often in an intensive interaction. News media also affect the legislative drafting process, for example, by emphasising certain issue aspects of the draft law in their reporting (Pakarinen, 2011, p. 1). Apparently, a variety of actors and bodies in society participate in legislative drafting and have input in the draft law.

However, an open question remains. How are the stakeholders to be consulted in the process of legislative drafting identified and selected? The OECD states that citizens increasingly demand that governments build an open and transparent governance system and use advanced two-way relations with citizens by informing, consulting and actively engaging citizens in policymaking processes. The legitimacy of the democracy calls for an extended participation of civil society. Moreover, involvement of civil society legitimises decision-making in legislative processes and leads to a more effective implementation of the legislation (OECD, 2001, pp. 8–19). Increasingly, the attention in legal studies is shifting to the theory of private interests. However, rational choice continues to be the foundation of the legislative drafting accomplished by ministries and parliament, providing premises for legislative research (Savola, 2014, p. 212).

### 3.2.2 The process of legislative drafting

“The legislative drafting process consists of law drafting executed by the ministries, either by officials or law drafting departments, and lawmaking is carried out in the Parliament by its special committees, thus legislative power is vested in Parliament”<sup>24</sup>. In Finland, the legislative process refers to “law drafting conducted in ministries under the authority of the State Council” (Tala, 2001, pp. 9, 98). In law drafting, government bills drafted as proposals for Parliament’s decision-making need to highlight “the objectives of legislation, alternative solutions and their effects to different stakeholders” (Oikeusministeriö, 2004, pp. 9, 14). “The government bill is a document, which summarises the findings and conclu-

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<sup>24</sup> <http://lainvalmistelu.finlex.fi/en/>

sions of the preparatory work. A government bill works as a basis for the preparation and decision-making in the Parliament" (Oikeusministeriö, 2004, p. 7). In order to proceed to the process of legislative drafting, a legislative project should enter the government programme<sup>25</sup> in the previous parliamentary term (Tala et al., 2011, p. 8). They further explain:

"In Finland, half of the legislative projects are prepared by public servants and half of them are drafted, for example, by Committees in which there are members from the responsible ministry and at least one other ministry or a stakeholder group. Other stakeholders such as authorities, other ministries, interest groups, NGOs and experts in a given field are consulted and the stakeholders are provided an opportunity to submit statements." (Tala et al., 2011, p. 10)

The legislative drafting process contains various steps and sub steps within which an ongoing interaction between political decision-makers and public servants takes place. According to literature on legal studies, legislative drafting has 10 different steps: "(1) initiative, (2) research and preparation for drafting, (3) drafting in Committees, (4) hearing, (5) redrafting, (6) handling in the Council of the State, (7) handling in the parliament, (8) enactment, publication and entry into force, (9) training and information and (10) monitoring" (Niemi, 2002).

The Legislative Drafting Process Model introduced by the Ministry of Justice (2010b; 2011a; 2011b, p. 13; 2011c; 2012; 2013) consists of several preparation steps: initiative, preliminary preparation, regulatory drafting, consultation, continued drafting and review by the government. In the preliminary preparation, the current state and development needs are assessed, and the issue at hand is defined (Oikeusministeriö, 1996). Study 2 focuses on the stages of preliminary drafting and consultation in the law drafting process.

The legislative reform often begins with research projects conducted at the stage of preliminary preparation. It includes describing the background of an issue and what the objectives of a draft law are. The relevant impacts, a review of the existing legislation, constitutional issues and links to, for example, EU legislation and international developments need to be addressed. In the basic preparation, the content of a draft law will be outlined in an interaction between the minister and public servants in the ministry responsible for the government bill. During the basic preparation, stakeholder consultations and hearings are arranged (Oikeusministeriö, 2004, pp. 8, 9, 12). After law drafting, lawmaking is conducted by the Parliament and its committees, in other words "the Parliament enacts the laws" (Pakarinen, 2012, p. 2). According to the Finnish Constitution, the legislative power is exercised by the Parliament (PL 3.1 §). The role of the Parliamentary special committees is to draft government bills for processing in the Parliament's plenary sessions. The 15 permanent committees have an important role, since Parliament's plenary session cannot present any additional proposals to a draft law than its committees have already discussed during the

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<sup>25</sup> The Government Programme is the Government's plan of, e.g., legislative projects which will be implemented in the next parliamentary term (Astola, 2012, p. 144).

processing in the committee (Kuivalainen & Keinänen, 2016, p. 3). This study focuses on the stage of the law drafting.

The importance of securing stakeholder involvement and the measures that this requires is recognised at the level of political decision-makers and the state administration. Thus, the Government Programme of 2011 has announced the enhancement of open consultation in legislative drafting<sup>26</sup>, enabling identification of opinions of key stakeholders about a legislative proposal in preparation (Oikeusministeriö, 2010a, p. 15). In 2009, when assessing the implementation of the government programme by the Prime Minister's Office, it was identified as a key shortcoming that the principles of transparency and consultation are often not respected (Valtioneuvoston kanslia, 2009, p. 27). Moreover, the National Audit Office of Finland emphasised the importance of creating an open dialogue between stakeholders, ministries and executive administrations (Valtiontalouden tarkastusvirasto, 2011, p. 33).

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<sup>26</sup> Pääministeri Jyrki Kataisen hallituksen ohjelma (Government Programme of Prime Minister Jyrki Katainen) 2011, 25

## 4 FRAMING AND AGENDA SETTING

In lobbying the various actors present their points of view. Framing is also seen as creating “discursive constructions of issues or events” (Bardhan, 2013, pp. 395–396). Communication practitioners act as a “frame strategist” (Hallahan, 1999, p. 224) and decide ‘how situations, attributes, choices, actions, issues and responsibility should be posed to achieve favourable objectives’ (Kioussis et al., 2006, p. 270).

The strength of framing theory lies in its capability to encompass insights of diverse fields simultaneously, such as psychology, organisational decision-making, economics, media studies and political communication (Hallahan, 1999, pp. 205–206). Framing power shapes debates in ways the audience may not be aware of (Tankard, 2001, p. 97).

The growing number of framing studies proves the popularity of the concept (Weaver, 2007, p. 144), but approaches to framing introduced in the literature are also argued to be contradicting or sometimes opposing each other (Druckman, 2001, p. 226). The concept is claimed to be ambiguous (Weaver, 2007, p. 144) and vague (Van Gorp, 2007, p. 61). This study takes a constructivist perspective, suggesting that frames are tied to their cultural contexts (D’Angelo, 2002, p. 870; Weaver, 2007, p. 143). Culture is understood as “a shared repertoire of frames” (Van Gorp, 2007, p. 61) and “issue salience is created by linking frames to culturally familiar and prominent elements” (Entman, 1993, p. 53).

In this chapter, framing and agenda setting are further explained. The concepts of frames and framing are discussed, and the relation between frames and issues is clarified. Furthermore, different kinds of frames are addressed, as well as why framing occurs, how it is done, and what agenda setting and agenda building are.

## 4.1 What are frames and framing?

The word frame refers to framework, and framing equates to the “wording, formulating or shaping” of issues (Van Gorp, 2007, p. 61). A frame is a focal point in organising and understanding the matter at stake (Gamson & Modigliani, 1989, p. 3). Discourses are all about frames constructing a larger collective paradigm, answering ‘what is the name of the game?’ (Luoma-aho & Vos, 2010; Johansson, 2007). Reese (2001, p. 7) concluded that “both as a noun and a verb, the word frame suggests an active process and a result”.

When talking about an issue, framing relates to what is highlighted in the story, for example, what background is given about the problem and its origins, and what line of thinking in the options and decisions available is suggested (Nelson, 2004, p. 352). Moreover, frames construct social reality by using culturally well-known forms of communication (Murphree et al., 2009, pp. 276–277). In his famous definition, Entman (1993, p. 52) emphasises selection and salience in frames and clarifies how frames are created.

“To frame is to select some aspects of a perceived reality and make them more salient in a communicating text in such a way to promote a particular problem definition, causal interpretation, moral evaluation and/or treatment recommendation for the item described” (Entman, 1993, p. 52).

Salience is all about emphasis and repetition to facilitate the adoption of frames in people’s minds and the way in which people may see the matter (Fiske & Taylor, 1991, p. 252). In public debate stakeholder strategies are built on a variety of overlapping frames, since multifaceted public issues are the interests of many stakeholders (Meriläinen & Vos, 2011, pp. 120, 130–131).

Goffman, who originally launched the concept, concluded that frames bring people together: “A frame, however organizes more than meaning; it also organizes involvement” (Goffman, 1974, p. 345). Tsetsura in turn (2013, p. 408) describes how actions, influence and frames will be intertwined as “frames help to organize and guide actions and aim to influence broader public understanding”. Frames in communication are supposed to have impact on frames in thought, meaning how individuals comprehend an issue (Druckman, 2001, pp. 227, 228). When merely slight modifications are made to a message’s content (Chong & Druckman, 2007b, pp. 104, 106), that can already work as a clue for what is the suggested way to see the matter (Iyengar, 1991, p. 11). The formation of frames is a multi-way process where frames can be found in all building blocks of the process, “the communicator, the text, the receiver, and the culture”, all of which may have influence on each other (Entman, 1993, p. 52).

People do not, however, accept all available frames (Hallahan, 2011, p. 179). Some frames match with an individual’s schemas, and some frames do not (Entman, 1993, p. 53). Schemas are “cognitive structures”, entities of interconnected attributes and belief systems in people’s minds that produce a variety of interpretations of issues and construct individual differences and cultural similarities

among people (Fiske & Taylor, 1991, p. 131). Moreover, in interaction many interpretations and solutions are brought together to redefine a joint problem, in other words different frames are combined to reframe an issue (Dewulf et al., 2005, pp. 117–118).

## 4.2 Frames and issues

Frames and issues are intertwined in many ways. A frame is typically related to a certain issue, event or political actor in communication (Chong & Druckman, 2007b, p. 106). Framing starts from issue identification (Entman, 2004, pp. 23–24) defining the essence of an issue and the objective an actor is trying to achieve (Oliver & Donnelly, 2007, p. 402). A stakeholder group needs to be aware of developments since issues change over time, “rise and fall, prevail or disappear” (Canel, 2012, p. 215). A problem can start as a private concern but becomes an issue when it is discussed in public (Coombs, 2002, p. 216; Palese & Crane, 2002, p. 285). Thus, issues begin when making a personal problem public. As is often the case, the issue represents differences in “facts, values and policies” as seen by different stakeholders (Heath & Palenchar, 2009, p. 10). “Issues are not simply questions that exist” (Gaunt & Ollenburger, 1995, p. 205), but appear out of problematic questions in public debate (Grunig & Repper, 1992, p. 124). They can indicate problems in organisational relations with their stakeholders (Coombs, 2002, p. 216) and “expectational gaps” (Jaques, 2009, p. 282). Therefore, “an issue is an unsettled matter” (Chase, 1984, p. 38). In political processes, issues change shape as time passes, “constituting social drama and creating uncertainty” (Hallahan, 2001, pp. 33, 34).

After the issue has entered the public agenda, stakeholders start discussions around it, aiming to frame it for their own good (Miller & Riechert, 2001, p. 112). Issues are collective by nature, as they are created in interaction between people (Hallahan, 2001, p. 28). The discussion can involve many active players (Clarkson, 1995, pp. 103–104) and show various competing stakeholder opinions (Jaques, 2009, p. 282). Shared problems produce different competing narratives sponsored by various stakeholders (Pan & Kosicki, 2001, p. 48). Issues bring stakeholders together and build relationships between those involved (Kim et al., 2010, pp. 215–216). As public opinion matters, some issues, after having been discussed by citizens, become known through news headlines and eventually end up in political decision-making (Hallahan, 2001, p. 28).

## 4.3 Kinds of frames

There are many kinds of frames. For example, collective action frames as goal-orientated processes maneuver social activities and, thereby, build social reality (Benford & Snow, 2000, p. 614). In value frames, actors focus attention on values

behind the issues to receive public support (Shah et al., 2001, p. 228). Media frames are among the most studied types of framing (Dearing & Rogers, 1992, pp. 2, 4). Media frames can function as “cognitive shortcuts” that simplify complex issues and thus make them understandable (Supadhiloke, 2012, p. 666). Framing allows news media and their audience to take a look at an issue in a certain light depending on the issue aspect most under consideration (Van Gorp, 2007, p. 63). The loudest frames are those most frequently presented, which may bear the greatest impact on people’s opinions (Chong & Druckman, 2007a, p. 639), whereas weak frames are almost invisible and remain in the shadow of the loudest frames (Wise & Brewer, 2010, pp. 435–437). “Frames dominating the news are believed to dominate audiences” (D’Angelo, 2002, p. 877). Media hegemony describes a situation in which dominant media frames are used to define the terms of a debate. News framing can weaken some voices and support other voices without showing signs of bias between included and excluded ones (Tankard, 2001, p. 97), by blocking some frames from public debate and by setting other frames on a pedestal (Durham, 2001, p. 125). News coverage can confirm the framing potency of some political actors if an issue is linked to core values widely accepted in the society. Furthermore, some political actors attempt to ally with the media and try to get the media to construct desired frame packages and do the framing work on their behalf (Pan & Kosicki, 2001, p. 49). In other words, the outcome of news framing is affected by journalists and multiple other actors in society, whereas audiences may accept the news without comprehending the external influences and the underlying framing power on them (Tankard, 2001, p. 97). In news items conflict frames are often used (Dearing & Rogers, 1992, pp. 2, 4) to draw public attention to “winners and losers”, since an issue may have different impacts on different groups, causing conflicts between those groups in society (Semetko & Valkenburg, 2000, pp. 95, 98, 99). News frames, like other frames, organise ideas on how the story is told (Tankard, 2001, p. 99).

#### **4.4 Why does framing occur?**

Not all framing occurs within a media context. Instead of focusing on news frames, this study examines framing as a “hidden, invisible but effective” key tool of strategic communication taking place outside the traditional news media (Murphree et al., 2009, pp. 275–276), for example, in interaction between communication practitioner efforts, social media and public agendas (Schultz et al., 2012, p. 97). Or, framing also takes place in conversations between people and, even when this is partially behind closed doors, this still may impact public and policy agendas (Murphree et al., 2009, pp. 275–276). Framing as a phenomenon shows that issues can be examined from many angles, affecting individuals’ views (Chong & Druckman, 2007b, p. 104). Pointing out salient attributes that define an issue can induce a changeover in thinking (Pan & Kosicki, 2001, p. 38). As an outcome of the framing process, individuals may accept a refocus and create a new understanding of the issue (Chong & Druckman, 2007b, p. 104).



People can use framing without being aware of it, for example, when interpreting messages of others. However, “as a tool of persuasion” (Hallahan, 2011, p. 180) framing intentionally aims at schema activation (Pan & Kosicki, 2001, p. 39) to affect an outcome, “called a framing effect” (Druckman, 2001, p. 228). This effect occurs when individuals adopt a different position on an issue that depends on the priority given to various considerations (Druckman & Nelson, 2003, p. 730). Therefore, framing can attempt to “set the agenda for the target audiences of a discourse” (Bardhan, 2013, pp. 395–396). As an outcome of a framing process people may approve a new way to approach the issue (Chong & Druckman, 2007b, p. 104), based on considerations offered by a framer. For example, policy framing aims to influence audience opinions regarding a specific issue aspect (Nelson, 2004, p. 352) and to get public support for some judgements over others (Chong & Druckman, 2007a, p. 637). However, the process and its effects are unpredictable, as individuals are active processors of information who may reject or adopt information in their memory (Scheufele, 2000, p. 307). Moreover, individuals select, edit and resend messages in interaction with others (Hallahan, 2011, p. 179), as a conscious or unconscious process.

Framing is a process in which discourses develop and change happens as time passes by (Chong & Druckman, 2007b, p. 108). When intentional, value framing is considered persuasive communication aimed at affecting people’s prioritisation of values and their political opinions (Nelson, 2004, p. 581). Framing has previously been comprised to affect public opinion by elites (Druckman & Nelson, 2003, p. 730), but nowadays framing by NGOs has also been investigated, used as a strategic communication tool to produce salient issue angles (Meriläinen, 2014, p. 34). Therefore, framing theory is applied in this study to investigate how various stakeholders around issues important to Sami reindeer herding, like land use, frame those issues and in such a way impact this indigenous industry and its future.

This thesis adopts a critical perspective considering framing as a tool often used by more powerful actors in society (Reese, 2007, p. 149), and elites and influentials being “those who get the most; the rest are mass” (Lasswell, 1968, p. 13). Elites may control and maintain social preferences by framing issues in a way that makes the dominating frames look natural (Reese, 2007, p. 149). Such frames are said to create stability in society by raising the unquestionable frames above others (Nelson, 2004, p. 583). Some frames rise above the rest in discussion, while others fade in the background (Miller & Riechert, 2001, p. 113). To newcomers framing circumstances can be challenging. In the debate, most actors have already internalised existing schemas or belief systems, when being socialised as a member of a given culture, and do not tend to change their opinions towards the existing frames (Entman, 1993, p. 53).

## 4.5 How is framing done?

To frame is to select a narrow fraction of (Nelson, 2004, p. 352) prominent words that describe the selected considerations (Pan & Kosicki, 2001, p. 38). According to Iyengar (1991, p. 11), a frame is “an invisible context clue placed to the story” that may affect how people think about an issue. It defines the issue in a way desired by the framer (Supadhiloke, 2012, p. 666), by placing emphasis on a certain wording and sentence structure (Scheufele, 2000, p. 309), and choosing words that are “noticeable, understandable, memorable and emotionally charged” that are culturally prominent and thus attract sponsorship of other stakeholders (Entman, 2004, p. 6).

Framing answers the question: ‘What is the name of the game?’, by recognising potential outcomes of the process (McCombs & Ghanem, 2001, p. 78). These are “problem definition, causal analysis, moral judgment and remedy promotion” (Entman, 1993; 2004; 2007, p. 164). Issue and policy framing point out a certain part of the problem area and stress this to influence public opinion (Nelson, 2004, p. 352). A “framing effect” may take place when individuals embrace a new way of thinking influenced by the frames that have been offered (Druckman & Nelson, 2003, p. 730; Chong & Druckman, 2007a, p. 637; Zhou et al., 2012, p. 678). Framing does not only affect how the issue is seen but also shapes the identity of the framer, distinguishing the actor from other actors in the discussion (Pan & Kosicki, 2001, p. 44).

Framing also recognises that there are other stakeholders around an issue (Murphree et al., 2009, pp. 276–277). Framing may include a variety of ideological premises in an ongoing process of framing (Miller & Riechert, 2001, p. 109), where people interact with each other and define their actor roles (Pan & Kosicki, 2001, p. 43). In the evolving interaction, actors phrase issues in a way to connect them to people’s interests (Wang, 2007, p. 141) and construct social meaning by presenting an issue from a certain perspective. Therefore, they need to know what people consider worthy, in order to introduce frames that might be popular among them (Nelson, 2004, p. 584). Framing is done by focusing on frame sponsorships, meaning factors like knowledge and skills or economic and cultural resources, that together with frame resonance with the broader political climate make frames successful (Carragee & Roefs, 2004, pp. 214–216).

When expressing their identities stakeholders form alliances with other stakeholders, acquiring salience to their activities and opinions. Actors seek to negotiate a common basis for an issue that as many other actors as possible can accept (Reese, 2007, p. 152; Canel, 2012, p. 215). This is done by creating relations between various elements of the story (Maher, 2001, p. 86), by using previous output to build on (Scheufele, 1999, pp. 114–115) and underlining connections with previous input to promote a certain interpretation (Entman, 2007, p. 164).

The process of framing is dynamic (Scheufele, 1999, p. 103), as a social reality is constructed (Hertog & McLeod, 2001, p. 140), by outlining a story to audiences (Supadhiloke, 2012, p. 666). Actors may follow the response to their views

in the public debate (Chong & Druckman, 2007a, p. 637). When they note positive frame resonance with the audience this invites them to intensify their efforts, while negative resonance may lead to a change of tactics (Miller & Riechert, 2001, p. 109). Framing also requires monitoring of how other actors respond to the discussion by their framing (Murphree et al., 2009, pp. 276–277). Over time, the process of framing may create new issues from previously debated ones that are re-framed and transferred into new political issues (Chong & Druckman, 2007b, p. 108).

## 4.6 Agenda setting and agenda building

Agendas answer the question “what is discussed?”, while frames address the question of how this is done (Schultz et al., 2012, p. 99). Agenda setting has its roots in Bernard Cohen’s (1963, p. 13) observation that the media are not so successful in telling us “what to think” but rather in telling us “what to think about” (Ragas & Kiouisis, 2010, p. 561; Ragas et al., 2011, p. 258). Agenda setting can be viewed as a selective process in which a few significant issues are chosen on an agenda (Scheufele, 2000, p. 309). Through issue selection the media direct public attention to those few issues chosen to be salient (McCombs, 1997, p. 433), “salience meaning a piece of information made more noticeable, meaningful, or memorable to the audience” (Entman, 1993, p. 53). By picking up certain news topics and related persons, the media show what issues “especially deserve the public attention” (Althaus & Tewksbury, 2002, p. 180). The transmission of salience, however, does not imply that the media determine people’s opinions (McCombs, 1997, p. 433). The core role is setting the public agenda by selecting a few issues on the media agenda. Thus, an issue that is not even mentioned in the news indicates irrelevance in being absent from the media agenda (Carroll & McCombs, 2003, p. 37). More importantly, some issues that are emphasised in the media agenda can make those issues more salient in the wider society (Ragas & Kiouisis, 2010, p. 563). This also explains, for example, that young Sami academics in the early 60s and 70s were eager to establish Sami media to make Sami issues salient, as the mainstream media were unwilling to take Sami issues on their agenda.

Despite the decades-long development of agenda-setting research, the main idea remains the same: “the transfer of salience from the media agenda to the public agenda” (Ragas et al., 2011, p. 258; Ragas & Kiouisis, 2010, p. 562). Agenda-setting theory is focused on the transmission of salience from the media agenda to the pictures in our minds (McCombs & Ghanem, 2001, p. 67). The first agenda-setting research in 1972 demonstrated that the news media influenced topic salience in presidential campaigns (McCombs & Shaw, 1993), whereas several later studies carried out on agenda setting came to similar conclusions (Ragas & Kiouisis, 2010, p. 562).

Agenda setting is the transfer of object salience (McCombs & Ghanem, 2001, p. 69; Carroll & McCombs, 2003, p. 38), focusing on the relative salience of issues, people or organisations (Weaver, 2007, p. 142). The more frequently a stakeholder

group succeeds in entering the media agenda, the more salient their issue aspect turns in news coverage (Miller & Riechert, 2001, p. 112). The process kicks off when these issues attract media attention (Carroll & McCombs, 2003, p. 37).

All in all, agenda setting is a theory of how through salience one is able to reach and affect another person's views and perceptions (Weaver, 2007, p. 145). Agenda-setting theory also includes other concepts like intermedia agenda setting (McCombs & Ghanem, 2001, p. 69), which examines the impact of the agenda of traditional media like television news on, for example, the agenda of local newspapers and other news media (McCombs & Funk, 2011, p. 906).

Weaver (2007, p. 145) explains that agenda setting concerns inviting individuals to select a certain issue angle, whereas framing theory deals with changes in the interpretations of an issue. To construct an agenda is to bring together a set of issues determined highly important in a certain society (Dearing & Rogers, 1992, pp. 1, 2), by finding a common ground to prioritise issues and to make them prominent on the policy agenda (McCombs, 1997, pp. 434–435, 440). This is preceded by defining which issues could be considered significant enough to enter the policy agenda (Entman, 2007, p. 164). Like the framing effect, the agenda-setting effect of the media directs public attention to “issues, objects, topics, activists and groups”, which then may get attention in other agendas (Ragas & Kiouisis, 2010, p. 562).

Traditional agenda-setting research investigates whether the issues introduced in the media agenda are perceived as salient in the public agenda (McCombs & Shaw, 1993). The agenda building approach, in turn, originally introduced by Cobb and Elder (1971) deals with “where public issues come from”.

“We are concerned with how issues are created and why some controversies of incipient issues come to command the attention and concern of decision makers while others fail. In other words, we are asking what determines the agenda for political controversy within a community. How is an agenda built (i.e., how is an issue placed on it) and who participates in the process of building it?” (Cobb & Elder, 1971, p. 905)

Agenda building views what social forces and actors affect how public and media agendas are built (Miller, 2010, p. 90). It is interested in who produces and maintains public and media debates around particular social problems (Weaver & Elliott, 1985, p. 88), which will thus have access to the policy agenda (Dearing & Rogers, 1992). The fact that news media tend to consider some issues more important than others is used to achieve agenda-setting effects in agenda building (Shaefer & Weimann, 2005, p. 347).

The agenda building approach assumes that the media are not operating simply by themselves (Miller, 2010, p. 90), but that instead the media agenda content is dependent on, for example, communication practitioner efforts and some external stakeholder actions affecting news content (Miller & Riechert, 2001, p. 112). Further, a policy agenda is created when the media, civil society and politicians interact. This debate on issues is important to all in the society (Schultz et al., 2012, p. 98).

As a result of agenda building, certain topics and social issues are copied to all levels of the agenda-setting process (Tan & Weaver, 2010, p. 413). When some issues are prioritised in the media agenda (Shaefer & Weimann, 2005, p. 347), issue salience may be transferred onward to the public agenda (Miller, 2010, p. 90), and vice versa. Sometimes news media are not included in the agenda building process and the transmission of salience takes place directly between an organisation and its stakeholder groups (Kiousus et al., 2006, p. 270). The media are not the only actors to dominate the agenda building process, but policymakers and others may also create and promote issue salience (Kiousis & Shields, 2008, p. 326). In fact, any actor can take a gatekeeper role in pushing an issue to the agenda or preventing it from entering on the agenda (Meriläinen, 2014, p. 34).

Social media added a new dimension to agenda building. They have provided attractive platforms where the boundaries between the public, the media and the political agendas are blurred (Fieseler & Ranzini, 2015, p. 500). Online platforms “facilitate more balanced organisation-public relationships” and provide an opportunity to meet the public’s need for information directly (Kent et al., 2003, pp. 63, 64). This is done by committing to interpersonal relationships online and building direct links to stakeholders. Thus, social media reduce the gatekeeping power of the traditional media (Sung & Kim, 2014, pp. 235, 236). While the power of the traditional media has decreased, and organisations also experience less control, the power of stakeholder groups and individuals has grown. The online environment provides a great variety of possibilities to deliver information and draw attention to what matters to the users (Coombs & Holladay, 2014, p. 27).

## 5 MULTI-STAKEHOLDER INVOLVEMENT

In this chapter the concepts of stakeholders and stakes, stakeholders in law drafting, the multi-stakeholder approach and issue arenas theory are explained in more detail.

### 5.1 Stakeholders and stakes

During the previous three decades of development, political leaders, policymakers, regulators, non-governmental organisations, businesses and media have embraced the stakeholder concept from the academic world (Johansen & Nielsen, 2011, p. 206; de Bussy & Kelly, 2010, p. 291). The concept originates from Edward Freeman's famous work, including the most cited definition of a stakeholder as "any group or individual who can affect or is affected by the achievement of the organisation's objectives" (Freeman, 1984, p. 46). Vos and Schoemaker (2011, p. 21) conclude that "consequently, stakeholders who can influence or are influenced should be taken into account in organisational decision-making", for example, employees, clients, pressure groups, consumer advocates, suppliers, competitors, governments and news media.

More broadly defined, the stakeholder concept constitutes a strategic management tool for organisations to identify a wide range of stakeholders and their stakes (Freeman, 2010, p. 5, pp. 34–35). Apparently, the stakeholder concept acknowledges pluralism in the current society and enables the recognition of various interests within it (Ihlen, 2008, p. 136). This relates to interest groups, NGOs and other political forces (Freeman, 2010, p. 5) who may or may not have shared stakes in public issues (Vos et al., 2014). All together, they are able to create a turbulent business environment if their concerns are ignored (Freeman, 2010, pp. 34–35). Thus, to achieve its goals an organisation interacts with its stakeholders and takes into account each stake that they hold (Freeman, 1984).

Some decades ago stakeholder thinking changed in focus from "shareholder-centred thinking to stakeholder-centred thinking" (Burchell & Cook, 2006,

pp. 211–212) and from organisation-centred “stakeholder management” to “stakeholder enabling” (Johansen & Nielsen, 2011, p. 206). This trend in the literature is regarded as a shift from neo-classical economic theory to socio-economic theory, stressing the importance of organisations to engage in discussion with civil society (Cornelissen, 2008, pp. 38, 40). The construction of dialogue, interactivity and transparency between an organisation and its stakeholders are recommended (Kent et al., 2003, pp. 66, 67). “Dialogue emphasises openness and willingness to consider alternative viewpoints” (Burchell & Cook, 2006, p. 212), including stakeholder concerns, which are based on ideological rather than economic stakes (Miller & Riechert, 2001, p. 107) like “trust, moral claims, prestige and emotions” towards an organisation and differ from shareholder values invested like “money, time, property, and legal rights” (Kantanen, 2012, p. 59).

Stakes are considered “some form of investments, interests or affects” (Luoma-aho & Vos, 2010, p. 137), stakeholder expectations towards an organisation (Kantanen, 2012, p. 59), and relationship related “resources or potential contributions” between organisations and their stakeholders (Smith, 2012, p. 841). Grunig and Repper (1992, p. 125) argue that it is the consequences that link organisations and their stakeholders with each other. A stake is what counts and makes a stakeholder, while it also works the other way around, “no stake, no stakeholder” (Wu, 2007, p. 417). Stakes can be converted into influence or be used as a medium of exchange between actors involved (Heath & Palenchar, 2008, p. 15). What matters is what lies behind the hidden intentions of a stake, since the underlying elements of a stake are likely to affect the actions and influence of the stakeholders (Wu, 2007, p. 417). Therefore, stakeholders relevant to an organisation and their stakes need to be identified (Cornelissen, 2008, p. 49). “Stake exchange”, the reciprocity of giving and receiving between an organisation and its stakeholders, should be addressed, since it indicates how satisfied the stakeholders involved are and how legitimate the activities of an organisation are regarded by them (Heath & Palenchar, 2008, p. 16).

Organisational decision-making and business activities have consequences for stakeholders (Grunig, 2009, p. 12), and there are different kinds of impacts on people affected by its operations (Freeman & Phillips, 2002, p. 332), as stakeholders have interests in “its activities, past, present or future” (Werther & Chandler, 2006, p. 35). Stakeholders may observe the activities of a certain organisation over time and develop a variety of opinions and expectations towards it, which may not only be positive. Negative stakeholder expectations expressed may result in a bad reputation, which may be harmful for the organisation (Schwarz, 2012, p. 178). This creates a need for organisations to build positive relationships and interact proactively with the stakeholders involved and, by doing so, reduce social turbulence in a proactive manner (Grunig, 2009, p. 12). Being proactive means addressing all legitimate stakeholders simultaneously “in the establishment of organisational structures, general policies and in case-by-case decision-making” (Donaldson & Preston, 1995, p. 67). This also calls for building intangible assets, such as stakeholder trust (Smudde & Courtright, 2011, p. 141).

In the current interrelated world where everything affects everything, adverse impacts on communities where an organisation operates may be reflected in the form of “economic” consequences (Freeman & Phillips, 2002, p. 332). Ignored stakeholder expectations could lead to a legitimacy gap between an organisation and its stakeholders (Heath & Palenchar, 2008, p. 16), which can turn into public issues that may ruin the reputation of an organisation (Grunig, 2009). Therefore, organisations should be aware of the ways in which stakeholders affect them and how they are capable of doing this (Kent et al., 2003, p. 66). For example, in an area where an organisation operates and utilises natural resources the stakeholders include all residents in the region (Miller, 2010, p. 89), and they may in turn expect an organisation to invest in and contribute to the region (Jones & Chase, 1979, p. 8). Organisations are advised to meet people’s information needs regarding the effects of its operations (Burchell & Cook, 2006, p. 210) and adopt measures to reduce potential disadvantages associated with it.

Following Freeman’s most cited thinking, stakeholder theory introduced the idea that an organisation is surrounded by many legitimate stakeholders that may have conflicting agendas in relation to the organisation, but still need to be identified and involved in organisations’ decision-making according to their stakes (Freeman, 2005, p. 122). However, all stakeholders and their stakes are not considered equal (Ihlen, 2008, p. 137) but it is rather the “power, urgency and legitimacy” of a stakeholder that determines (Mitchell et al., 1997) how influential each stakeholder and its stake is considered by an organisation (Ihlen, 2008, p. 137).

The opportunity for direct influence makes the holder primary. While, in turn, the possibility for indirect influence categorises a stakeholder to the group of secondary stakeholders (Heath & Palenchar, 2008, p. 16).

Stakeholder theory distinguishes two types of stakeholders: those with a close relation to an organisation, for example, as employee, client or shareholders, and those who claim a stake in the organisation, such as actors in the civil society (Roloff, 2008, pp. 311–312). An organisation should, first of all, take into account those normative stakeholders that directly contribute to its operations, such as the workers (Ihlen, 2008, p. 137).

What makes stakeholder involvement even more complicated are “stakeholder role sets” indicating that multiple stakeholders, individuals or groups may have many overlapping roles, like the role of an employee, customer, member of a trade union and even the role of an owner (Freeman, 2005, p. 126). “Stakeholder role sets” demonstrate that a stakeholder may have numerous overlapping and conflicting stakes in issues, in other words stakeholder role sets may multiply a number of conflicting stakes in issues important to an organisation (Freeman, 2010, p. 7).

Stakeholder theory has been criticised for making organisations central rather than issues, whereas “it is issues and discussions, often not organisations that are at the center of communication” (Luoma-aho & Vos, 2010, p. 323). Issues bring stakeholders together, and around them relationships between stakeholders are built. Furthermore, the introduction of social media added opportunities



for expressing stakeholder points of view. This marginalised the previously considered central role of organisations (Kim et al., 2010, pp. 215–216). Social media allow anyone to discuss and share information with a large audience (Dentchev & Heene, 2003, p. 62), bringing individuals together (Kent et al., 2003, pp. 66, 67) and making organisations just one of the actors among many others in online networks.

## 5.2 Stakeholders in law drafting

In the process of law drafting in Finland, officials of the leading ministry prepare a draft law, while those ministries to which the law drafting case at hand belongs have a stake in the process too. When exploring law drafting, the categorisation of primary and secondary stakeholders seems relevant (Ihlen, 2008, p. 135; Kim et al., 2010, p. 215). There are stakeholders without which the process of law drafting cannot function. Withdrawal of any of those primary stakeholders from the stakeholder system could cause problems to the process. Secondary stakeholders are also taken into account, as they may be directly or indirectly affected by the outcome (Ihlen, 2008, p. 136). Secondary stakeholders can be highly motivated to influence the process, either by providing input or “mobilising public opinion for or against it” (Clarkson, 1995, pp. 105–106). In legislative drafting, stakeholders affected by and/or involved in the process could be, for example, local associations and communities, other civil society actors, business sector organisations, local entrepreneurs, and state, regional and local authorities.

In Finland, stakeholders have been included in law drafting since the 1970s and 80s, although this did not aim at creating dialogue. Stakeholder input is primarily valued as a source of versatile information, but at times also seen as slowing down the progress of law drafting processes. During consultations “the strategic objectives set by the government” and the needs of stakeholders meet. (Oikeusministeriö, 2010b, pp. 17).

“Parties involved in legislative drafting are referred to as stakeholders in the drafting of legislation”, and include, for example, “interest and pressure groups” as well as non-governmental organisations (NGOs) (Pakarinen, 2011, p. 3). According to their role, stakeholders in law drafting are in Finland divided into two groups, stakeholders to be consulted during the processes of law drafting, for example by giving statements, and stakeholders participating in committees preparing draft proposals. To some stakeholders like “the Sami Parliament, Åland Islands and labour market organisations” the law guarantees the right to participate in legislative drafting which particularly affects them (Oikeusministeriö, 2010a, p. 13, 21).

Although this thesis does not examine the EU legislation, it borrows some views on the EU level. The EU Commission values civil society participation and transparent procedures, highlighting that “consultation in legislative processes forms the interface between the Commission and interest and pressure groups throughout the European community” (KOM, 2002, pp. 3–9). Civil society actors

form a non-governmental social sphere with an intermediary role between individuals and the state, providing a place “where collective goals are set and citizens are represented” (Machiavelli, 2000, p. 34).

However, Ahtonen and Keinänen (2012, p. 3) criticise the concept of stakeholders in lawmaking “for the lack of a unified view on who should really be consulted”. Still, the same question rises also in law drafting. The core matters are, according to Mitchell et al. (1997, p. 853), “who are the relevant stakeholders: who, to whom, to what and why one should pay attention to them”.

### 5.3 Network relations

Castells (2000, p. 152) states that “a network is simply a set of interconnected nodes”. Borgatti and Foster (2003, p. 992) clarify that the nodes refer to actors and a network “is a set of actors connected by a set of ties” stressing the relevance of relationships between actors involved (Borgatti & Foster, 2003, p. 993). All human action, cooperation and competition in society occur through “horizontal networks of interactive communication”, where the exchange of interactive mass messages builds bridges between the local and the global level in society (Castells, 2000, pp. 152–153; Castells, 2007, p. 246). Networks have also been studied from the perspective of decision-making, and De Bruijn and Ten Heuvelhof (2009, p. 1) conclude the following.

“Some actors are so powerful that they can impose policies or strategies unilaterally. If not, and if an actor needs the support of others, he finds himself in a network. A network can be defined as (1) a number of actors with (2) different goals and interests and (3) different resources, (4) who depend on each other for the realisation of their goals”. (De Bruijn & Ten Heuvelhof, 2009, p. 1)

Social ties and relationships hold actors together, constructing a social network (Himmelboim et al., 2014, pp. 361, 363). It is connections and contacts between actors that construct networks. “Connectivity and relationships” between actors in networks (Sedereviciute & Valentini, 2011, p. 221) create bonding ties that build confidence among the people, upon which innovative bridging ties within and across networks can be built (Newman & Dale, 2005). Bridges enable the “flow of resources for influence” between actors involved (Pan & Kosicki, 2001, p. 46). Granovetter (1983, p. 228) emphasises “that something flows through these bridges and that whatever it is that flows actually plays an important role in the social life of individuals, groups and societies” (Granovetter, 1983, p. 229). Actors embedded in networks utilise them in various ways, as a source of information to support their actions and goals (Foster et al., 2011, p. 260) and to implement “process development” (Chen et al., 2001, p. 61). Granovetter (1985, p. 481) states that the nature of modern society includes the embeddedness of economic activity on social relations, but how widely it applies to interpersonal relations remains unanswered. However, long-term personal relationships and networking

enable the construction of a mutual understanding and confidence (Granovetter, 1985, pp. 495–504).

Multi-actor networks are also built in public debate around a certain issue to which the interest and attention of all actors is directed (Vos & Schoemaker, 2011, p. 22). Thus, a shared issue functions as a link between people (Dearing & Rogers, 1992, p. 17). Keck and Sikkink (1998, p. 225) emphasise the ability of networks to promote issues as follows: “Networks call for attention to issues or even create issues by using language that dramatises and draws attention to their concerns”. Issues promotion done by multiple stakeholders determines the course of a debate, inviting organisations to engage in discussions in various multi-actor networks simultaneously (Luoma-aho & Vos, 2010).

Networks act as lobbying arenas, opening opportunities to ally with like-minded stakeholders to promote one’s goals and, in turn, comprehend the interests of opponents (Edmunds & Wollenberg, 2001, pp. 232, 249). The power of networks lies not only in the united masses but also in individuals who hold and share information, offline and online.

Granovetter (1973, p. 1364), discussing online networks, argues that weak ties between actors in networks bring people previously unknown to each other together. They help bridge knowledge and facilitate the flow of resources from one network to another (Granovetter, 1973, pp. 1370–1371). Social groups that lack weak bridging ties “with access to information and resources” may not be able to realise the wider political organising needed to reach their objectives (Granovetter, 1983, p. 202, pp. 208–209).

“Actors located in bridging positions” are influential key actors with numerous links, including connections to people with whom an organisation may not have direct contacts (Himmelboim et al., 2014, p. 365). In a network, there are different roles. Gatekeepers are social actors that act as intermediaries between many other actors (Foster et al., 2011, p. 248). In the heart of a network, the hub is a central powerful player who often has a gatekeeper role and can draw attention to issues influencing their framing (Meriläinen, 2014, pp. 30–31). Luoma-aho and Paloviita (2010, p. 53) argue that “strong, focal and primary actors” can attract other actors to join the coalition. Actor networks also relate to resources and power. According to Castells, (2010) in mainstream societies, knowledge, wealth and power are concentrated in networks, and this is facilitated by modern communication technology (Castells, 2005, p. 7).

