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Sami Rights in Finland's Climate Act

Implementing a Human Rights-Based Approach

ABSTRACT This article concerns climate change and its alarming, accelerating consequences and impacts on human rights—in particular, the rights of persons and groups, such as Indigenous peoples, in unique, vulnerable situations. The rights of the Sami people are threatened by effects of climate change as well as resource and energy developments aimed at addressing climate change in the name of green transition—a situation similar to that of many Arctic Indigenous peoples. Indigenous peoples, including the Sami, have demanded justice and adoption of a human rights-based approach as acknowledged in the Paris Agreement, with respect to their rights, in climate change mitigation and adaptation measures. The scope of this article is to study, in the context of Finland's new Climate Act (2022), the national implementation of the international framework of a justice and human rights-based approach, in relation to the Sami people's rights recognized in Finland's Climate Act and climate policies.

KEYWORDS Sami, Indigenous peoples' rights, human rights-based approach, climate change, Finland's Climate Act

Introduction. Scope and Context

The scope of this article encompasses Sami rights in the recently adopted Climate Act of Finland (423/2022; hereafter referred to in this article as the Climate Act). The article first forms an overview of the International Framework on a human rights-based approach to climate change, reflected in the Paris Climate Agreement (2015) and endorsed by many UN reports and resolutions. Since Finland has chosen to embrace a justice and human rights-based approach in its Climate Act, the aim of this article is to review to what extent this approach succeeds in protecting Sami culture against climate change and safeguarding Finland's Constitutional status for the Sami as an Indigenous people.

The context of this article consists of alarming consequences of climate change and impacts on human rights therein, in particular on the human rights of those who are in vulnerable situations. In its sixth assessment report of 2023, the Intergovernmental Panel on Climate Change (IPCC) depicts drastic consequences of rising greenhouse gas (GHG) emissions around the world.¹ The current President of the Saami Council, Áslat Holmberg, has rightfully stated that “climate change is the greatest threat of our time to the well-being of humans and nature.”²

Although climate change affects all regions and populations and in different ways, certain vulnerable groups are disproportionately impacted—including women, children, the elderly, people with disabilities, and Indigenous peoples.³ The IPCC has addressed patterns of historical and ongoing colonialism in relation to climate change, which are factors that also exacerbate Indigenous peoples’ vulnerability to climate change. The Arctic is among the regions characterized by high levels of human vulnerability in the context of climate change, and, therefore, it is a region considerably sensitive to climate change and related hazards.⁴ Nature in the Arctic is not only very sensitive to climate change; the Arctic is also warming three to four times faster than the rest of the world.⁵ The IPCC shows in its research that Arctic Indigenous peoples and their cultures, as well as the ecosystems on which they depend, are exposed to significant future risks due to climate change.⁶

In Sápmi (Sami homeland), rapidly-evolving climate change is already having increasingly negative effects on Sami culture, health, and livelihoods such as reindeer herding, fishing, hunting, and gathering practices.⁷ Climate change is exacerbating an already challenging situation of the Sámi, adding to the cumulative negative impacts of historical assimilation policies and industrial developments in Sápmi.⁸

The rights of Sami people, as is the case for many other Arctic Indigenous peoples, are threatened by the effects of climate change as well as by resource and energy developments aimed at addressing climate change; this double burden places the Sami people in a unique and specific vulnerable situation.⁹ Sami have, in many places, expressed serious concern about developments taking place in Sápmi that are

¹ IPCC, *AR6 Synthesis Report*, 2023.

² Saami Council, “Climate change in the Sápmi,” 2023, p. 10.

³ IPCC, “Summary for policymakers” [H.O. Pörtner et al. (eds.)], 2022b, p. 9; see, Norwegian National Human Rights Institution, *Canary in the Coal Mine*, 2024, p. 11; Islam & Winkel, *Climate Change and Social Inequality*, 2021; Tyler et al., “The shrinking resource base of pastoralism,” 2021.

⁴ Saami Council, “Climate change in the Sápmi,” 2023, p. 31. See, IPCC, “Summary for policymakers” [H.O. Pörtner et al. (eds.)], 2022b, p. 12.

⁵ AMAP, *Arctic Climate Change Update*, 2021, p. 2.; Rantanen et al., “The Arctic has warmed nearly four times faster than the globe since 1979,” 2022, p. 168.

⁶ IPCC, *Climate Change 2022. Impacts, Adaptation and Vulnerability* [H.-O. Pörtner et al. (eds.)], 2022a, pp. 2344–2349.

⁷ Lee et al., “Regional effects of climate change on reindeer,” 2000, pp. 99–105; Rasmus et al., “Suomen poronhoitoalueen muuttuvat talviset sääolosuhteet” 2014, pp. 169–185; Markkula et al., “A review of climate change impacts on the ecosystem services in the Saami Homeland in Finland,” 2019, pp. 1070–1085. Hindar et al. “Assessment of the risk to Norwegian biodiversity and aquaculture from pink salmon (*Oncorhynchus gorbuscha*),” 2020, p. 39.