## 5.4 Issue arenas

The concept of issue arenas describes spaces of interaction where organisations and stakeholders discuss issues, both in real-life situations and in social media (Luoma-aho & Vos, 2010, pp. 318, 319). This study applies the issue arena approach in examining interaction by multiple actors in various sub arenas related to law drafting in the cases of the Act on Metsähallitus and ILO Convention No. 169.

Every public policy issue goes through the mill of public debate “in a symbolic arena” (Gamson & Modigliani, 1987, p. 143), and an issue arena encompasses all places both online and offline where ideas on the issue are debated by multiple stakeholder groups (Vos et al., 2014, p. 202). Issue arenas are spaces where interaction about an issue occurs, and many actors participate since an issue is not owned by a single actor (Luoma-aho & Vos, 2009, p. 121). Actors from all levels of the agenda-setting process, media, organisations and politicians encounter and influence each other (Dearing & Rogers, 1992, p. 2). The arena is a competitive place, as the actors may attempt to be the ones whose voice will dominate the interaction to ensure the legitimacy of their stakes by engaging in public debate (Vos et al., 2014, p. 201). Stakeholders attempt to establish and promote their own issue perspectives, belittling other stakeholder opinions when trying to gain attention for their views (Miller & Riechert, 2001, p. 112).

Goals of interaction in issue arenas are gaining attention for a certain issue or issue aspect, negotiating solutions and problem solving (Vos et al., 2014, p. 206). The approach of communication in issue arenas builds on issues management, stakeholder theory, agenda-setting and network theory (Vos et al., 2014, pp. 203–206). This research contributes to further development of the issue arena approach by adding insights on strategic communication and lobbying.

The issue arena theory suggests identifying issues in which various actors hold a stake (Luoma-aho & Vos, 2010, p. 317), which consequently leads to the identification of stakeholders and relevant issue arenas to interact with them (Luoma-aho & Vos, 2010, p. 122). As an organisation is just one actor among many, it needs to monitor the developments and the strategies of other actors (Vos et al., 2010, p. 316). Issues undergo changes over time (Oliver & Donnelly, 2007, p. 402) and take centre stage in issue arenas, attracting various actors to join the public debate and decide to “mount onto the stage, or remain passive offstage, in the audience” (Luoma-aho & Vos, 2010, p. 319). In issue arenas, the discourse is cocreated by various actors. Rather than focusing on bilateral relations, the issue arena approach observes the interplay between various actors to understand the, often difficult to predict, outcomes of issue discourse (Vos et al., 2014, p. 201). Therefore, due to the dynamics of the interplay the issue develops over time.

In arenas of legislative drafting, various stakeholder groups engaged in the issue interact with each other. Public servants preparing a draft law communicate concurrently with ministers, other politicians and various stakeholder groups affected by a proposed bill. Meanwhile, the stakeholders seek to affect politicians and public servants to influence the outcome of the draft law. The final decision-makers are the members of the Finnish Parliament. Issue arenas allow multiple actors to interact, discussing and negotiating possibly conflicting stakeholder interests (Luoma-aho & Vos, 2010, pp. 323–324).

Issue arenas and networks established by multiple actors are interrelated in various ways (Luoma-aho & Vos, 2009, p. 122), overlapping and consisting of one another. Different actors simultaneously participate in different networks and issue arenas (Meriläinen, 2014, p. 14). Issues and actors in issue arenas are insepa-

rable and connected to each other in various ways (Vos et al., 2014, p. 203). Stakeholders consult and build alliances with each other to place their interests and priorities on political agendas (Vos et al., 2014, pp. 202–203). In the discourse, actors may connect the issue at hand with another issue, providing a context favoured by them (Meriläinen & Vos, 2011, pp. 18–19). Issue arenas are in a constant state of change (Vos et al., 2014, p. 209), hence attention is required to follow how the discourse evolves over time. Therefore, the issue arena approach emphasises identifying and monitoring those issue arenas where the debate takes shape (Luoma-aho & Vos, 2010, p. 316).

Stakeholder theory (e.g., Freeman, 2010) mostly focuses on managing bilateral stakeholder relations, while this thesis argues that in arenas of legislative drafting it is necessary to understand the complexity of stakeholder interaction as stated before. The issue arena approach emphasises the dynamics of the evolving discourse over time and its competitive nature of communication by multiple stakeholders that may have conflicting interests. The term “debate” may fit law drafting less since, for example, stakeholder statements are written input. Thus, an issue debate is here understood as the totality of the communication on an issue by the stakeholders involved. Moreover, in law drafting, policymaking, and development projects related to land use, formal and informal issue arenas exist. Formal issue arenas tend to be more open and transparent to stakeholders to participate in the discussion. Whereas informal issue arenas may be based on unofficial networks and alliances, which makes the identification of power relations more difficult and, thus, the communication process less transparent. This thesis focuses mostly on communication in a formal context.

## 5.5 Overview of core concepts

The overview picture shows the three core concepts that help one understand influence exerted on processes of law drafting, policymaking and the planning of development projects concerning indigenous land use, both nationally and internationally. Drawing on the previous chapters, these core concepts are lobbying, framing and issue arenas (see Figure 2).

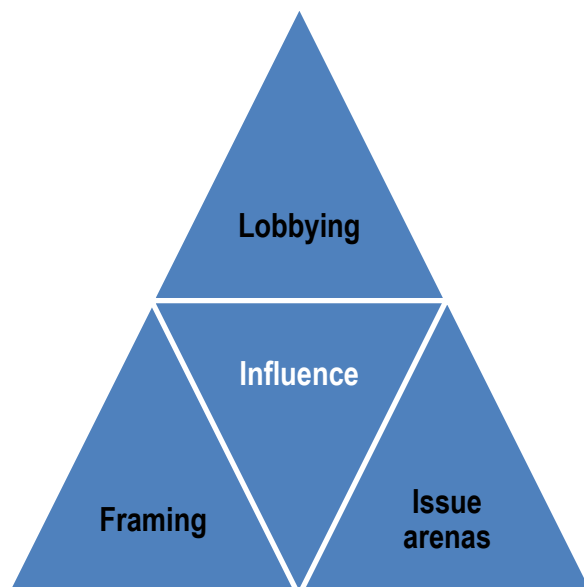


FIGURE 2 Overview of core concepts

In Figure 2 the concept of lobbying is used to address insights gained in Chapter 3, underlining that lobbying is used in strategic communication to influence the law drafting process. Next, the concept of framing in Figure 2 summarises insights gained in Chapter 4, acknowledging that framing serves agenda setting and agenda building by emphasising certain issue aspects to draw attention to them. Finally, the concept of issue arenas is used in Figure 2 to relate to the insights gained in Chapter 5, pointing at issue arenas as spaces where multiple actors discuss issues they have a stake in, and where the focus is on the interplay between the different actors. Below, the core insights gained are summarised for each of the concepts.

### 5.5.1 Lobbying

Below, the core insights gained in Chapter 3 are summarised for the concept of lobbying related to the law drafting process.

1. *Lobbying is regarded as an input to the political administrative system.*  
In policymaking, stakeholder contributions that could influence the decision-making are desired (Verčič & Verčič, 2012; Koepl, 2000), for example, by delivering specific information, common rhetorical visions and background (Terry, 2001) or highlighting the essence of a viewpoint in a convincing way (McGrath, 2007).
2. *Timing is underlined, recognising the steps in law drafting.*  
The timing of lobbying efforts is important, for example, the submission of information should be preceded by exploring the law drafting process (Thomas & Hrebenar, 2008, p. 4).

3. *A mediator role of lobbyists is mentioned.*  
It is suggested that lobbyists may act as mediators, solving problems between decision-makers and stakeholder groups in policymaking (Aitken-Turff & Jackson, 2006).
4. *Relations and alliances are built to influence current policymaking.*  
Lobbying benefits from fostering relations and building alliances (Kugler, 2004, p. 74) to strengthen the common voice of a stakeholder group and increase their influence on current policymaking (Thomas & Hrebenar, 2008; Terry, 2001). Coalitions built around controversial issues protect stakeholder identities against opposing groups (Elliott-Teague, 2008) and add credibility and urgency (Aitken-Turff & Jackson, 2006). As Elliott-Teague (2008) argues, less central actors especially seek out alliances, since joint actions make it easier for them to achieve their goals (Kugler, 2004).
5. *Lobbying is seen as an element of democracies to enhance the participation rights of citizens and transparency in decision-making.*  
Lobbying is highlighted as an integral element of democracies (McGrath, 2007, p. 269), thus ensuring the transparency and legitimacy of democracies by enabling civil society's constant participation in policymaking (Thomas & Hrebenar, 2008). In modern times, web innovations enable changes in the policymaking process (John & Thomson, 2003) by increasing transparency and facilitating participation (Hrebenar et al., 2008, pp. 51, 52).
6. *Lobbying enhances wider societal interests and societal support.*  
By highlighting benefits of proposed solutions (McGrath, 2007, p. 271) and building on wider socially-accepted frames instead of just emphasising egoistic interests of one's own, credibility is built and attention of decision-makers gained (Wise, 2007). This reveals a mutually beneficial relationship (Wise, 2007) whereby stakeholders increase their influence and decision-makers gain precious information (Terry, 2001).
7. *Simplification of complex issues is regarded as an added value of lobbying.*  
Lobbying is said to give added value to policy processes by simplifying complex issues and thus making decision-making more transparent (Coldwell, 2003). It provides frames that are easy to adopt (McGrath, 2007, 2006; Koeppel, 2000).

### 5.5.2 Framing

Below, the core insights gained in Chapter 4 are summarised for the concept of framing.

1. *Several framing types are used to clarify how issue framing is used in the debate.*  
Framing types are used to open hidden motives of actors. Based on the broader framing typology by Hallahan (1999), seven framing types of societal issues are listed by Meriläinen and Vos (2013).
2. *Framing is used in agenda setting and building to suggest which issues deserve attention and as a result of agenda building may transfer to the policy agenda.*  
In agenda setting a few significant salient issues are selected to an agenda to affect the thinking of target audiences (Scheufele, 2000), suggesting which topics deserve attention (Althaus & Tewksbury, 2002) and thus may gain salience in the wider society (Ragas & Kioussis, 2010), whereas absence from an agenda indicates irrelevance (Carroll & McCombs, 2003). In this way, agenda building may result in transfer of salience from the public to the policy agenda (Tan & Weaver, 2010).
3. *In framing, a common approach includes various ideological elements.*  
Framing underlines that there are many stakeholders around an issue (Murphree et al., 2009), which is why in stakeholder strategies a variety of ideological premises are included (Meriläinen & Vos, 2011; Miller & Riechert, 2001) and a common approach with relations between its various elements is negotiated to connect with the widest possible range of interests (Reese, 2007; Maher, 2001).
4. *Agenda setting requires the ability to agree on common issues of the agenda.*  
In the construction of an agenda, a stakeholder group needs to agree on common issues deemed highly important to all (Dearing & Rogers, 1992) and find a common ground in their priorities that are to enter their agenda as salient issues to be introduced to the political agenda (Entman, 2007; McCombs, 1997).
5. *Framing is a competitive activity, related to power.*  
Like issues, frames also compete for attention in issue discussion. To frame is to choose some prominent words or attributes (Nelson, 2004; Pan & Kosicki, 2001), providing invisible context clues that define the issue aiming to influence public opinion (Hallahan, 1999; Iyengar, 1991). These “problem definitions, causal analysis, moral judgments and remedy promotions” (Entman, 1993, 2004, 2007) as goal-orientated selections of certain issue aspects include some issues and exclude others (Meriläinen & Vos, 2011), potentially blocking them from the agenda (Meriläinen, 2014).



### 5.5.3 Issue arenas

Below, the core insights gained in Chapter 5 are summarised for interplay in multi-actor issue arenas.

1. *Issue arenas are competitive places where multiple actors compete for attention for what they consider is at stake.*

Issue arenas are competitive in nature due to stakeholder attempts to gain attention for their interests by dominating the public debate in these arenas (Luoma-aho & Vos, 2010, p. 201). Issues attract multiple actors that may decide to become active on the stage or remain passive in the audience (Luoma-aho & Vos, 2010, p. 319).

2. *Actions focus on increasing legitimacy for own stakes, promotion of interests, negotiation of solutions and problem solving.*

Issue arenas are used for many different purposes, for example promotion of interests, negotiation, consultation and problem solving (Vos et al., 2014, p. 206).

3. *Identifying and monitoring key issue arenas and stakeholders are stressed.*

Identifying issues debated leads to the identification of stakeholders and relevant issue arenas to interact with (Luoma-aho & Vos, 2010, p. 317). As issues are dynamic (Oliver & Donnelly, 2007, p. 402) and an actor is surrounded by other actors in many issue arenas, issue developments and ongoing debates in various issue arenas should be monitored simultaneously (Vos et al., 2010, p. 316).

4. *The interplay in issue arenas is cocreated by various actors, including building of relations and alliances.*

In issue arenas, the interplay between the various actors needs to be observed, as the discourse is cocreated and evolves over time (Luoma-aho & Vos, 2010, p. 316). This also includes alliance building among actors with the aim to place the actors' interests on political agendas (Vos et al., 2014, pp. 202–203).

5. *Issue arenas are interrelated.*

Issue arenas can be complex. Multiple active actors create various overlapping issue arenas and networks (Luoma-aho & Vos, 2009, p. 122), in which different actors participate (Meriläinen, 2014). Actors may link an issue to other related issues (Meriläinen & Vos, 2013, pp. 18–19).

Built on the theoretical basis described, this research seeks to understand stakeholder involvement in law drafting regarding indigenous land use. Participative law drafting has been described but was not yet investigated from the perspective of multi-actor communication. In this thesis three studies are reported.

Study 1 takes a broad view, whereas the other studies focus on the core topics. It aims at opening up available empirical articles on participation in matters of land use by the Sami and other indigenous peoples worldwide.

Lobbying is investigated in Study 2, which focuses on steps and key actors in the process that affect its outcomes. It aims at clarifying the national level by looking at participation in the case of the law drafting process of revision of the Act on Metsähallitus.

Strategic framing is addressed in Study 3 to explain how actors use different types of framing. In addition, Study 3 looks into issue arena interplay, for example, how the different actors position themselves in the discussion and ally to promote their interests in land use. It aims at understanding the framing and positioning used in stakeholder statements regarding the ILO Convention No. 169.

After reporting the research questions, methods and findings of the studies, the author will look back on the insights presented in the theory part of this thesis to see to what extent the empirical work has provided different viewpoints.

## **6 RESEARCH DESIGN**

This doctoral thesis includes three separate studies in which stakeholder involvement and, particularly, Sami and other indigenous participation in law drafting regarding land use are investigated. In this chapter, the research design is described, the composition of the three studies and their research questions. Next, the methods used are summarised. In later chapters, each study is reported, further explaining the methods and presenting the findings.

### **6.1 Composition of the studies and research questions**

As stated in the introduction, this thesis seeks to gain a better understanding of the communication preceding and during legislative drafting processes in Finland regarding indigenous land use and, especially, participation of the Sami as an indigenous people in relation to the use of land and opportunities to engage in traditional sources of livelihood, particularly reindeer herding. All three studies contribute to this aim, each with a different focus.

Study 1 is a literature review that brings together earlier empirical research concerning participation by the Sami and other indigenous peoples in matters of land use. It sheds light on limitations and opportunities in communication related to land use, explaining indigenous influence or a lack of it in land use management. It provides an international overview on indigenous participation and indicates international standards for participation in law drafting.

Study 2 focuses on lobbying in the law drafting process concerning the Act on Metsähallitus and its Sami provisions. It identifies stakeholders, issue arenas, steps in the process and opportunities for participation.

In Study 3 the focus is on the consultation concerning the government bill on the adoption of the ILO Convention No. 169 in Finland, particularly on types of issue framing and the positioning of the actors as shown in the consultation statements.

The studies are interrelated as, for example, the reform of the Act on Metsähallitus is vital for the ratification of ILO Convention No. 169, since the extended participation rights of the Sami in the Act on Metsähallitus - if accepted in the current Finnish legislation - were intended to remove barriers for ratification.

Figure 3 helps understand the different levels involved in communicating about law drafting and, in doing so, the design and interrelatedness of the three studies.



FIGURE 3 Levels taken into account in the research design

The largest and the outer circle describes the international context of the Sami and other indigenous peoples' participation in matters of land use across the world (as clarified in Study 1). The second largest circle presents the national law drafting process in Finland (as looked into in Study 2). The inner circle sheds light to a certain law drafting process in Finland concerning indigenous peoples' social and economic rights, in this case the government bill on the ratification of the ILO Convention No. 169 (investigated in Study 3).

The three studies were done partly in parallel, while the process began by initiating Study 2. This refers to the middle level of Figure 3 describing the national law drafting process in Finland, above mentioned Act on Metsähallitus, by opening up the national law drafting process in Finland and the participation of indigenous Sami people in it. This thesis started to investigate the law drafting process by identifying the related steps, turning points, stakeholders and opportunities to influence the process. Thus, lobbying constitutes a theoretical basis for Study 2.

Since the ILO Convention No. 169 is one of the most important law drafting projects affecting the use of land by indigenous peoples and as the ratification

process had already lasted almost three decades in Finland, it was selected as the subject of Study 3. When Study 2 focused on communication by the ministries, Study 3 takes a step further investigating the communication of various stakeholders involved in a law drafting process, in this case related to ILO 169. As suggested by the issue arena theory (Luoma-aho & Vos, 2010, 2009) there are multiple stakeholders who communicate and interact with each other in various issues arenas simultaneously, in the case at hand, in the multiplicity of issue arenas of law drafting. Thus, this study investigated how various stakeholders involved acted strategically, networked, negotiated, allied and framed issues aspects relevant to them to transfer salience from their stakeholder agendas to the final decision-making table. Thus, insights gained on the processes initiated by public servants and ministers in Study 2, helped understand strategic communication by other stakeholder groups such as businesses, other ministries, Sami associations, other local associations, individual citizens, municipalities and so on in Study 3. To complete the picture, it was not enough to discuss indigenous participation in land use in Finland, but the scope was broadened to indigenous participation in international and Nordic contexts, as reported in Study 1.

The chapters that report each of the studies can be read separately, therefore, they include a theory part that focuses on the main phenomena studied and adds depth to the earlier presented theoretical framework. The studies were guided by the following research questions provided in Table 1.

TABLE 1 The studies and their research questions

Studies	Research questions
Study 1. Available empirical articles on participation in matters of land use by the Sami and other indigenous peoples	<p>RQ1: What do these studies tell about the extent of the Sami and other indigenous peoples' participation in land use management?</p> <p>RQ2: How do these studies, view the limitations and opportunities in participation that explain the extent of indigenous influence on land use management?</p> <p>RQ3: What trends can be found in the international literature on Sami and other indigenous participation in land use management?</p>
Study 2. Participation in the law drafting process of revision of the Act on Metsähallitus	<p>RQ1: How can the communicative aspects of the law drafting process as an issue arena be understood?</p> <p>RQ2: What are relevant issue arenas preceding law drafting for lobbying to influence the final decision-making?</p> <p>RQ3: What are relevant issue arenas during the preliminary preparation of this process of law drafting that provide participation options?</p> <p>RQ4: Who are the key stakeholders in this particular law drafting process, and how are they identified?</p>

Study 3. Understanding framing used in stakeholder statements regarding the ILO Convention No. 169	RQ1: Which sub issues regarding the ILO Convention No. 169 were emphasised by the (different kinds of) stakeholders involved? RQ2: How was framing used in the consultation statements regarding the ILO Convention No. 169?
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## 6.2 Methods

A detailed description of the methods used in the studies is provided in the chapters reporting each study. The following table gives a brief overview of the methods used per study.

### 6.2.1 Study 1

In Study 1, the aim is to gather previous studies related to communication on indigenous participation in matters of land use to bring together previous insights and analyse potential limitations and opportunities in indigenous participation (see Table 2).

TABLE 2 Research design of Study 1

<b>Available empirical articles on participation in matters of land use by the Sami and other indigenous peoples</b>	
Data collection method	Structured literature review based on two searches in the databases EBSCO and ProQuest
Description of data	15 empirical articles are analysed based on a structured review of the peer-reviewed scientific literature over 15 years.
Analysis methods	A data extraction table is constructed, listing the articles from recent to older. The thematic analysis focuses on participation in land use management and the research direction is guided by the research questions.

Two literature searches were implemented. The first search focused on available Sami studies and was implemented in the databases EBSCO and ProQuest. It brought 8 empirical studies among the 111 articles retrieved, dealing with Sami participation in land use. Several search words were tested to yield many relevant articles, including 'the Sami people', 'participating', 'matters of land use', 'policymaking', 'law drafting', 'influence', 'ILO Convention No. 169', 'Sami reindeer herding', 'mining', 'forestry', 'oil industry', 'Russia', 'Sweden', 'Finland' and 'Norway'. The 8 empirical studies found among these were carried out in Finland, Norway and Sweden investigating the role of the Sami people, more particularly participation of Sami reindeer herders in land use management.

The second literature search focused on available indigenous literature. It was also implemented in the EBSCO and ProQuest databases, concentrating on scholarly articles concerning the participation of other indigenous people in matters of land use. Again, several search words were tested, including 'indigenous peoples', 'participation', 'matters of land use', 'policymaking', 'law drafting', 'influence', 'ILO Convention No. 169'. The results concerned concrete development projects executed in traditional indigenous lands across the world. It brought 7 empirical studies among the 99 articles retrieved. They dealt with development projects executed in traditional indigenous lands in Bolivia, Canada and Russia focusing on the indigenous peoples' role in participation in land use management.

For both searches, the selection of the articles was carried out as follows. Title, abstract and keywords guided a first selection of the articles. In the second round of reading, empirics and methods were searched from the articles. A third round of reading identified if aspects of indigenous participation in land use were investigated, on which the final choice of articles was based. Next, a data extraction table, with the research questions as columns and the articles arranged chronologically as rows, was constructed to facilitate the thematic analysis. The analysis required deeper reading of the articles to describe an overview of the content found as directed by the research questions.

Chapter 7 describes Study 1 in greater detail.

## 6.2.2 Study 2

In Study 2 the perspective of lobbying was taken when investigating the law drafting process of the Act on Metsähallitus. The study aimed at identifying steps and key stakeholders in it to gain understanding of the participation options (see Table 3).

TABLE 3 Research design of Study 2

<b>Participation in the law drafting process of revision of the Act on Metsähallitus</b>	
Data collection method	Orientalational qualitative expert-interviews, using a semi-structured approach and the Think-Aloud method
Description of data	Three expert interviews were conducted. The selected interviewees are key experts in legislative drafting, one from the Ministry of Justice and two from the Ministry of Agriculture and Forestry.
Analysis methods	The interviews were analysed by means of thematic analysis.

The case is the reform of the Act on Metsähallitus and particularly the working group drafting the provisions on the participation rights of the Sami and general promotion of reindeer herding.

The research has the public servant perspective since the interviewees from the Ministry of Justice and the Ministry of Agriculture and Forestry are the experts in the legislative drafting project. Interviewees were chosen due to their unique expertise, or in other words “institutional position, experience and specialist knowledge” (Alastalo & Åkerman, 2010, pp. 373–374), in legislative drafting.

The data were collected by semi-structured interviews (following Hirsjärvi & Hurme, 1995, pp. 36–41), while the steps of the Legislative Drafting Process Model (Oikeusministeriö, 2011c) acted as the themes of the interviews. The Think-Aloud method was applied to the interview situation allowing the interviewees without disruption, to think about and to share their knowledge of the process (Ericsson & Simon, 1998, p. 181). Thematic analysis was used to analyse the results. This included several rounds of reading, marking matters occurring often in the texts, grouping related answers, and summarising the content.

Chapter 8 describes Study 2 in greater detail.

### 6.2.3 Study 3

Study 3 analysed how issue framing is used in the ILO 169 debate in Finland, also giving attention to the positioning of the actors in the issue arena (see Table 4).

TABLE 4 Research design of Study 3

<b>Understanding framing used in stakeholder statements regarding the ILO Convention No. 169</b>	
Data collection method	The data were collected from the open access webpage Hare.fi where the Ministry of Justice placed the requested and submitted statements on the adoption of ILO 169.
Description of data	The data consisted of all 36 stakeholder statements on the government bill on the adoption of ILO 169.
Analysis methods	The analysis is based on qualitative content analysis using data extraction tables, focusing on framing types and positions of the actors in the debate to analyse the stakeholder statements.

The Ministry of Justice requested statements on the adoption of ILO 169 and placed the submitted 38 (often lengthy) stakeholder statements on an open access webpage, Hare.fi, from which the data were collected for this study. From these data two data extraction tables were created, one for contra ratification fragments that included 434 fragments where framing types were visible, and another for pro ratification fragments including 233 fragments. The units of analysis to which the types of issue framing were applied were text fragments that typically included 1–12 sentences. The types of issue framing were as follows: focus on situations, focus on context attributes, focus on risky choices, focus on actions, focus on the kind of issue, and focus on responsibilities (Meriläinen & Vos, 2013). The



focus was on differences in the use of framing by various actor groups. Additionally, the positions of the actors in the issue arena were analysed by looking at their interrelations, noting countering and allying among actor groups.

Chapter 9 describes Study 3 in greater detail.

#### **6.2.4 Research approach and ethics**

This thesis is part of the Sami studies, and more broadly global indigenous studies, that investigate social issues from a Sami and an indigenous perspective. Sami and other indigenous participation in matters of land use and the rights of the Sami and other indigenous peoples have so far been mainly investigated from a legal perspective. This thesis, however, adds a communication perspective on the changing context of law drafting in which the issue of land use is addressed, scrutinising stakeholder involvement and the related participation rights of the Sami. It focuses, in particular, on participation in law drafting related to the adoption of ILO Convention No. 169 and the Act on Metsähallitus in Finland.

Being part of indigenous studies, this thesis takes a constructivist perspective in trying to understand why the ratification of ILO 169 as an international treaty has not yet come to pass in Finland. It does so from a communication perspective, looking at influence exerted in law drafting, taking processes of lobbying, framing and issue arena discourse into account.

When studying indigenous participation in matters of land use this thesis, being qualitative research, views indigenous participation “as the construction of social reality” seeking to understand “how social meaning is constructed” (Denzin & Lincoln, 2000, p. 8) in the public debate in matters of land use. Here, communication that reproduces common understanding is seen as a tool for participation in policymaking, ultimately seeking to understand who has the knowledge and skills to participate in public and political debates, in other words, in the construction of social reality that guides the future development of society (Craig, 1999, pp. 125–126). According to the constructivist approach, different and opposing “shared meanings” in society are reflected in communication and “continuous negotiations” by different groups (Galbin, 2014, p. 84) and their members, who have a common cultural background and adopted ways of understanding the world (Berger & Luckmann, 1991), whereas their common collective knowledge in the same social circles likewise is socially constructed (Burningham & Cooper, 1999). Hence, our interpretations of the world are generated in certain historical contexts where certain economic conditions are present (Burr, 2015, p. 4).

As Ihlen and Van Ruler (2007, p. 246) argue, the “public sphere is seen as a social construction of mankind” where different actors compete to create the most salient messages, meanings and frames to guide the construction of social reality (Ihlen & Van Ruler, 2007, p. 245). This thesis seeks to understand public debate in which traditional values have lost their significance, being replaced by complex interaction (Craig, 1999, pp. 125–126). Even though the dangers of building striking categories are taken into account, according to the literature the dif-

ferences of the world views of indigenous and western societies appear to be undeniable, the majority society drawing its understanding of the world from the utilitarian logic according to which humans are entitled to exploit the land, whereas “the partnership logic” as a worldview of indigenous peoples considers “man as a part of nature” (Stammler & Ivanova, 2016).

This thesis suggests that frames embedded in land use debates are linked to their wider cultural contexts (D’Angelo, 2002, p. 870; Weaver, 2007, p. 143), and culture is seen as an extensive selection of shared frames (Van Gorp, 2007, p. 61) that construct social reality by utilising culture-specific communication (Murphree et al., 2009, pp. 276–277) and by attaching frames to the central elements of a certain culture (Entman, 1993, p. 53). As frames and issues are closely related, issues also appear to be products of “socially constructed reality”, where some issues are most often at the centre of public debate, seen as newsworthy and end up in the policy agenda in political decision-making (Hallahan, 2001, pp. 3, 28). Thus, meaning related to the construction of social reality is created by introducing an issue from a certain perspective in the public debate.

The approach shows some tension between critical analyses, noting possibilities to improve indigenous influence and, primarily, trying to capture the difficulties in the process of ratification. In Study 1 the critical approach is most visible, also following the indigenous studies that it analyses. It is noted that in “power networks” there are a multiplicity of interpretations available for commonly used concepts (Hassard, 1996, p. 58), including also the term ‘participation’. What participation means to indigenous communities may not be the same as for authorities. Such notions help point out problems in indigenous participation and lack of influence.

The approach of Study 2 has functionalist elements, insofar as it deals with managing legal processes and lobbying mechanisms, following much of the lobbying literature but also understanding actor roles in law participation. As noted above, the majority societies and indigenous societies are often built on different logic. This is why it is important to understand the legislative drafting process affected by the underlying ways of seeing the world that also affect the development of indigenous industries. This helps identify opportunities for indigenous participation.

In other parts of this thesis and especially Study 3, the research was characterised by attention for multi-actor interaction and inspired mostly by a constructivist approach, interpreting the current status of the issues at hand as dynamic and cocreated by the various actors involved. Considering the topic and the body of literature, these approaches are seen as relevant and interwoven, and their tension is felt in the thesis as a whole. This is made visible because the difference in emphasis largely follows the studies. The overarching aim clearly is understanding participation in law drafting affecting reindeer herding, in the current context from the perspective of multi-actor communication.

In indigenous studies, ethical issues have been high on the agenda and indigenous scientific communities have discussed how research involving indige-

nous communities should be done on indigenous premises with respect to indigenous principles (Porsanger & Guttorm, 2011). This refers mainly to the rights of indigenous peoples to traditional knowledge and to prohibition to exploit it against the will of indigenous peoples, as addressed in Article 8 (j) on the UN Convention on Biological Diversity (Henriksen, 2011, p. 77). Such ethical guidelines refer to the obligation to prevent the exploitation of traditional knowledge against the will of indigenous peoples (Nordin Jonsson, 2011, pp. 102–103).

In general, knowledge on responsible research and good scientific practice provides the researcher with tools for critical reflection of her own research work at various stages of the research project, whereby it is possible to strive towards ethical principles commonly accepted by the scientific community, such as principles of integrity, fairness, honesty, diligence and precision when recording, presenting and evaluating research results, as it is worded by the Finnish Advisory Board on Research Integrity. Research ethics protocols help manage risks produced by science, for example, to avoid harm, protect the anonymity of research partners, and obtain informed consent prior to the collection of research data (Haggerty, 2004, p. 392).

In the empirical Studies 2 and 3 involved, ethical issues are particularly important. In Study 2, which takes a public servant's perspective, informant consent or voluntary participation of research subjects was received by e-mail prior to interviewing. Anonymisation was done by numbering the research subjects inf1, inf2 and inf3, so that the anonymity of the research subjects was ensured and the reader cannot identify the interviewees. In Study 3, although the data were gathered from an open access web page, to safeguard the privacy of the research subjects, no names were mentioned when reporting the results of the study. The data of Study 3, meaning the stakeholder statements, both pro and contra, were numbered as follows: S1, S2, S3 and so on. When reporting the results of Study 3, merely stakeholder groups were mentioned, while stakeholders or individuals were not mentioned by name to safeguard their privacy. To ensure data protection, the data of Study 2 and Study 3 are kept on a password-protected computer.

The next three chapters report the studies in detail, including an introduction and a detailed description of the methods and results for each study.

## **7 STUDY 1: AVAILABLE EMPIRICAL ARTICLES ON PARTICIPATION IN MATTERS OF LAND USE BY THE SAMI AND OTHER INDIGENOUS PEOPLES**

To bring together previous insights in the literature on indigenous participation in matters of land use, a structured review of the scientific literature over the last 15 years was undertaken in Study 1. So far, investigations on indigenous participation have often focused on the legal status of indigenous people. This study focuses on communication in land use matters, to bring together scientific insights on potential limitations and opportunities in indigenous participation. Rather than collecting all types of literature the aim was to identify empirical articles and, next, analyse their content focusing on participation in land use management. All in all, the literature search brought 15 empirical studies of which 8 concerned Sami and 7 other indigenous people.

### **7.1 Matters of land use**

According to the literature, the issue of indigenous land use always centres on indigenous peoples' land rights claims and the right to self-determination ensuring the political and economic development of indigenous communities, although it is discussed from different cultural starting points in Australia, Canada and the USA in various media representations, scientific literature and fiction (Morley, 2015; Foxwell-Norton et al., 2013; Burrows, 2009; McNamara, 2010; Meadows, 2009; Foley & Anderson, 2006; McNeil, 2004). Confrontations between indigenous and majority peoples around the world have their roots in colonisation since the late 1700's when, for example, the British Crown handed over to new comers the ancestral land of indigenous peoples (Foxwell-Norton et al., 2013, p. 152), considered as *terra nullius* or no man's land (McNamara, 2010), which the states declared as their own property and in doing so justified the exploitation of natural resources in the late 1900's, the relocation of indigenous peoples and

the redistribution of indigenous land, for example, to mining companies in 1963 in Yirrkala and Cape York, Australia (Foley & Anderson, 2006).

The events later led to an accelerating demand for the return of indigenous lands by the land rights movements of the First Nations across Australia in the 1960's and 1970's (Foley & Anderson, 2006). As the later history has shown, the land rights of indigenous peoples, both, in Australia and Canada remain unresolved. Despite of the milestones of the High Court of Australia's decision in 1992 (*Mabo versus Queensland*) and the Supreme Courts of Canada's decision in 1997 (*Delgamuukw versus British Columbia*), acknowledging the injustices done earlier, the land rights of indigenous peoples in both countries have only been accepted to an extent not limiting economic interests of third parties such as mining companies and in a way not to destabilise the social or economic structures of the state (McNeil, 2004).

Since then, the different kinds of world views of indigenous peoples, for example, between Indigenous Australians and non-Aboriginal Australians in relation to land use have collided (Foxwell-Norton et al., 2013; McNamara, 2010; Meadows, 2009; Foley & Anderson, 2006). The world view of Indigenous Australians viewing man as a part of the land being obligated to protect and nurture it to future generations (Foley & Anderson, 2006) has been compromised in mainstream Australian media (Meadows, 2009), like the story of the indigenous Australians' land rights movement that was described as a violent movement in the mainstream media of Australia (Foxwell-Norton et al., 2013).

The ignorance of the indigenous aspects of those public issues and the lack of positive and empowering media representations of Indigenous Australians led to the rise of alternative public spheres constructed by indigenous peoples (Meadows, 2009, pp. 119, 131), building on their own cultural backgrounds and world views (Morley, 2015). Consequently, indigenous media, for example, indigenous newspapers in Australia became a source of information to indigenous society about legislative reforms concerning land rights and related negotiations between the government, developers and other stakeholders involved (Burrows, 2010).

In this study, the focus is on indigenous participation concerning land use management.

## 7.2 Method and collection of studies

A structured literature review was chosen to bring together previous literature and analyse it focusing on indigenous participation in land use. This entailed collecting literature by two searches with different keywords in online databases. One search concentrated on Sami studies and another on other indigenous studies. A first selection for relevance was based on reading title and abstract, focusing on the keywords. Next, it was considered whether the articles contained empirics and methods. A third round of reading focused on different forms of indigenous participation, on the basis of which the articles were finally selected.

The aim was to provide an international overview of studies and place indigenous land use matters in a wider Nordic and global context, gaining insight into the research done and through it the challenges and circumstances faced by indigenous peoples worldwide.

A first analysis would describe the main characteristics of the articles found. Further analysis was guided by the following research questions.

RQ1: What do these studies tell about the extent of the Sami and other indigenous peoples' participation in land use management?

RQ2: How do these studies view the limitations and opportunities in participation that explain the extent of indigenous influence on land use management?

RQ3: What trends can be found in the international literature on Sami and other indigenous participation in land use management?

A data extraction table was made to facilitate the analysis of the Sami studies reviewed. In the table the articles, arranged in chronological order from current to older, formed the rows, whereas the columns were formed by the research questions, noting a summary of the insights found.

#### *The Sami studies from the literature review*

To explore the available literature on Sami participation in matters of land use, a first literature search was implemented in the EBSCO and ProQuest databases. The following search words were used: 'the Sami people', 'participating', 'matters of land use', 'policymaking', 'law drafting', 'influence', 'ILO Convention No. 169', 'Sami reindeer herding', 'mining', 'forestry', 'oil industry', 'Russia', 'Sweden', 'Finland' and 'Norway'. Among the 111 articles retrieved, eight empirical studies were identified dealing with the Sami participation options in land use issues.

The eight studies found focused on the Sami people's role in participation, more particularly on Sami reindeer herders' opportunities to participate in land use management and related development projects. The eight empirical studies found were carried out in Finland, Norway and Sweden.

An overview of the studies is provided in Table 5.

TABLE 5 Sami studies reviewed, their methods and kinds of land uses depicted

Study		Method	Data / Sample	Land use
Sami studies				
1	Nygaard, 2016	Media research	Planning documents, media articles. Official documents related to the planning of the mining developments, legal instruments regulating the mining industry and indigenous rights.	Extractive industry/ Norway
2	Nysten-Haarala et al., 2015	Case study approach, qualitative semi-structured interviews, cross-case analysis	6 case studies, interviews of company managers, NGOs (Non-governmental organisations) and local stakeholders. Triangulated data: webpages, annual reports, newspaper articles.	Mining/ Finland, Sweden, Russia
3	Keskitalo et al., 2014	Case study approach, semi-structured interviews, social network analysis	54 semi-structured interviews: forestry, reindeer husbandry, small-scale winter tourism, environmental protection, authorities	Multiple forest uses/the municipalities of Vilhelmina and Storuman, Sweden
4	Lawrence, 2014	Action research, participant observation, semi-structured interviewing, analysis of historical literature, public documents and media articles	8 semi-structured interviews: Vilhelmina Södra Saami Community, the National Property Board, Västerbotten County Administrative Board, Ministry of Agriculture (responsible for Sami Affairs), National Swedish Saami Association	Wind power/ Stihken, Sweden
5	Saarikoski et al., 2013	Multi-criteria decision analysis, Multi-criteria assessment, DAI approach, interactive decision analysis interview	15 interviews: Forest sector, Experts' Association, Nature conservation, local nature use, Reindeer Herding Co-operative of Hammastunturi, Reindeer Herders' Association, Sami Parliament, Sami Council, the municipality of Inari, authorities	MCDA (Multi-criteria decision analysis), Forest resource management conflict/Finland
6	Zachrisson & Lindahl, 2013	45 interviews: local, regional and state officials, Sami reindeer herding communities (RHCs), businesses, E-NGOs. Documentary sources: official policy documents, meeting minutes, newspaper articles.	45 interviews: local, regional and state officials, Sami reindeer herding communities (RHCs), businesses, E-NGOs. Documentary sources: official policy documents, meeting minutes, newspaper articles.	2 forest-related conflicts in Jokkmokk/Sweden

7	Raitio, 2012	Methods of jurisprudence, qualitative case study analysis, legal analysis of forest regulation, regulation and laws	Forest laws, e.g., The State Enterprise Act (672/1987), the Act on Metsähallitus (1378/2004), the Reindeer Husbandry Act (848/1990). 24 semi-structured interviews/state forest administration	Natural Resource Planning (NRP)/Finland
8	Ulvevadet & Hausner, 2011	Multi-method: Case study approach, triangulation, policy analyses, unstructured interviews	25 unstructured interviews: the Ministry of Agriculture and Food, the NRL, the Sami Parliament, Reindeer-Herding Administration. Historical data (1979–2009), archival data, official statistics	Cross-compliance programme /Norway

*The other indigenous studies from the literature review*

To explore the available literature on the participation of other indigenous peoples in matters of land use a second literature review was conducted in the EBSCO and ProQuest databases. The following search words were used: 'indigenous peoples', 'participation', 'matters of land use', 'policymaking', 'law drafting', 'influence', 'ILO Convention No. 169'. The search word 'ILO Convention No. 169' did not produce results. The results produced by other words listed concerned concrete development projects executed in traditional indigenous lands across the world, directly affecting the indigenous peoples concerned, their land use and related livelihoods. Among the 99 articles retrieved, seven empirical studies were identified dealing with the indigenous peoples' participation options in land use issues.

The seven articles found focused on the indigenous peoples' role in participation in land use management and related development projects in Bolivia, Canada and Russia. An overview of the studies is provided in Table 6.



TABLE 6 Other indigenous studies reviewed, their methods and kinds of land uses depicted

Study		Method	Data / Sample	Land use
Other indigenous studies				
1	Hirsch, 2017	Ethnographic qualitative methods, political ecology approach, semi-structured interviews, fieldwork, group discussions, workshops, observations, mapping of actors, document analysis	Over 100 interviews: Forest authorities, forest organisations and professionals, indigenous organisations, migrant peasant union, government actors, NGOs, academics Other data: organisational documents and legal documents	Legislative drafting regarding forest legislation/ Bolivia
2	Udofia et al., 2017	Case study, Grounded theory approach, semi-structured interviews, an open house event with 30 participants	29 participants: Federal and provincial government agencies, ministries, uranium mining industry, consultants, ENGO, Aboriginal communities, municipal leaders	Environmental Assessment (EA)/Uranium Exploration/ Canada
3	Stammler & Ivanova, 2016	Multi-method, social anthropological analysis, participant observation, fieldwork, legal analysis	Fieldwork in Kamchatka/130 person-days, analysis of legal documents, regulatory acts and laws in regional, municipal and federal level	Oil drilling/ Nenets herding/ Russia
4	Lemoine & Patrick, 2014	30 participants: governmental agencies, First Nations groups and organisations, NGOs, industry	30 participants: governmental agencies, First Nations groups and organisations, NGOs, industry	Water governance/Northern Saskatchewan, Canada
5	Yakovleva, 2011	Case study, face to face semi-structured interviews, Narrative analysis	47 interviews: state and municipal authorities, activists, local and civil society organisations, indigenous NGOs, Evenki herders, an extractive company, the oil and gas sector, regional government officials Other data: Notes from public meetings, on-site observations, written records, newspaper articles, government documents	Oil pipeline construction /Yakutia, Russia
6	Meschtyp et al., 2005	Multi-method: fieldwork, social impact assessment survey, methods of interviewing, participant observation, comparison and analysis of combined data	Fieldwork accomplished in 7 settlements in the Nenets Autonomous Okrug: the camps of the reindeer herders and the village of Krasnoe, occupied by reindeer herders; Local officials, oil companies, associations of indigenous peoples, local people	Oil transportation/Nenets Autonomous Okrug, Russia

7	Tuisku, 2002	Fieldwork 1996–1997 in two villages and reindeer herding camps, informal interviews, semi-structured audiotaped interviews	Talked with 80 people, 20 main informants, informal interviews, (reindeer herders) semi-structured interviews (officials) Village archives, newspaper articles 1996–1999	Oil and gas exploration/ Nenets Autonomous Okrug, Russia
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Next, the Sami and other indigenous studies were further analysed and compared with each other.

### 7.3 A first analysis of the 15 studies

A first level of analysis of all 15 empirical studies was done. All empirical studies dealt with many kinds of competing land uses to traditional indigenous livelihoods and communities, such as mining (Udofia et al., 2017; Nygaard, 2016; Nysten-Haarala et al., 2015), forest related land uses (Hirsch, 2017; Keskitalo et al., 2014; Saarikoski et al., 2013; Zachrisson & Lindahl, 2013; Raitio, 2012), oil industry (Stammler & Ivanova, 2016; Yakovleva, 2012; Meschtyp et al., 2005; Tuisku, 2002), water governance (Lemoine & Patrick, 2014), wind power (Lawrence, 2014) and environmental policymaking (Zachrisson & Lindahl, 2013; Ulvevadet & Hausner, 2011).

Five empirical studies dealt with the importance of forests and the impacts of competing forest uses on indigenous communities and livelihoods across the globe (Hirsch, 2017; Raitio, 2012; Saarikoski et al., 2013; Zachrisson & Lindahl, 2013; Keskitalo et al., 2014). A Latin-American study from Bolivia, Hirsch et al. (2017) investigated stakeholder involvement related to the reform of forest legislation and found that the indigenous stakeholders opposing the government in other development projects in their territories were excluded from consultation, whereas those supporting the government in other matters were included in consultation meetings. In Swedish studies, such as those concerning the forest users' interactions in the municipalities of Storuman and Vilhelmina, Keskitalo et al. (2014, p. 749) concluded that reindeer herders perceived more "negative relations" with other sectors, especially with forestry, than other actors. Reindeer Herding Cooperatives found themselves unable to influence the extent of deforestation in consultation meetings, which was, according to Keskitalo et al. (2014), a result of the existing unbalanced power relations in terms of property rights under current legislation.

Zachrisson and Lindahl (2013, pp. 40–41) investigated two disputes over the uses of forests in Sweden, concluding that the unresolved Forest Survey Conflict still affected the parties involved and that the uneven distribution of power greatly weakened the preconditions for cooperation. A different case was investigated concerning the management of the Laponia Heritage Site in Jokkmokk, Sweden, which established through participatory collaboration what appeared to be a good example of collaborative management. In Finnish studies, such as

the Collaborative Natural Resource Planning (NRP) initiated by Metsähallitus in Northern Finland with the aim of providing participation options for a variety of stakeholders and securing the preconditions for Sami reindeer herding, Raitio (2012, p. 313) pointed out that the NRP process lacked transparency in various ways, reducing the achievement of participation. Other Finnish studies, such as the Multi-Criteria Decision Analysis (MCDA), which aimed at investigating a logging dispute between reindeer herding and forestry due to extensive logging in forests important for Sami reindeer herders in the Sami homeland, Saarikoski et al. (2013, p. 330), highlighted the diversity of views far apart.

Three empirical studies dealt with indigenous participation in the planning of mining projects and extractive developments. In Canadian studies, such as in the Clearwater River Dené Nation in Northern Saskatchewan, Udofia et al. (2017, p. 165) explored Aboriginal participation in uranium exploration and noted that limited deadlines and financial resources often prevented Aboriginal people from raising their concerns. In Norwegian studies, such as the planning of the mining projects, Nussir and Arctic Gold, in Guovdageaidnu and Kvalsund, Nygaard (2016) explored Sami participation in mining authorisation procedures and related impact assessments. Nygaard (2016) found that the existing legislation regulating Sami interests in Norway remains unclear and that the Sami interests may be put aside when the state economy requires it. In Finland, Russia and Sweden, Nysten-Haarala et al. (2015) investigated what role social responsibility and early dialog with affected communities played in the mining sector when seeking to engage stakeholders in negotiations. They concluded that most of the time the affected stakeholders, including the affected Reindeer Herding Cooperatives, were content with the actions taken by the mining companies (Nysten-Haarala et al., 2015).

Four Russian studies dealt with indigenous participation in the planning of extractive oil industry developments. In one Russian study, regarding the Nenets and Komi reindeer herding in Kamchatka and the Nenets Autonomous Okrug, Stammer and Ivanova (2016) investigated relations between the oil industry and the reindeer herding communities and found that by adapting the developers' mindset the reindeer herders could somehow preserve their way of life. In Yakutia, Yakovleva (2011) studied the Evenki community affected by an oil pipeline construction in Eastern Siberia and concluded that conflicting roles of the state, funding economic activities while at the same time using legislative power to define the position of reindeer herders, created obstacles to the realisation of participation.

In the Nenets Autonomous Okrug, Meschtyp et al. (2005) studied the effects of marine oil transportation on the local reindeer herding farm Erv. Their findings indicate that, albeit "the regional law entitled about reindeer herding" provided an opportunity for the evaluation of social effects of oil shipping, several factors concerning participation, however, indicated that the Nenets reindeer herders may not have had equal possibility to participate in consultations and the evaluation of impacts (Meschtyp et al., 2005, p. 325). Tuisku (2002) investigated the relationships and negotiations between the Nenets reindeer herding

units in Erv and Kharp and the oil companies operating in the Nenets Autonomous Okrug.

Other empirical studies from Canada, Norway and Sweden dealt with water governance, environmental policymaking and wind power development. In Canadian studies, such as regarding Northern Saskatchewan, Lemoine and Patrick (2014) investigated First Nations' participation in water governance and found that the consultation included problems such as lack of information, which caused distrust. In Norway, Ulvevadet and Hausner (2011) studied the cross-compliance programme negotiated between the Norwegian State, and more particularly the Ministry of Agriculture and Food, and the Sami Reindeer Herders' Association of Norway (NRL). Even though NRL participated in the negotiations, the government party exercised overwhelming power. In a Swedish study regarding the wind power development in Stihken, Lawrence (2014) found that the state had taken the role of representing the Sami in the negotiations on the construction of wind power.

Next, the 15 empirical studies were further examined to gain insights into the role of the Sami, more particularly the role of Sami reindeer herders and indigenous peoples in land use management and related policymaking.

## 7.4 Insights about the extent of participation

In this section, the findings for the first research question will be reported. This was: *What do these studies tell about the extent of the Sami and other indigenous peoples' participation in land use management?*

According to the empirical studies, the right of Sami and indigenous peoples to be consulted and participate in negotiations was guaranteed in almost all cases concerning land use management and related development projects. Merely three cases from Sweden and Russia made exceptions where the local indigenous stakeholders were excluded from consultations. Swedish studies, such as Stihken, Västerbotten and Lawrence (2014), found that the Sami community was not informed or involved in the planning of wind power development and that the state took the role of representing and protecting Sami interests in consultation meetings. In another Swedish study, the Forest Survey Conflict concerning the need to protect state-owned forests, Zachrisson and Lindahl (2013) reported that merely the ministries concerned and the state forest administrators were included in the formal policy process. Despite the customary right, Sirges Reindeer Herding Cooperative was excluded from the policy process as well as the extended negotiations and could merely lobby the state representatives involved.

Onward, Zachrisson and Lindahl (2013) found that other powerful actors, such as forestry, could affect the procedure through their informal networks. In Russian studies, such as in Yakutia, Yakovleva (2011) reported that hearings were organised on the construction of the oil pipeline. However, the affected Evenki communities were excluded from "the road planning, the assessment of socio-

economic impacts and the compensation procedure” (Yakovleva, 2011). In other Russian studies, such as in Kamchatka and the Nenets Autonomous Okrug, public hearings were organised by the extractive industry to engage indigenous reindeer herding communities (Stammiller & Ivanova, 2016). Meschtyp et al. (2005) reported similar results from the Nenets Autonomous Okrug, stating that the affected Nenets reindeer herding unit Erv was consulted on the impact assessment concerning oil shipping and the extension of the operating area. Similarly, Tuisku (2002) detected that the indigenous organisations and the Nenets reindeer herding units in the Nenets Autonomous Okrug were involved in negotiations regarding oil and gas drilling.

According to the studies on different forest uses, consultations and hearings were organised (Hirsch, 2017; Raitio, 2012; Saarikoski et al., 2013; Zachrisson & Lindahl, 2013; Keskitalo et al., 2014). When the forest legislation in Bolivia was prepared, the government organised consultations and hearings to gather stakeholder views (Hirsch, 2017). In Swedish studies, such as in Storuman and Vilhelmina, Keskitalo et al. (2014) investigated relations between forestry and reindeer herding and found that, based on the usufruct right, the Sami Reindeer Herding Cooperatives had the right to be involved in consultation sessions on logging. In Sweden, Zachrisson and Lindahl (2013) found that in the co-management of the Laponia Heritage Site, 9 Reindeer Herding Cooperatives had an equal status with respect to others. In Finnish studies, such as the Collaborative Natural Resource Planning in Northern Finland, Raitio (2012) reported that the participation of the Sami people, more particularly involvement of the Sami Parliament and the Sami Reindeer Herding Cooperatives, was ensured by Metsähallitus. In Finland, Saarikoski et al. (2013) applied the Multi-Criteria Decision Analysis process to investigate a dispute over the extent of logging in the Sami homeland between reindeer herding and forestry. The Sami stakeholders such as the Sami Parliament, the Saami Council and affected Reindeer Herding Cooperatives were included in the process.

In Canadian studies, such as in the Clearwater River Dené Nation, Northern Saskatchewan, Udofia et al. (2017) found that both the government and project developers facilitated indigenous participation in an environmental assessment concerning mineral exploration. According to Udofia et al. (2017), Aboriginal participation is established as an official part of the Environmental Assessment and the Canadian Constitution Act, 1982, which obligates the government to consult indigenous communities whenever development projects may impact them or their “treaty rights” (Udofia et al., 2017). In Norway, such as in Guovdageaidnu and Kvalsund, Sami stakeholders, e.g., Sami Parliament, Sami political parties, and the affected reindeer herding district, were allowed to submit statements concerning, for example, “the zoning plan and the final planning programme” and to participate in negotiations in issues where “consensus was impossible” regarding industrial developments (Nygaard, 2016). In Sweden and Finland, according to Nysten-Haarala et al. (2015), the affected Reindeer Herding Cooperatives were included in the negotiations and compensation procedure for the damages caused. In Russia, however the indigenous communities were not

included in the compensation procedure, for example, having moved away from their traditional territories (Nysten-Haarala et al., 2015). In Northern Saskatchewan, Canada, Lemoine and Patrick (2014) reported that the Ministry of Environment consulted the First Nations in water management. However, Lemoine and Patrick (2014) noted that “the rights of the First Nations to water are poorly defined, fail to honour Treaty Rights and are administrative regulations rather than legally binding legislation”. In Norway, Ulvevadet and Hausner (2011) found that the Sami Reindeer Herders’ Association of Norway was involved in environmental policymaking concerning reindeer pastoralism, since the cross-compliance programme was negotiated between the state, more particularly by the Ministry of Agriculture and Food, and the Sami Reindeer Herders’ Association of Norway. However, they concluded that the state party exercised supreme power in the negotiations.

An overview of the extent of indigenous participation is provided in Table 7.

TABLE 7 The empirical studies reviewed for the extent of the participation (RQ1)

Sami studies: the extent of indigenous participation		
1	Nygaard, 2016	Kvalsund/Nussir: Sami stakeholders as the affected reindeer herding district, the State reindeer herder administration, Sami political parties, and the Sami Parliament were able to submit statements. The affected reindeer herding district and the State reindeer administration were included in negotiations ‘in an issue where consensus was impossible’. Guovdageaidnu/ Arctic Gold: Stakeholders were involved in consultations.
2	Nysten-Haarala et al., 2015	The affected Reindeer Herding Cooperatives in Finland and Sweden were included in negotiations and the compensation procedure. Indigenous communities in Russia were excluded from the compensation procedure.
3	Keskitalo et al., 2014	Sami Reindeer Herding Cooperatives have the right to participate in required consultation meetings with forestry.
4	Lawrence, 2014	The Sami community was not informed or involved in the planning of wind power development. Three wind power companies were invited to negotiations.
5	Saarikoski et al., 2013	Reindeer Herding Cooperative of Hammastunturi, Reindeer Herders’ Association, Sami Parliament, and Saami Council were involved in the interactive decision analysis interviews.
6	Zachrisson & Lindahl, 2013	The Forest Survey conflict: Sirges Reindeer Herding Cooperative was excluded from the policy process and extended negotiations. The management of the Laponia Heritage Site: nine Reindeer Herding Cooperatives were involved in the co-management of the Laponia Delegation.
7	Raitio, 2012	Participation of the Sami reindeer herding cooperatives and the Sami Parliament in the Natural Resource Planning was guaranteed.
8	Ulvevadet & Hausner, 2011	Cross-compliance was negotiated between the Ministry of Agriculture and Food, and the Sami Reindeer Herders’ Association of Norway.

Other indigenous studies: the extent of indigenous participation		
1	Hirsch, 2017	Consultations and hearings were organised by the government to gather stakeholder input regarding the drafting of forest legislation.
2	Udofia et al., 2017	The Clearwater River Dené Nation in Northern Saskatchewan, Canada was consulted by the uranium exploration developers and the government. (The Canadian Constitution Act obligates the government to consult Aboriginal peoples.)
3	Stammmler & Ivanova, 2016	Public hearings were organised in Kamchatka. In the Nenets case, negotiations were transparent and the ground rules were negotiated and agreed on, the method of calculating compensation was institutionalised, and an anthropological expert review was accomplished. Both parties were willing to make compromises in the Nenets case.
4	Lemoine & Patrick, 2014	Aboriginal peoples have the right to participate in consultations in water governance in Northern Saskatchewan.
5	Yakovleva, 2011	Public hearings were organised, however, in cities far away from the Evenki settlements. The Federal Legislation in Russia provides to indigenous peoples the right to participate in consultations regarding development projects that may affect them. According to Federal Law of the Russian Federation, 2001, Article 12, indigenous peoples have the right to compensation for 'relocation or damage to land'. The Federal Law of 1999 includes anthropological expert review or ethno-cultural impact assessment.
6	Meschtyp et al., 2005	Regional law provides an initiative to 'perform ecological and ethnologic examination of activities that could affect reindeer herding'.
7	Tuisku, 2002	The Iasavei indigenous NGO and the reindeer herding units Erv and Kharp, among other interest groups, participated in negotiations.

## 7.5 Insights about limitations and opportunities in participation

In this section, the findings for the second research question will be reported. This was: *How do these studies view the limitations and opportunities in participation that explain the extent of indigenous influence on land use management?*

To answer this research question, both limitations and opportunities as shown in the studies will be reported. Table 8 provides a brief overview, to be specified in the next sections.

TABLE 8 The empirical studies reviewed, the extent of participation, its limitations and opportunities (RQ2)

Sami studies: limitations and opportunities		
1	Nygaard, 2016	Guovdageaidnu/ Arctic Gold: The municipal council making the decision whether to accept industrial development took into account the interests of the reindeer herders. The Sami are the majority in the municipality of Guovdageaidnu. The Sami are in a minority in Kvalsund municipality and reindeer herders' interests are not taken into account. There is no one to speak on behalf of the reindeer herders. Sami stakeholders lacked knowledge and skills in strategic communication in consultations.
2	Nysten-Haarala et al., 2015	The mining companies in Sweden were well aware of the fact that the Sami communities are influential, organised and internationally networked. Risks are not wanted.
3	Keskitalo et al., 2014	There was no veto right or decision-making power regarding the extent of the logging. Sami reindeer herders' right to participate is as much as the right to speak in required consultation meetings with forestry.
4	Lawrence, 2014	The Sami community was excluded from the negotiations held between the State and wind power developers. The Sami community had no influence over the negotiations or right to say no to wind power developments.
5	Saarikoski et al., 2013	The Forestry Frame and the Reindeer Herding Frame were included in the analysis as representing the equally legitimated sectors involved, whereas The Sami Right Frame claiming land rights was excluded.
6	Zachrisson & Lindahl, 2013	The Forest Survey conflict: The Sami Reindeer Herding Cooperatives could merely lobby the formal state actors included in the process. The management of the Laponia Heritage Site: The presence of UNESCO balanced the uneven power relations and ensured a Sami majority in the Laponia Delegation. Ground rules were agreed first to balance the uneven power relations and to ensure the influence of less powerful actors. Decisions were made by consensus.
7	Raitio, 2012	Unclear legislation on consultation allowed Metsähallitus to control stakeholder involvement. There was a lack of transparency due to the absence of ground rules defining the goals and thresholds. How to analyse stakeholder input was not defined in advance. Consensus was sought but consent was not reached. The impacts of the various options were not assessed beforehand.
8	Ulvevadet & Hausner, 2011	Top-down management was noted. There was a lack of knowledge and skills from authorities to solve environmental problems related to reindeer pastoralism and provide potential solutions. The traditional knowledge of the Sami reindeer herders was ignored in the process.
Other indigenous studies: limitations and opportunities		
1	Hirsch, 2017	Organised meetings and hearings were highly selective and poorly organised, 'announced late and cancelled'. Only some stakeholders were included. Participants from the lowland indigenous organisations that were neutral and those supporting the government in other matters were included, whereas those opposing the government were excluded.
2	Udofia et al., 2017	There were unclear roles and responsibilities. The legal obligation of the government to consult was often left to project developers. Consultations did not take place in all kinds of projects. Consultation should have been initiated in small-scale exploration at an earlier stage, and the government would have been required to establish long-term relationships with the affected communities and to involve them on a wider social basis.



3	Stammler & Ivanova, 2016	In the Kamchatka case, stakeholder involvement with the extractive industry lacked transparency and the ground rules were not negotiated or agreed on. The method determining damages caused by the extractive industry was not institutionalised and an anthropological expert review was not accomplished.
4	Lemoine & Patrick, 2014	The Aboriginal communities were not sufficiently informed on water governance. The consultation lacked transparency, in terms of missing information on authorities' activities, and how the consultation was carried out. Merely written information was submitted without the creation of long-standing relationships with the Aboriginal communities.
5	Yakovleva, 2011	The Evenki communities were absent from the hearings, due to a lack of prior information and a lack of financial resources enabling participation. There was no right to say no to the development projects. Consent was asked but refusal could have resulted in the loss of offered relocation. The Evenki communities were excluded from negotiations about the planning of the route and assessing the socio-economic impacts. The compensation procedure was not transparent or negotiable since communities were not included in negotiations and there were no ground rules to assess the damages. Ethno-cultural impact assessment lacked a method.
6	Meschtyp et al., 2005	The social impact assessment of the oil transportation regarding reindeer herding may not have been conducted properly because of lacking funds. Negotiations with the reindeer herders were not initiated at an early stage by the developers.
7	Tuisku, 2002	Nenets reindeer herders have built relationships with the oil and gas industry to distribute information about their needs. Oil companies have provided financial help for the herders with limited economic resources. The Erv reindeer herding unit has successfully negotiated for compensation and benefits with oil companies. The Iasavei NGO has knowledge and skills concerning petroleum and related politics.

The limitations and opportunities for participation in the above overview will be further discussed in the next sections.

### 7.5.1 Limitations to the realisation of participation

Although the participation of civil society and the involvement of indigenous communities in policymaking and law drafting have long traditions in the countries concerned, the 15 empirical studies reviewed all demonstrated a lack of transparency in consultations and various challenges in the implementation of the consultation. Next, the shortcomings of the consultation process are scrutinised in detail.

#### *Early consultations*

Four empirical studies addressed the initiation of consultations early enough. Despite the long history of participation in Bolivia, Hirsh et al. (2017) found that consultations concerning the drafting of forest legislation were randomly designed, "announced late and cancelled".

In the case of the Clearwater River Dené Nation in Northern Saskatchewan, Canada, Udofia et al. (2017) reported that consultations related to mineral explo-

ration in indigenous territories were not initiated at an early stage. In turn, indigenous communities expected the developers to be aware of their concerns and the ways in which the Aboriginal communities desired to be involved well in advance. The First Nations and developers may not agree on what indigenous involvement is.

In Russian studies, such as the building of oil pipes in Yakutia, Yakovleva (2011) discovered that due to a lack of prior information the most affected Evenki communities may not have attended briefings and hearings organised in cities far away from their indigenous settlements (Yakovleva, 2011). In Russia, in the Nenets Autonomous Okrug, Meschtyp et al. (2005) reported that the developers of oil shipping did not initiate negotiations with the local reindeer herding farm Erv at an early stage. Thus, the Nenets reindeer herders may not have an equal chance to be involved in the evaluation of the effects of oil shipping (Meschtyp et al., 2005).

#### *Selective stakeholder participation*

Three empirical studies dealt with selective stakeholder involvement. In Bolivia, Hirsh et al. (2017) reported on the authority of the government to decide who will be consulted in consultations, in which merely some organisations, for example, peasant migrant organisations and those indigenous organisations supporting the government in other matters, were included and invited to submit information, whereas some indigenous organisations who opposed the government's other plans in their traditional territory were excluded from consultations.

In Canada, Northern Saskatchewan, according to Udofia et al. (2017), the affected indigenous peoples expected the government to engage their communities on a wider social basis. In Finnish studies, such as the Natural Resource Planning (NRP) in Northern Finland, unclear legislation on consultation and a lack of "binding regulation on NRP" allowed Metsähallitus to control the extent of stakeholder involvement and to provide different roles to different stakeholders during the Natural Resource Planning (Raitio, 2012).

#### *The creation of long-standing relationships*

According to four empirical studies, governments' and developers' actions were lacking in building long-standing relationships with the affected indigenous communities. In Northern Saskatchewan, Canada, Udofia et al. (2017) found that the government did not establish long-term relationships with affected indigenous communities well in advance. As is the case with the mining industry that sought to build confidential relationships with the affected indigenous people (Udofia et al., 2017). In another Canadian study, water governance in Northern Saskatchewan, Lemoine and Patrick (2014) reported on a top-down management process according to which the Ministry of Environment merely submitted written information and never visited the affected indigenous communities. According to Lemoine and Patrick (2014), "meaningful consultation" is dialogue rather than just sharing information.

In Norwegian studies, such as cross-compliance, Ulvevadet and Hausner (2011) reported that the unilateral exercise of power continued to occur in environmental policymaking concerning reindeer pastoralism. In Bolivia, Hirsh et al. (2017) reported on consultation carried out by the government in the drafting of forest legislation to which selectively only some organisations were invited (Hirsch et al., 2017). In Russia, Yakovleva (2011) reported that the construction of long-term relationships was only partially completed by the oil sector, since the Nenets reindeer herders were not engaged in the substitution procedure by the developers.

#### *A lack of information*

Three studies addressed a lack of information in consultations. In Canada, such as in the case of water management, the objectives of the consultation were not achieved since the indigenous communities were not sufficiently informed by the Ministry of Environment. According to Lemoine and Patrick (2014), the lack of information concerned both the contents of the programmes and consultation. In Russia, the developers merely built some one-way communication with the affected Evenki communities, resulting in a lack of information concerning, for example, road and deadlines, and two-way communication channels were *not* built to take into account the Evenki concerns (Yakovleva, 2011). In Finland, in the Natural Resource Planning conducted by Metsähallitus, stakeholders were not sufficiently informed, which resulted in the citizens being unable to affect issues related to their environment (Raitio, 2012).

#### *Free, prior and informed consent and the right to say “no”*

Four empirical studies focused on free, prior and informed consent, and the right of indigenous peoples to say “no”. In Sweden, in Storuman and Vilhelmina, Keskitalo et al. (2014) found that the consultations with forestry seemed to be merely meetings for Reindeer Herding Cooperatives (RHCs) where they were entitled to speak without the power, influence or veto on the extent of the logging. In Sweden, Sami reindeer herders merely have a usufruct right to land (Keskitalo et al., 2014). In another Swedish study, Lawrence (2014) found that the Sami did not have veto right in wind power developments. Moreover, negotiations for substitutions were initiated only after the developers were pressured by demonstrations and reclamations to international monitoring bodies.

In Sweden, such as concerning the Laponia Heritage Site, Zachrisson and Lindahl (2013) reported that the state agreed to the Sami majority in the co-management of the Laponia Heritage Site after the RHCs raised their issue to UNESCO. The RHCs’ demands were based on the fact that the Laponia Heritage Site was originally founded on the Sami reindeer herding culture, traditions and history.

In Finland, Raitio (2012) pointed out that even though Metsähallitus expressed that it sought consensus, a free, prior and informed consent was not achieved and Metsähallitus alone dictated the decisions made by justifying them, referring to public opinion and “a lack of mandate”. In Russia, Yakovleva (2011)

pointed out that indigenous peoples did not have a right to say no to development projects, and even though it was stated that consent was sought, “no” can be followed by the loss of a new place of residence.

#### *Transparency of the procedures*

Six studies discussed transparency in developing processes. In Canadian studies, such as in the Clearwater River Dené Nation, Northern Saskatchewan, Udofia et al. (2017) reported that a lack of trust and a lack of transparency were produced in the very beginning of the development projects, since an environmental assessment was not required in minor projects that could, however, later lead to wider projects.

In Russian studies, two types of results could be found, but those witnessing a lack of transparency were in the majority. In the Nenets Autonomous Okrug, Russia, Stammner and Ivanova (2016) found that the anthropological expert review was accomplished, guiding principles were jointly negotiated, and the method of damage assessment related to the compensation procedure was institutionalised. Whereas, in Kamchatka, none of these objectives were fulfilled (Stammner & Ivanova, 2016).

In Northern Saskatchewan, Canada, Lemoine and Patrick (2014) found that the lack of transparency was linked to uncertainty, and that there was a lack of information on the authorities’ activities and on how consultations were supposed to be executed by the Ministry of Environment.

In Finland, Raitio (2012, p. 314) found that due to “the loose legal requirements for consultation and the lack of a substantive binding regulation regarding NRP” Metsähallitus could control how the process concerning Natural Resource Planning (NRP) progressed and which stakeholders were invited to participate. According to Raitio (2012), the NRP process lacked transparency since the purpose of the process and the ways in which stakeholder statements were analysed varied from case to case. The absence of ground rules for defining “the objectives, thresholds, minimum requirements” and consequences of the different options on reindeer herding made it impossible to assess afterwards whether the objectives of NRP were met.

In another Russian study, Yakovleva (2011) summarised that even though a Federal Law of the Russian Federation from the year 2001 entitled indigenous peoples to compensation due to change of residence or environmental degradation due to development projects, indigenous communities were not allowed to participate in the compensation procedure, and additionally the absence of guiding rules resulted in a lack of transparency. Moreover, the impact assessment by regional NGOs did not, according to Yakovleva (2011), affect the governmental decision-making in the construction of the oil pipeline. According to another Russian study, the Nenets herders may not have had equal possibility to participate in consultations and the evaluation of expected effects of the oil shipping on their traditional land. Meschtyp et al. (2005) found that the implementation of the legally required social impact assessment may not have been carried out properly due to a lack of financial means.

*Traditional indigenous knowledge not considered legitimate*

Three empirical studies pointed out that the indigenous actors may not be regarded as equal partners in consultations since the traditional knowledge of indigenous peoples is not considered legitimate. In Canadian studies, such as water management in Northern Saskatchewan, the traditional knowledge of indigenous peoples was not taken into account or seen as legitimate information in the consultations (Lemoine & Patrick, 2014).

In Sweden, although the Laponia World Heritage Site was chosen as a world heritage site based on the Sami reindeer herding culture, the nine Reindeer Herding Cooperatives involved in the first round of negotiations lacked power, influence, financial resources and recognition of their traditional knowledge by the other actors involved (Zachrisson & Lindahl, 2013).

In Norway, Ulvevadet and Hausner (2011) found that unbalanced power relations continued to dominate the negotiations concerning reindeer pastoralism. State authorities may lack knowledge and skills in solving environmental issues related to Sami reindeer pastoralism, however, the traditional knowledge of Sami reindeer herders capable of solving environmental issues was ignored in the process (Ulvevadet & Hausner, 2011).

*Unclear roles and responsibilities*

Four empirical studies focused on unclear roles and responsibilities in consultation. In Canadian studies, Udofia et al. (2017) found that the division of the roles and responsibilities between the government and developers was not always clear and, in many cases, the legal duty of the government to consult indigenous people was on the developers. Udofia et al. (2017) concluded that often developers and indigenous communities lack a common understanding of what indigenous involvement is. In Sweden, Lawrence (2014) also found that the roles of the government and the wind power developers were not clear, and the government delegated the consulting obligation to developers. In Russia, Yakovleva (2011) found that the state simultaneously financed development projects and made laws on indigenous rights.

*A shared understanding is missing*

Altogether four empirical studies demonstrated a missing understanding. Two empirical studies from Bolivia and Finland demonstrated that other acute and ongoing conflicts with governments could influence the extent of indigenous participation in the case at hand, as was the case for the indigenous associations in Bolivia (Hirsch, 2017) and in Inari, Finland, where the Reindeer Herding Cooperative was involved in logging dispute (Saarikoski et al., 2013). The two Canadian studies also pointed out that the indigenous peoples involved and the developers may have different views on what indigenous involvement entails (Udofia et al., 2017; Lemoine & Patrick, 2014).

### 7.5.2 Opportunities for the realisation of participation

Even though obstacles to the realisation of participation can be found, some opportunities that may facilitate it were identified in the literature.

#### *Protection by the existing legislation*

According to three empirical studies, those cases where the rights of the indigenous peoples were protected by existing legislation offered more opportunities for the implementation of participation than cases where such legislation was lacking. Bolivia was mentioned, with its long history of participation and related legislation (Hirsch, 2017). In Canada, the Canadian Constitution Act obligates the government to consult indigenous peoples regarding environmental assessment, for example, related to extractive developments (Udofia et al., 2017). In Russia, the Federal Law of the Russian Federation gives indigenous peoples the right to participate in consultations and impact assessments regarding development projects that may affect their traditional livelihoods and the right to receive compensation from the damage caused (Yakovleva, 2011).

#### *Litigation, appeals and traditional knowledge*

Three empirical studies showed that litigation or appeals increased the willingness of developers or the state to listen to indigenous concerns and propose positive action towards indigenous peoples. In Sweden, Lawrence (2014) found that negotiations for benefits and compensation were initiated after the developers had been pressured in terms of demonstrations, or complaints to international monitoring bodies. According to another Swedish study, the appeal brought by the Reindeer Herding Cooperatives to the United Nations Educational, Scientific and Cultural Organization (UNESCO) secured the Sami majority in the delegation of the combined natural and cultural World Heritage Site, based on the reindeer herding culture and approved by UNESCO in 1996 (Zachrisson & Lindahl, 2013). In Finland, Saarikoski et al. (2013) mentioned that litigation initiated by some herders increased their influence after decades of deforestation dispute.

According to Zachrisson and Lindahl (2013), at the Laponia World Heritage Site in Sweden, the presence of UNESCO balanced the current uneven power relations and ensured the Sami majority in the Laponia Delegation. Moreover, they noted that the Reindeer Herding Cooperatives involved first required the establishment of common rules for delegation and that, by doing so, the influence of less powerful actors in delegation was guaranteed. Onward, it was decided that the decisions in the Laponia Delegation were made by consensus, which ensured that all actors became equal, while the Laponia World Heritage Site applied the “Sami concept *searvelatnja*, which means, i.e., qualitative, continuous, and transparent dialogue between the parties and with people who inhabit, visit, or work in the area” (Zachrisson & Lindahl, 2013, p. 44).

In Norway, Nygaard (2016) found that municipal self-government was strong and due to the Sami majority in the municipal council of Kautokeino, Sami interests were high on the local political agenda, whereas, in Kvalsund the Sami minority in the municipality resulted in the decision not to take the Sami interests

into account. The Kautokeino reindeer herders as members of an indigenous people in Norway were merely considered part-time residents by the municipal system since based on semi-nomadism their summer pastures are located in Kvalsund municipality and winter pastures are in Kautokeino municipality (Nyggaard, 2016).

*Networking and building mutually beneficial relationships*

Altogether four studies demonstrated that networking and building mutually beneficial relationships benefitted indigenous actors in negotiations. Three Russian studies (Tuisku, 2002; Meschtyp et al., 2005; Stammmler & Ivanova, 2016) found that through the decades, the Nenets reindeer herding cooperatives and the local indigenous NGO had proactively built mutually beneficial relationships with the oil industry. According to these studies, as an outcome of the negotiations the Nenets herders received financial help from the oil company and successfully negotiated for compensations and benefits, however, at the same time local herders were afraid of the future, pollution and the loss of pasture land. In Russian (Tuisku, 2002; Meschtyp et al., 2005; Stammmler & Ivanova, 2016) as well as Swedish studies (Lawrence, 2014), indigenous herders with scarce economic resources were shown to have become financially dependent on developers polluting their pasture lands. In Sweden, the pressure produced by the international networking of Sami communities, and the Sami being aware of their rights, increased the willingness of the extractive sector to negotiate and find common solutions with the Sami communities concerned (Nysten-Haarala et al., 2015).

### **7.5.3 To conclude: Limitations and opportunities**

Although in many countries the constitution and the existing legislation obligate governments to consult indigenous peoples whenever planned developments may affect their territories and sources of livelihoods, in the literature various limitations were identified that restricted participation. However, opportunities facilitating indigenous participation were also reported. Table 9 provides an overview. Next, it will be further explained.

TABLE 9 Overview of limitations and opportunities found in the literature

<i>Limitations to participation</i>	<i>Opportunities for participation</i>
<ul style="list-style-type: none"> <li>• Consultations too late in the process</li> <li>• Selective stakeholder participation</li> <li>• Lack of transparency of the procedures</li> <li>• Lack of information for participants</li> <li>• Lacking free, prior and informed consent and the right to say “no”</li> <li>• Unclear roles and responsibilities</li> <li>• Traditional knowledge not considered legitimate</li> </ul>	<ul style="list-style-type: none"> <li>• Binding legislation</li> <li>• Provisions for litigation and appeals</li> <li>• Traditional knowledge considered legitimate</li> <li>• Building long-standing mutually beneficial relationships</li> <li>• The indigenous having a majority in local policymaking</li> <li>• Networking</li> <li>• Awareness of one’s indigenous rights</li> </ul>

*Limitations to participation*

Various limitations were found in the literature. From the indigenous’ point of view, consultations were not initiated early enough. They also suffered from selective stakeholder participation, meaning that merely some stakeholder groups were allowed to participate in consultation meetings and submit information. Sometimes the consultation procedures lacked transparency because of missing information. It was also reported that the affected indigenous communities were not sufficiently informed about the consultation procedures themselves and the planning of developments. In many cases consultation procedures lacked free, prior and informed indigenous participation, and indigenous peoples did not have the right to say no to the development projects. In some cases, the traditional knowledge of indigenous peoples was not considered legitimate. Roles and responsibilities between governments and developers were not always clear, and the legal obligation of governments to consult indigenous peoples relied in many cases on the developers. In some cases, indigenous communities and developers did not share a common understanding of what consultation is. Furthermore, the indigenous peoples concerned had expected the governments to build long-standing relationships with them, as was the case with the developers.

*Opportunities for participation*

Opportunities for participation were also found. The current binding legislation, especially the constitutions of the states, facilitated participation, whereas indigenous peoples who lived in removed regions lacking binding legislation and well-established procedures had fewer opportunities for participation. According to the literature, litigation and appeals, for example, to monitoring bodies of the OECD and UN and utilising traditional knowledge, opened new opportunities for participation. Some reindeer herders, such as the Nenets, have for decades built mutually beneficial relationships with the oil industry and negotiated for compensation and benefits. This did not guarantee a clean environment for the Nenets’ reindeer pastoralism but provided some opportunities for survival under the pressure of other land uses. Similarly, according to a Swedish study, networking by Sami communities and awareness of their rights increased the



willingness of developers to engage in negotiations, benefit sharing and dialogue-building with the indigenous communities.

## 7.6 Trends in the collected empirical studies

In this section, the findings for the third research question will be reported. This was: *What trends can be found in the international literature on Sami and other indigenous participation in land use management?*

The reviewed empirical studies dealt with many kinds of competing land uses, including traditional indigenous livelihoods and communities such as mining (Udofia et al., 2017; Nygaard, 2016; Nysten-Haarala et al., 2015), forest related land uses (Hirsch, 2017; Keskitalo et al., 2014; Saarikoski et al., 2013; Zachrisson & Lindahl, 2013; Raitio, 2012), oil industry (Stammler & Ivanova, 2016; Yakovleva, 2012; Meschtyp et al., 2005; Tuisku, 2002), water governance (Lemoine & Patrick, 2014), wind power (Lawrence, 2014) and environmental policymaking (Zachrisson & Lindahl, 2013; Ulvevadet & Hausner, 2011).

All empirical studies reviewed pointed out that those land use issues important to indigenous communities were surrounded by multiple competing stakeholder groups with conflicting views and attempts to promote their interests (Nysten-Haarala et al., 2015; Raitio, 2012; Saarikoski et al., 2013; Zachrisson & Lindahl, 2013; Keskitalo et al., 2014; Lawrence, 2014; Ulvevadet & Hausner, 2011). The legal framework and the societal situation of indigenous peoples varied widely in these countries. However, indigenous peoples' livelihoods and communities across the world face similar challenges in terms of pollution, community fragmentation and loss of pasture land.

According to the empirical studies found, resource-rich indigenous territories and the exploitation of those resources are in the interests of most states concerned. Many studies pointed out that the interests of developers often resonated with the state interests aimed at exploiting natural resources in areas inhabited by indigenous peoples; this was found in Bolivia (Hirsch, 2017), Canada (Udofia et al., 2017), Norway (Nygaard, 2016), Russia (Stammler & Ivanova, 2016; Yakovleva, 2012; Meschtyp et al., 2005; Tuisku, 2002), Sweden (Lawrence, 2014; Zachrisson & Lindahl, 2013) and Finland (Raitio, 2012). Both in Russia and Sweden, overlapping roles of the state were found. In Russia, Yakovleva (2012) reported that the state had conflicting roles, such as a project promotor, legislator and the guardian of the rights of indigenous peoples. In Västerbotten, Sweden, Lawrence (2014) found that "the County Board had two roles: one as landowner with market motivations, and the other as public authority" (Lawrence, 2014, p. 1047).

According to many empirical studies, indigenous communities appear to be the most affected communities that bear the cumulative consequences of developments (Hirsch, 2017; Udofia et al., 2017; Nygaard, 2016; Stammler & Ivanova, 2016; Lawrence, 2014; Yakovleva, 2012; Meschtyp et al., 2005; Tuisku, 2002). Russian and Canadian studies refer to the indigenous peoples' concerns

about industrial pollution and whether future generations will have the clean environment indigenous livelihoods depend on (Stammler & Ivanova, 2016; (Lemoine & Patrick, 2014; Yakovleva, 2012; Meschtyp et al., 2005; Tuisku, 2002). According to the empirical studies, industrial development is considered necessary by other stakeholders involved in the areas that struggle with unemployment and a poor economy; this concerned Russia (Stammler & Ivanova, 2016; Yakovleva, 2012; Meschtyp et al., 2005; Tuisku, 2002), Bolivia (Hirsch, 2017), Norway (Nygaard, 2016), Sweden (Zachrisson & Lindahl, 2013) and Finland (Saarikoski et al., 2013; Raitio, 2012).

Moreover, many empirical studies demonstrated that decisions affecting indigenous communities are made far away from indigenous territories in central administration that may not be aware of local indigenous circumstances and traditional knowledge of indigenous peoples; as was noted in Canada (Udofia et al., 2017; Lemoine & Patrick, 2014), Sweden (Lawrence, 2014; Zachrisson & Lindahl, 2013), Russia (Stammler & Ivanova, 2016; Yakovleva, 2012; Meschtyp et al., 2005; Tuisku, 2002) and Norway (Ulvevadet & Hausner, 2011). Three studies also pointed out that the more remote the area, the less legislation and well-established practices existed, such as regarding water governance in Northern Saskatchewan, Canada (Lemoine & Patrick, 2014) and reindeer pastoralism in Kamchatka, Russia (Stammler & Ivanova, 2016). Furthermore, there are conflicting interests. Yakovleva (2011) found that international instruments regarding indigenous rights may not be applied to extractive projects in cases where both financiers and developers are domestic, so that consequently indigenous concerns are not taken into account, for example, in social impact assessment.

Some studies reported that the local reindeer herders with limited financial resources turned out to be dependent on the economic aid offered by developers, who simultaneously destroyed the future opportunities for reindeer pastoralism. Consequently, this created a controversial situation in which the polluting development projects, not desired in the first place, became economically necessary for the herders. In Sweden, on the one hand, negotiated benefits provided some kind of opportunity for survival but, on the other hand, competing land uses like wind power created cumulative impacts on grazing lands already suffering from various other land uses like mining, forestry and hydropower (Lawrence, 2014). In Russia, Stammler and Ivanova (2016) identified similar tendencies where development projects and related negotiations for benefits provided the herders some opportunities to survive under the pressure of industrial development. However, even though the local herders enjoyed compensations and benefits, they feared for their future because of pollution and the loss of pasture land (Tuisku, 2002, p. 152).

When looking at trends in the research, the methods used over time are very similar, including ethnological and anthropological methods, interviewing, participant observation, fieldwork, case study and legal analysis. Most studies focused on different kinds of development projects carried out in indigenous territories and scrutinised to what extent the affected indigenous communities were involved in the planning of those projects.

Across the globe, the resource-rich indigenous territories are in the interests of both the developers and governments concerned, whose interests highly resonate with each other. In the disputes occurring, indigenous peoples involved are the most affected parties, carrying serious consequences of the developments in their traditional territories. Development projects are said to bring employment and uplift the state economy. In many cases, it is difficult to distinguish between the roles and responsibilities of developers and governments, as they are often unclear and overlap.

In many countries current legislation – the Constitution, among others – is amended to recognise the legal status of indigenous peoples and secure their rights to be consulted and participate in the planning of development projects. As mentioned earlier in this thesis, indigenous peoples have legal rights, however, they often lack real influence. From a legal point of view, Constitutions and other legislation seem to safeguard the rights of indigenous peoples. However, the conducted literature review shows many limitations in consultation and participation, including selective stakeholder participation, lack of information and early consultations, and too little attention for building confidential relationships, which amount to a lack of transparency. Indigenous peoples across the globe may have taken big leaps, but even where their rights are recognised in the Constitution, many improvements are still needed to balance uneven power relations and guarantee transparency of law drafting processes, policymaking and development project planning.

This thesis is not about the realisation of legal rights of indigenous peoples as has been studied previously, but attempts to understand the use of strategic communication preceding and during law drafting. It fills a gap in indigenous research by scrutinising the use of lobbying, framing and multi-actor interplay in issue arenas where indigenous issues related to land use are discussed. It is argued that indigenous peoples' survival and their traditional industries are so closely related to traditional land use that the human rights of indigenous peoples cannot be distinguished from the land rights of indigenous peoples. This thesis answers the strategic question that until now remains unanswered in the Sami studies: why the land rights issues vital to indigenous peoples are not progressing in legislative processes. This is done by the reported literature review and the two studies that will be reported in the next chapters. Next, the law drafting process of the Act on Metsähallitus and related Sami paragraphs are investigated in more detail.

## **8 STUDY 2: PARTICIPATION IN THE LAW DRAFTING PROCESS OF THE REVISION OF THE ACT ON METSÄHALLITUS**

This study sheds light on stakeholder involvement in the law drafting process concerning land use by looking at indigenous participation through the lens of strategic communication, in particular, lobbying. Lawmaking is a well-established research area, whereas law drafting, particularly Sami cases in participation concerning land use is a little-explored field. This study fills the existing research gap by focusing on the revision of the Act on Metsähallitus and the participation rights of the Sami and, in particular, opportunities for reindeer herding as a traditional industry in Finland.

After an introduction of the case at hand, the Act on Metsähallitus and the Committee preparing the Sami paragraphs as well as the legislative process and Committees in law drafting are described in more detail.

### **8.1 Law drafting and strategic communication**

This study seeks to identify key stakeholders and steps in the process to gain understanding of participation options. This study contributes to transparency by examining interactions to reach the key actors at the appropriate time. Consequently, this may enable the stakeholders involved duly to deliver information. In arranging participation options, lawmakers need to pay attention to “the extent, transparency and timing of the activities” (Vesa & Kantola, 2016). Lobbying departs from the objectives of stakeholders, but it is also seen as an essential part of influencing legislative drafting. It takes place in and between multi-actor networks (Meriläinen, 2014), affecting all levels of agenda setting, “public opinion and ultimately decision-making” (McCombs & Ghanem, 2001, p. 78).

Building on the approach of communication in issue arenas (Luoma-aho & Vos, 2010), this study acknowledges that issue arenas are dynamic spaces of interaction (Luoma-aho et al., 2013, pp. 240–241), or “public opinion environments” where organisations, groups and individuals meet and compete for who can influence issues that are in the interest of all actors engaged (Dougall, 2005, p. 536). Around an issue there can be many active actors but only some are key influencers that have much impact on the decision-making (Oliver & Donnelly, 2007, p. 404). This study borrows the term political market or political marketplace: “The term political market refers to an individual market defined by a political issue and the terms political markets or political marketplace refer to the multiple markets and the political system overall” (Bonardi et al., 2005, p. 399).

It focuses on the revision of the Act on Metsähallitus (the Finnish Forest Management and Park Services) in Finland. Stakeholder participation related to this case in law drafting has received much attention. It was arranged on the basis of the Legislative Drafting Process Model (Oikeusministeriö, 2010b, 2011a, 2011b, 2011c; Tala, 2001, 2007).

The research takes a public servant’s point of view in analysing interviews carried out in the Ministry of Agriculture and Forestry and the Ministry of Justice. Three members of the working group preparing the proposal have been interviewed to clarify the law drafting process and the role of stakeholder participation. Lawmaking has often been the focus of research whereas law drafting received less attention in, for example, constitutional or European law and political sciences (Tala, 2005a, p. 89). This study investigates participation in law drafting concerning structures as well as practices, described by Tala et al. (2011, p. 4) as “general structural and political mechanisms as well as everyday practices of the Finnish legislative drafting”.

Next, the Act on Metsähallitus and the committee involved in law drafting for this certain law drafting project are briefly presented.

### **8.1.1 The Act on Metsähallitus**

The case in this study is the law drafting process of the Act on Metsähallitus, and more specifically the Sami paragraphs of the Act, prepared by the Ministry of Agriculture and Forestry (234/2016). In terms of increasing participation rights of the Sami the reform of the Act on Metsähallitus was significant. According to the government programme in 2011 and 2014, the rights of the Sami as an indigenous people were ensured by reforming the legislation related to the use of land in the Sami homeland in Finland. The participation rights of the Sami in this case formed a part of a larger whole, as it concerned a part of the Act on Metsähallitus.

In 2013 the Committee nominated by the Ministry of Agriculture and Forestry to prepare the Sami paragraphs of the Act started its work. It drafted a proposal to increase the participation rights of the Sami in decision-making processes concerning the use of state-owned land and water in the Sami homeland. In the Sami homeland, 90% of the land and water is owned by the Finnish State. Metsähallitus is a state enterprise that “uses, manages and protects the state’s

land and water assets under its control, sustainably operating under the guidance of the Ministry of Agriculture and Forestry and its administrative sector”, as the Act on Mestähallitus provides (234/2016). The Committee also had the task to prepare a proposal for the general promotion of reindeer herding, hunting and fishing in the Sami homeland. The Committee submitted its proposals to the Ministry of Agriculture and Forestry on the 18th of March 2014.

### **8.1.2 The committee involved in law drafting**

“In broad-based law drafting”, the ministry responsible for the the law drafting project at hand can establish a Committee to prepare a draft law in cooperation with the officials (Tala, 2001, p. 98). Legal studies emphasise the role of Finnish parliament in legislative processes. However, in law drafting processes the government also has the role of a mediator. It acts as a mediator of conflicting opinions that so that the voices of all actors are heard in the process (Freeman, 2005, p. 126). Committees nominated by the responsible ministry formulate the content of the government bill, at least in part, in a law drafting process. The Council of State and its general session has final decision-making power concerning the content of government bills. As said before, members of a Committee usually include representatives of the ministry responsible and representatives of at least one external party (Pakarinen, 2011, p. 30).

In this case, the Ministry of Agriculture and Forestry was the leading ministry responsible for the preparation of the proposal, whereas the Ministry of Justice coordinates all Sami issues in the Council of State. Within the Committee, there were multiple stakeholders representing various stakeholder groups competing for influence. Three members represented the leading Ministry of Agriculture and Forestry, one being the chair and two other members. Additionally, there was one member from the Ministry of Justice, one from the Ministry of the Environment and one from the Ministry of Economic Affairs and Employment. Three external members were nominated by the Sami Parliament, there was a common member of the municipalities appointed by the Regional Council of Lapland, and finally two external experts were nominated by, respectively, the Ministry of Agriculture and Forestry and the Sami Parliament. Such a heterogeneous group and the law drafting process associated with it can be characterised as an interplay where different perspectives and interests are discussed to reach a consensus (Pakarinen, 2011, p. 1).

## **8.2 The government as a stakeholder in law drafting**

Study 2 centres on the role of the government as a significant actor in law drafting. In Finland the government, for example, the various ministries and municipalities involved, constitutes its own “category of generic stakeholders with formal political power” (Freeman, 1984, pp. 54, 61; Freeman, 2005, pp. 124, 126). As a “primary stakeholder”, the government has direct influence when drafting a law

(Heath & Palenchar, 2008, pp. 16, 20). In other words, the government has the ability to use resources in terms of political power by passing legislation and writing regulations. "In legal terms, power is the possibility to maintain, establish, reverse or modify legal or other conditions" (Heuru, 2003, p. 66). Power is integrated and hidden in the structures and institutions of the society and an actor in a dominant power position can influence decisions that can benefit one's values and interests (Castells, 2009, p. 10). However, power is used as a key instrument in the consultations in public policy arenas where various parties try to put pressure on decision-makers to get their voice heard (Held, 1998, p. 202). For this reason, actors act strategically in political arenas. They need to understand how government really works, how issues arise and get on the agenda, who key actors are, what their stakes are in the legislative process and, finally, what interactions are available between government and organisation to affect public policy and have positive input on legislative processes from the organisation's point of view (Freeman, 1984, pp. 14, 54, 61). In this study, public policy is regarded "as any form of government action or inaction that expresses the intent of government actors" (Hillman & Keim, 1995, pp. 194, 199).

When it comes to public policy processes, there are also other actors involved. Jones and Chase (1979, p. 10) group decision-makers in three categories: "citizens, government and business", each of them affecting each other. In the government-business interface, government and ministries as suppliers stand on the supply side having power to affect public policy decisions in political processes, whereas other actors like organisations, groups and individuals are regarded as demanders on the demand side, setting requirements for public policy (Hillman & Keim, 1995, p. 199). Suppliers shape public policies and agendas while demanders, such as civil society and interest groups, make demands to suppliers regarding how public policy should be shaped (Hillman & Hitt, 1999, p. 833). A core issue is to understand the exchange nature of the public policy process and what can be exchanged in the process. This in turn requires identifying the demanders and suppliers and their interests "at the political marketplace" (Keim, 2001, p. 588).

Government and its representatives have indeed a special role in public policy issues. Public administrators have power to exercise authority, but at the same time they are responsible to citizens and their representatives, who by means of democratic votes transferred power to them (Mordecai, 2001, p. 34). While businesses have stakeholders like shareholders and clients, states have citizens with rights and subjects with obligations (Mintzberg, 1996; Mordecai, 2001, p. 34). "Formally and legally, the goal setting in law drafting in nation states like Finland is by authorities and decision-makers" (Tala, 2001, p. 78), but another matter is whether this goal setting matches the objectives of the various other stakeholders in law drafting.

The reform of the Act on Metsähallitus concerning the participation rights of the Sami contributes to amending the Finnish legislation for its part, closer to the level required by ILO 169 and, therefore, the reform would remove some legal

obstacles to the ratification of ILO 169 (Release of the Ministry of Justice, 27.6.2012; Referral of the Ministry of Justice, 16.12.2011/OM 32/49/2011).

Next, the research questions and the method of Study 2 are presented.

### 8.3 Research questions and method

The purpose of Study 2 is to increase the understanding of stakeholder involvement in the process of law drafting in the case of the reform of the Act on Metsähallitus and, in particular, the Sami paragraphs of the draft law. The study is guided by the following research questions.

RQ1: How can the communicative aspects of the law drafting process as an issue arena be understood?

RQ2: What are relevant issue arenas preceding law drafting for lobbying to influence the final decision-making?

RQ3: What are relevant issue arenas during the preliminary preparation of this process of law drafting that provide participation options?

RQ4: Who are the key stakeholders in this particular law drafting process, and how are they identified?

#### *For RQ1*

According to the issue arena theory, issue arenas have communicative elements, such as continuous communication and issues at the heart of the debates (Luoma-aho & Vos, 2009). Because of that, this study investigates whether those elements exist in the issue arenas of law drafting, to be able to identify the sub issues at hand as suggested by the issue arena theory (Luoma-aho & Vos, 2010), to be followed by stakeholder identification and monitoring of stakeholder interactions that form the content of issue discourse (Vos et al., 2014, p. 201). This study contributes to the development of the issue arena theory by adding the perspective of lobbying to it. In doing so, it investigates the information production processes in law drafting as an essential part of democracies (McGrath, 2007) that may increase participation rights of stakeholders and transparency in decision-making (Thomas & Hrebenar, 2008), so that all could have an opportunity to provide “an input to the political administrative system” (Koeppel, 2000, p. 70) from a stakeholder point of view (McGrath, 2006).

#### *For RQ2*

Issue arenas are both online and offline arenas of interaction where multiple stakeholders participate, since issues debated in the overlapping issue arenas are in the interests of various stakeholders of which no one can declare to be a sole owner of an issue (Luoma-aho & Vos, 2010, 2009). Issue arena theory, building on issues management, suggests listening to early signals and monitoring of developments (Luoma-aho & Vos, 2010). Along the same lines, lobbying theory stresses the importance of early action (John & Thomson, 2003). This is why this



study focuses on communication in the early stages of the process, in this case issue arenas preceding the law drafting process that may affect the content and outcomes of the law drafting process.

#### *For RQ3*

In public debate various overlapping issue arenas exist (Luoma-aho & Vos, 2009). This study seeks to point out the sub issue arenas during preliminary preparation. To be able to time lobbying efforts and provide timely information, the legislative process first needs to be explored and monitored (Thomas & Hrebenar, 2008). Such activities provide opportunities to emphasise stakeholder points of view in a plausible way when submitting information to decision-makers (McGrath, 2007; Terry, 2001).

#### *For RQ4*

In issue arenas multiple actors can participate in the discussion (Meriläinen & Vos, 2013), however merely some of them appear to be real influencers (Oliver & Donnelly, 2007, p. 404). Thus, this study investigates what are in this case seen as key stakeholders that affect the interplay in the arena and therefore the evolving content of issue discourse (Vos et al., 2014, p. 201). For lobbying purposes (McGrath, 2007), stakeholder identification is important since various stakeholders attempt to draw attention to their interests in the debate (Luoma-aho & Vos, 2010, p. 201).

#### *Method*

To answer the research questions, orientational qualitative expert-interviews were conducted. Qualitative expert-interviewing was chosen since the interviewees possess the highest level of expertise of legislative drafting in Finland. Those interviewed belonged to the group of experts at the Ministry of Justice and the Ministry of Agriculture and Forestry, working especially on Sami and reindeer herding issues and closely involved in the preparation of related affairs about which they reported to the ministers on a regular basis. Moreover, the research material consisted of three interviews with public servants who are the experts in the legislative drafting project concerning the Act on Metsähallitus and especially its Sami paragraphs, and who all three were also members of the Committee. Two worked for the Ministry of Agriculture and Forestry, the leading Ministry for this project, and one for the Ministry of Justice that coordinates all Sami issues in the Council of State. The selection of interviewees is, therefore, based on their institutional status and the unique information they carry. Hence, the aim of the expert interviews is “to provide a description of the process or phenomena” (Alastalo & Åkerman, 2010, pp. 373–374), in this case, the process is the legislative drafting process of the Act on Metsähallitus and more specifically the participation rights of the Sami people.

The interviews were taped and transcribed. The recorded material formed a total of five hours, two of the interviews each took two hours and one of the interviews took one hour. The interviews were conducted by the semi-structured

interview method (following Hirsjärvi & Hurme, 1995, pp. 36–41). Semi-structured interviewing was chosen since it allowed addressing the complicated law drafting process and its various sub steps in more detail, especially the step of preliminary preparation and its sub steps. Even though there were only three interviewees, they all in their own way consistently addressed the same topics concerning the various stages of the law drafting. The interviewees were asked the same questions about the same themes. At the beginning of each theme, the researcher briefly explained what made this of interest, after which the questions were asked. The interviewees were also allowed without disruption to think about the subject and share their knowledge of the process (as described by Ericsson & Simon, 1998, p. 181). All interviewees were open and ready to answer all questions, and they did so in a clear and direct way. Every now and then, the researcher asked further questions to invite the interviewees to answer more in depth or to further explain their answers.

The various steps of the Legislative Drafting Process Model formed the themes of the interviews. As explained in Section 3.2.2 these steps are initiative, preliminary preparation, regulatory drafting, consultation, continued drafting, and review by the government (Oikeusministeriö, 2011b, p. 13; Oikeusministeriö, 2011c). An important step is the preliminary preparation, as “in the preliminary preparation, the current state and development needs are assessed, and the issue at hand is defined” (Oikeusministeriö, 2011b). Study 2 focuses on communication in the main steps preceding law drafting and during preliminary preparation of law drafting. It notes those moments, key actors and kinds of information that make a difference in whose voice is heard in the law drafting process. This study, thus, sheds light on an essential question: who are the key actors and what are the steps and turning points in the process?

The results were analysed by thematic analysis. The transcripts of a total of five hours of interviews with 28 pages of transcribed text were read several times. The answers were grouped for the sub steps of preliminary preparation and steps preceding the actual law drafting process (e.g. Future Reviews in the ministries and government negotiations preceded by the forthcoming legislative drafting projects in the next parliamentary term). Within these groups similar sub topics were identified and interesting fragments for quotations marked. Further analysis was directed towards identifying relevant issue arenas, key stakeholders and communicative elements of law drafting. As the fragments about the different sub steps included repetition, general insights on communicative aspects of law drafting were identified across the various steps and reported separately to avoid repetition. Concerning the analysis of Study 2, the categorisation process was both theory and data driven. Issue arena theory introduced by Luoma-aho and Vos (2010, 2009) suggests that “issues are the centre pieces of ongoing communication in issue arenas”. This invited to look closely at the content discussed. The themes themselves, i.e. communicative aspects of law drafting, were found in the data after several rounds of reading. What was mentioned repeatedly in the texts was marked. Thus, it was noted that an information production process is a core element describing the issue arena of law drafting.

The below sections follow the research questions when reporting the findings. In section 8.4, a broader and general explanation is provided concerning the communicative aspects of the law drafting process. The following sections explore the findings in greater detail. Section 8.5 focuses on issue arenas preceding the law drafting process, when Future Reviews and government negotiations take place. In section 8.6, the sub issue arenas of the preliminary preparation are investigated. Not all steps of the preliminary preparation are included, merely those that comprise relevant turning points and provide opportunities for participation and influence.

## **8.4 General findings on the communicative aspects of law drafting**

In this section, the findings for the first research question will be reported. This was: *How can the communicative aspects of the law drafting process as an issue arena be understood?* The interviewees mentioned continuous communication in issue arenas of law drafting, the issue as the centre of issue arenas of law drafting, and law drafting as information production process. Below the findings are reported in detail.

### **8.4.1 Continuous communication in issue arenas of law drafting**

Law drafting is characterised by its communicative nature, as multiple stakeholders are involved, providing input and attempting to influence the draft law at hand. It is an ongoing established interaction, both formal and informal, between ministers, public servants and other stakeholders involved. It constitutes an information production process that simultaneously takes place in various sub issue arenas of law drafting aimed at preparing a draft law. In the internal arenas of law drafting within the ministries, it is an ongoing communication between ministers, public servants and other politicians where important decisions concerning draft laws are made. An informant describes the nature of the communication in which the boundaries between politics, the conditions imposed by the laws and preparation carried out by the public servants are blurred.

“It isn’t merely a professionally and legally organised process, but it is also politics. And a bill that we draft must pass many discussions during the decision-making process, the last of which is the Parliament plenary session.” (Inf2)

The minister controls the process of law drafting, the production and sharing of information. Yet, the role of public servants is identified as influential, since they select and create information for the decision-making. From a stakeholder perspective, a relevant matter is what the interactions are within the ministry in which stakeholders should be involved early enough to affect the outcomes of the law drafting process. As one of the informant states, information within the ministry is exchanged on a regular basis.

“Sami issues have been discussed with the minister and he has been informed about them quite often. Yes, information is provided on a regular basis, including general information about what is going on and focused information about certain issues. When a minister resigns and there will be a new government, an overview is provided.” (Inf1)

As the process to create a law is long and requires several steps, timing is everything and it depends on the issue at hand when opportunities for influence occur.

“It is, of course, very important to know how to schedule influence. It depends on an issue at hand when it is the time to influence the process in any given case.” (Inf2)

The universal rule applies here too: the earlier the better. Entering the arena early provides more opportunity to have a leading role (Luoma-aho & Vos, 2009, 2010). But if the process is not pending, it's too early for influence.

#### **8.4.2 The issue as the centre of issue arenas of law drafting**

At the centre of law drafting is the issue at hand, around which everything else evolves. This relates to the problem that the law drafting project aims to solve.

“It is the issue that is important. Whenever a working group is nominated, there is always something it aims at, a goal, and what it mostly concerns. And then there is a need to get as many parties involved in as possible.” (Inf1)

Issues and stakeholders belong together. As Luoma-aho and Vos (2010, p. 316) put it, “identifying issues should precede identifying stakeholders”.

“In each case, it is, of course, those who are particularly affected by the issue at hand and decisions made. Thus, they constitute the stakeholders around an issue.” (Inf2)

The issue and its related (sub) issues embedded in a draft law attract multiple stakeholders to be involved in the law drafting process. Stakeholders seek allies and strive to promote issue aspects important to them. They and the civil servants involved need to pay attention to the various stakeholders and, consequently, monitor the developments. As an informant puts it:

“It requires sensitivity to monitor how the process proceeds.” (Inf1)

Hence, stakeholders are recommended to monitor issue developments during the process (Luoma-aho & Vos, 2010; Vos et al., 2014), for example, by establishing confidential and functional relationships with the powerful actors involved (Tala et al., 2011).

### 8.4.3 Law drafting as information production process

Another point of attention in the interaction is the production of information for law drafting. Multiple stakeholders are involved and provide input. The consultation process aims at gathering much information in the interaction between decision-makers, the business sector and civil society, in other words, the involvement of various stakeholders in decision-making processes.

“They want as much information as possible. And this information must be most reliable. The minister requests information from different parties involved, also from research institutes. There are many issue aspects and different kinds of opinions related to these issues, among researchers as well.” (Inf1)

There are various stakeholders involved in the process, but not all are equally powerful. Less powerful actors attempt to frame their interests with the influential ones to affect the decision-making (Gamson & Modigliani, 1989, p. 3). In other words, lobbying issue arenas of law drafting is to manage complexities by providing information in multiple issue arenas concurrently (Luoma-aho & Vos, 2010, pp. 323–324). During the process of law drafting, over time, information offered may get less attention. As an informant clarifies, the significance of new information decreases when the process progresses:

“The importance of new data decreases as the process proceeds. In the earlier stages, it has the greatest impact. In the earlier stages of the preparation one has greater opportunities to influence the process rather than in the later stages.” (Inf3)

Hence, transparency enables stakeholders to assess early enough “which issue arenas are relevant and provide opportunities for interaction” (Luoma-aho & Vos, 2010, p. 316) and share information on the (sub) issues related to the law drafting. Therefore, one needs to be alert and note when the process of law drafting begins.

### 8.4.4 To conclude: Communicative elements of the law drafting process

It is issues and ongoing discussions, both formal and informal, that are at the centre of the issue arenas of law drafting. The arenas are monitored and participated in by various actors, meaning ministries, officials and other stakeholders involved. The issues concerned determine, for example, when and how influence occurs in the issue arenas of law drafting and how, for example, the impact assessment will be carried out during the process. In the issue arenas of law drafting the information production process also takes place in interaction between the stakeholders involved.

In issue arenas of law drafting, continuous communication takes place involving multiple actors operating in various networks. The discussions related to the law drafting taking place between the minister and leading public servants are central. The challenge for the stakeholders is to identify the steps and key actors in the process, to be able to provide their views in a timely manner and

participate in the interplay, building relations with the politicians, officials and other stakeholders involved.

Next, the findings on issue arenas preceding the law drafting process are reported.

## 8.5 Findings on steps preceding law drafting

In this section, the findings for the second research question will be reported. This was: *What are the relevant issue arenas preceding law drafting for lobbying to influence the final decision-making?* The interviewees pointed out activities preceding law drafting, in particular, the steps of Future Reviews and government negotiations.

### 8.5.1 Issue arenas of Future Reviews and government negotiations

When lobbying concerning law drafting in the current parliamentary term, the processes in the previous term should be investigated to be able to target lobbying efforts at today's processes. It is argued that the first indications for new law drafting projects are already visible in the Future Reviews carried out by the Council of State by the end of the previous parliamentary term (Pakarinen, 2011, pp. 28–29). As an informant puts it, at that time it is determined what will be addressed in the near future:

“The Future Reviews attempt to anticipate on trends and changes in society during the next five years. What kind of trends and changes can be expected within five years in the society that should be taken into account and should be prepared for?” (Inf3)

Apparently, the first opportunities to influence the upcoming law drafting projects occur when the Future Reviews are accomplished in the ministries during the last quarter of the current parliamentary term. A future review is a medium-term plan based on a ministry's strategies, and its preparation precedes government negotiations every four years. The related government programme is an important document, as it shows whether a law drafting project has ended up in it (Astola, 2012); next, it will be revised in the upcoming parliamentary term. In terms of lobbying in the issue arenas of law drafting, government negotiations appear to be the second issue arena preceding the law drafting process. It is another chance for stakeholders to push their issues on the future policy agenda. Government negotiations can be regarded as an issue arena where it is addressed which law drafting projects will be included or excluded. It is a playoff process, where the future law drafting projects will be ranked.

“Those mentioned are, of course, the most important projects, and they must be taken care of, in one way or another. They have to be investigated, but it is a different matter whether the final goal will be achieved. If something is included in the government programme, yes, it will be addressed. It is an important document.” (Inf1)

Ongoing discussion and sharing of information between the minister and public servants involved begins when the Future Reviews are drafted in the ministries. In the interplay, the production of information accomplished by the public servants makes them one of the key players in the process. They produce information on which decisions are based:

“In the ministry, we strive to produce facts and the best up-to-date information for the minister and his political advisers. So that they have the best information as a basis for policymaking.” (Inf3)

Noteworthy, preparation of Future Reviews and government negotiations provides opportunities for stakeholders to deliver information concerning a certain law drafting project (Pakarinen, 2011, p. 28). The time frame for lobbying in the issue arenas of Future Reviews is longer, whereas the two-weeks-long government negotiations require rapid action. The preparation of Future Reviews constitutes a longer process that encompasses various stages, in which outside influence is received at several points (Verčič & Verčič, 2012, pp. 15, 16). In a year-long interplay an updated draft will be distributed for comments several times. Stakeholder consultations are held, and then the draft will be delivered for comments again:

“In the Ministry, we attempt to prepare future reviews as transparently as possible. We have requested a multiplicity of comments on the draft document from the agencies and institutions of our administrative sector and from the stakeholders involved.” (Inf3)

Since not all expertise types and experiences related to societal issues can be found in ministries, background information is welcomed as a basis for decision-making (Wise, 2007, p. 360). This, in turn, provides an opportunity for stakeholders involved to submit information and offer related solutions (Terry, 2001, pp. 267–270). In sum, lobbying in issue arenas of law drafting is preceded by lobbying in issue arenas of Future Reviews and government negotiations. This may indicate who might be the stakeholders involved in future processes. Often, networking and allies are needed to promote stakeholder issues.

The preparation of Future Reviews provides the first official opportunities to influence the government negotiations. This decides which law drafting projects will be prioritised and may enter the political agenda in the foreseeable future. In other words, it constitutes a first issue arena of law drafting, where stakeholder issues may be highlighted. Since the Future Reviews are drafted in the ministries concurrently, this involves various issue arenas of law drafting simultaneously.

### **8.5.2 To conclude: Findings on steps preceding law drafting**

The first issue arena preceding the law drafting process is drafting Future Reviews. It forms an issue arena that seems transparent and rather approachable to all stakeholders involved. Lobbying in this sub issue arena requires framing an

issue from a stakeholder point of view well before the law drafting case is pending. It includes participating in multiple discussions with various other stakeholders and finding a balance between conflicting opinions (Vos et al., 2014). It may also include monitoring multiple issue arenas concurrently (Luoma-aho & Vos, 2010), as the Future Reviews are drafted in all ministries simultaneously.

Drafting Future Reviews provides indications of who might be the other stakeholders around the draft law with whom to ally and build a common voice, in other words, to construct common frames and agendas. Networking provides an opportunity for stakeholders involved to set wider societal goals and thus ensure public support for their concerns. Creating separate communication strategies targeted to each group is deemed important (Vos et al., 2014). Drafting Future Reviews, therefore, is the first chance for stakeholders to identify who are the other stakeholders involved in the process. These, indeed, are the first interactions available to promote one's interests and to push stakeholder issues to the agenda.

Government negotiations form the second issue arena preceding the law drafting process, based on and following the issue arenas of the Future Reviews. Government negotiations are dominated by politicians, but their decisions are based, at least partly, on the information produced by public servants.

Next, the findings for the first issue arena of the law drafting process, preliminary preparation and its sub steps, will be reported.

## 8.6 Findings on the preliminary preparation

In this section, the findings for the third and fourth research questions will be reported. Sections 8.6.1 and 8.6.2 answer the third question: *What are relevant issue arenas during the preliminary preparation of this process of law drafting that provide participation options?* Section 8.6.3 presents the findings for the fourth question: *Who are the key stakeholders in this particular law drafting process, and how are they identified?*

The preliminary preparation constitutes the first actual issue arena in the process of law drafting, which is divided into several sub issue arenas. It is preceded by the preparation of the Future Reviews and government negotiations, as described above. "It involves the accumulation of information and insights on the objective or issue expressed in the legislative initiative, an evaluation of the need to launch a legislative project and the planning of the objectives, brief and implementation of the upcoming project"<sup>27</sup>.

From the lobbying point of view, this appears to be the first opportunity to persuade key actors to select certain issue angles and possible solutions (McGrath, 2006, pp. 75–77). Already at this stage, it is defined what the goals of the process are and what they are not. The step of the preliminary preparation should be

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<sup>27</sup> <http://lainvalmistelu.finlex.fi/en/1-esivalmistelu/#esittely>



viewed as a complex interplay, in which there are multiple opportunities to influence the process by providing new facts and information.

Next, the findings for the different sub issue arenas of the preliminary preparation are reported: the definition of the objective or issue, the issue arena of the impact assessment and the preliminary survey.

### **8.6.1 The definition of the objective or issue**

The definition of the objective or issue constitutes the first step or sub issue arena of the preliminary preparation. In other words, it forms the first phase in the issue arena of the preliminary preparation by determining the goals and outcomes of the law drafting process:

“At this point, it is determined what the goal is.” (inf3)

Even though the determination of an objective or a problem is officially initiated at the beginning of the law drafting process, this process may informally start as early as the Future Reviews are drafted in the ministries. Thus, this explains why it is important for the stakeholders involved to identify the relevant issue arenas of Future Reviews preceding the law drafting process at hand, and to participate in discussions at that time. Thus, this calls for proactivity well in advance, before the preparation of the Future Reviews begins.

“A couple of years ago, one should have been in contact with the ministerial working group for Sami affairs.” (Inf3)

To sum, in January 2013, when the members of the working group that later drafted the Sami paragraphs of the Act on Metsähallitus were nominated, a design of the preliminary preparation was already well on track. The objective of or problem to be solved in the Sami paragraphs in the Act on Metsähallitus was determined, a preliminary survey was accomplished, and the impacts of various options were initially identified. Thus, this confirms the known facts, according to which many decisions affecting the outcome of the law drafting process, are already made at the stage (Pakarinen, 2011, pp. 28–29) of the preliminary preparation.

“Yes, in the Ministry of Agriculture and Forestry we intend to be as practical as possible and assess the different options and related impacts at an early stage.” (inf3)

The next step or sub issue arena is impact assessment.

### **8.6.2 The issue arena of the impact assessment**

The government bill should highlight the aims and goals of the bill and present alternative solutions and their impacts on different stakeholders involved

(Oikeusministeriö, 2004, p. 14). Sometimes the different options and related impacts can be evaluated during the preliminary preparation.

“Sometimes it is done (impact assessment), sometimes not. It depends, it varies. Sometimes we know what the different options are and thus their impacts can be initially assessed. Sometimes they are not known.” (Inf2)

Once again, it depends on the issue at hand what the different options and their impacts on the stakeholders involved might be. According to an interviewee, an impact assessment carried out by the working group begins when the paragraphs of the act are drafted.

“Impact assessment starts when, okay, if the law provides. So, how does this affect the different parties involved?” (Inf2)

Noteworthy, an impact assessment carried out in the ministries starts much earlier, before the working group is nominated by the minister. Preliminary impact assessments may be accomplished by the public servants involved already at the stage of the preliminary preparation. When, for example, the costs of various options and their impacts on citizens and society can be calculated, this is a common denominator to compare different options to each other.

“If we have, say, options A, B and C, and the costs each of them includes. A problem still remains, if you do not have a clear picture of where we are heading to and the various options are not yet defined. Then it is difficult to assess the impacts of the different options in detail.” (Inf3)

This calls for stakeholders to act proactively and identify in advance the different options and the impact that these will have on them. Thus, it may be possible for stakeholders to enter the issue arenas of impact assessment early enough and provide information for decision-making. Next, the findings for the last step of the preliminary preparation, the preliminary survey, in terms of lobbying, will be reported.

### **8.6.3 The preliminary survey: Identifying stakeholders in the issue arenas of law drafting**

During the preliminary survey, the existing legislation around the act under revision will be reviewed. This is explained by an informant:

“It is a dialogue with the existing legislation.” (Inf3)

The existing legislation is a system in which various laws are associated and interact with each other in many ways. The related legislation demonstrates what other administrative sectors, and thus ministries, are responsible for and involved in the law drafting process. In the case at hand, the Sami paragraphs of the Act on Metsähallitus are related, for example, to other legislation associated

with the Sami participation rights, and with the prohibition to “substantially undermine the preconditions for engaging in traditional Sami sources of livelihood or otherwise to maintain and develop the Sami culture”. A provision known as “the prohibition to undermine the Sami culture” was included, for example, in the Mining Act. Thus, other legislation that affects the revision at hand will be reviewed as well.

The revision of the existing legislation will be followed by the identification of other stakeholders involved. This shows which ministries are involved in the law drafting process at hand, and who are considered other stakeholders affected by the draft law. In terms of lobbying, this provides an answer to the strategic question: Who are the other stakeholders around the draft law?

#### **8.6.4 To sum: Preliminary preparation**

In the case at hand, the preliminary preparation was finalised by July 2013 and it ended with the minister’s decision to establish a legislative drafting project and to appoint a Committee to prepare the Sami paragraphs of the Act on Metsähalitus. The timeframe to influence the preliminary preparation occurred all the way from January 2013 to July 2013. The time allocated influencing the preliminary preparation was longer than usual because of the time-consuming negotiations on who would be proposed as members of the Committee.

“Yes, in this project the preliminary preparation was more significant than regulatory drafting. But, yes, it varies from a project to project.” (Inf3)

Normally, negotiations are soon over, which requires stakeholders to act fast. It varies per project, but in this case the preliminary preparation took a relatively long time.

#### **8.6.5 To conclude: Steps and issue arenas of the law drafting process**

The law drafting process, investigated as an issue arena, offers several steps, issue arenas and sub issue arenas to stakeholders to identify and participate in. The study investigated the ongoing and interrelated discussions and issue developments in three separate issue arenas of the law drafting process: drafting Future Reviews and government negotiations preceding the law drafting, and the first actual issue arena of the law drafting process, the preliminary preparation.

The stakeholders involved need to be aware of the steps and issue arenas in the ongoing process to be able to enter the issue arenas of decision-making in a timely manner and influence the outcomes of it. Moreover, they need to identify the key actors operating in the law drafting arenas. The findings of Study 2 indicate that many decisions affecting the outcome of the process are already made within the ministry during the preliminary preparation, when the Committee, including other stakeholders than the government, has not yet started its work.

The results of Study 2 resonate with the international results of Study 1, showing that even though governments have made significant decisions on indigenous issues during the preliminary preparation of the law drafting, or development projects affects indigenous communities are planned, indigenous peoples have not yet been consulted at that early stage. They demonstrate that the stakeholder consultations with the indigenous communities involved, when measures are taken, or draft laws proposed especially affecting those communities, are not initiated at an early stage. In other words, Study 1 and Study 2 told the same story, indigenous communities are not informed at an early stage when draft laws or development projects are initiated, which may instead of securing indigenous peoples' rights benefit third parties in land use.

The preliminary preparation, the first actual issue arena of the law drafting process, is not as transparent as drafting Future Reviews. Thus, it provides a challenge to the stakeholders involved to identify the relevant steps, sub issue arenas and the key actors in them. In the preliminary preparation, ongoing discussions around the draft law take place in the ministry. Study 2 indicates a lack of transparency in the law drafting process, as the planning of development projects often lacks transparency which was pointed out by Study 1.

In this issue arena, timing and actor activity level are important. Proactivity calls for process monitoring and the creation of relationships to ensure access to information and the provision of information at the right time. Core problems are determined earlier, in other words, the aims of the law drafting project. The results of Study 2 suggest that some stakeholders on the demand side are invited too late to the process to be able to affect the outcomes of the process. Without Study 1, it would have been hard to understand these results of Study 2 since this showed selective stakeholder involvement at an early stage of the law drafting process in Finland, as was noted in the international literature reviewed for Study 1. Thus, it is a challenge for stakeholders to identify and participate in the key issue arenas of law drafting at the stage of the preliminary preparation, when significant decisions regarding the outcome of the law drafting project are made.

Study 2 focused on lobbying in issue arenas of law drafting. It attempted to understand lobbying opportunities provided by the law drafting process, particularly the reform of the Act on Metsähallitus and participation rights of the Sami. The Act on Metsähallitus is significant in terms of land use management in Northern Finland and consequently influences indigenous industries, such as Sami reindeer herding. Study 2 concerned interaction options available for stakeholders to lobby their interests in the issue arenas of law drafting. By investigating the options available, this study contributed to transparency in law drafting as an issue arena, identifying lobbying opportunities early in the process.

Apparently, there are formal opportunities available for stakeholder consultation. However, law drafting offers many other opportunities to influence the process at an early stage and push stakeholder issues to the agenda.

## **9 STUDY 3: UNDERSTANDING FRAMING USED IN STAKEHOLDER STATEMENTS REGARDING ILO CONVENTION NO. 169**

The Sami society in Finland currently faces many challenges, for example, there are plans for a railroad that will split the Sami homeland all the way to the Arctic Ocean, and other Arctic-related projects are in progress in various ministries in Finland. One issue that has been challenging the Sami community for decades, and may in the future continue to do so, is the lack of progress concerning ILO 169. By deepening the scope of the information regarding the issue at hand, and by actively participating in issue arenas in which ILO 169 is discussed, Sami stakeholders may have a chance to influence the outcome of the ratification process. However, the process at hand has left observers with many open questions, since the members of the Finnish Parliament left the government bill regarding the ILO Convention No. 169 on the table and decided not to ratify ILO 169 in the spring of 2015.

Therefore, Study 3 aims to understand how the process evolved and why the ratification of ILO 169 has been suspended twice in 1990 and 2015 in Finland, and thus remains unresolved.

### **9.1 Issue arenas of law drafting**

This study views law drafting, more precisely the final consultation stage in law drafting, as an issue arena attended by numerous stakeholders, such as “stakeholder groups and individuals, business sector representatives, state officials and politicians” to deal with tricky issues (Roloff, 2008, p. 311–312), as is the case at hand, ILO 169. Issue arena theory concerns “places of interaction” online and offline (Luoma-aho & Vos, 2010, pp. 318, 319), where issues at the heart of the debate enter the public agenda and are discussed in multi-actor networks (Vos & Schoemaker, 2011, p. 22).

In issue arenas, communication is expected to take place, to some extent, similar to the traditional stakeholder interaction (Luoma-aho & Vos, 2009, p. 120), including “stake exchange” between the actors involved (Heath & Palenchar, 2008, p. 16), albeit the environment is assumed to be more dynamic and rather issues than organisation-centred (Luoma-aho & Vos, 2009). Issue arena theory has been created to describe an ongoing change in the organisational environment, where issues progress rapidly in various dynamic issue arenas concurrently, including in both online and offline communication (Vos et al., 2014, p. 201). This calls for fast responses to numerous discussions simultaneously. Therefore, actors should strive to comprehend the interplay between stakeholders involved in various issue arenas (Meriläinen & Vos, 2013, p. 131).

In this study, when investigating issue arenas of law drafting, the focus is on “how salience is transferred” (McCombs, 1997, p. 433) from stakeholder agendas to the policy agenda, by framing issues (Pan & Kosicki, 2001) and by making certain issue aspects more salient in public policy discussion (McCombs, 1997, p. 440). Salience is produced in interaction between audiences, texts and frames included in texts (Entman, 1993, p. 53). Therefore, this study investigates “who gets what, when and how” (Lasswell, 1968) in ongoing “framing contests” (Pan & Kosicki, 2001, p. 40).

As addressed in Chapter 4, to frame is to “select some aspects of a perceived reality to make them more salient”, and “in such a way to promote a particular problem definition, causal interpretation, moral evaluation, or treatment recommendation for the item described” (Entman, 1993, p. 52). Influential stakeholders (Wang, 2007, p. 141) in the framing process may introduce a certain issue angle (De Vreese, 2005, p. 51) to take over the initiative by creating a positive atmosphere towards their opinions, in other words, suggesting how the issue should be framed or reframed (Wang, 2007, p. 141). In this case, this concerns issue arenas of law drafting.

Frames are competing interpretations of the same information (Nelson, 2004, p. 582). They show views on “the core of a political issue” or “the essence of the issue” (Gamson & Modigliani, 1987, p. 143). A frame provides information about “the problem’s origins”, how the issue should be assessed and what would be the right decision to solve the problem (Nelson, 2004, p. 352). It “refers to the way events and issues are organized and made sense of” (Reese, 2001, p. 7), encouraging audiences to favour a certain aspect of an issue (Chong & Druckman, 2007a, p. 637) by selecting certain parts of “perceived reality to build a narrative promoting a particular interpretation” (Entman, 2007, p. 164). Some attributes may dominate issue frames (Reese, 2007, p. 152), while other aspects may not be heard and are intentionally kept out of the debate (Hertog & McLeod, 2001, p. 143).

Among the competing messages, the loudest frames are those that are repeated most often or in other words are equipped with relative volume, which makes them able to cause significant effects on public opinion. Strong frames are considered compelling and have a strong continuity, whereas weak frames may be labelled unpersuasive. The framing effects depend not only on the strength of

the frame, but the public must also be receptive to the frame chosen and its values (Chong & Druckman, 2007a, pp. 638–640). It apparently depends on frames introduced which political options will be included (Iyengar, 1991, p. 13) and which ones are excluded in decision-making.

Framing is a goal-orientated selection of certain issue aspects that highlight particular interests presented by some actors. The inclusion of some issues draws attention to them, while the exclusion of some may even block issues from public debate (Meriläinen & Vos, 2013, pp. 120, 130). Stakeholder strategies are built on a variety of overlapping frames, since multifaceted public issues are the interests of many stakeholders. Organisations striving for their goals in relevant issue arenas should urge an understanding of stakeholder framing, since it may reveal the strategies of various actors involved in public debate (Meriläinen & Vos, 2013, p. 120, pp. 130–131).

Framing is viewed as a stakeholder's ability to create value for issues, which helps stakeholders place the issues on policy agenda (Dearing & Rogers, 1992, p. 4). Agenda setting, however, is viewed as a political process affecting policymaking by exercise of power. A balance between "competition and negotiation" is examined when issue salience is created by stakeholders involved, e.g., by various interest groups, active citizens, political elites and public servants (Dearing & Rogers, 1992, pp. 3, 4).

A presumption of the study is that the voice of the Sami is not heard on issues important to them, including the ratification of ILO 169 and the related issue of land use that is highly important to traditional industries such as Sami reindeer herding. A weak position of the Sami in land use management may indicate that the frames used are weak. Weak frames hardly display continuity and won't convince their audiences (Chong & Druckman, 2007a, p. 639). The strongest frames dominating issue arenas represent credible sources that share similar values and beliefs with their audiences (Chong & Druckman, 2007a, p. 639; Wang, 2007, p. 141), in this case the values and beliefs of decision-makers in legislative drafting. Frames that have huge volume rates and are repeated most often, for example, in the media, are also called loud frames (Chong & Druckman, 2007a, p. 639). An actor can try to control the size of a frame by either magnifying or reducing its importance to the public (Entman, 1991). Next, the aim of Study 3, background of the topic and research questions will be presented.

## 9.2 Aim and research questions

### *Aim*

The aim of this study is to increase the understanding of stakeholder involvement in law drafting and, especially, framing of issues during the phase of consultation in Finland concerning the adoption of the ILO Convention No. 169 on 'Indigenous and Tribal Peoples in Independent Countries'. Understanding framing in public debate is essential, since framing extends its effects to decision-making and ultimately has impacts on the actors involved (Meriläinen & Vos, 2013, p.

119). In this thesis, law drafting is seen as social interaction among different stakeholder groups, who can be more or less actively involved in the process.

The issue arena theory introduced by Luoma-aho and Vos (2010, 2009) is applied to examine legislative drafting processes, in which issues and stakes will be identified (Luoma-aho & Vos, 2010, 2009) in issue arenas of law drafting. Law drafting is approached as an issue arena, in which framing and agenda setting occur. Drawing on issue arena theory, law drafting comprises various sub issue arenas, or places of interaction, where multiple stakeholders, individuals and groups engage in public discussion by framing issues (Vos et al., 2014), in this case to influence the outcomes of the legislative process. Active stakeholder groups and individuals may attempt to dominate the issue arenas when lobbying for their agenda and points of view.

In Study 2, the emphasis is on law drafting and lobbying examined in the case of the reform of the Act on Metsähallitus. In Study 3 at hand, the framing of issues by multi-actor networks in consultation statements is investigated to see which issue aspects concerning ILO 169 were emphasised by different kinds of stakeholders. The focus was on how salience and frames embedded (Pan & Kociski, 2001) in issue aspects were “transferred from the public agenda to the policy agenda” (Dearing & Rogers, 1992) regarding ILO 169. Whose stakes hence were prioritised in decision-making regarding ILO 169? This study views the framing of multi-actor networks as a part of the policy process regarding ILO 169, either aiming to maintain the status quo or to make social change come about. This explains why some issue aspects gain salience in public debate, ending up in policy agenda, whereas other issue aspects remain absent from the political agenda (Dearing & Rogers, 1992, p. 2).

#### *Background on the topic*

The government bill regarding the ILO Convention No. 169 was drafted under the administrative sector of the Ministry of Justice, to later be submitted for parliamentary processing. The law drafting phase under the Ministry of Justice provided the stakeholders with numerous opportunities for influencing the outcome of the law drafting project. This study focuses on the phase of stakeholder consultation regarding the law drafting process concerning ILO 169, as arranged by the Ministry of Justice between mid-May to the end of June in 2014.

#### *Research questions*

The following research questions were set for the data.

RQ1: Which sub issues regarding the ILO Convention No. 169 were emphasised by the (different kinds of) stakeholders involved?

To explain: Different sub issues could be mentioned and prioritised by the different groups of stakeholders.

RQ2: How was framing used in the consultation statements regarding the ILO Convention No. 169?



To explain: Various types of issue framing may be used, and this may reveal different views on cause-effect relations and connections with other stakeholders when lobbying.

#### *Data collection*

The Ministry of Justice requested statements on the adoption of the ILO Convention No. 169 from 52 stakeholder entities. Overall, 38 statements were submitted to the Ministry of Justice, of which 36 statements without their appendices were included in this study, as two were excluded since they did not deal with the ILO 169 issue. The materials analysed formed a total of 174 pages, including statements from businesses, public organisations, authorities, Sami associations, groups and individual citizens. A list of the statement providers is given in Appendix 2, excluding the names of individual citizens to protect their privacy. The Ministry placed the statements on an open access webpage, Hare.fi, from which the data were collected for this study. Hare.fi was an open webpage on which documents of each legislative drafting project prepared under the State Council of Finland were placed. After the elections in 2015, the new government took down the webpage and the documents in it.

The consultation was done in written form because of regulations for law drafting. It documents the different points of views but does not include interaction. The availability of this written material enabled a precise analysis on an important moment in time.

Vos et al. (2014, pp. 206, 207) proposed a research agenda for issue arenas emphasising four elements. Two of which are applied to this study, including actor analysis and analysis of issue content. The other elements (media characteristics and the course of the debate) are given in this study, as the data comprise the consultation statements and no different media characteristics. *Data analysis* of discussion in other channels is not taken into account. In addition, this study does not address the evolving discourse over time, as the statements provided a very precise picture but of a snapshot in time.

In legal studies, the focus has been on lawmaking executed by the Parliament and its special committees (e.g., Kuivalainen & Keinänen, 2016; Keinänen & Lehtoviita, 2014). This study, however, is part of current research interests that focus on the previous stages of legislative drafting, and it relies on premises derived from law drafting accomplished by the key ministry (Keinänen & Paasonen, 2015; Hyvärinen, 2015; Kemiläinen & Keinänen, 2015; Keinänen & Vuorela, 2015; Pakarinen, 2012). More particularly the study focuses on the consultation stage conducted by leading, responsible ministry, in this case the Ministry of Justice. Likewise, issue management recommends organisations note early signals that may predict changes in stakeholder expectations that an organisation should monitor and be prepared for (Vos et al., 2014, p. 201). The specifics of this kind of data have been addressed in the section on data gathering.

### *For RQ1*

Meriläinen and Vos (2013, p. 121) mentioned that stakeholders can be more or less active in an issue arena. In this study, we noted which kinds of stakeholders were active by grouping those stakeholders that sent in a statement. Parallel with the diversity of Sami interests, other multiple stakeholders, groups and individuals have interests in the ILO 169 case and claim to have a stake in it.

The actors involved were analysed to show kinds of stakeholders and clarify how the actors are connected to each other (Vos et al., 2014, p. 209). The different categories were deduced based on kinds of stakes in the issue. Stakeholder mapping has been explained by Vos and Schoemaker (2011, p. 167) to first map the key stakeholders involved and how they relate to each other. Next, they are asked why they play this game and what their interests are. This explains who are pro and contra in the debate.

Next, the sub issues addressed in each statement were listed and a table overview was made to show which groups underlined which sub issues. This added to the stakeholder mapping and prepared for further analysis of the content addressed in the statements.

### *For RQ2*

The analysis of issue-related aspects was done by looking at the framing of the issue by the stakeholders. Framing indicates linkages and interactions between various (sub) issue arenas and stakeholders involved (Vos et al., 2014, p. 209).

Hallahan (1999) identified various types of framing for “situations, attributes, choices, actions, issues, responsibilities and news” in his Typology of Seven Models of Framing (Hallahan, 1999, p. 210). This was adapted into a typology for framing social issues by Meriläinen and Vos (2013, p. 124), who introduced the following framings of social issues in their study: 1) focus on situations, 2) focus on context attributes, 3) focus on risky choices, 4) focus on actions, 5) focus on the kinds of issues, 6) focus on responsibilities, 7) focus on news. The types of framing of social issues are used to analyse how in this case the stakeholders addressed the issue of the adoption of the ILO convention No. 169.

The texts were read and the fragments (comprising one to 12 sentences) that showed a particular framing type were marked and coded for type of framing. The coding was checked by a second reader and differences were discussed to obtain consensus. A data extraction table was made with columns for the types of framing, covering all of the 36 statements. Example fragments were colour coded as potential quotes for the findings report. In a final round of reading, the focus was on different views on cause-effect relations and connections with other stakeholders made in the text. Next, the method used in this study, the framing typology by Hallahan (1999) and seven types of framing of social issues listed by Meriläinen and Vos (2013) will be explained.

### 9.3 Method

The focus is on clarifying how issue framing is used in this debate. Based on the framing typology by Hallahan (1999), Meriläinen and Vos (2013) listed seven types of framing of social issues to analyse debate on the issue of human rights. Here this typology will be applied to analyse debate on ILO convention No. 169. The seven types of issue framing listed by Meriläinen and Vos are the following (2013, pp. 124–125).

- *Focus on situations* allows examination of the interrelatedness of actors, their interests and relations, e.g., paying attention to who is top dog and who is an underdog.
- *Focus on context attributes* focuses on characteristics that are emphasised or ignored, linking the issue to a context or other topics.
- *Focus on risky choices* means evaluating situations where uncertainty is present, stressing the uncertainties and risks involved.
- *Focus on actions* refers to evaluating the beneficial or problematic consequences of issues, making action appear necessary in achieving desired goals or avoiding negative consequences.
- *Focus on the kind of issue* involves alternative ways of looking at the issue as a relevant social or economic problem, by emphasising, e.g., political, legal, historical, cultural or economic aspects of the issue.
- *Focus on responsibilities* examines the responsibilities of actors and their role in the events of interest, e.g., attributing cause and blame.
- *Focus on news* means emphasising the news as a source and newsworthy elements of events.

For years, the ILO 169 debate in Finland has been most confusing and complex, including various overlapping, side and hidden issues that created a communicative fog hiding behind the indigenous issue aspects. Six types of issue framing were chosen as a method to dispel the fog and clarify what the ILO 169 debate is really about.

The units of analysis were text fragments of 1–12 sentences that showed the use of a framing type. For their analysis, the fragments were copied into a data extraction table with rows for the fragments and columns for the framing. Two data extraction tables were created, one for contra ratification fragments and another for pro ratification fragments. The data extraction table for the contra ratification fragments included 434 fragments altogether. The data extraction table for the pro ratification fragments included 233 fragments. Next, the initial analysis will be presented.

## 9.4 Initial analysis

As the debate is on ratification of ILO 169, a first reading of the extensive material showed clear differences between those in favour of ratification and those against it. The same type of framing was often used differently by those who supported ratification than by those who opposed ratification. Therefore, the analysis was geared towards clarifying how issue framing was used in this debate by those who support and those who oppose ratification. Thus, a first shortlist was made of initially noted characteristics to facilitate further coding by examples of the types of issue framing found.

In the statements contra ratification, the framing types (based on Meriläinen & Vos, 2013) were primarily used as follows:

### *Type 1. Focus on situations*

This type of framing relates to stressing power loss if ILO 169 is ratified. It is used by stakeholders who are against the ratification and afraid of losing their status in utilising resources. A power discussion shows when stakeholders who are afraid to get less power frame themselves as victims and underdogs while in fact they are the top dogs of the game.

### *Type 2. Focus on context attributes*

This framing type is used to stress economic values and point out economic gains and benefits that will be lost. The core of the framing is comprised of value discussions where the economic aspects appear to be strong arguments, especially in the current weak economic situation.

### *Type 3. Focus on risky choices*

This type includes stressing unclear matters and threats that create an uncertain future. Risks appear to be uncertain factors that we do not know very well and are speculated whether they may or may not happen. Risks mentioned are, for example, a high number of court cases. It stresses chaos and chaotic circumstances followed by the ratification.

### *Type 4. Focus on consequences*

This framing type attends to events that surely will happen after the ratification, e.g., loss of economic benefits because of new types of land ownership in the Sami homeland.

### *Type 5. Focus on the kind of issue*

This involves alternative ways of looking at the issue as a relevant social or economic problem, by emphasising, e.g., political, legal, historical, cultural or economic aspects of the issue. Those against ratification often use an economic perspective. A political perspective is used when equality is used to counter the approach of the convention.

*Type 6. Focus on responsibilities*

This framing type is used to evaluate the responsibilities and interests of actors. Those against ratification blame, for example, the government.

In the statements pro ratification, the framing types were primarily used as follows:

*Type 1. Focus on situations*

This framing type is used by those pro ratification when addressing lack of power. It tells the underdog story of the Sami people. It focuses on the minority-majority power relations and the current post-colonial situation of the Sami.

*Type 2. Focus on context attributes*

This type is used by stressing important values to the Sami, like preserving their language and culture. Pro ratification value framing links values to human rights and stresses that international conventions should obligate Finland to acknowledge, for example, the right of self-determination regarding the definition of a Sami.

*Type 3. Focus on risky choices*

This framing type includes taking a look at the current situation in the Sami society and that without ratification and measures taken under the current legislation the entire Sami culture, including its different sectors such as language, traditional industries and communities, is threatened, for example because of out-migration. Finland's reputation as a human rights state is feared to be disputed, if the Convention remains unratified.

*Type 4. Focus on consequences*

This type attends to events and factors that maintain the status quo and the unequal position of the Sami in relation to the majority population in Finland if the Convention is not ratified. The assimilation of the Sami could continue while the Sami culture is extremely endangered. Already around 60–70% of the Sami children live outside the Sami homeland and yet more people may have to move away from the Sami homeland due to lack of opportunities to engage in the traditional industries.

*Type 5. Focus on the kind of issues*

This framing type includes alternative ways of looking at the issue, often taking a political and historical/cultural perspective. The special features of the Sami culture and identity based on the distinct features of the Sami as an indigenous people are highlighted, according to which legislative reforms and ratification are required.

*Type 6. Focus on responsibilities*

This type examines the responsibilities of actors, e.g., attributing blame to the government for acting slowly in the ratification and not involving the Sami Parliament in the drafting of the government bill on the ILO Convention No. 169. Blame is attributed to the government and state not seeing the Sami situation as endangered.

Next, intermediate results together with a new overview of groups are presented.

## 9.5 Analysis

When taking a deeper look at the intermediate results, it seemed they were blurred, because within each group, pro or contra, there was yet another sub division visible. Thus, using the outcomes of step 1, a new overview mentioning four groups was made (see Figure 4).

FIGURE 4 Overview of groups

Contra ratification	Pro ratification
<p><b>B</b></p> <p>Against ratification, strongly and (almost) fully</p>	<p><b>C</b></p> <p>Pro ratification, strongly and arguing further requirements</p>
<p><b>A</b></p> <p>Against ratification, arguing further requirements</p>	<p><b>D</b></p> <p>Pro ratification, (almost) fully</p>

By returning to the data, a specification of the views of the groups was made. This was done by highlighting the fragments in red within the groups pro and contra ratification. Within the group pro ratification, some were (almost) fully for ratification, whereas others mentioned additional comments, requirements that had to be taken into account. For example, it was stated that the Sami land right issue needs to be solved prior to the ratification. Indigenous rights of those Sami groups and individuals living outside the Sami homeland should be guaranteed.

Linguistic and cultural rights of the Sami people to maintain and develop their languages and culture in relation to land use should be ensured. The same was the case within the group contra ratification. For example, it was said that the definition of a Sami needs to be amended so that it would not be discriminatory against some groups and individuals. The key and unfinished legislative drafting projects, e.g., Act on the Sami Parliament and the Act on Metsähallitus, should be completed prior to the ratification.

In this way, the following four groups were constructed from the data.

*Group B - Against ratification, strongly and (almost) fully*

The main actors in this group represent the business sector, some municipalities in Northern Finland, some ministries, state-owned companies, authorities and regional administration.

*Group A - Against ratification, arguing further requirements*

This includes groups, grassroots associations and individual citizens who were, so far, not accepted to the voting roll of the Sami Parliament. Or they are Sami or Sami associations, who state that their legitimate stakes are not addressed by the Sami Parliament.

*Group C - Pro ratification, strongly and arguing further requirements*

The main actors in this group are the supreme political body of the Sami, some Sami associations, individual citizens and a municipality.

*Group D - Pro ratification, (almost) fully*

Various ministries and authorities are included in this group.

Each fragment of each statement was coded, i.e. a framing type was selected that depicted the fragment. The results were summarised per group and per framing type. Some fragments were selected as illustrative quotes and provided below, to demonstrate the framing in the statements.

Next, the summarised results for the fragments of contra ratification stakeholders and the fragments of pro ratification stakeholders are reported per group for all framing types used.

## **Type 1. Focus on situations: Power relations**

*Contra ratification*

Focus on situations is a framing type that emphasises views on the interrelatedness and interests of actors, e.g., who is functioning as an underdog (based on Meriläinen & Vos, 2013, p. 127). Those in power, e.g., businesses, fear to lose it and claim equal rights to use land resources. Focus on situations is used when stressing power loss if ILO 169 would be ratified. Stakeholder groups who are against the ratification and are afraid of losing their status in utilising resources use this type of framing. The stakeholders who are afraid to lose power frame

themselves as victims and underdogs when in fact they are the top dogs of the game.

### *Pro ratification*

Those in favour of ratification, e.g., Sami stakeholders, argue they do not have real influence in matters regarding protection and management of land and use of natural resources, status of the Sami languages, cultural issues and issues concerning Sami education. Pro ratification statements claim Sami do not receive any compensation when other users utilise natural resources within the traditional Sami territories. Colonialism has not ended yet but still continues. Following the ILO 169 background, the Sami interests are portrayed as in need of protection.

Diversity of views exists within Sami society, some groups stating that those who have moved away from the Sami homeland do not have the same rights as the Sami living in the Sami homeland. Those in favour of ratification also call for attention for important details to be taken care of.

Table 10 provides a summary of the results for the first framing type.

TABLE 10 Main findings for framing type 1

<b>Type 1. Focus on situations: Power relations</b> Focus on situations is a framing type that emphasises views on the interrelatedness and interests of actors, e.g., portraying actors as underdog or having influence and voice.	
<b>Contra ratification</b>	<b>Pro ratification</b>
<ul style="list-style-type: none"> <li>• Group B claims that the rights and the status of the Sami people are currently already at least at the same level as the rest of the population in Finland. Thus, there is no need to ratify ILO 169.</li> <li>• ILO 169 is framed as protection only for those indigenous who lack basic human rights in the countries where they live, not for democratic countries like Finland.</li> <li>• The convention would disadvantage others in using land resources, as businesses fear losing opportunities and question whether the Sami have collective rights to land or merely usufruct rights.</li> <li>• The potential dominant position of the Sami Parliament in land management following ratification is not desired.</li> <li>• The different status of some that are not acknowledged as Sami is addressed.</li> </ul>	<ul style="list-style-type: none"> <li>• Group C states that the legislation regarding the rights of the Sami since the 1990s has failed to secure the future of the Sami and has accelerated the endangerment of the Sami culture.</li> <li>• It is stated that the Sami cannot decide on their own priorities for the development. The rights to land and waters remain unresolved and the existing legislation excludes the Sami from land use management.</li> <li>• Diverse views exist within the Sami society, where some living outside the Sami homeland claim to have less opportunities to maintain and develop Sami languages and to participate in land use.</li> <li>• Post-war assimilation experienced by Sami children in the Finnish school system has placed the Sami in an unequal position in Finnish society.</li> </ul>
<ul style="list-style-type: none"> <li>• Group A emphasises that some who consider themselves Sami are not accepted to the electoral roll of the Sami Parliament and thus would not benefit.</li> <li>• It is stated by group A that many Sami are not in the voting roll of the Sami Parliament and only a small part of the Sami</li> </ul>	<ul style="list-style-type: none"> <li>• Group D considers ratification a natural step, referring to respected entities like the United Nations, stating that there are no obstacles for ratification.</li> <li>• It is stated that a comprehensive protection of the rights of the Sami is not yet realised.</li> </ul>



population is included in the voting roll. It is claimed that all Sami should be accepted to the voting roll of the Sami Parliament and as beneficiaries of ILO 169.	<ul style="list-style-type: none"> <li>• Some draw attention to the advanced linguistic rights of the Sami. However, they note that those rights are not automatically executed by the authorities but that their realisation sometimes requires litigation.</li> </ul>
→ Thus, current power differences are framed differently by group B than groups C and D, whereas group C focuses on its lack of recognition.	

*Group B - Against ratification, strongly and (almost) fully*

The contra ratification stakeholders of group B claim that the rights and the status of the Sami people have already been improved and currently are at least at the same level, if not better, as the rest of the population in Finland. They state that the rights of the Sami were developed in Finnish legislation during the last three decades and currently are at the level required by ILO 169.

“In many respects, the status of the Sami people already is at the level required by ILO 169, and the objectives of ILO 169 are by now mainly implemented in the existing legislation. Therefore, in practice there was no need to ratify ILO 169 in Finland.” (S23)

Thus, there is seen no need to ratify the convention and according to some people against ratification it would be just fine to carry on with the existing legislation. “The purpose of ILO 169 to bring the rights of indigenous and tribal peoples to the same level with the rest of the population”<sup>28</sup> may not apply to the Sami in Finland, as stated by those who are contra ratification. They claim that ILO 169 is for the indigenous peoples who can’t enjoy basic human rights in the countries they live in. Thus, that the convention is intended to apply to democratic countries like Finland is disputed.

Some who are contra ratification stakeholders claim that there may not be scientific evidence that the Sami people ever owned the territories they traditionally occupied. It is disputed that the state took the indigenous land away from the Sami people. It is also speculated that, by the ratification, the Sami Parliament would get too much power over land use management.

The positive special treatment that aims to reduce disparities between the minority, the Sami, and the majority population is disputed. According to these fragments, positive discrimination is said “to have its limits”. The contra ratification stakeholders state that the ratification of ILO 169 will place others in a less favourable position than the Sami. In this way, other interest groups position themselves as underdogs, promoting a different view on the power situation than assumed in the emancipatory background of the convention.

*Group C - Pro ratification, strongly and arguing further requirements*

Those in favour of ratification stress that the legislation regarding the rights of the Sami, having been revised since the 1990s, has failed to secure the future of

the Sami culture, but instead has accelerated the loss of Sami languages and cultures. It is stated by some in group C that the current legislation in Finland does not secure the opportunity for the Sami to determine their own future and development, but that the Sami continue to live under the pressure of the mainstream culture, a result of which is, for example, the outmigration of the Sami from the Sami homeland. Related to this, it is claimed by some that due to the existing legislation, the opportunities for the Sami to engage in their traditional industries are narrowing, as this industry continues to struggle under the pressure of other industries that expand their operations, like mining and forestry.

Related to this, some in group C mention that the newly amended Mining Act, and especially its Articles 50 and 169 as disadvantageous examples, is not ensuring the protection of the Sami culture as presented in the government bill. Some claim that the Mining Act and its Article 169, together with the practices of the mining authority, directly undermine the opportunities of the Sami to protect their culture. The current Act and its Article 50 entail that the rights of the Sami to engage in traditional Sami industries will not be undermined compared to their current level, but still the negative impacts of previous developments on the Sami culture are ignored. The positive future development of the Sami culture will not be enabled by the Act. Thus, the protection of the Sami culture is claimed to be undermined due to the amended Mining Act. This, in turn, is said to weaken the preconditions for ratification.

Many in group C add that the rights of the Sami to land and waters remain unresolved and that the current legislation should be revised to resolve the issue to meet the requirements of ILO 169. The existing legislation in Finland does not provide any status or rights to the Sami in land and natural resource management or benefit sharing in the exploitation of natural resources. Related to this, some in group C claim that the Sami lack influence over land and resource issues in Finland. It is stated that the cultural autonomy of the Sami ensured by the Finnish Constitution does not provide any opportunities to the Sami to decide on their own economic, social and cultural priorities for development.

Related to this, the rights of the Sami and the definition of a Sami are discussed. Some in group C refer to the current Finnish legislation and to the Finnish Constitution, stating that the Sami are the only indigenous people in Finland, and ILO 169 thus only applies to the indigenous Sami people and that the definition of a Sami should be such that it will be collectively accepted by the Sami. Some claim the definition of a Sami should be accepted by the Sami Parliament.

Some in group C discuss the history of the assimilation of the Sami executed by the Finnish authorities. They claim that the process of assimilation is still continuing. Reference is made to the history of schools in Northern Finland in the 1950s and the assimilation and violence that was experienced by Sami children.

“When we did not know Finnish language, we were punished when we tried to ask from other pupils what the teacher or janitor was talking about. In the dormitory and the entire school area, the use of the Sami language was a punishable act and many of the current opponents of the ILO Convention were those who told about this to the teacher or janitor. Or they punished us by themselves.” (S1)

Due to Sami children's lack of language skills in Finnish, they are stated to have been placed in an unequal position in the Finnish school system compared to Finnish-speaking children, who were able to have an education in their own mother tongue. This is claimed to have a great impact on these people's lives since they have not been allowed to have an education in their own mother tongue.

A diversity of views within the Sami society are traced, and some in group C refer to the change in the Sami society where not everyone lives within the Sami homeland anymore. Those living outside the Sami homeland claim that the existing legislation violates their right to transfer cultural heritage to next generations, since they are denied access to ancestral land where they could engage in traditional livelihoods.

*Group A - Against ratification, arguing further requirements*

Those against ratification in group A argue requirements. Some argue that the current definition of the Sami and its interpretations are too narrow, resulting in some groups and individuals being blocked from entering the voting roll of the Sami Parliament. In such a way, it is claimed that their participation rights in relation to Sami policymaking executed by the Sami Parliament and land use management in the Sami homeland are restricted. Some claim that the newly proposed definition is even narrower and thus more effective in blocking some groups and individuals from the voting roll.

Some claim that all who consider themselves as Sami should be accepted to the electoral roll of the Sami Parliament. Stake seekers outside the electoral roll of the Sami Parliament state that the Sami Parliament, assisted by the existing legislation and, for example, the Act on the Sami Parliament, has created a situation in which the Sami inside the electoral roll are privileged above others in Sami policymaking and land use management who also consider themselves Sami. Therefore, for the existing legislation, among others the Act on the Sami Parliament and its definition of a Sami, some require a correction based on self-identification, descent and genealogy in addition to the language-based criteria. Some that are contra ratification and closely located to group B refer to the text of ILO 169, arguing that self-identification makes the central part of the definition and that belonging to an indigenous people does not require enrolment on any kind of register. Some that are contra argue that the existing legislation should protect all Sami industries, and all Sami in Finland should be protected as beneficiaries of ILO 169 in Finland. Some also claim legislative reforms to protect their industries and areas where they live. Related to this, it is stated by some that the preconditions for ratification under these circumstances are not fulfilled in Finland, since not all Sami industries are protected by the existing legislation, and part of the indigenous people is left outside the voting roll of the Sami Parliament and that, therefore, ILO 169 would not be applied to them. Some that are contra ratification claim that the governance model proposed in the government bill on ILO 169 should not be accepted before those individuals whose rights it concerns have been identified, calculated and accepted to the voting roll and protected as

beneficiaries of ILO 169. They state that the assessment of impacts of ratification on different population groups and the demarcation of the area to which ILO 169 applies need to be resolved prior to ratification.

Some that are contra ratification call those Sami who are on the voting roll of the Sami Parliament “immigrant Sami” that merely represent a small linguistic minority, whose ancestors emigrated to Finland in the 1800s and 1900s from Norway and Sweden. Whereas, according to some, the real indigenous population, which “since time immemorial” has lived in the area of the current Sami homeland in Finland, is left outside the voting roll. In this way, the composition of the electoral roll, and thus the legitimacy of the Sami Parliament itself as a supreme political body of the Sami people, are disputed.

“In fact, current linguistically ethnic Sami do not represent a comprehensive indigenous population in Finland due to the narrow definition of a Sami. A large part of the indigenous Sami population in Finland doesn’t have an indigenous status, due to the too narrow definition of a Sami and its interpretations.” (S14)

Some that are contra ratification and closely related to group B state that in Finland the Sami are in an economically, socially and legally equal position in relation to the majority population. Thus, according to them, ILO 169 made to protect the primitive and subordinated peoples is ill-suited in Finland’s circumstances. It is questioned by some whether there even is an indigenous or tribal people in Finland.

#### *Group D - Pro ratification (almost) fully*

Those in favour of ratification consider it important that Finland achieves the objective of ratifying ILO Convention No. 169 according to Finland’s commitment, for example, in 2006 to the UN Human Rights Council. Some in group D refer to the multiplicity of recommendations made by international human rights bodies received by Finland preceding and during the time when the government bill on ILO 169 was drafted in Finland. It is noted that the international and European regional human rights bodies, such as the human rights mechanisms of the Council of Europe and the European Commission against Racism and Intolerance, have issued several recommendations to Finland to ratify ILO 169. Some in group D refer to the human rights body of the Council of Europe, the European Commission against Racism and Intolerance and its ‘Third Report on Finland’, according to which it is recommended that Finland should ratify ILO Convention No. 169 as quickly as possible. Finland’s international and national commitments regarding the rights of the Sami as an indigenous people are referred to as follows.

“The ministry considers it important that the objective of the ratification of ILO 169 can be implemented according to Finland’s commitment to the UN Human Rights Council in 2006, in accordance with the Arctic Strategy adopted by the government in 2013 and the government programme of Prime Minister Alexander Stubb.” (S11)

Along the same lines, some in group D also refer to the recommendations of the Committee on the Elimination of Racial Discrimination that monitors the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination ratified by Finland. This Committee urges Finland to speed up the ratification of ILO 169 and to seek an appropriate solution to the dispute concerning the rights of the Sami to land and waters, also including the related revision of the relevant legislation.

## **Type 2. Focus on context attributes: Values**

### *Contra ratification*

Focus on context attributes is a framing type that emphasises some characteristics and ignores others to link the issue to a context. Here, focus on context attributes was used to stress economic values and point out economic gains and benefits that might be lost in the case of ratification. The core of the framing is formed by value discussions where the economic aspects appear to be strong arguments. As a value, a healthy national economy, especially in the current weak economic situation, is mentioned.

Contra ratification stakeholders in group B suspect that the adoption of ILO 169 would reduce their economic opportunities, which is based on equal possibility of citizens and entrepreneurs to use the land. This relates to businesses that operate in Lapland, including the mining industry, forestry, tourism and transport businesses that fear losing investments and failure of their projects because of the changes in land use management and land ownership if ILO 169 is adopted. Thus, the importance of their activities for the economy is emphasised in many fragments.

### *Pro ratification*

Those that argue pro ratification defend the values of Sami languages and culture, such as the linguistic rights, rights to receive Sami day care services, primary and high school education in the Sami languages, and social and health care services in the Sami languages, including elderly care. In issues related to land use management, emphasis is placed on traditional knowledge related to Sami livelihoods and the sustainable human-nature relationship that creates the foundation of the indigenous cultures. The many other competing land uses are mentioned and the importance of being able to practice traditional Sami livelihoods in the future is emphasised. The Sami should be able to decide on their own future developments and to have self-determination, as other peoples have. Traditional values and human rights of indigenous people are emphasised.

Table 11 provides a summary of the results for the second framing type.

TABLE 11 Main results for framing type 2

<b>Type 2. Focus on context attributes: Values</b>	
Focus on context attributes is a framing type that emphasises some characteristics and ignores others, particularly to link the issue to values, such as economy, ethics, nature and culture.	
<b>Contra ratification</b>	<b>Pro ratification</b>
<ul style="list-style-type: none"> <li>• Group B emphasises that ILO 169 would reduce their possibilities to do business, underlining the importance of their activities for the economy.</li> <li>• They claim that the Sami are not discriminated against or placed in an unequal position in Finland currently and that the positive discrimination of the Sami may even have led to unequal and discriminative treatment of the majority.</li> <li>• Thus, ratification is framed as a tool that creates inequalities and strengthens uneven development between the majority and minority population.</li> </ul>	<ul style="list-style-type: none"> <li>• Group C emphasises the emancipatory framework of ILO 169, which allows the states to take positive special measures to safeguard the equal status and rights of the Sami based on their own aspirations, languages, histories and cultures.</li> <li>• Some note that the right to self-determination should also concern the Sami, as is the case for other sovereign people.</li> <li>• Some in group C express the value of the Sami languages, traditional industries and the concept of ancestral land as a distinct feature of the Sami and the related equal right to preserve and transfer cultural heritage for future generations across the country.</li> </ul>
<ul style="list-style-type: none"> <li>• Group A focuses on unequal treatment of those not accepted to the electoral roll of the Sami Parliament. This is supported by some in group B who see the newly proposed definition of the Sami as further narrowing indigenous participation rights that, according to some, should rather focus on self-identification, descent and genealogy, than the currently dominating language criteria.</li> <li>• Group A alleges to be placed in an unequal position in land management and to lack equal right to engage in traditional Sami livelihoods.</li> </ul>	<ul style="list-style-type: none"> <li>• Some in Group D emphasise international obligations and consider it important that Finland ratifies the ILO Convention, according to its government programme and commitments, for example, to the UN Human Rights Council.</li> <li>• Finland should increase its efforts to make legislative changes to achieve the objective of ratification.</li> <li>• Free and informed participation of the Sami is expected to be realised.</li> <li>• Education is mentioned as a tool for the Sami to decide on their own social, economic and cultural priorities.</li> </ul>
<p>→ Thus, economic values are emphasised by those against ratification, whereas those in favour of ratification emphasise indigenous rights or international obligations. The value of equality is used in a different way than assumed in the emancipatory background of ILO 169 by groups B and A to claim equal rights to resources.</p>	

*Group B - Against ratification, strongly and (almost) fully*

The contra ratification stakeholders of group B emphasise economic values. Large-scale business activities in Lapland include the mining industry, forestry, tourism and transport. Next to that, for example, small-scale ecotourism is mentioned. This relates to employment and value for the local and national economy. The relevance of the tourist industry to the local and national economy is highlighted in some fragments by mentioning the industry's annual income of millions of euros. The opportunity to use the land and to move freely in nature are

emphasised as a basis to be able to conduct business, such as eco-tourism, in Northern Finland.

“In the area, there are hundreds of companies whose activities and development depend on the possibility to use the land and act in nature.” (S6)

Group B in its own way also addresses ethical values. They claim that the Sami are not discriminated against or placed in an unequal position in Finland. It is argued that the Sami already fully enjoy human and fundamental rights, and that there is no discrimination against the Sami in Finland. The current positive discrimination of the Sami will increase if ILO 169 is ratified, which will make the situation unequal and discriminative for the majority. Ratification is framed as a means to create inequality and even discriminate. Those opposing the ratification argue that if ILO 169 is ratified in Finland, considering the already positively developed legal status of the Sami people, the status of the Sami people may even become problematic in terms of equality. Some that are against ratification note that the provision concerning the prohibition to undermine the Sami culture was already added to several Acts and may place the Sami in a more favourable position compared to the rest of the population. Related to this, the recognition of the rights of the Sami to land and water, as required by ILO 169 and its Article 14, may jeopardise the equal opportunity of the majority to engage in businesses. Some that are contra ratification claim that the prohibition to undermine the Sami culture should not be interpreted in such a way that it creates ambiguities and conflicts with municipal self-government or business objectives of forestry set by Parliament. It is required that these potential controversies should be clarified since provincial and municipal business plans are usually targeted to state-owned land. It is argued by some who are contra ratification that the content of Article 14 and what it means for Finland has not been clarified.

Group B supports group A by stating that the definition of a Sami may be the main obstacle for the ratification of ILO 169. They state that there are no pre-conditions for ratification since the definition of a Sami remains unresolved and it is not known to whom ILO 169 applies in the Finnish legislation or what is the area to which ILO 169, and especially its Article 14, applies. Those not accepted to the voting roll of the Sami Parliament refer to the appeals addressed to the Supreme Administrative Court. Some of the local population in the area who consider themselves as Sami are claimed to be blocked from the voting roll of the Sami Parliament and consequently would not be protected as beneficiaries of ILO 169.

The definition of a Sami is widely debated by group B's ethnically Finns. A generally acceptable and fair definition of a Sami, treating equally all groups in Northern Finland, is claimed. Some in group B claim that it cannot be fair or in accordance with any international convention that the local and original population in the area is not accepted to the voting roll of the Sami Parliament. Some in group B pointed out that some families were excluded from the Sami population calculation in the 1960s since they had lost their Sami languages due to assimilation carried out by the state and the church and thus were excluded from the

Sami Parliament. They state that group identification is an important part of the definition of a Sami but that the work of the Election Committee of the Sami Parliament does not endure closer scrutiny, since merely those already in the voting roll are accepted. In this way, the composition of the voting roll and legitimacy of the Election Committee of the Sami Parliament are disputed. Some state that the definition of a Sami in Finland should be defined in accordance with ILO Convention No. 169 and its Article 1, in which case the focus should be, e.g., on the self-identification, descent and genealogy. Some who are against ratification state that the definition should be interpreted in accordance with the Supreme Administrative Court's solution<sup>29</sup>. It is also claimed to be a task of the State to guarantee that those people who meet ILO 169 and its Article 1 but are not accepted to the voting roll of the Sami Parliament, will be protected as beneficiaries of ILO 169. Emphasising this obstacle coincides with the interests of group B against ratification.

*Group C - Pro ratification, strongly and arguing further requirements*

Those in favour of ratification in group C dispute the argumentation of the government bill stating that the Sami people cannot be treated unequally in relation to the rest of the population. They refer to the concept of positive discrimination created within the scope of international law and state that according to the concept of positive discrimination, positive special measures can be issued by states concerned to protect the rights of the indigenous peoples. In other words, equal status of the indigenous peoples based on their own aspirations, languages, histories and cultures requires special measures by the states concerned. Related to this, some express the value of the Sami language as a distinct feature of the Sami and the need for Sami language education in preserving this linguistic and cultural heritage that should be guaranteed in the existing legislation across the country, as ILO 169 provides.

Some in group C emphasise the aim of ILO 169 to secure the human rights of the indigenous peoples, as is the case with the majority population, by providing culture-specific special rights to indigenous peoples. It is demonstrated by those that the implementation of ILO 169 normally requires reforms to the existing legislation. According to international law, the equal status of the indigenous people requires special measures by the states concerned.

Some in group C highlight the revitalisation of the Sami languages. The value of the Sami languages and culture as distinct features of a separate indigenous people are emphasised. The work by the Sami associations to establish, for example, Sami language nests and classes to maintain and develop Sami languages and culture outside the Sami homeland is highlighted. Some in group C express the value of the Sami language as a distinct feature of the Sami and the need for Sami language education in preserving this cultural heritage that should be guaranteed in the existing legislation across the country, as in the Finnish Constitution and ILO 169.

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<sup>29</sup> (KHO 2085/3/11)



Some in group C highlight the situation of those Sami who have moved away from the Sami homeland. They emphasise equal rights to all Sami in preserving and transferring cultural heritage to next generations related to traditional industries, in terms of equal access to ancestral land.

However, it is stated by those who live outside the Sami homeland that the current legislation and regulations violate their rights to participate in the utilisation of the Sami cultural environments.

Thus, the rights of those who live outside the Sami homeland to maintain and develop cultural heritage and traditional knowledge in relation to traditional Sami industries and land use in ancestral land are disadvantaged by the existing legislation and regulation concerning land and resource use management.

Some in group C highlight the work done by the Sami civil society to maintain and develop the Sami languages and cultures, to strengthen the sense of community and a common identity of the Sami by facilitating opportunities for communality. The cultural identity and the unity of the Sami people are presented as fundamental matters in maintaining Sami communities and society. Some who are pro ratification note that there are still Sami-majority areas in the Sami homeland where the Sami language is used as an administrative language in the municipality. Issues promoted by various Sami associations are framed as relevant matters for the future of the Sami people, however, these are disadvantaged by the poor economic situation. Thus, securing funding for Sami associations is required.

Some in group C emphasise the connection of the Sami to land and waters and related traditional industries. They clarify the concept of the Sami land ownership and the ways in which the Sami rights to land and waters traditionally were, and still are, organised within the Sami communities, divided between the Sami families living in a certain area within the Sami homeland. It is claimed by some in group C that the concept of the ancestral land, in other words the division of the land and waters, is still known and in use today. The private land-ownership of the Sami is noted to occur and some of the traditional rights of the Sami have been attached to this ownership.

Some in group C highlight the cultural significance of the land and the traditional use of resources in the Sami homeland, as follows.

*"The ancestral land of the Sami is described as the most important cultural environment for the Sami people. Human memories, experiences and knowledge define the place as a cultural environment. The use of traditional territories includes a lot of information that is inherited from generation to generation. The nomenclature of the area and the shape of the terrain include a story-telling tradition that is passed from one generation to another. It is fishing and hunting that include a lot of culture-orientated skills and vocabulary, which cannot be learned in any other way." (S2)*

Related to this, group C claims that the traditional rights of the Sami to land and waters in the state-owned land are affected in various ways, e.g., by the newly amended Act on Metsähallitus. This, accordingly, is stated to directly affect the

opportunities of the Sami to engage in the traditional industries and thus to practice the traditional culture of the Sami. Some state that the newly amended Act on Metsähallitus threatens to further undermine the Sami influence.

Related to this, it is claimed in these fragments that the newly amended Act on Metsähallitus will undermine the preconditions for the ratification since the corporatisation of the Metsähallitus is stated to transfer forestry rights currently administrated by Metsähallitus to private forestry companies. This is claimed to increase logging in the Sami homeland.

Thus, the opportunity to participate, e.g., in legislative drafting and other administrative measures that will directly affect the traditional rights of the Sami, on an equal footing with the Sami Parliament are required. Some in group C claim that the right to self-determination should also concern the Sami, as is the case with other sovereign people. Thus, some in group C claim that the cultural autonomy of the Sami should be extended to a level that safeguards the development of the cultural, social and economic life of the Sami, as in the requirements of ILO 169.

*Group A - Against ratification, arguing further requirements*

Group A claims that stakeholders who are not accepted to the electoral roll of the Sami Parliament are not in an equal position in decision-making regarding the land and resource use in the Sami homeland. Some mention the growing influence of the Sami in relation to the ratification and the increasing opportunities of the Sami Parliament to participate in land use management in the Sami homeland. This group states they lack sufficient influence in land use management compared to other Sami groups. Some refer to unequal settlement history that took the land rights of one Sami minority group and gave them to another Sami minority group. Related to this, it is stated that the current laws should be amended in such a way that it would guarantee all Sami an opportunity to utilise land and water and to engage in all indigenous industries. They claim that all Sami should have equal rights to engage in the traditional Sami industries, land use management and to the use and conservation of natural resources.

“We don’t consider the situation democratic in terms of participation.” (S3)

The current and the newly proposed definition of a Sami lead to an unequal situation in land use management among these groups. This is also an appeal to equality values important in the country. Some highlight an unequal situation between the two Sami minority groups mentioned above in land use management. Some in group A question that if ratification would give the Sami Parliament power to control land use management and the use of natural resources in the Sami homeland, this would benefit the authentic and original groups and individuals. Some that are contra ratification state that ratification would lead to discrimination, since those authentic rights holders who are not in the voting roll would be excluded from the land use management proposed by the Act on Metsähallitus, and their rights would be transferred to groups to whom those

rights do not originally belong. Thus, some against ratification challenge the legitimacy of the Sami Parliament as a supreme body representing the real indigenous Sami people.

Some in group A, similar to group B, claim that the definition of a Sami in the Act on the Sami Parliament should be amended to meet the objectives of ILO 169 and its Article 1 and the solution of the Supreme Administrative Court (2085/3/11). A population calculation of the Sami is required to be carried out to clarify their numbers and geographic location. Onward, it is demanded that those currently not on the voting roll of the Sami Parliament but who meet ILO 169 and its Article 1 – can also enjoy the protection by ILO 169.

*Group D - Pro ratification, (almost) fully*

Some in group D emphasise education as a tool for the Sami to decide on their own social, economic and cultural development. They state that the Sami should have the right to education that fully reflects their distinct history, knowledge, technology, values, and their social, economic and cultural aspirations. It is suggested by some that the Sami Parliament should have an expanded right to participate in the implementation of education programs. This is claimed by some in group D to support the survival of the Sami languages and cultures.

Some in group D state that the recommendations of human rights monitoring bodies and international ways of working should be followed. They refer to recommendations in 2014 received by Finland from the Human Rights Committee for the implementation of the International Covenant on Civil and Political Rights. According to these recommendations, Finland is committed to ratify ILO Convention No. 169 and the State Party should increase its efforts to make legislative changes to ensure the full enjoyment of the rights of the Sami in their traditional territories, by ensuring that free and informed participation of the Sami communities in political processes and development projects is respected. Some in group D referred to the UN Declaration on the Rights of Indigenous Peoples and its most salient concept of “free, prior and informed consent” of indigenous peoples. In the wider international context of human rights in international law, it is related to the right of self-determination and to indigenous peoples’ right to development, non-discrimination and culture in its broad sense, and to ownership, management and use of land and territories, including natural resources.

The concept of free, prior and informed consent is linked to the interpretation of ILO 169 and its Article 6 that forms the foundation of ILO 169, according to which states should at least consult indigenous peoples in good faith before projects and measures are decided on. Following the principle of free, informed and prior consent, indigenous peoples’ communities have the right to consent or the right to refuse to grant it. Related to this, some in group D claim, according to the provisions of ILO 169 concerning the participation by and obligation to negotiate with indigenous people, that negotiations with indigenous people should create an ongoing collaboration aimed at achieving consensus. An early influence of the Sami Parliament and an actual opportunity to participate in decision-making are recommended.

Group D also refers to the Universal Periodic Review (UPR) of the UN Human Rights Council from the year 2012, which is a cross-country peer review where the governments involved provide recommendations to each other for developing human rights situations. Norway, Mexico and Nicaragua gave a recommendation to Finland concerning the ratification of ILO 169.

Some in group D state that Finland should initiate the process of recognising the ownership and management rights of the Sami to land and waters in the Sami homeland. Related to this, some note that Finland should also recognise the user rights of the Sami to land and waters in the areas that they have used together with other groups. Furthermore, some in group D require that Finland should establish a more detailed guidance on the negotiation procedure for public authorities and procedures to settle potential conflicts related to land use management in the Sami homeland. Some that are pro ratification noted that ratification is not the end of the process but that a constant process is needed to safeguard the rights of the Sami.

“The adoption of ILO 169 is not an endpoint, but rather is the fulfilment of the rights of the Sami, an ongoing process. The importance of the ratification will be great in the future and ensuring the rights of the Sami will continue to require legislative amendments and investments to safeguard the rights of the Sami.” (S13)

### **Type 3. Focus on risky choices**

Focus on risky choices includes stressing unclear matters and threats that create an uncertain future. Risks are uncertain factors that we do not know well and are speculated whether they may or may not happen. Risks mentioned are, for example, the possibility that a high number of court cases occur as a consequence of ratification. This type of framing stresses chaos and chaotic circumstances followed by the ratification and uncertain and changing landownership conditions between the state, municipalities, local people and the Sami.

Those in favour of ratification stress that the UN human rights bodies have underlined many times that Finland should meet its obligations towards the Sami people in terms of ratifying ILO 169. Not ratifying may cause serious problems for the survival of Sami heritage in terms of outmigration of the Sami from the Sami homeland. The narrowing opportunities of the Sami to engage in traditional Sami industries is seen as an enormous risk for the future of the Sami. Non-ratification could have repercussions for the international reputation of Finland.

Table 12 provides a summary of the results for the third framing type.

TABLE 12 Main results for framing type 3

<b>Type 3. Focus on risky choices</b> Focus on risky choices includes stressing unclear aspects and threats that create an uncertain future. Risks are uncertain matters that are speculated whether they may or may not happen. Emphasising them may enhance fear or slow procedures.	
<b>Contra ratification</b>	<b>Pro ratification</b>
<ul style="list-style-type: none"> <li>• Group B stresses that the impact of changes in Sami landownership matters is unclear and this is feared to lead to changing landholdings. Economic, legal and social impact assessments are claimed missing.</li> <li>• Many matters are unclear and may lead to confusion and court cases. Related legislative drafting processes should first be completed.</li> <li>• Many matters that would follow the ratification are unclear, such as the role of the Sami Parliament, prohibitions to undermine the Sami culture, and the obligation to negotiate with indigenous people.</li> <li>• The impacts of ratification on business opportunities are presented as a high risk, which first needs to be further investigated.</li> </ul>	<ul style="list-style-type: none"> <li>• Group C adds that without ratification under the current legislation the entire Sami culture, including its different sectors such as language, traditional industries and communities, is threatened.</li> <li>• Without measures, such as securing the rights of the Sami to engage in traditional Sami industries, much will be lost, for example, resulting in outmigration from the Sami homeland.</li> <li>• Ratification is regarded as required to clarify the unclear situation in Northern Finland.</li> <li>• Finland's reputation as a human rights state could become disputed if ILO 169 remains unratified.</li> </ul>
<ul style="list-style-type: none"> <li>• Group A adds that many unresolved conflicts may be the result, if the definition of the Sami is not broadened.</li> <li>• The result may also be the failure of ratification if part of the indigenous population is excluded from the voting roll.</li> </ul>	<ul style="list-style-type: none"> <li>• Group D mentions that Finland would be noted as an exception if it would not ratify this international convention.</li> </ul>
<p>→ Thus, group B stresses the risks of ratification, mentioning confusion and chaos for municipalities and businesses. Group C, however, notes threats to the entire Sami culture when ratification and other measures will not be taken. Group A states that there may be more conflicts among the population, whereas group D looks at the international community.</p>	

*Group B - Against ratification, strongly and (almost) fully*

Group B notes that the legislation regarding the rights of the Sami has been developed in recent years. Some state that the important amendments that have improved the status and participation rights of the Sami cannot, however, replace the need to clarify and resolve the landownership right and resource use issues included in ILO 169. Some that are contra ratification, however, ask whether these legislative amendments and the current legislation meet the legal obligations of ILO 169 and especially its Article 14. The reforms and the government bill still haven't resolved the issue of Sami land ownership rights that previously prevented the ratification of ILO 169 in Finland. Some in group B point out that the landownership rights of the Sami have not been resolved, especially since the land rights Articles of ILO 169 apply poorly to the Finnish legal system. Thus, some that are contra ratification state that because of this there are no preconditions for ratification.

The failure to resolve the Sami land ownership issue may lead to unclear land holdings between the state, municipalities, local people and the Sami in

northernmost Finland. Contra ratification stakeholders claim that false generalisations and wrong conclusions, presented by the government bill concerning Article 14, can lead to future legal processes in national and international courts as a consequence of ratification. Some who are contra consider ratification risky, since in ratification ILO 169 becomes a directly applicable law.

Some contra ratification claim that a constitutional state cannot afford that the adoption of ILO 169 would lead to a situation in which the rights of an indigenous people will be investigated through national and international processes. It is required to be settled whether the Sami have collective rights to land or merely usufruct rights in the way the Sami land rights have been developed in the relevant legislation in recent years. Thus, some noted that the interpretations of Article 14 should not mean the transfer of land ownership rights to the Sami people and that ratification cannot be supported if this leads to confusion in the current land holdings.

Some that are contra ratification claim that the calculation of the Sami population and the demarcation of the area to which ILO 169, and especially its Article 14, applies should be clarified. Some contra ratification state that it should be clarified to whom ILO 169 will be applied. The impacts of ratification on different population groups should be assessed prior to ratification. They stated that “the content of Article 14 applied to Finland is still unresolved”. The determination of the Sami homeland provided by the Act on the Sami Parliament is disputed by some against ratification, since it is stated that some historical Sami territories and families who have lost their languages due to assimilation carried out by the state and the church were excluded from the demarcation and the definition. In such a way, the legitimacy of the Act on the Sami Parliament and its demarcation of the Sami homeland and the definition of a Sami are disputed.

Some contras whose economic stakes are high claim narrower definition of the Sami area and narrower definition of a Sami. Many demand a clarification of how a land right solution that treats all groups equally, the Sami and other people in the area, will be investigated and implemented in Finland.

“The result could be legal proceedings withstanding for years, the outcome of which cannot be predicted at this stage due to the ambiguities of ILO 169.” (S13)

Many mentioned Norway as a bad example, as it first ratified ILO 169 and only then began to investigate the landholdings, resulting in decades-long legislative surveys and many needs for legislative amendments. Potential changes in land holdings and land use management, due to vague interpretations of ILO 169, are alleged to be able to create unnecessary risks, e.g., to municipalities and businesses. Thus, the unclear interpretations in relation to the unfinished legislative projects, e.g., the Act on the Sami Parliament and the Act on Metsähallitus, are required to be resolved prior to ratification.

Economic, legal and social impact assessments are missing. Some business-orientated people contra ratification state that the absence of an economic impact assessment of the government bill appears to be a serious shortcoming of the government bill that they require to be addressed prior to ratification. The effects

of the ratification of ILO 169, particularly Article 15 and its implementations, on business opportunities and investment projects are presented as a big risk that needs investigation. The government bill stating that there will be no additional economic consequences of ratification is disputed by some who are contra ratification. They state that there will certainly be administrative and legal costs in terms of national and international legal processes and that the impacts of ratification, for example, on the state and municipal economy, need to be clarified prior to ratification. The statement of the government bill that there are no administrative or economic consequences of ratification is disputed.

Ratification is framed, by those against it, as being risky and needing further time-consuming assessments. Some who are contra ratification claim that the impacts of ILO 169 and especially its articles on land rights should be assessed, and that the rights to natural resources, compensation, benefit sharing and how to settle potential land disputes are clarified prior to ratification. It is argued that after the ratification different actors may have different views on what Article 15 would mean. Some that are against ratification state that if the Sami people are not an indigenous people to which ILO 169 is applied, the state or any other actor may not be obligated to compensate. In such a way, the rights of the Sami to benefit by sharing and compensation are disputed.

The unfinished key draft laws are referred to, e.g., the Act on the Sami Parliament and the Act on Metsähallitus, that some claim need to be returned to the drawing table for further preparations. Contra ratification stakeholders claim there are too many open questions related to the role of the Sami Parliament in land use management, to the prohibition to undermine the Sami culture and the extended obligation to negotiate with an indigenous people as required by ILO 169. It is alleged to be unclear when and what kinds of negotiations should be initiated and how the land ownership between the state, municipalities, the Sami and other population groups would change. Some state that the current national legislation meets the requirements of ILO 169 and its Article 6 and already safeguards the Sami influence in national decision-making. It is noted that indigenous views should be emphasised in negotiation, but it is reminded that the desire to achieve consensus is not the same as the requirement to reach consensus.

Many in group B ask who or which entity will decide on the use and management of the state-owned land after ratification. The drafting of the government bill on ILO 169 is required to be suspended until all legislative drafting processes related to the implementation of ILO 169 have been completed.

Contra ratification stakeholders claim that uncertain and changing land-ownership conditions between the state, municipalities, local people and the Sami could consequently create conflicts between various groups, industries and businesses in northernmost Finland. Therefore, all ambiguities and uncertainties related to the ratification should be resolved before considering ratification. For example, the government bill regarding ILO 169 may impact the content of the Act on Metsähallitus. The need for changes in national legislation should first be clarified, e.g., in the Act on the Sami Parliament and the Act on Metsähallitus. Many note that the Act on the Sami Parliament and its definition of a Sami are

significant in determining to whom the Convention and its Article 1 in Finland shall apply. Thus, ILO 169 should be suspended until all legislative drafting processes related to the implementation of ILO 169 have been clarified. Alternatively, the government bill regarding ILO 169 could be submitted to the Parliament simultaneously with the Act on the Sami Parliament and the Act on Metsähallitus.

*Group C - Pro ratification, strongly and arguing further requirements*

Those in favour of ratification highlight the potential risks if ILO 169 is not ratified in Finland. The vulnerability of the Sami culture, the outmigration of the Sami from the Sami homeland and the endangerment of Sami industries, languages and communities are mentioned if ILO 169 is not ratified. The Sami culture and languages are not the only endangered sectors, which are said to be in need of special measures. The entire Sami culture, including its different sectors such as language, traditional industries and communities, may be threatened by the shortcomings of the current legislation to be followed, for example, by further outmigration of the Sami from the Sami homeland, if the Sami are not able to engage in the traditional livelihoods. At worst, Sami culture is feared to disappear within the next two generations. Thus, the entire Sami culture is claimed to be in need of special measures in terms of legislative amendments to secure the rights of the Sami, for example, to enable engaging in traditional Sami industries under the pressure of other land uses.

Some in group C consider the current Reindeer Husbandry Act discriminative against Sami reindeer herding and as it is considered a risk for its future, amendments are required, as follows.

“The Reindeer Husbandry Act is discriminative against the Sami reindeer herding, and at worst can lead to the assimilation of the Sami into the Finnish population. Therefore, after the ratification it is necessary to revise the Reindeer Husbandry Act and the Fishing Act to safeguard the continuity and future of the indigenous industries in the spirit of ILO 169.”  
(S10)

Some in group C link the failure to ratify ILO 169 to the credibility of Finland's foreign policy in international arenas. Ratification of ILO 169 is required to clarify the current unclear situation in Northern Finland. The debate around ILO 169 is stated to continue both in national and international arenas although Finland may not ratify ILO 169. Thus, Finland's reputation as a human rights state is likely to be disputed if ILO 169 remains unratified.

*Group A - Against ratification and arguing further requirements*

If we look at the framing of different sub groups, it can be detected that the framing of choices as risky is almost absent in the fragments of group A. Only in few fragments similar to the views of group B (Against ratification almost fully), framing of risky choices is used. Overall, this type of framing is used sparingly. However, some that are contra ratification note that ratification may result in the transfer of landownership rights from a group of original right holders to a group that those rights do not originally belong to. It is also stated by those who are



contra ratification and closely located to B that ratification may create inequalities and thus result in conflicts between different groups in Northern Finland, the effects of which should be clarified prior to ratification.

Some that are in group A and closely related to B state that a constitutional state cannot afford a situation, in which the adoption of ILO 169 would lead, where the rights of an indigenous people are investigated through national and international processes. Group A claims that the ratification preparations should be halted until the other key legislative drafting projects, the Act on Metsähallitus and the Act on the Sami Parliament, are returned to the drafting table and completed.

Those in group A link the definition of a Sami to be the lacking precondition of the ratification. It is stated by group A that the preconditions for the ratification of ILO 169 in Finland are not fulfilled, as part of the indigenous people is left outside the voting roll of the Sami Parliament and, consequently, ILO 169 would not apply to them. The State is obligated to secure the rights of those to be protected as beneficiaries of ILO 169.

“Due to the narrow definition of a Sami in the proposed Act on the Sami Parliament, some part of the Sami people will be excluded from the voting roll, and thus the preconditions for the ratification are not fulfilled.” (S1)

Some argue that the definition of a Sami provided by the Act on the Sami Parliament is too narrow. This is noted as a risk, as they, their traditional industries and related rights would not be protected as beneficiaries of ILO 169 if it would be ratified. Some in group A require a population calculation of the Sami, their geographic location to be identified and an assessment of the impacts of ratification on different population groups. Furthermore, it is claimed by some in group A that, since ILO 169 is applied only to those on the voting roll of the Sami Parliament, the Sami Parliament can't represent anyone other than those who are already on the voting roll.

#### *Group D - Pro ratification, (almost) fully*

Group D is positive for ratification, however, approaches towards ratification within D vary. Some in group D support ratification and consider it important that Finland achieves the goal of ratifying the convention according to its international and national commitments, while others do not object to ratification nor do they directly support it. This group does not dwell on potential risks. It is primarily stated that there are no legal obstacles in their administrative sectors that would prevent the ratification of ILO 169, and that no legislative revisions to the existing legislation are needed, for example, planning and construction legislation is mentioned. Some that are pro legislation state that the existing national legislation already includes provisions on participation procedures in land use planning and cooperation with authorities, including the Sami Parliament. Some who are pro ratification discuss the newly amended Environmental Protection Act and its provisions 42 and 49, which guarantee the right to the Sami Parlia-

ment and to the Skolt Sami Village Administration to submit statements if environmental impacts of operations would occur in the Sami homeland that may prevent an environmental permit being granted, or if the operations would substantially undermine the conditions for practicing the traditional Sami industries or otherwise to maintain and develop Sami culture.

Some pro ratification mention that the newly amended Act on Metsähallitus and its provisions, concerning planning in the Sami homeland and the prohibition to undermine the Sami culture, are already important requirements for ratification. However, some others that are pro ratification claim that legislative amendments and other investments should still follow the ratification. Regardless, most conclude that the rights of the Sami provided by ILO 169 can be implemented without any additional funding or legislative amendments, as stated in the following fragment.

“The planning and negotiation mechanisms for transport routes included in the current legislation meet the requirements of Article 14.” (S4)

#### **Type 4. Focus on consequences**

##### *Contra ratification*

Focus on consequences is the framing typology that emphasises events that surely will happen after the ratification, such as loss of economic benefits because of new types of land ownership in the Sami homeland. It is suggested that the recognition of the Sami rights will create circumstances in which economic activity will become impossible in the Sami homeland. If the determination of a Sami cannot be formulated in a way in which all stake seekers are accepted on the electoral roll of the Sami Parliament, the consequence will be unsolved conflicts among the Sami and between the Sami and the rest of the population. In this type of framing, views on negative consequences of ratification are clearly articulated.

##### *Pro ratification*

Ratification is seen as necessary. If ILO 169 is not ratified then how are the Sami people to survive in the future, if their rights, industries, languages and culture under the pressure of other land uses and the majority society are not protected as an indigenous people? The definition of a Sami provided by the Finnish legislation should not include people against the collective will of the Sami. Attention is asked for what is needed after ratification of ILO 169, as the ratification will start a process of changes of laws and will require, for example, allocation of resources to Sami language services.

Table 13 provides a summary of the results for the fourth framing type.

TABLE 13 Main results for framing type 4

<b>Type 4. Focus on consequences</b> Focus on consequences is the framing type that evaluates what would happen as a consequence of the proposed actions, in this case after ratification.	
<b>Contra ratification</b>	<b>Pro ratification</b>
<ul style="list-style-type: none"> <li>• Group B emphasises grave economic consequences of lost investments.</li> <li>• Business opportunities are expected to become problematic if ILO 169 and its Article 15 would be applied.</li> <li>• Negotiations related to impairment of Sami culture and compensations would make projects too costly.</li> <li>• Current partly voluntary procedures, for example, Akwé: Kon guidelines are framed as effective.</li> <li>• The implementation of ILO 169 in terms of future reforms is presented as an economic and administrative burden.</li> </ul>	<ul style="list-style-type: none"> <li>• Group C adds that the new definition of a Sami should be accepted in the Parliament prior to ratification to know to whom ILO 169 shall apply.</li> <li>• It would create an impossible situation if some people became identified as a Sami in Finnish legislation against the collective will of the Sami. The definition of a Sami should be accepted by the Sami community.</li> <li>• Some in group C note that 70% of the Sami children live outside the Sami homeland and that they should not be excluded from Sami cultural environments. This could erode the development of a larger group of Sami and extremely endanger the culture.</li> </ul>
<ul style="list-style-type: none"> <li>• Group A states that if the definition of a Sami can't be formulated in a way that all stake seekers are accepted to the electoral roll, the legitimacy of the Sami Parliament would suffer.</li> <li>• Ratification may result in conflicts and a transfer of rights to a group they do not belong to.</li> </ul>	<ul style="list-style-type: none"> <li>• Group D does not mention any negative consequences but rather notes that there are no hindrances to ratification, for example, that no additional funding is needed.</li> <li>• Some suggest that ratification is expected internationally.</li> </ul>
→ Thus, group B presents negative consequences of ratification, whereas groups A and C mainly focus on the sub issue of definition of a Sami, A adding the loss of rights and increasing conflicts.	

*Group B - Against ratification, strongly and (almost) fully*

Contra ratification stakeholders sketch a bleak picture of the economic consequences of ratification. Projects may fail and investments be lost due to changes in landholdings and land use management. Increasing economic cooperation in Arctic areas include the Sami homeland and relate, for example, to future railroad construction, tourism, mining, wind and hydropower projects. Contra ratification stakeholders predict that such business opportunities would become problematic, if ILO 169 is ratified, and mention that Article 15 applies to those projects.

“In Northern Finland, projects are running aimed at exploiting and mining of natural resources as well as related transport projects. The growing importance of Arctic region, for example, the construction of rail connection from Northern Finland to Arctic Ocean, may at some point become relevant. If Finland ratifies ILO 169, Article 15 would apply to these projects. The effects of ILO 169 on these projects should be examined prior to ratification.” (S8)

They also state that the prohibition to undermine Sami culture, the required negotiations already mentioned in many acts, the extended negotiations required by ILO 169 and the compensations and sharing of benefits for the utilisation of natural resources may prolong the start of economic projects and make them too costly to accomplish.

Contra ratification stakeholders state that, currently, the inclusion of the Sami people in land use planning regarding forestry is already safeguarded through negotiations, contracts and voluntary procedures, for example, by applying the Akwé: Kon guidelines. Some that are against ratification suggest that those procedures already comply with the requirements of ILO 169. Therefore, contra ratification stakeholders representing industries suggest that the good cooperation between the Sami and the State should not be destabilised due to uncertain interpretations of ILO 169.

*Group C - Pro ratification, strongly and arguing further requirements*

Those in favour of ratification claim that the entire Sami culture is extremely endangered and will at worst disappear within a few generations, if no special measures in terms of legislative amendments are taken to secure the rights of the Sami to engage in traditional Sami industries under the pressure of other land uses. It is noted by some in group C that at least the same rights should be guaranteed to the Sami people, as is the case for the rest of the population. This relates to a current lack of influence and absence of rights in land and resource use management. It is noted that the shortcomings of the existing legislation narrow the opportunities of the Sami to engage in the traditional Sami industries. This has caused a lack of job opportunities and, consequently, the outmigration of the Sami from the Sami homeland has accelerated. It is noted by some that already 60% of the Sami population lives outside the Sami homeland. Thus, according to group C, it is necessary to revise the current legislation concerning the rights of the Sami to ensure the survival of the Sami culture.

Group C claims that the rights of the Sami to land and waters should be recognised to meet the requirements of ILO 169, and the issue of the Sami land-ownership rights should be settled to guarantee the future of the Sami. Some in group C claim that the cultural autonomy of the Sami should be extended to a level that safeguards the development of the cultural, social and economic life of the Sami, to meet the requirements of ILO 169 and its Article 7. Furthermore, revisions in the Mining Act, the Forest Act and the Act on Metsähallitus are required to meet the obligations of the ILO 169 in Article 15.

Group C highlights the definition of a Sami as the most important issue regarding ILO 169. The definition of a Sami in the newly amended Act on the Sami Parliament should be accepted in the Finnish Parliament prior to ratification, to know to whom ILO 169 shall apply and whose rights it will secure. Some noted that ILO 169 should only apply to the indigenous Sami people. Some claim it would create an impossible situation if some people – who are not indigenous Sami and who are not identified as Sami by the Sami community – would still be accepted according to Finnish legislation as a Sami against the collective will of

the Sami. Thus, the definition of a Sami should be such that it would be collectively accepted by the Sami, or accepted by the Sami Parliament, as some claim.

“The Association urges ratification of ILO 169 but at the same time considers it essential that prior to ratification it is known who will belong to the beneficiaries of ILO 169, i.e., who, according to Finnish law, can belong to the Sami indigenous people and that the criteria for membership of the beneficiaries are genuinely consistent with the collective will of the Sami.” (S8)

Related to this, some reminded that the ratification of ILO 169 should not undermine the current rights of the Sami. Furthermore, some in group C note that already 70% of the Sami children live outside the Sami homeland. Thus, those children’s rights to Sami language education should be safeguarded by the existing legislation. In other words, it is claimed that the legal status and funding of Sami language education outside the Sami homeland should be ensured in the existing legislation.

Finally, some claim that the opportunity to participate in the utilisation of the Sami cultural environments should also be given to those that live outside the Sami homeland. The latter should not be excluded from the Sami cultural environment and their rights to participate in the utilisation of the Sami cultural environments should be ensured in the current legislation.

*Group A - Against ratification, arguing further requirements*

Group A gives a bleak picture of the consequences of not adapting the definition of a Sami to include a broader group and not addressing all stake seekers and stakeholders. Some sketch that the current process of outmigration of the Sami from the Sami homeland because of the poor employment situation regarding traditional Sami industries will result in assimilation and language loss, so that the next generation will lose the language and connection to the indigenous land and its traditional industries, thus assimilating bit by bit into mainstream society. Thus, some claim that the definition of a Sami and the Sami culture should be interpreted broadly and that the existing legislation should be amended in such a way that as many Sami as possible should be able to utilize the land and water and engage in all Sami industries within the Sami homeland. Otherwise, the destruction of the Sami culture and the assimilation of the Sami people to the majority population will continue.

“The effective protection of the Sami people in Finland requires that all indigenous Sami industries will be protected, the Sami culture is not destroyed, and the Sami are not assimilated to the mainstream society.” (S1)

In this way, some in group A claim that their indigenous Sami rights to land and resources should be addressed. Group A claims that this is expected to worsen if ILO 169 is adopted without further amendments. Equal opportunities to land use and engaging in various traditional Sami industries that guarantee job opportunities are depicted as necessary to prevent depopulation.

Some claim that another minority Sami group should have equal opportunity for participation as other groups within Sami society already have. Some allege that the adoption of the government bill on ILO 169 as such prevents stake seekers' access to the electoral roll to an increasing extent, and that in this way their participation will be increasingly limited. Together with this, the ratification of ILO 169 as introduced by the government bill is alleged by some to transfer the land ownership rights of original rights holders (who are not in the voting roll) to stakeholder groups to which these rights do not originally belong (who are in the voting roll).

*Group D - Pro ratification, (almost) fully*

Some in group D support the requirements made by group C to adopt ILO 169. They refer to an ongoing national and international debate around ratification and the credibility of Finland's foreign policy in indigenous human rights arenas if ILO 169 is not ratified. Group D also notes that the international and European regional human rights bodies have issued several recommendations to Finland to ratify ILO 169.

"Human rights mechanisms of Council of Europe, European Commission against Racism and Intolerance and its Third Report on Finland (ECRI, 2013, p. 19), March 2013, it is recommended that the Finnish authorities ratify ILO 169 as quickly as possible." (S11)

## Type 5. Focus on the kind of issue

Table 14 provides a summary of the results for the fifth framing type.

TABLE 14 Main results for framing type 5

5. Focus on the kind of issue Positioning the issue as political, cultural or economic.	
Contra ratification	Pro ratification
<ul style="list-style-type: none"> <li>Group B primarily emphasises economic issues and states that ratification will jeopardise economic growth.</li> <li>Political issues related to allocation of power and equality values are geared towards these economic interests.</li> </ul>	<ul style="list-style-type: none"> <li>Group C highlights the special features of the Sami culture and identity.</li> <li>Based on the distinct features of the Sami as an indigenous people, group C requires legislative reforms and ratification.</li> </ul>
<ul style="list-style-type: none"> <li>Group A focuses on political issues related to lacking power and economic opportunities by drawing attention to equality.</li> <li>Group A emphasises legal aspects and requires major legislative amendments and equal participation in land use management.</li> </ul>	<ul style="list-style-type: none"> <li>Group D emphasises cultural aspects, such as education, reflecting the distinct aspirations of the Sami and notes the political issue of not following international decision-making.</li> <li>Group D points out that Finland's policy does not follow international ways of working.</li> </ul>
→ Thus, economic interests and rights to use resources dominate in group B and A. Group C mentions all kinds of aspects, whereas group D mentions the international political process.	

*Group B - Against ratification, strongly and (almost) fully*

Group B focuses on economic impact. Economic issues are emphasised when stating that the ILO 169 will jeopardise economic growth. The political and value claims mentioned are strongly linked to the economic interests. For example, the fear is expressed that the Sami Parliament may gain too much power in land use management and that the extended negotiations required by ILO 169 will lead to slower and more costly procedures. Sharing of benefits and damage compensation are regarded as factors cutting profits. Cultural claims are not made in the contra statements, as political and economic aspects are stressed to claim rights to resources. Equality is mentioned in diverse ways, also different from the emancipatory background of the convention, stating that ratification creates inequalities and leads to discrimination of the majority, since ratification would further enhance the already good legal status of the Sami, turning it into discrimination of the majority population. Thus, many in group B claim equal rights to resources for everyone regardless of ethnic background.

“Land rights must be guaranteed equally to the Sami and to the rest of the population, and the solution must be fair to the Sami and to the rest of the population.” (S11)

*Group C - Pro ratification, strongly and arguing further requirements*

Group C stresses cultural and legal aspects to promote their values. It emphasises the widely understood culturally distinct features of the Sami people, such as languages and culture, including various traditional Sami industries like reindeer herding, hunting and fishing, and their fundamental importance for the Sami. Group C fosters Sami language education, day care, social and health care and the common identity of the Sami. It points at the distinct features of the Sami as an indigenous people, as recognised by the Constitution of Finland and mentioned in the international treaties ratified by Finland that form the foundation for the claims made by group C. Based on the Constitutional status of the Sami, legislative amendments are claimed in education, land use management, and legislation guiding industries to secure that the Sami can remain as a separate indigenous people without assimilating to the vast majority and that the Sami can decide on their own future development and ways of organising society. Self-determination is required, as is the case with other peoples.

“The Sami in Finland are a separate people, which needs collective rights as a people. To safeguard them, it is not enough to recognise merely individual rights. Collective rights include the right to self-determination, the right to decide on the natural resources of the area, rights to land and water, and the right to decide on the ways of organising society (education, social and health care industries). The Sami people in Finland do not yet have these opportunities.” (S10)

Thus, group C claims that the existing legislation does not guarantee the Sami the right to determine their own development. If this continues, the Sami may even disappear within a few generations.

*Group A - Against ratification, arguing further requirements*

Political issues are stressed when raising power issues and claiming that citizens in a democratic country are not treated equally. Power issues are mentioned also by actors in group A, who stress disadvantage for those not on the voting roll compared to those on the voting roll. Economic, political and equality issues are interrelated when group A requires that all Sami industries should be equally protected, and all Sami groups and stake seekers should be accepted as Sami and protected as beneficiaries of ILO 169 without discrimination. Onward, all Sami should be able to engage in their indigenous industries and participate equally in legislative drafting, Sami policymaking and land use management in the Sami homeland as provided by the Constitution of Finland. Ratification is required to be stopped until all unfinished and relevant legislative projects have been completed and all stakeholder groups are included in legislative drafting.

“The requirements contained in the government programme have to be widely interpreted so that this includes all Sami and equal treatment for all Sami industries. Otherwise, ratification of ILO 169 is not possible.” (S2)

Since some groups already have fewer opportunities to participate in land use management and are excluded from the Sami Parliament’s policymaking, group A states that there are no preconditions for ratification under these circumstances. Some in group A who are contra ratification claim that the land rights must be guaranteed equally to the Sami and to the rest of the population, and that in this way the solution must be fair to the Sami and to the rest of the population.

*Group D - Pro ratification, (almost) fully*

Group D uses cultural and legal aspects to foster their values. Some in D note that the status quo can be maintained in existing legislation to implement ILO 169 and that the current legislation concerning their administrative sectors already meets the requirements of ILO 169. Others in D state that Finland should have already made legislative amendments to remove the obstacles for ratification and that ratification is just the beginning of the continuous improvements needed for the rights of the Sami. Some in group D emphasise education as a right of the Sami to decide on their own social, economic and cultural development and that the Sami education should reflect the distinct social, economic and cultural aspirations of the Sami. Thus, the Sami Parliament should have an expanded right to participate, for example, in the implementation of the Sami education programmes. Group D points to international ways of working and emphasises that international human rights bodies recommend Finland to rush the ratification of ILO 169. Some in group D state that Finland should initiate the process of identifying and recognising the rights of the Sami to land and water, to establish procedures to deal with related disputes and to establish guidance to public authorities on consultation and participation as required by ILO 169.

“The ministry welcomes the introduction of more detailed guidance on negotiation procedures to be established for public authorities.” (S9)



## Type 6. Focus on responsibilities: Cause and blame

### *Contra ratification*

Focus on responsibilities is the framing type that emphasises responsibilities, cause and blame. Those against ratification blame the government, and particularly the Ministry of Justice, for not preparing the government bill regarding ILO 169 properly and not properly addressing its economic, legal, and social impacts. The Ministry of Justice, the Sami Parliament, the State and the existing legislation are accused of creating an unfair situation between the minority and the majority, and inequalities among the Sami, which hence makes the ratification of ILO 169 impossible. Therefore, it is stated that the state should stop the ratification process to remedy the situation and ensure that those who are not in the voting roll of the Sami Parliament but meet ILO 169 and its Article 1 can enjoy fundamental and human rights as beneficiaries of ILO 169. Blame is attributed to the Ministry of Justice, the Sami Parliament, to the State and to the current legislation.

### *Pro ratification*

The Ministry of Justice drafting the government bill is blamed for not solving the key issue of ILO 169, the ownership of the land traditionally inhabited by the Sami people. The Ministry of Justice is accused of various issues when preparing the government bill. Blame is attributed for not acting on this matter for such a long time. It is reminded by some that the Sami Parliament was excluded from the drafting of the government bill on ILO 169, and the preparation of ratification as it is required by the ILO 169 and its Articles on participation and consultation. Some who are pro ratification state that the existing legislation and regulation exclude those living outside the Sami homeland from utilising traditional Sami territories. It is also claimed that the existing legislation does not allow them to maintain and develop their culture and language outside the Sami homeland. Table 15 provides a summary of the results for the sixth framing type.

TABLE 15 Main results for framing type 6

<b>Type 6. Focus on responsibilities: Cause and blame</b> Focus on responsibilities is the framing type that emphasises the responsibilities of actors and their role in the events of interests, thus attributing cause and blame.	
<b>Contra ratification</b>	<b>Pro ratification</b>
<ul style="list-style-type: none"> <li>• Group B attributes blame to the government and, in particular, the Ministry of Justice for not clarifying all insecurities and still considering ratification.</li> <li>• Similarly, blame is given to the government and the Sami parliament for inequalities created.</li> <li>• Group B focuses blame on the Sami Parliament for not accepting all original populations to the voting roll and being incapable of agreeing on a fair definition of a Sami.</li> </ul>	<ul style="list-style-type: none"> <li>• Group C notes the human rights treaties that were ratified by Finland are not incorporated to the current national legislation in Finland. Thus, legislation does not protect the traditional Sami livelihoods, like Sami reindeer herding.</li> <li>• The existing legislation is accused of discriminating against those living outside the Sami homeland, and the Sami Parliament was allegedly excluded from the preparation and drafting of ratification.</li> </ul>

<ul style="list-style-type: none"> <li>• Group A focuses blame on the Sami Parliament, assisted by the existing legislation, for not including all stakeholders and stakeholders to the voting roll.</li> <li>• The government bill is blamed for creating inequalities between the groups involved, which the state should remedy.</li> </ul>	<ul style="list-style-type: none"> <li>• Group D does not understand why it takes so long, as there is no reason not to ratify.</li> <li>• Some in group D refer to international authorities, noting Finland should have had enough time to accomplish the required legislative amendments.</li> </ul>
→ Thus, primarily the government and the state are required to remedy the situation.	

*Group B - Against ratification, strongly and (almost) fully*

Those in group B against ratification blame the government, and particularly the Ministry of Justice, for not preparing the government bill regarding ILO 169 properly, as many insecurities remain, and an assessment of economic, legal and social impacts is lacking. The Ministry of Justice is accused of creating an inequitable situation, which makes the ratification of ILO 169 impossible. More time-consuming assessments and investigations are suggested before considering ratification.

The government bill on ILO 169 is also blamed for creating an unfair situation between a Sami minority and majority of other interests, and inequalities among those that consider themselves Sami. With regard to this issue, the state is required to remedy the situation in which the Sami Parliament won't accept all groups and individuals who consider themselves Sami to the voting roll of the Sami Parliament. Blame is attributed to the Ministry of Justice, the Sami Parliament, the Election Committee of the Sami Parliament, and the working group appointed by the Ministry of Justice, which drafted the government bill on the Act on the Sami Parliament. The Act on the Sami Parliament and its definition of a Sami is blamed to be the most severe barrier to ratification:

"Perhaps the most problematic itself and a barrier to the adoption of ILO 169 is the current definition of a Sami, and particularly the proposed changes to the definition. The changes drafted by the working group of the Act on Sami Parliament recorded in its report (55/2013), in which the current definition of a Sami will be still narrowed." (S9)

Some state that issues, such as the determination of the geographic scope of the area to which ILO 169 applies, the definition of a Sami and interpretation problems of ILO 169 and its land articles, that previously blocked ratification remain unsolved. Thus, there are no preconditions for ratification. They require that the state remedies the situations in such a way that those who are outside the voting roll but meet ILO Convention No. 169 and its Article 1 will be protected as beneficiaries of ILO 169.

*Group C - Pro ratification, strongly and arguing further requirements*

Those in favour of ratification in group C blame Finland for ignoring the recommendations of monitoring bodies of the international human rights treaties to enhance the self-determination of the Sami, the ratification of ILO 169, the improvement of the protection of the Sami reindeer herding and the protection of

the linguistic rights of the Sami. Some in group C note that human rights treaties adopted by Finland are not incorporated to the Finnish national legislation as was recommended by, for example, the Constitutional Law Committee and expected by the Sami Parliament and the international community.

“We are concerned about Finland’s failure to implement the recommendations of international human rights treaties’ monitoring bodies to Finland to improve the status of the Sami culture. Finland has received similar recommendations to improve the status of Sami since Finland ratified the key human rights conventions. Most of the recommendations concern the enhancement of the self-determination of the Sami, the ratification of the ILO Convention No. 169, the improvement of the protection of Sami reindeer herding and the protection of the Sami language rights. Recommendations are taken into account in varying degrees in public administration and in general, in legislative drafting attention is paid to the recommendations superficially. Finland has repeatedly been reminded of, for example, The United Nations Human Rights Committee to improve the protection of Sami reindeer herding, but the Ministry of Agriculture and Forestry has completely omitted the recommendations.” (S6)

Consequently, the current legislation regulating livelihoods in Finland may not protect the traditional Sami industries.

Some in group C note that the political bodies of the Sami, the Skolt Sami Village Administration and the Sami Parliament, were excluded against the spirit of ILO 169 by the Ministry of Justice from the preparation of ratification and drafting of the government bill on ILO 169. Furthermore, the positive picture about the current legal status of the Sami sketched in the government bill on ILO 169 is heavily disputed. Some in group C allege that the point of view of the Finnish government ignores the vulnerability of the Sami culture.

In group C, the diversity of views within the Sami society shows. Some state that the existing legislation in Finland reduces the opportunities of those Sami who have moved away from the Sami homeland to maintain and develop the Sami languages in the places where they live and that those who moved away from the Sami homeland lack their Constitutional rights. Moreover, the Sami who live outside the Sami homeland claim that the existing legislation and, for example, the establishment of nature reserves violate their rights to participate in the utilisation of the Sami cultural environments, since merely local people have access to the reserves. They conclude that since ILO 169 shall apply to the entire country, not merely to the Sami homeland, it should provide equal rights to maintain and develop Sami languages and culture across Finland. Thus, the right to Sami language education and related funding outside the Sami homeland should be secured by legislative amendments.

*Group A - Against ratification, arguing further requirements*

Group A attributes blame to the Sami Parliament, to the Election Committee of the Sami Parliament, the Ministry of Justice, the government bill, the existing legislation and the state for the inequality between those on the electoral roll and those seeking access to it. Some in group A attribute blame to the Ministry of Justice, saying the government bill does not protect the legal status of all Sami in

Finland, all Sami industries and the right of all Sami to engage in their indigenous industries such as fishing. All Sami, whether or not they are in the voting roll, should have an actual right to participate in the planning and use of natural resources and related impact assessments. Some in group A claim that the government bill does not address the obligations as recommended by international conventions and human rights monitoring bodies. Thus, group A requires the state to remedy this. The consequences of the lacking policies, the prognosed out-migration and assimilation of the Sami, are not addressed by the government bill. Some in group A attribute blame to the Sami Parliament and its Election Committee, assisted by the current and newly proposed definition of a Sami, for excluding some groups and individuals from the voting roll of the Sami Parliament. This is stated to create an unequal and discriminatory situation, excluding some part of the indigenous population from the voting roll of the Sami Parliament and consequently from land use management in the Sami homeland. Onward, this is related to a transfer of rights from one group to another and it is stated that, therefore, there are no preconditions for ratification in Finland. Group A also claims to be excluded from the legislative drafting related to Sami policy-making.

“We did not have the opportunity to participate adequately in the ongoing legislative preparations through the Ministry of Justice and the Sami Parliament, as other Sami groups.” (S4)

Group B echoes the arguments of group A and requires the state to remedy the situation and secure that those who are not on the electoral roll but meet the requirements of ILO 169 can also be beneficiaries.

*Group D - Pro ratification, (almost) fully*

Those in favour of ratification refer to the 2012 report by Muižnieks, Commissioner for Human Rights of the Council of Europe. The report notes that the preparations for the ratification of ILO 169 have already lasted over 20 years. The key issues are the specific measures required to ensure the economic and cultural rights of the Sami as an indigenous people.

“The Commissioner for Human Rights also wishes to emphasise that ratification should not be considered as a zero-sum game, and the rights and interests of the other population to pursue livelihoods should also be addressed. The CHR urges Finland to ratify the ILO Convention and recognise the Sami land use rights and the right to practice traditional reindeer herding.” (S11).

It is recommended as well that the preparation of legislative reforms should be accomplished in close cooperation with all parties involved and that the participation of the Sami Parliament in the preparations of the ratification should be ensured. Some in group D state that despite some significant reforms, such as legislation on linguistic matters, an extensive protection of the Sami culture has

not yet been achieved in Finland, whereas the ratification of ILO 169 would safeguard the maintenance of the Sami culture and the way of life of the Sami.

## 9.6 Deeper observations

After analysing the results, a deeper analysis was done, going back to the sub groups identified earlier. Two types of stakeholder groups had been identified in the research data, those opposing ILO 169 and those supporting it. The two different groups were named as contra ratification stakeholders and pro ratification stakeholders. In both main groups, two different kinds of sub groups were identified. Those two sub groups within the contra group were named as 'Group A – against ratification and arguing further requirements' and 'Group B – against ratification, strongly and (almost) fully'. Those two sub groups within the pro group were named as 'Group C – pro ratification, strongly and arguing further requirements' and 'Group D – pro ratification (almost) fully'.

Next, the findings for the four groups were further scrutinised. To clarify the observed positions taken in the debate, further analysis focused on the frames used by the four groups and the observed interrelations between the actors. This relates to issue-related aspects and interplay, being mentioned as important elements of the research agenda for investigating communication in issue arenas (Vos et al., 2014). Table 16 shows the main outcomes of Study 3.

TABLE 16 Positioning of the actor groups, focusing on the frames used and observed interrelations of actors

Contra ratification	Pro ratification
<p><b>B</b></p> <p><i>Framing:</i></p> <ul style="list-style-type: none"> <li>- Strongly against ratification</li> <li>- Economic interests may lack legitimacy</li> <li>- Resonates with state interests</li> <li>- Main framing types: 5-economic, 4, 2</li> </ul> <p><i>Interrelations:</i></p> <ul style="list-style-type: none"> <li>- Countering arguments C</li> <li>- Connecting with A</li> <li>- Adding salience to A's agenda</li> <li>- Mutually beneficial relations with A</li> </ul>	<p><b>C</b></p> <p><i>Framing:</i></p> <ul style="list-style-type: none"> <li>- Strongly pro ratification</li> <li>- In content counterweight to B</li> <li>- Providing much detailed information</li> <li>- Main framing types: 2, 4, 1</li> <li>- Resonates little with state interests</li> </ul> <p><i>Interrelations:</i></p> <ul style="list-style-type: none"> <li>- Not connecting with D</li> <li>- Sami Parliament not having solved the problem of A</li> <li>- Salience is not transferred</li> </ul>
<p><b>A</b></p> <p><i>Framing:</i></p> <ul style="list-style-type: none"> <li>- Against, focusing mainly on a few issues</li> <li>- Bandwagoning</li> <li>- Seeking strength in numbers</li> <li>- Main framing types: 6, 5-economic, 1</li> </ul> <p><i>Interrelations:</i></p> <ul style="list-style-type: none"> <li>- Connecting with B</li> <li>- A transfer of salience</li> <li>- Mutually beneficial relationship with B</li> </ul>	<p><b>D</b></p> <p><i>Framing:</i></p> <ul style="list-style-type: none"> <li>- Simply pro ratification or does not directly object</li> <li>- Fact-like/cool, as a natural step</li> <li>- At some level resonates with state interests</li> <li>- Main framing types: 5-legal, 2-international obligations</li> </ul> <p><i>Interrelations:</i></p> <ul style="list-style-type: none"> <li>- Connecting lightly to C</li> <li>- Not explicitly countering B, and salience is not added to other groups</li> </ul>

For all four groups, observations are made concerning the framing types used and how the actors are positioned to other groups.

*Group B - Against ratification, strongly and (almost) fully*

Concerning the framing types used, the following can be noted. Group B is strongly against ratification and demonstrates that there may not ever be preconditions for ratification in Finland. Its goal is to stop ratification. Group B fears losing its power position and status in land and resource use if ratification would be realised and, therefore, claims that the positive discrimination of the Sami has gone too far already. The main framing types used by group B were: (type 5) focus on economic aspects, (type 4) focus on consequences and (type 2) focus on values.

Framing type 5 was used most often, emphasising economic aspects. Group B highlights the resource-rich North and various kinds of potential, planned or ongoing business opportunities to utilise the available resources, such as pure nature for tourism, forest and mineral resources, transport and related construction of the railroad. The indigenous status of the Sami people is questioned. Group B frames the definition of a Sami as a main obstacle for ratification, when in fact Articles 14 and 15 of ILO 169 are the real deal breakers for group B. But if, however, ILO 169 will be adopted all stake seekers that are not accepted as Sami

by the Sami Parliament are demanded to be protected as beneficiaries of ILO 169 by group B. The group presents Article 14 as a risk that should not lead to changing landholdings between the state, municipalities, the Sami and the rest of the population in Northern Finland (their fear being that the State may not exclusively own 90% of the land in the Sami homeland and thus use its decision-making power in land use management). Article 15 is framed as an obstacle making economic projects impossible.

Framing type 5 is used to stress consequences. Those representing large-scale business opportunities in group B state that business opportunities may become problematic if ILO 169 and its Article 15 would be applied to economic investments. As a consequence of Article 15(2) mentioning the obligation to negotiate, share benefits and give damage compensation, group B predicts failure of economic growth in terms of project delays and rising costs. The required negotiations and consultations with the Sami are claimed to make economic projects impossible.

The use of framing type 2 adds a focus on values. Group B emphasises economic activities and their value as a source of employment and income at the local and national levels. To protect their economic interests, those in group B promoting economic activities refer to the superior legal status of the Sami strengthened by ratification and resulting in an underdog position for business. Thus, they create a causal chain to downplay the status of the Sami, stating that the legal status of the Sami is already at a good level due to legislative amendments made earlier, since the 1990s. The rights of the Sami are argued to already be at the level required by the ILO 169, thus, there is no need to ratify ILO 169 since the National legislation already safeguards the rights of the Sami. Moreover, ratification may increase positive discrimination of the Sami to the level where it becomes problematic in terms of equality and discrimination for the majority. Concerning the purpose of the ILO 169 to protect indigenous peoples' fundamental and human rights, it is stated that the Sami already fully enjoy these rights. Thus, the ILO 169 aimed at protecting indigenous peoples may not even apply to the Sami people.

Economic reasons presented by group B are legitimate when the state's poor economy is at stake. However, economic reasons are not legitimate enough in the ILO 169 context where Finland desires to be a human rights state at the UN level. This relates to the narrow definition of a Sami and why group B allied with A to gain legitimacy. Many in B supported A's requirement of an extended, fair and generally acceptable definition of a Sami. Actions taken by the Election Committee of the Sami Parliament, excluding some groups and individuals from the voting roll, are stated to create discrimination and as such used as a justifiable reason to reject ratification. In such a way, the legitimacy of the voting roll representing merely a small minority and the Sami Parliament excluding some legitimate stakeholders is disputed. Economic values and issues are emphasised when group B states that ratification will jeopardise economic development. The political and value claims made by this group strongly support economic interests. Whereas the economic reasons explained above may not be considered relevant

in the human rights context, a combination of values and economic issues may add legitimacy.

Concerning the positioning of this group of actors, the following can be noted.

Group B included powerful actors who represented some ministries, municipalities, business sector and county-level authorities, actors who were located close to the highest political decision-making. Onward, group B can be divided into two sub groups, those strongly promoting economic interests and those representing the municipal and county-level administration. Group B had knowledge and skills in legal expertise and strategic communication and was equipped with all types of resources – economic, political and social. Although group B included a large amount of views, the input was internally consistent. It seemed that this group could agree on common frames used concerning the ratification. Thus, group B created loud and strong framing that strongly resonated with the state's political and economic interests. Group B created salience for its agenda in a period in which economic stakes were considered important.

Furthermore, B drew attention away from its own economic interests, by focusing blame on the Sami Parliament for not solving the definition of a Sami in a generally acceptable way. Group B thus connected with group A in a mutually beneficial way.

#### *Group A - Against ratification, arguing further requirements*

Concerning the framing types used, the following can be noted. Group A is against ratification, arguing that there are no preconditions for ratification under the current circumstances in Finland, since part of the indigenous population is left outside the voting roll of the Sami Parliament and not all Sami can enjoy rights as beneficiaries of ILO 169 as it is provided by the Constitution of Finland. Group A claims legislative amendments to meet the preconditions for ratification. However, it remains unclear whether all stakeholders in group A really do not desire ratification, as some also seek to be a beneficiary. The main framing types used by group A were: (type 1) focus on power relations, (type 5) focus on economic issues and (type 6) focus on responsibilities.

Group A uses type 1, stressing power relations, when stating that the current and the newly proposed definition of a Sami are too narrow, blocking some groups and individuals from the voting roll of the Sami Parliament. This limits their indigenous participation in land use management and in the Sami Parliament's decision-making concerning their status as an indigenous people. Some in group A dispute the legitimacy of the Sami Parliament as the supreme political body of the Sami and as an all-Sami organisation in Finland, saying that it rather represents a small linguistic minority. Group A also states that the current legislation in Finland fails to recognise and protect all Sami groups equally, as it does not protect all Sami industries and all Sami as beneficiaries of the ILO 169. As a consequence of that, group A argues that the existing legislation should be amended in such a way that it places all Sami groups and individuals and traditional Sami industries in an equal position. Some argue that the protection of the



Sami as an indigenous people in Finland requires that all Sami can engage in the Sami industries, as otherwise the outmigration and assimilation of the Sami will further accelerate. Requirements mentioned are a population calculation of the Sami and identification of all beneficiaries of ILO 169, demarcation of the area to which ILO 169 will be applied and the impact assessment of ratification on different population groups. It is claimed that the State ensures that those not accepted to the voting roll of the Sami Parliament but who meet ILO 169 and its Article 1 are protected as beneficiaries of ILO 169. Otherwise the rights of those original right holders would be transferred to those they do not originally belong to.

Group A uses framing type 6, responsibilities, when blaming the current legislation, the definition of a Sami, the Ministry of Justice, the government bill on ILO 169 drafted by the Ministry of Justice, the Sami Parliament and its Election Committee for creating this unequal situation in which part of the indigenous population is left outside the voting roll and decision-making of the Sami Parliament. The State is required to remedy this.

Group A also uses type 5 to stress economic aspects. It states that all Sami should have an equal opportunity to engage in their Sami industries and to utilise the traditional Sami territories, to participate in the Sami Parliament's policymaking and in resource use in the Sami homeland as beneficiaries of ILO 169 and as the Constitution of Finland provides. Thus, group A creates a causal chain. The Act on the Sami Parliament and the definition of a Sami have blocked some groups and individuals from entering the voting roll of the Sami Parliament and its decision-making. Furthermore, group A says that the existing legislation does not equally protect all Sami industries. This has created a discriminatory situation in Finland where not all indigenous groups and individuals are accepted as Sami and thus would not be protected as beneficiaries of ILO 169. Neither are all Sami industries equally protected by the existing legislation as the Constitution of Finland provides. This has created a situation in which part of the indigenous population is already excluded from the Sami Parliament's policymaking. Their rights outside the voting roll are alleged to be transferred to others. Thus, there are no preconditions for ratification in Finland. The legitimacy of the Sami Parliament is disputed when the original population is not accepted to the voting roll.

Concerning the positioning of this group of actors, the following can be noted. Group A includes less powerful and less central actors such as local associations and individual citizens. However, some influential individuals in group A are equipped with knowledge, skills and contacts. They act as mediators between the groups A and B. Group A seems a heterogeneous group consisting of various stakeholder groups and individuals with at least three different kinds of issue agendas. Group A includes, for example, stake seekers claiming access to the voting roll of the Sami Parliament and other Sami stakeholders, grassroots organisations and individuals who ally to raise their voices. Some sub groups within group A echo demands made by another sub group in A. Despite the large number of issues and opinions, group A reached a level of internal consistency among its input, indicating that they managed to agree on common frames and build a common agenda. Group A, as a less powerful party, connected with

group B to increase its influence in the debate, building a mutually beneficial relationship. Noteworthy, group A claimed to have been excluded from land use management in the Sami homeland and the preparation of the government bill on ILO 169 executed by the Ministry of Justice. In other words, this group stated that its legitimate stakes were not addressed.

#### *Interrelations between groups B and A*

It seems that, despite the many views of A and B, multiple stakeholder groups and individuals can negotiate, agree on common frames and set a common agenda to draw the attention of decision-makers to their interests. Group A receives support from the powerful players in group B, and by echoing arguments of group A, group B gains legitimacy. This illustrates how influence, power and frames flow within and between multi-actor networks through “weak ties” from powerless actors (A) to powerful actors (B), and vice versa from powerful actors (B) to powerless actors (A). In such a way, A can increase its influence, to draw the attention to its prioritised issue aspect and to push its issues to the agenda. Group A can transfer salience from its agenda to another more powerful agenda, hence gaining support from the powerful actors in group B. Frames were transferred from A’s to B’s agenda and vice versa from B’s to A’s agenda. From B’s agenda salience was again transferred to the final decision-making.

Group B warns that the purpose of ILO 169, to secure that indigenous peoples can fully enjoy fundamental and human rights and the rights of indigenous peoples, will be raised to the level that the rights of the majority population are pushed aside. Oppositely, groups A and B jointly highlight equality in their own way, stating ratification will lead to unequal treatment of some individuals and groups and discrimination of the majority. In such a way, the purpose of ILO 169 is downplayed, whereas inequality produced by ratification seemed to dominate the issue arena of this debate.

#### *Group C - Pro ratification, strongly and arguing further requirements*

Concerning the framing types used, the following can be noted. Group C is strongly for ratification and in content creates a counterweight to B. Group C strongly supports ratification, simultaneously demanding major amendments to the current legislation prior to and after ratification. The main framing types used by group C are: (type 2) focus on values, (type 4) focus on consequences and (type 1) focus on power relations.

Framing type 1, focus on power relations, is used when group C stresses the unbalanced power relations and vulnerable position of the Sami people in Finland produced by the current legislation, not securing opportunities to determine their own future and development. Some state that due to the existing legislation the Sami cannot engage in the traditional indigenous industries. Those in group C that live outside the Sami homeland emphasise that, like an underdog in the situation, they cannot maintain and develop Sami language and culture as the Constitution of Finland aims to provide, nor participate in a Sami cultural environment due to a lacking existing legislation. Group C claims that the rights of

the Sami to land and water remain unresolved in the government bill on ILO 169 and that the Sami still lack influence and legal status in land use and natural resource management, nor were the Sami involved in the drafting of the government bill or the preparation of ratification as required by ILO 169.

Type 2 is used by group C to highlight values when emphasising the distinct features of the Sami culture, including its different traditional industries like reindeer herding and, for example, Sami languages. These all should be addressed by the state in terms of positive discrimination and legislative amendments, for example, to secure Sami language education across the country, Sami social and health care services and the legal status of the traditional Sami industries in land use management, so that the Sami can survive in the future. Some in group C highlight the historical land use management system of the Sami people, the Siida system, still well-known among the Sami. All these distinct features of the Sami are stated to be the foundation of the separate people of the Sami, recognised as an indigenous people by the Constitution of Finland and by ILO 169. Thus, group C claims that the Sami culture should be protected by the current legislation so that the Sami can develop their culture as a distinct indigenous people in the future.

Type 4, focus on consequences, is used when group C claims that the assimilation of the Sami continues, as the collective rights of the Sami as an indigenous people have not been secured by the current legislation and ratification of ILO 169. The Sami are stated to lack actual opportunities to engage in traditional industries because of shortcomings of the current legislation and land use management. Thus, some in group C claim that people may have to move away from the Sami homeland due to the difficult situation in the traditional industries and land use management. Already around 60–70% of the Sami children live outside the Sami homeland and migration is still accelerating. Those in favour of ratification claim that the entire Sami culture is extremely endangered and may at worst even disappear in the near future.

Concerning the positioning of this group of actors, the following can be noted. Group C includes the supreme political body of the Sami, Sami associations and individual citizens, mainly those who lack power and influence. Onward, group C can be divided into two sub groups, the first representing the supreme representative body of the Sami and the second the other Sami associations. Group C seems to have less knowledge and skills in strategic communication and less economic, social and political resources. C promotes numerous improvements to the current Finnish legislation to enhance the existing legal status of the Sami, prior to and after ratification. Group C contains a multiplicity of views and a large amount of detailed information was provided. This indicates the existence of various interests within group C. The statements only to a limited extent demonstrate common views and shared points of attention. Unlike group A, it seems that group C is not successful in creating or transferring salience from one agenda to another and there were hardly any indications of communication between groups and individuals within group C. Even though similar issues are

discussed by the stakeholders involved, the input by group C lacks shared frames. Group C is not connected with group D to get support for their concerns.

*Group D - Pro ratification (almost) fully*

Concerning the framing types used, the following can be noted. Group D is pro ratification and frames ratification as the natural thing to do, from a legal point of view. Most of the actors in group D focus on the duties of their administrative sectors. Approaches towards ratification in group D vary, some support and consider ratification important, while others say that there are no major legal obstacles that would prevent ratification, so that the rights of the Sami recognised in ILO 169 can be implemented in their administrative sectors within the framework of existing legislation. Onward, group D can be divided into two sub groups, those supporting ratification and suggesting measures to be taken after ratification, and those stating that ratification can be implemented and that no major amendments are needed.

Framing type 5 is used when stressing legal aspects. Group D gives factual arguments, emphasising international obligations of Finland in the line of, e.g., its earlier extensive work in the UN context followed by multiple ratified conventions, as well as received recommendations to ratify ILO 169 following expectations as a human rights state. Group D also reminds of national commitments towards Finland's own indigenous people and earlier legislative reforms that, since the 1990s, aim at improving the legal status of the Sami and – especially – an advanced Sami language legislation. Regarding the latter, some in group D point out that in Finland the comprehensive protection of the rights of the Sami is still missing.

Framing type 2, focus on values, is used when some state that ratification is not an end but rather launches a process to improve the legal status of the Sami in Finland as recommended by various UN human rights monitoring bodies. Thus, Finland should increase its efforts to make legislative changes to achieve the objectives of ratification. Some refer to international ways of working and the multiplicity of recommendations received by Finland from various international monitoring bodies on the implementation of human rights treaties to ratify ILO 169. Some refer to the UN cross-country peer review, according to which some fellow-states recommended Finland to ratify ILO 169.

The full enjoyment of the rights of the Sami in their traditional territories is stipulated by some, in terms of a free and informed participation of Sami communities in political processes and upcoming development projects. The cornerstones of ILO 169, participation and consultation, should establish an ongoing dialogue between the State and the Sami. Some note that Finland should initiate the process of identifying and recognising the ownership and user rights of the Sami to land and waters. Procedures should be established to settle potential conflicts related to land use management in Northern Finland. Group D refers to international authorities, saying that the ratification process has lasted for a long time, during which Finland should have been able to complete legislative amendments needed to remove the obstacles for ratification.

Concerning the positioning of this group of actors, the following can be noted. Group D includes some powerful actors and authorities, such as some ministries, having knowledge and skills. Group D has knowledge and skills in human rights in international law and legal expertise. There are no indications of communication between the actors involved. Group D connects in content lightly to C but does not explicitly counter arguments of group B. Frames created by D resonate at some level with state interests, as Finland is expected to be a human-rights supporting state.

*Lack of communication between C and D*

C and D seem to operate separately from each other. There are no indications of communication between C and D. Common issues indicate the possibility of collaboration, however C and D do not seem to have negotiated or agreed on common frames. Thus, salience is not created or transferred from one agenda to another. Consequently, this does not help draw the attention of decision-makers to their perspectives on the issue.

**Conclusions of the study**

This PhD research focuses on how framing functioned as a strategic tool in stakeholder consultation included in law drafting where issue salience was created by framing issues concerning the preparation of the government bill on ILO 169. Onward this relates to multi-stakeholder communication and power relations in multi-actor issue arenas of law drafting. Consultations constitute a part of the law drafting process, in which civil society and stakeholders affected by a draft law have an opportunity to influence the law drafting project at hand. In this study, law drafting is viewed as an issue arena, in which the draft law at hand is debated in various multi-actor networks.

As it appears, there are multiple stakeholder groups and individuals around Sami issues, and particularly ILO 169, who seek to frame the issue according to their interests and by doing so, draw the attention of decision-makers to their perspective on the issue. The study has a dual purpose linked to issue arenas of law drafting. Findings of this study show that ILO 169 is in the interests of multiple stakeholders, Sami and others who could be affected by the ratification of ILO 169. Or, in other words, many groups have a stake in the issue. Related to this, in the issue arenas of the ILO 169 debate, various stakeholders were seeking allies, negotiating and networking to frame (sub) issues important to them, attempting to transfer salience of sub issues on their stakeholder agenda to the final decision-making table.

Study 3 sought to understand how framing was used as a strategic tool in stakeholder consultation regarding the government bill on ILO 169. Secondly, this study showed which interrelations of stakeholder groups could be observed. This indicates how common framings, salience and influence were transferred from one stakeholder agenda to another, to eventually end up on the political

decision-making table. Multi-actor discussion on ILO 169 dominated by those salient frames may thus explain whose stakes are likely prioritised in final decision-making or in this case, so far, non decision-making.

This thesis highlights that formal and informal discussions, negotiations and decision-making occur concurrently in multiple issue arenas and sub issue arenas of law drafting simultaneously. Again, the study explained how issue framing was done in the issue arenas of law drafting in terms of strategic framing, networking, agenda setting and lobbying. A multiplicity of players interacted, negotiated and allied with each other to challenge their opponents and to promote their interests. Keeping some issues out of the debate while highlighting other issues appeared to be a conscious choice, the main activity used by the proactive stakeholders in the multi-actor debates of ILO 169.

Concerning the law drafting on ILO 169 a multiplicity of stakeholders, pro and con, operated around this certain Sami issue, using e.g., framing, networking and agenda setting as strategic tools to promote and achieve their goals. Framing was used as well to exclude some sub issues and include others to create salience and draw the attention of decision-makers to them. Whereas the excluded ones were pushed to the sidelines and made invisible in the multi-actor debates around the ILO 169 issue.

As Meriläinen (2014, p. 61) noted in her study regarding the Framing of human rights issues, causal chains were constructed. The results of this study pointed in the same direction; causal chains were created where issues related to ILO 169 were framed. The Findings of Study 3 showed, similar to Entman (1993, p. 52), “problem definition, causal interpretation, moral evaluation, and/or treatment recommendation” were created for issues used in the discussion on ILO 169. Causal chains helped explain complex issues from a certain angle and provided simple ways to comprehend them. The results of Study 3 showed a great variety of opposite interpretations, problem definitions and solutions presented by the opposite groups, the contra ratification and pro ratification stakeholders in the context of ILO 169. The results related to groups A and C also revealed that a variety of different views and interests exist within the Sami society. Instead of being a homogeneous society, various groups hold separate stakes that should be addressed by the government and the Sami Parliament.

The ILO 169 debate contained diverse discussions and a wide variety of colliding and conflicting opinions, including both numerous overlapping issues and side issues. The members of the contra ratification group reinforced each other's arguments and, thus, created salience for their issues, whereas the pro ratification group remained fragmented and focused on providing detailed information. The results of Study 3 showed a variety of opposite interpretations, problem definitions and solutions presented by the opposite groups, the contra ratification and pro ratification stakeholders in the context of ILO 169. To sum, the contra ratification group succeeded in creating salience for their issues, whereas the pro ratification group was fragmented.

The contra ratification stakeholders, B and A, were strongly against ratification and highly motivated to block the process. These groups have much to

lose because of their economic interests if ratification is realised, but little to win and thus, they aim to win. They also have the resources needed to try to stop ratification, including economic, social and political resources as well as knowledge and skills in strategic communication to network, negotiate on common frames and transfer salience from one agenda to another. B and A were successful in finding a common ground to stop ratification and building a mutually beneficial relationship with each other. Moreover, B is well-connected to the highest level of political decision-making in Finland. Frames and economic interests presented by B highly resonate with those of the State, and because of this B was successful in transferring salience from its agenda to the decision-making table. However, in the human rights context, promoting economic interests may not be considered legitimate. Therefore, to increase its legitimacy, B allied with group A and a possibly more legitimate reason to block ratification. This was done by emphasising the unequal definition of a Sami in some individuals and groups being blocked from entering the voting roll, resulting in discrimination of a Sami minority group, implemented by the Sami Parliament.

The groups D and C seem to have been unable to create a strong counterweight to the input of group B. They had knowledge and skills in human rights, Sami cultural affairs and legal expertise in international law. However, they did not show knowledge and skills in strategic communication, and there was no sign of communication between D and C. They did not negotiate, build or agree on common frames. Thus, frames presented by D and C gained little salience, whereas frames presented by B and A were often repeated by powerful actors in the issue arenas of ILO 169. Group B relates to equality, a value rated high in the country, and the economic interests of B highly resonated with those of the state at the time. Human rights frames presented by groups D's and C's cultural argumentation may not be that high on the agenda even now that it concerns ILO 169 on the human rights of indigenous peoples. In sum, the economic frames presented by B appear to be stronger than the cultural and human rights frames presented by C and D. Moreover, ratification is framed by B as creating inequalities, while the group's financial interests are covered by overt support for the claim of group A that the definition of a Sami is unequal and discriminatory. This casts doubts on core values and arranges blocking power.

It appears to be that those issues, frames and causal chains supporting the human rights of the Sami may not be regarded as salient by the powerful actors in the ILO 169 debate or they do not fit economic interests. Nor may the indigenous peoples be regarded as legitimate actors in their own matters, having less knowledge, skills, credibility and created legitimacy. The economic frames of powerful actors may resonate with other public interests, whereas indigenous interests and land claims are deemed less central. Other actors than the indigenous used framing to promote favourable issues and frames, while acting strategically to keep indigenous human rights issues out of the discussion, allying themselves with other actors.

The competitiveness of the land use issue causes a selective nature of the discussion on the government bill in which economic issues are overemphasised,

whereas indigenous issue aspects, frames and actors are blocked from the debate. The human rights issues of the Sami are thus hardly addressed and not solved in the legislative process.



## 10 DISCUSSION AND CONCLUSIONS

In this chapter, the main insights gained, and the contributions of this research are presented.

### 10.1 Discussion

Sami and other indigenous issues are sometimes said to be marginal, but when they get to the national policy agenda, as is the case in relation to land use management with ILO Convention No. 169 and the Act on Metsähallitus in Finland, indigenous issues suddenly become the subject of hot debate by multiple competing stakeholders with opposing and conflicting opinions.

The results of this study, especially the case of ILO 169, show that actors build confidential relations, negotiate, network and debate issues in issue arenas that are important to them. In issue arenas of law drafting various networks already exist, and many actors belong to different networks that may intertwine and overlap. All actors are part of networks, both formal and informal, but this is not transparent to all, and not all actors are included in all networks. It is relevant who knows who in multi-actor issue arenas. Some influential individuals act as mediators within and between networks, facilitating the flow of frames, influence, issue salience and power between the actors involved in discussions where Sami and other indigenous issues are at the centre. By framing issues, some issue aspects are emphasised in the discussion whereas others may be excluded by powerful and active actors. The creation of causal chains by some actors steers the conversation from a certain point of view.

The results of this thesis demonstrate that Sami and other indigenous issues related to matters in land use are discussed in various issue arenas by multiple actors who belong to many networks, both indigenous and non-indigenous. As mentioned above: “Yet not all actors debate in the same issue arenas or belong to the same networks” (Meriläinen, 2014, p. 68). However, there are some influential mediators who build links between the various networks and issue arenas by

mediating information, frames and influence. Actors willing to share the same values and frames may be able to join and be aware of the issue aspects debated in these networks. Those who do not understand the complexity of the process and are not networking, negotiating or building common frames may lose the game. As law drafting in a democratic context depends on inclusive input, transparency of the process and how it is influenced is important. However, some powerful actors are equipped with knowledge and skills and all sorts of resources, social, legal and economic, whereas other actors are less central and less powerful. The latter may, in the cases studied, be the indigenous actors whose human rights are at stake.

The discussion on law drafting concerning ILO 169 should be about the rights of the Sami and other indigenous peoples, in other words, human rights of indigenous peoples. However, most of the time indigenous issues were selectively debated by powerful non-indigenous actors. This research shows that other issue aspects than indigenous, such as economic interests of various non-indigenous groups, were pushed to the discussion by strategic framing, whereas indigenous issue aspects were made less visible in the debate or framed as illegitimate.

The process of incorporating indigenous human rights from international treaties in national legislation comes with many challenges. Particularly, issues of land use are complex, as land resources are scarce and the communication about them shows a battleground of various stakeholder groups with conflicting interests. Some have joint interests in blocking the process of law drafting, while others have diverse interests in problem solving through legislation. Alas, blocking seems easier to accomplish than realising enough consensus for decision-making. In all cases, transparency of the process is important and, particularly, insight into lobbying, framing and interplay in the issue arenas of law drafting.

Hence indigenous issues, like any other issues, can be surrounded by numerous issue aspects including various facts and values presented by a multiplicity of stakeholder groups aimed at drawing attention to their issue aspects, influencing public opinion, and battling for the right to determine issues in final decision-making. In other words, stakeholders frame issues in various ways, challenging other stakeholders in public issue arenas (Zhou et al., 2012; Miller & Riechert, 2001; Pan & Kosicki, 2001).

It appears to be that other issues in the debates, such as economic and general political matters, dominate issue arenas on indigenous matters, whereas the human rights of the Sami and other indigenous peoples were downplayed or framed as an obstacle to development. In the cases studied, issue aspects important to stakeholders belonging to the majority population were raised to indigenous debates by strategic framing, while indigenous issue aspects that should be regarded as salient in this context were almost made invisible in the debate. However, achieving transparency in policymaking calls for the inclusion of all possible stakeholders and issue aspects relevant to them in the decision-making process, not just some groups and their aspects (Meriläinen, 2014). Trans-

parency is important, as debates on indigenous peoples' land rights may be influenced by many economic interest groups, making this a political game (Joona, 2010), including continuous responses and selective framing.

Powerful actors in issue arenas of law drafting, policymaking and development projects related to land use appear to have all sorts of resources, economic, social and legal as well as knowledge and skills in building confidential relationships, networking and negotiating on common frames and agendas to transfer salience and affect decision-making. Places where these games are played are dynamic stages of interaction, known as issue arenas, where public policy issues affecting various stakeholder groups bring those together, however, of which only a few key actors may have considerable impact on decision-making (Vos et al., 2014; Luoma-aho et al., 2013; Kim et al., 2010; Oliver & Donnelly, 2007). To add to the complexity, in the discussion there were not just issues with different aspects but, in addition, also many other partly overlapping issues and side issues could be identified.

The purpose of this research was to gain a better understanding of the communication preceding and during law drafting processes in Finland regarding indigenous land use and, especially, participation of the Sami as an indigenous people. It increased the understanding of how strategic framing is used to create and transfer salience in law drafting processes, by studying lobbying, framing and issue arenas in the context of Sami and other indigenous participation in matters of land use. Thus, it increased transparency in law drafting processes by raising the level of knowledge and skills in strategic communication and hence expressing indigenous voices. For this purpose, it paid attention to the changing context of the law drafting regarding ILO 169 and the participation rights of the Sami concerning the Act on Metsähallitus.

The thesis focused on indigenous participation in matters of land use and how framing was used to create and transfer salience from one agenda to another to affect the final decision-making. This thesis investigated 'who gets what, when and how' (Lasswell, 1968) in ongoing competition concerning land use where salience and certain frames, focused on certain issue aspects, are transferred from stakeholder agendas to policy agenda by introducing certain issue angles and by providing information and certain interpretations about the core of the problem, how to assess the issue and finally resolve the problem (Chong & Druckman, 2007a; Entman, 2007).

This research provides new scientific insights on how actors act strategically in issue arenas of law drafting, policymaking and the planning of development projects and by doing so affect the final decision-making. The results of these studies indicate that Sami and indigenous issues are surrounded and influenced by many different stakeholder groups whose agendas, issue aspects and opinions towards indigenous issues are often conflicting and opposing.

The results of all three studies show that different actors create powerful multi-actor networks able to impact the decision-making in issue arenas of policymaking. In issue arenas common interests function as links between people, offering opportunities to ally with like-minded ones and bringing people that

may have been previously unknown to each other together to promote their goals and facilitate a resource flow from one network to another (Dearing & Rogers, 1992; Granovetter, 1973). It is essential that some well-linked actors participate to ensure that all relevant issue aspects will be included in the discussion. There are numerous actors, other than Sami, who act strategically to influence discussions on Sami and other indigenous issues. However, not all participate in the same networks of actors that support forming allies.

The issue arenas of law drafting on Sami and other indigenous matters of land use show a high level of complexity, as was the case concerning the government bill on the ILO Convention No. 169, where multiple actors reacted to the government bill drafted by the Ministry of Justice by negotiating, allying and networking with each other and by creating selective counter frames and causal chains. Actors create a context for the issue discussed by building selective frames and causal chains as an essential way to affect the steps and turning points of the law drafting process. This occurred not only in the ILO 169 case but also in influencing the law drafting, investigated in Study 2.

Understanding the process of creating selective frames and causal chains is key to comprehend the international context surrounding the Sami and other indigenous land use issues, as was demonstrated in Study 1. The process includes competition and attempts to push some (sub) issues aside, as was the case with the Sami and other indigenous peoples' human rights. Related to this, the results indicate that those actors capable of creating common agendas for a limited number of salient issues with strong and loud frames were successful in drawing attention to their issue aspects, in affecting public opinion and ultimately influencing decision-making. An attempt to fit all possible issues to one agenda may be doomed to fail. Those actors operating alone without undertaking to negotiate, network or build joint frames and agendas for limited issues were less able to influence public opinion or decision-making. However, which issues are ranked as the most salient and important issues depends on how powerful and central players they are and how well their frames resonate with the general atmosphere at the time.

Below, the outcomes of the studies will be compared to the main insights gained from previous literature.

### **10.1.1 Lobbying**

Table 17 shows to what extent the insights on lobbying in the literature discussed in Chapter 3 were confirmed by the findings of the studies (focusing on the empirical Studies 2 and 3). The left-hand column of this table refers to the main insights from the literature, as listed and explained in section 5.5.1 with key references.

TABLE 17 The insights on lobbying compared to the findings

In earlier literature: Main insights on lobbying	In the studies:	
	Confirmed/ not confirmed	Explanation of the findings
(1) Lobbying is seen as an input to the political administrative system.	Confirmed	Study 2 showed that much information is wished for as a basis for decision-making. Stakeholders involved seem to be regarded as information sources rather than equal partners of interaction in law drafting.
(2) Timing is underlined, recognising the steps in law drafting.	Partly confirmed	Study 2 showed that knowledge of procedures was deemed important, although not all stakeholder groups seem aware of the necessity to get involved in a timely manner.
(3) A mediator role of lobbyists is mentioned.	Not confirmed	Studies 2 and 3 showed that the state is seen as having a mediator role. No reference has been made to consultants specialised in lobbying.
(4) Relations and alliances are built to influence current policymaking.	Partly confirmed	In Study 2, the interviewed officials did not mention awareness of this. Study 3 showed that less central contra ratification stakeholders increased their influence by allying with powerful stakeholders, whereas pro ratification stakeholders did not ally with anyone.
(5) Lobbying is seen as an element of democracies to enhance the participation rights of citizens and transparency in decision-making.	Partly confirmed	Democracy in the context of law drafting is hardly mentioned by the officials in Study 2. Stakeholder participation is largely a right to give written statements rather than an interaction between civil society and decision-makers, as shown in Studies 2 and 3.
(6) Lobbying enhances wider societal interests and public support.	Not confirmed	In Study 3, the content of the contra ratification statements pointed mainly to the economic interests of stakeholders. Frames, however, also connected to employment interests or socially accepted values like equality and discrimination.
(7) Simplification of complex issues is seen as an added value of lobbying.	Partly confirmed	In Study 3, a multitude of (sub) issues was shown to be brought forward, including conflicting views, values and facts. Pro ratification stakeholders added much detail to explain their views. Whereas contra ratification stakeholders emphasised various problems and related simplifications or catch-phrases of those issues to bring ratification to a halt.

### 10.1.2 Framing

Table 18 shows to what extent the insights on framing in the literature discussed in Chapter 4 were confirmed by the findings of the studies (focusing on the empirical Studies 2 and 3). The left-hand column of the table refers to the main insights from the literature, as provided in section 5.5.2 with key references.

TABLE 18 The insights on framing compared to the findings

In earlier literature: Main insights on framing	In the studies:	
	Confirmed/ not confirmed	Explanation of the findings
(1) Several framing types are used in debate on social issues.	Confirmed	Study 3 showed a large variety of framing types being used. Those against ratification approached the topic from different angles than those pro ratification. The study revealed that the issue was more often framed as an economic issue by those against ratification and that the legal or emancipatory frames used by pro ratification stakeholders were in the minority.
(2) Framing is used in agenda setting and building to suggest which issues deserve attention and as a result of agenda building may transfer to the policy agenda.	Confirmed	According to Study 3, contra ratification stakeholders selected a few salient issues to their agenda suggesting what deserved attention in the wider society, trying to transfer salience from their stakeholder agenda to the policy agenda. Sami issues included many details and provided less clarity for creating salience in the ILO 169 agenda.
(3) In framing, a common approach includes various ideological elements.	Partly confirmed	Study 3 showed that the extent to which stakeholders coordinated some kind of common approach varied. Different contra ratification stakeholders built a common approach including values and other ideological elements, whereas pro ratification stakeholders did not connect to arguments of other stakeholders.
(4) Agenda setting requires the ability to agree on common issues of the agenda.	Partly confirmed	According to Study 3, contra ratification stakeholders could agree on common issues of their agenda, whereas pro ratification stakeholders each had their own agendas.
(5) Framing is a competitive activity, related to power, including blocking power that may exclude some issues from the debate and consequently from the agenda.	Confirmed	Study 3 demonstrated the use of blocking power in attempting to stop the process of law drafting. The contra ratification stakeholders confused the issue by using equality values in a different way than in ILO 169, called for postponement for new assessments, and complicated the issue by fueling the debate on the definition of a Sami. They highlighted other issue aspects to promote their interests and make human rights aspects less central in the discussion on ratification.

### 10.1.3 Issue arenas

Table 19 shows to what extent the insights on issue arenas in the literature discussed in Chapter 5 were confirmed by the findings of the studies (focusing on the empirical Studies 2 and 3). The left-hand column in the table refers to the main insights from the literature that were provided in section 5.5.3 including key references.

TABLE 19 The insights on issue arenas compared to the findings

In earlier literature: Main insights on issue arenas	In the studies:	
	Confirmed/ not confirmed	Explanation of the findings
(1) Issue arenas are competitive places where multiple actors compete for attention for what they consider is at stake.	Confirmed	Not all actors seemed to be equally aware of this. In Study 2, the officials did not mention awareness of the competitiveness of the participation process, but they noted a mediating role for the state based on diverse input, so disagreements were expected. Study 3 showed that different actors tried to get attention for different sub issues and competing points of view. Contra ratification stakeholders pleaded for maintaining the status quo and actively counteracted opposite views, whereas pro ratification stakeholders supported the proposed change as if it was expected, without counteracting opposite views within the statements.
(2) Actions focus on increasing legitimacy for own stakes, promotion of own interests, negotiation of solutions and problem solving.	Partly confirmed	According to Study 3, most actors focused primarily on the legitimacy of their own stakes and promotion of own economic interests. Stakeholders contra ratification added problems rather than solutions to block the law drafting process. There was also, to a lesser extent, some problem solving visible among those pro ratification. In this case, attention focused on the proposed law draft rather than a wider problem solving.
(3) The interplay in issue arenas is co-created by various actors, including building of relations and alliances.	Confirmed	Not all actors acknowledge this. In Study 2, officials did not picture the process as a co-created discourse. They still see the state in the centre, having bilateral contacts with the various stakeholders. However, Study 3 revealed that the discourse that halted ratification was co-created jointly by the less central and the powerful contra ratification stakeholders. This showed that law drafting takes place in a dynamic socially constructed context.

(4) Identifying and monitoring key issue arenas and stakeholders is stressed.	Partly confirmed	Study 2 presented numerous issue arenas of law drafting to be identified and monitored by stakeholders. Officials were not acquainted with stakeholder mapping. Study 3 showed that contra ratification stakeholders identified and monitored issue arenas and stakeholder views, while pro ratification stakeholders seemed less aware of this.
(5) Issue arenas are interrelated.	Confirmed	Study 3 showed interrelations of the issue of ratification with, for example, economic issues. This added complexity to the discussion. As the acceptance of this international treaty had taken decennia, the interference with side-issues also changed over time, which influenced the content of the discussion.

This thesis investigated the complicated interplay in issue arenas of law drafting. Issues arenas are known as places of interaction and policymaking where multiple actors can participate, various overlapping and conflicting issues are discussed and hidden issues may exist. In issue arenas around Sami issues, many kinds of activities occur where some stakeholders attempt to change the current situation and others try to maintain the status quo or improve their position in a different way.

#### 10.1.4 Aspects that brought ratification to a halt

Several aspects of issue arena discussion explain why the ratification process showed little progress.

A. From the angle of lobbying:

1. Land use interests dominate in the discussion (rather than a sense of urgency and political will to further Sami interests), as land is increasingly a scarce resource evoking competition between, for example, businesses like forestry, the extractive industry and transport, the state, municipalities, local entrepreneurs and other local people that all want their share of land use and see the realisation of the rights of the Sami as a threat to their own rights.
2. Concerning lobbying, knowledge (the importance of timely acting) and capabilities (resources to monitor activities) differ greatly among the stakeholders, as not all actors are aware of the critical steps in the process and the importance of acting in a timely manner.
3. Rather than a simplification, increased complexity occurs as actors bring up different aspects and related side issues, while years have passed since ILO 169, making it difficult to understand where it all got started and why.



B. From the angle of framing:

1. In the participation process, economic frames highlighting business opportunities in the resource rich North tend to dominate indigenous rights expressed in emancipatory frames (strengthened by the economic situation in the previous years).
2. Equality values (important in the Finnish context) are turned around to argue that realising the rights of the Sami as an indigenous people violates the rights of the majority and discriminates against, for example, non-indigenous entrepreneurs.
3. Blocking power is used to prevent law drafting progress by presenting ratification as a risky choice first requiring new legal, economic and social impact assessments and complicating the issue by stressing lack of consensus on the definition of a Sami.

C. From the angle of issue arenas:

1. In the ILO 169 discussion, one-sided input via written statements tends to focus on stakeholders' own issues and interests rather than negotiation or problem solving involving all actors.
2. The model of the central state bilaterally mediating with stakeholder groups does not seem to work well enough in the current multi-stakeholder competition where some ally to dominate the arena, calling for monitoring of issue developments over time and balancing of interests.
3. Awareness of strategic communication in the process differs among the actors. It seems to be that some actors have knowledge and skills in strategic communication and thus actively form alliances, negotiate and anticipate opposition by counteracting arguments, whereas others are less active, expecting ratification to take place automatically.

Several interrelations of the above aspects can be noted that—in sum—explain the delay in ratification:

- The complexity of the discourse on many interrelated issue aspects (A3) together with the use of blocking power complicating the issue (B2) and requiring time-consuming assessments (B3) caused a communicative fog that brought the process to a halt.
- Land use debate is characterised by strong own interests (A1, C1) and this goes together with the current dominance of economic frames over emancipatory frames, as the economic frames presented by those opposing ratification resonate with those of the state (B1).
- Knowledge and capabilities in strategic communication differ among stakeholders (A2), and those against ratification are clearly aware of multi-stakeholder competition (C2) and thus more active in forming alliances and counteracting arguments of others (C3).

The ILO 169 discourse in which many actors hold a stake is co-created by various stakeholders who interact with each other to establish alliances, ensure the legitimacy of their stakes and place their interests on political agendas. Some actors foster relations to construct a shared voice and protect their interests from opposing interests. Issue prioritisation in the ILO 169 debate is done by means of strategic communication, by selecting and highlighting the essence of a story to convince policymakers to favour some issue aspects and related solutions. Thus, law drafting occurs in a competitive setting where creating blocking power is easier than maintaining support over time for international treaties in a changing social landscape.

## **10.2 Towards a model acknowledging the complexity involved**

The public debate around ILO 169 in Finland has been most confusing, bringing up many different aspects and concealing indigenous peoples' social, economic and human rights involved. This was explained by looking at, for example, framing that is known to form a debate at an unconscious level that stakeholders are often not aware of (Tankard, 2001, p. 97). The purpose of this thesis was to better understand the process.

In the case of law drafting on indigenous matters of land use, the elements of lobbying, framing and issue arenas, outlined in Figure 2 at the end of the theory chapters, appear to be even more complex. Therefore, an overview model is proposed to clarify the complexity of the participation process in law drafting on indigenous land use matters. This big triangle (see Figure 5) now shows three triangles inside that offer a more detailed overview. The main concepts in the three triangles resonate what was found in the literature, now made concrete by this research as presented in Figure 5.



FIGURE 5 Model of indigenous participation in law drafting on land use

Participation in law drafting brings strategic communication by multiple actors. *Lobbying* includes impact assessment and issue prioritisation by the stakeholders, requires transparency of the process and shows diverse actor activity levels and timing. This research especially underlines transparency, and that not all actors are equally aware of their possibilities or monitor the strategic behaviour of other actors. Some groups are hardly aware of the power game being played to promote economic interests in informal and formal issue arenas of law drafting, while others possess more resources and supporting networks. One group is more powerful than others having all kinds of resources, social, political and economic, and being supported by the state and political decision-makers in the Finnish parliament.

*Framing* was shown to include different issue types and hidden motives, a high complexity of sub issues and their interrelations, and a differing sense of

urgency and political will. The research revealed a high level of complexity concerning participation in law drafting and illustrated that statements are presented from very different angles. A sense of urgency is required in trying to grasp the complexity and see through hidden motives.

The interplay in *issue arenas* apparently included different network roles, possible use of blocking power and construction of common agendas. Especially blocking power came up as an important phenomenon. Moreover, actors can be more or less active in countering arguments of others and making alliances. In the issue arena of law drafting, it is not enough to just present one's views, as those that are self-orientated and do not actively counter arguments of others or join forces, forgo on power where economical stakes are high.

In sum, this research investigated communication in the issue arenas of law drafting concerning the government bill on the ILO Convention No. 169 and the reform of the Act on Metsähallitus and, in particular, its Sami paragraphs. Study 3 highlighted how framing and lobbying were used by some powerful actors to promote their economic interests in the issue arenas of these law drafting projects, by jointly creating strong frames and transferring salience from one stakeholder agenda to another and finally to the decision-making of the Finnish Parliament bringing the ratification process to a halt. Less central contra ratification stakeholders increased their influence by allying with some powerful contra ratification stakeholders, who in turn increased the legitimacy of their economic stakes in this alliance. A multiplicity of sub issues, side issues and overlapping issues, which did not in any way support issues important to the Sami, were pushed into the ILO 169 debate. Consequently, this created a communicative fog that rendered Sami people's social, economic and human rights issues invisible. The complex ILO 169 issue was confused by some powerful contra ratification stakeholders by stressing economic interests and presenting the definition of a Sami as an example of inequality and discrimination, which explains the non-decision-making concerning the adoption of the ILO 169.

According to the literature, land rights are the most important issue for indigenous peoples around the world, whereas it seems that the states concerned are likely to secure indigenous land rights only to the point that they will not harm the economic interests of third parties.

### 10.3 Conclusions

This thesis investigated the complicated interplay in multi-actor law drafting arenas. These were shown to be places of interaction for policymaking where multiple actors participate, various overlapping and conflicting issues are discussed and hidden issues exist. Around Sami issues many kinds of activities occur, as some stakeholders attempt to change the current situation while others try to maintain the status quo.

At the level of the United Nations, the rights and concerns of indigenous peoples have been recognised, but the process of incorporating indigenous human rights from international treaties in national legislation comes with many challenges. When commonly accepted international indigenous human rights standards should be transferred as a part of the existing national legislation through the legislative drafting process, such as in Finland, political change may not occur.

Thus, the discussion on the ratification of the ILO Convention No. 169 has lasted for almost 28 years in Finland. According to the conclusions of this research, there is a 28-year-old legitimacy gap between the Sami Parliament and the Finnish State, where the actions of the State of Finland and the expectations of the Sami Parliament do not meet when Finland – being the leading state of ILO 169 – does not ratify ILO 169 itself. Public servants in the ministries continue to prepare Sami issues, working groups and committees for Sami issues are established, and draft laws are submitted to the Parliament. Recently, a study conducted by the University of Lapland on the implementation of the Sami rights referred to a lack of political will that, time after time, brings the process of ratification to a halt in Finland. This thesis explored the reasons for this phenomenon from a communication point of view. The main insights of this thesis are presented below.

### **10.3.1 Main insights**

This thesis focused on communication in the Sami and other indigenous participation in matters of land use and investigated how strategic framing was used to create and transfer salience and, thus, affect the decision-making in issue arenas of law drafting. All three studies highlighted the complexity of stakeholder involvement in law drafting in relation to indigenous land use matters. The results increase the understanding of how lobbying, framing and issue arenas affected this process.

Figure 6 focuses on the process of incorporating indigenous human rights from international treaties in national legislation. A similar figure was presented in section 6.1, Figure 3, to explain the interrelatedness of the three studies. Here the results of the three studies have been added to further discuss their outcomes, the largest and the outer circle describing the international context of indigenous participation in matters of land use (as clarified in Study 1), the second largest circle presenting the national law drafting process in Finland (as looked into in Study 2), and the inner circle focussing on the case of the the government bill on the ratification of the ILO Convention No. 169 (investigated in Study 3).

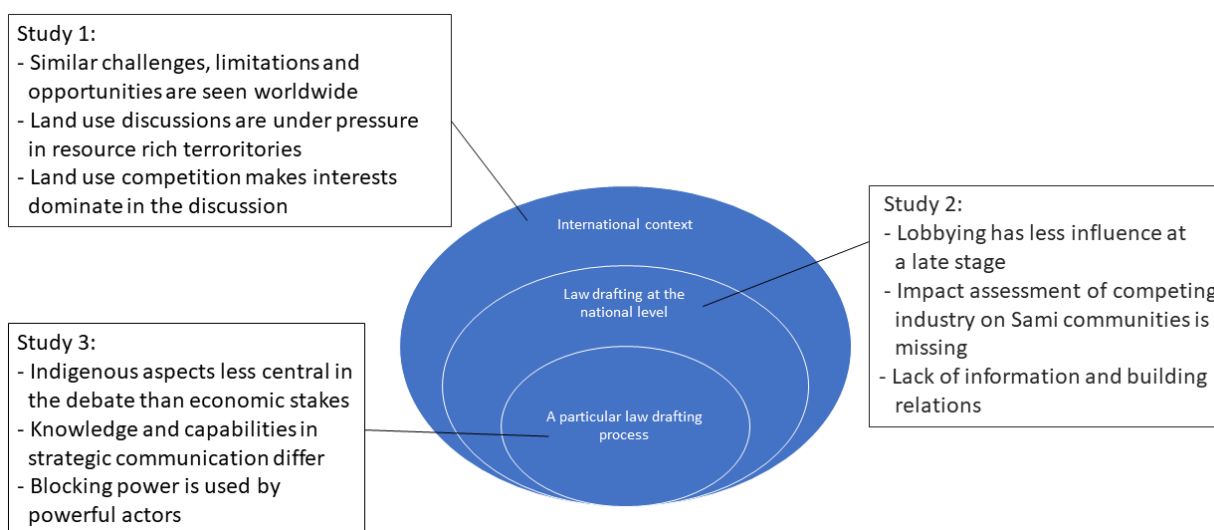


FIGURE 6 Levels to be taken into account in communication on law drafting

The biggest and *the outer circle* describes the international context around the Sami and other indigenous issues. Based on the Sami and other indigenous literature review concerning matters of land use, the results show that regardless of where in the world indigenous peoples live, the challenges, limitations and opportunities concerning indigenous participation in matters of land use are the same. The wider international context reveals that indigenous territories are in many ways resource rich. Therefore, many kinds of development projects have been planned and executed in indigenous lands where the interests of developers and the states concerned are similar in many respects. From the indigenous point of view, current national legislation often protects the rights of indigenous peoples in the countries where they live, however, the results of the study show that many shortcomings limit indigenous participation. These include a lack of information, selective stakeholder participation, missing early consultations, impact assessments not being carried out properly, the traditional knowledge of indigenous peoples not being considered legitimate in consultations, and the governments concerned not building confidential relationships with indigenous peoples, to name a few.

ILO 169 is supposed to guarantee the social and economic development of indigenous peoples so that indigenous cultures and communities can survive in the future. However, in reality, competing forms of land use and development projects planned in indigenous territories mean destruction of indigenous cultures and the loss of traditional land piece by piece. As the ILO veteran Swepston (2005) said, indigenous issues have become prominent in the UN, but in everyday life they are hard to realise, for example, because of the loss of land due to the desire of others to utilise resources in their traditional territories. Granovetter (1985, p. 481) noted that the nature of modern society includes the embeddedness of economic activity in social relations and, consequently, he asked how widely this applies to interpersonal relations, which still remains unanswered.

Study 1 enriched the analysis of Study 3, for example, by emphasising conflicts of interests concerning land use. Study 1 provided answers to why indigenous peoples often do not have real influence, even though they have legal rights, for example, related to the shortcomings in consultation and indigenous participation explained above. This helped understand the findings of Study 3, and why Finland, so far, did not ratify ILO 169 despite its international commitment and long-term attempts. This thesis concludes that the embeddedness of economic activities on social relations occurs widely and greatly affects indigenous communities across the world. This research sought to increase the transparency of the law drafting process and, in doing so, helping to balance the unbalanced power relations between the groups involved and, thus, empowering Sami actors in forthcoming legislative drafting projects affecting Sami communities.

*The second largest circle* presents the national law drafting process in Finland and especially drafting the provisions on participation of the Sami in the Act on Metsähallitus (Study 2). The study sought to identify the relevant issue arenas of the process, the steps and turning points of the process, in other words opportunities to influence the outcome of the process, as well as the key stakeholders in the process. The results of the study show that many decisions in law drafting are already made and can hardly be affected at the later stages of the process when, for example, working groups start their work, as was the case with the Sami provisions of the Act on Metsähallitus. This, in turn, calls for the stakeholders involved to be proactive and start lobbying considerably earlier during the process.

Compared to the international context concerning the Sami and other indigenous peoples' participation in matters of land use, many similarities can be found in relation to the law drafting process in Finland that should be considered in the national law drafting process, such as missing early consultations when decisions are made at an early stage, missing impact assessments on Sami communities and traditional industries, a lack of information and a lack of building relations. Moreover, the findings of Study 2 indicate that the ministries still consider the law drafting process as an information production process, where the state is placed at the center bilaterally communicating with other stakeholders, ignoring the complex interactions among multiple actors employing framing, networking and agenda setting. These results helped understand the findings of Study 3 and, in particular, why it was possible for some powerful actors to use the means of strategic communication in multi-actor issue arenas to block legislative drafting projects related to indigenous land use.

*The inner circle* sheds light on a certain law drafting process in Finland concerning the consultation on the adoption of ILO 169. Primarily, Study 3 sought to understand why the government bill on the ILO Convention No. 169 was rejected in Finnish Parliament and not yet adopted by Finland. The results reveal that the economic stakes are high in the ILO 169 debate and the indigenous issue aspects may be less central. Knowledge on communication differs among the stakeholders. The strategic actions taken by some powerful groups blocked the ratification

and brought it to a halt, while some other groups may not have understood what was going on.

Study 2 revealed the state view of intending to bilaterally manage the communication with stakeholders, which helped understand the failure of the ratification preparations because instead of bilaterality, nowadays salience, frames and related decisions are created in multi-actor networks. The powerful actors in the debate negotiated, built mutually beneficial relations, allied, and constructed common frames and agendas to transfer salience from stakeholder agendas to policy agendas and finally to decision-making to promote their interests and stop the ratification.

### 10.3.2 Evaluation of the research

This thesis contributed insights on communication preceding and during legislative drafting processes in Finland regarding indigenous land use, clarifying how lobbying and strategic framing are used to create and transfer salience and to affect the decision-making in issue arenas of law drafting. Following Denzin and Lincoln (2000, p. 13), this thesis “as qualitative research taking a constructivist approach emphasises trustworthiness”, the realisation of which is addressed in terms of “credibility, transferability and confirmability”.

The researcher carefully described the research process and explained the process of gaining and interpreting the data. The research addressed cases of law drafting on indigenous land use in Finland, adding the international perspective by a literature review. Shenton (2004, p. 73) considered the following to be the most important elements in constructing trustworthiness: “adoption of appropriate, well recognised research methods, triangulation via use of different methods, thick description of phenomena under scrutiny and examination of previous research to frame findings”. Triangulation and the use of well-known research methods were realised by combining widely used methods such as semi-structured interviewing and thematic analysis. “Thick description” of the social phenomena at hand was, for example, applied in Chapter 2 by describing the legal context of indigenous participation, including ILO Convention No. 169 and related national legislation in the Act on Metsähallitus, representation and participation of the Sami and the legal framework of the Sami representation in Finland. In Study 2, the law drafting process was described in detail. As a separate study, Study 1 collected previous insights in the literature on Sami and other indigenous participation in matters of land use and, in doing so, scrutinised previous studies while at the same time helping to understand and interpret the findings of the empirical Studies 2 and 3.

The term conformability, in turn, refers to the procedures applied to confirm that the findings of the research are derived from the data rather than the researchers’ opinions (Shenton 2004, p. 72). For example, the construction of the data extraction tables made the steps of data analysis transparent. Thus, aiming to show how the findings were derived from the data, in a data-driven rather than opinion-driven way. Onward, Shenton (2004, p. 69) explains that often “the



findings of a qualitative project are specific for a small number of particular environments and individuals". Therefore, in this research participation of the Sami and other indigenous peoples in matters of land use is investigated from different angles in national, Nordic and international levels to gain a wider scope of contexts, ensuring transferability and "that the findings and conclusions are applicable to other situations and populations" (Shenton 2004, p. 69).

A limitation of this study is that the analysis on the ILO 169 debate, albeit extensive, deals only with one consultation stage and its statements. There was also an earlier consultation in the law drafting process concerning the adoption of ILO Convention No. 169, and consultations continued in the Parliament in the stage of lawmaking. Similarly, the development projects have not come to an end, on the contrary, they are increasing. As a future study, it would be interesting to investigate stakeholder involvement in some development projects, for example, the proposed construction of a railroad that will split the Sami homeland and ends at the Arctic Ocean. As a matter of fact, the construction of the Arctic Ocean Railroad has recently been the focus of hot public debate in the Sami and social media, especially highlighting the missing impact assessment of the railroad construction on the indigenous Sami and reindeer herding culture in Finland. The construction of the Arctic Ocean Railroad, which would split the heart of the Sami homeland in Finland, is one of the current projects of the Finnish Government. Thus, further research is suggested for understanding impact assessment as a form of indigenous participation in the planning of development projects, particularly, taking into account an international perspective on the impact of railroads and other road connections on indigenous communities across the globe.

The research, at some level, is also a personal issue for me since I am an active citizen in the second generation. My father worked hard, together with other young Sami activists at the time, to establish the Sami Parliament, he was a member of the second Sami Committee and promoted comprehensive school education in the Sami language in the municipality of Utsjoki. I have worked in the Sami Parliament since 2001. My interests to dig deeper in the matter to understand why Sami Affairs did not proceed, resulted in writing this thesis. In my point of view, society needs critical thinking and public debate to develop. Likewise, public debate requires an understanding of multi-actor interactions and literacy among all stakeholders of how law drafting processes work.

The combination of the three separate studies provided insights into the participation of indigenous peoples in land use at the international, Nordic and national levels. They add an understanding of indigenous participation by moving from the international context to Nordic and national circumstances. The results of the three separate studies show that the challenges, limitations and opportunities faced by indigenous peoples across the world concerning participation in land use are very similar.

Investigating indigenous participation at the international level increases the understanding of what the shortcomings and weaknesses are to be addressed in the domestic indigenous Sami participation. Some legislative drafting matters

get stuck for years. This research addressed one example of that, and not surprisingly it concerns land use and indigenous rights, as land resources are scarce and form a battleground for various stakeholder groups. This complex arena needed a better understanding, to which this research has contributed.

As the topic is one example of law drafting showing long delays concerning a complex social issue, insights gained may also be helpful to understand delays in other processes of law drafting on complex topics. A multi-actor approach is needed to clarify the interplay between the actors and positions taken in the discussion.

## FINNISH SUMMARY

Tässä väitöskirjassa yhdistyvät yhteisöviestintä ja oikeustieteellinen lähestymistapa tutkittaessa sidosryhmien osallistumista lainvalmisteluun, jolla voi olla vaikutuksia saamelaisen poronhoidon asemaan Suomessa. Väitöskirja keskittyy lainvalmisteluun osallistumiseen ensisijaisesti Metsähallituslain (234/2016) valmistelussa koskien saamelaisten osallistumisoikeuksien laajentamista maankäyttöön liittyvässä päätöksenteossa sekä konsultaatioon koskien hallituksen esitystä (HE 264/2014) YK:n kansainvälisen työjärjestön (ILO) Itsenäisten maiden alkuperäis- ja heimokansoja koskevasta yleissopimuksesta eli ILO:n sopimuksesta nro 169. Lisäksi tämä väitöskirja keskittyy alkuperäiskansojen osallistumisen tutkimiseen maankäyttöön liittyvissä kehittämisprojekteissa kansallisella, pohjoismaisella ja kansainvälisellä tasolla. Tutkimuksen tavoitteena on saavuttaa laajempaa ymmärrystä lainvalmistelua edeltävästä ja sen aikana tapahtuvasta kommunikaatiosta lainsäädännön teema-areenoilla. Tämän tutkimuksen mukaan lainvalmistelun sidosryhmät edustavat erilaisia kehyksiä ja kilpailevia viestejä lainvalmistelun teema-areenoilla.

Julkinen keskustelu ILO 169 yleissopimuksen ympärillä Suomessa on ollut sekavaa. Keskusteluun on tuotu monia eri näkökulmia ja sopimuksen keskiössä olevat alkuperäiskansojen ihmisoikeudet, joiden tulisi ensisijaisesti olla keskustelun keskiössä, on näin sivuutettu. Jotta konflikteja, valtasuhteita ja sidosryhmien osallistumista lainvalmisteluun voidaan ymmärtää, on tärkeää tutkia lainvalmisteluun osallistuvien eri toimijoiden strategisia toimia kuten kehystämistä teema-areenoiden keskusteluissa. Täten tutkimus lisää viestinnän näkökulman lainvalmisteluprosessiin, jota toistaiseksi Suomessa on tutkittu vähän. Tämä tutkimus ei keskity ainoastaan julkisen keskustelun seuraamiseen, vaan se tarkastelee erityisesti sidosryhmien osallistumiseen liittyvää vuorovaikutusta ja sen monimutkaisuutta lainvalmisteluprosessin useissa eri vaiheissa.

Tämä tutkimus keskittyy lainvalmisteluun liittyvään viestintään tutkimalla lobbauksen, kehystämisen, agendojen asettamisen ja teema-areenoiden käsitteitä sekä mitä erilaisia viestintästrategioita näihin liittyen toteutetaan. Lobbaus sisältää vaikutusten arvioinnin ja eri sidosryhmien asiasisältöjen priorisoinnin. Lobbaus edellyttää prosessin läpinäkyvyyttä ilmentäen eri toimijoiden aktiivisuuden tasoa ja toimien ajoitusta. Kaikki toimijat eivät kuitenkaan näyttäisi olevan yhtä tietoisia heidän mahdollisuuksistaan tarkkailla muiden toimijoiden strategista käyttäytymistä ja strategisen viestinnän avulla vaikuttaa sekä julkiseen keskusteluun että poliittiseen päätöksentekoon. Kehystäminen puolestaan sisältää eri asiatyyppejä, piilotettuja motiiveja, eri asioihin liittyvien alateemojen monimutkaisuutta ja niiden välisiä yhteyksiä, joihin taas liitetään erilaisia kiireellisyyden ja poliittisen tahdon vaatimuksia.

Tuloksien mukaan ILO 169 sopimuksen teema-areenoilla lausumia esitettiin hyvin monista erilaisista näkökulmista. Teema-areenoilla esiintyvä vuorovaikutus eri toimijoiden välillä sisälsi erilaisia rooleja verkostoissa, mahdollisesti alkuperäiskansan kannalta myönteisen päätöksenteon estävää vallankäyttöä, ja yhteisten agendojen rakentamista. Toimijat olivat joko enemmän tai vähemmän

aktiivisia muiden toimijoiden argumenttien torjumisessa ja allianssien muodostamisessa.

Tulokset selittävät sidosryhmien osallistumisen monimutkaisuutta monen toimijan lainvalmistelun teema-areenoilla huomioiden, että taloudelliset panokset ovat korkeat ratifiointikeskustelussa. Koska maankäytön keskusteluun liittyy kilpailua, esiintyy viestinnässä valikointia, jonka seurauksena on ILO 169 yleissopimuksen ratifiointi eteni hitaasti. Kilpailutilanne aiheutti sen, että taloudelliset kysymykset ja saamelaismääritelmä dominoivat teema-areenoiden keskusteluja, kun taas saamelaisille alkuperäiskansana merkityksellinen ihmisoikeuskeskustelu oli johdatettu keskustelusta ulos.

Avainsanat: Lobbaus, strateginen viestintä, lainsäädäntöön vaikuttaminen, Saamelainen poronhoito, alkuperäiskansat, ILO:n yleissopimus nro. 169, lainvalmistelu, kehystäminen, agendan rakentaminen.

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- Yakovleva, N. (2011). Oil pipeline construction in Eastern Siberia: Implications for indigenous people. *Geoforum*, 42, 708–719.
- Zachrisson, A. & Lindahl Beland, K. (2013). Conflict resolution through collaboration: Preconditions and limitations in forest and nature conservation controversies. *Forest Policy and Economics*, 33, 39–46.
- Zhou, H., Chen, X., & Wu, X. (2012). The image of the United States in the Chinese media: An examination of the evaluative component of framing. *Public Relations Review*, 38, 676–683.
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## APPENDIX 1

### List of empirical articles included in Study 1

#### *The Sami studies from the literature review*

- Keskitalo, H. C. E., Baird, J., Ambjörnsson, E. L., & Plummer, R. (2014). Social network analysis of multi-level linkages: A Swedish case study on northern forest-based sectors. *Ambio*, 43, 745–758.
- Lawrence, R. (2014). Internal colonisation and Indigenous resource sovereignty: wind power developments on traditional Saami lands. *Environment and Planning D: Society and Space*, 32, 1036–1053.
- Nygaard, V. (2016). Do indigenous interests have a say in planning of new mining projects? Experiences from Finnmark, Norway. *The Extractive Industries and Society*, 3, 17–24.
- Nysten-Haarala, S., Klyuchnikova, E., & Helenius, H. (2015). Law and self-Regulation – Substitutes or complements in gaining social acceptance? *Resources Policy*, 45, 52–64.
- Raitio, K. (2012). New institutional approach to collaborative forest planning on public land: Methods for analysis and lessons for policy. *Land Use Policy*, 29, 309–316.
- Saarikoski, H., Mustajoki, J., & Marttunen, M. (2013). Participatory multi-criteria assessment as opening up vs. closing down of policy discourses: A case of old-growth forest conflict in Finnish Upper Lapland. *Land Use Policy*, 32, 329–336.
- Ulvevadet, B. & Hausner, V. H. (2011). Incentives and regulations to reconcile conservation and development: Thirty years of governance of the Sami pastoral ecosystem in Finnmark, Norway. *Journal of Environmental Management*, 92, 2794–2802.
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#### *The other indigenous studies from the literature review*

- Hirsch, C. (2017). Makers and shapers of environmental policy making: Power and participation in forest legislation in Bolivia. *Journal of Rural Studies*, 50, 148–158.
- Lemoine, N. & Patric, R. J. (2014). Water governance in Northern Saskatchewan: opportunities and challenges. *Canadian Journal of Urban Research*, 23(1), 46–60.
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- Tuisku, T. (2002). Nenets reindeer herding and industrial exploitation in Northwest Russia. *Human organization*, 61(2), 147–153.
- Udofia, A., Noble, B., & Poelzer, G. (2017). Meaningful and efficient? Enduring challenges to Aboriginal participation in environmental assessment. *Environmental Impact Assessment Review*, 65, 164–174.
- Yakovleva, N. (2011). Oil pipeline construction in Eastern Siberia: Implications for indigenous people. *Geoforum*, 42, 708–719.



## APPENDIX 2

### List of statements included in Study 3

(names of individual citizens are excluded for privacy reasons)

Anarašáh sr - Inarinsaamelaiset ry  
 Anarâšah rs - Inarinsaamelaiset ry  
 City Sámit ry  
 Enontekiön Yrittäjät ry  
 Enontekiön kunta  
 FinnMin Kaivannaisteollisuus ry  
 Inarin kunta  
 Inarinmaan Lapinkyläyhdistys ry  
 Kolttien kyläkokous  
 Lapin kauppakamari  
 Lapin liitto  
 Lapin Yrittäjät  
 Liikenne- ja viestintäministeriö  
 Maa- ja metsätalousministeriö  
 Metsähallitus  
 Opetus- ja kulttuuriministeriö  
 Puolustusministeriö  
 Saamelaiskäräjät  
 Saamen luonnonystävät ry  
 SámiSoster ry  
 Sodankylän kunta  
 Sosiaali- ja terveysministeriö  
 Suomen saamelaisnuoret  
 Suoma Sámi Daiddasearvi ry.  
 Turvallisuus- ja kemikaalivirasto (Tukes)  
 Työ- ja elinkeinoministeriö  
 Ulkoasiainministeriö  
 Utsjoen kunta  
 Valtiovarainministeriö  
 Vähemmistövaltuutettu  
 Ympäristöministeriö  
 1 individual citizen  
 1 individual citizen  
 2 individual citizens  
 3 individual citizens  
 4 individual citizens