⁸ Norwegian National Human Rights Institution, *Canary in the Coal Mine*, 2024, p. 13; Jaakkola et al. “The holistic effects of climate change on the culture, well-being, and health of the Saami, the only indigenous people in the European Union,” 2018, pp. 401–417; Norwegian National Human Rights Institution, *Human Rights Protection against Interference in Traditional Sami Areas*, 2022, p. 3.

⁹ Norwegian National Human Rights Institution, *Human Rights Protection against Interference in Traditional Sami Areas*, 2022, p. 8.

aimed to secure what is referred to as a “green” or “just” transition—developments that include measures such as increased mining for raw materials, increase in energy production through wind power plants and hydropower, and increases in bioenergy from forestry; all of these developments can have negative impacts on Sami culture and livelihoods.¹⁰

Sami have also used the term “green colonialism” to criticize hegemonic climate change policies, as the current climate and ecological crisis is a result of colonisation and capitalist expansion on Indigenous peoples’ traditional lands.¹¹ In the Declaration from the Sixth Conference of Sami Parliamentarians, May 2022, Sami Parliamentarians emphasized that, in terms of designing climate action globally and in the Arctic, the green transition must neither violate the Sami right to self-determination nor prevent Indigenous peoples from exercising their traditional economies and land uses.¹²

A Human Rights-Based Approach to Climate Change and Indigenous Peoples

Climate justice has become a central theme in present-day climate change policy discourses.¹³ The starting point for climate justice is the recognition that climate change impacts different geographical areas and actors differently—within states, climate change affects different areas, segments of populations, societal groups, and also livelihoods, and all in a variety of ways. Climate change impacts youth and future generations more than those who are currently in decision-making power positions. Indigenous youth, along with other young people in different parts of the world, have, in recent years, become active climate change-based actors. In 2021, Sami youth issued a declaration on climate change and its impacts, demanding immediate climate action and equitable involvement of Sami, including Sami youth, in the work.¹⁴

Directly related to and interlinked with environmental justice and climate vulnerability is a human rights-based approach to environmental issues. This approach has its origins as far back as the Stockholm Declaration on the Human Environment of 1972, which proclaims that the “environment is essential to the enjoyment of human rights—even the right to life itself.”¹⁵ This approach has since become recognized as “a human rights-based approach” to environmental issues,¹⁶ which has, over the years, been strengthened in climate change discourse. Several UN Special Rapporteurs have paid a great amount of attention, via reports, to advancing a human rights-based approach to climate change, including climate justice considerations, in particular, in

¹⁰ Saami Council, “Climate change in the Sápmi,” 2023, p. 63.

¹¹ Fjellheim, “Green colonialism, wind energy and climate justice in Sápmi,” 2022.

¹² Conference of Sami Parliamentarians, “Declaration from the Sixth Conference of Sámi Parliamentarians in Aanaar,” 2022.

¹³ Kivimaa et al., “Evaluation of justice in climate policy,” 2023; see also Juhola et al., “Connecting climate justice and adaptation planning,” 2022, pp. 609–619; Sultana, “Critical climate justice,” 2022, pp. 118–124; Schlosberg & Collins, “From environmental to climate justice,” 2014, pp. 359–374; Acha “Climate justice must be anti-patriarchal, or it will not be systemic,” 2019, pp. 246–252; Brand & Bullard, “Contours of climate justice,” 2009, pp. 46–53.

¹⁴ Nordic Sámi Youth Conference, “Sámi Youths’ Declaration on Climate Change,” 2021.

¹⁵ Stockholm Declaration on the Human Environment, 1972, princ. 1.

¹⁶ See, e.g. Shelton, “Human rights, environmental rights and the rights to environment,” 2012; Francioni, “International human rights in an environmental horizon,” 2010, pp. 41–55.

the last couple of decades. One of the major achievements of such work took place in 2022 when, on the heels of the UN Human Rights Council's resolution recognizing the human right to environment,¹⁷ the UN General Assembly unanimously passed a resolution (A/76/L.75) that affirmed a clean, healthy, and sustainable environment as a human right for all people.¹⁸

Former UN Special rapporteur on human rights and environment John Knox has been one of the pioneers and strong advocates for a human rights-based approach when studying both substantial and procedural aspects in relation to human rights and climate change.¹⁹ He puts forward that application of human rights in coping with climate change could become a central and very suitable approach, since human rights form an ethically accepted global regime offering a coherent, enforceable and applicable normative framework. He also explains that a human rights-based approach helps to perceive how climate change impacts individuals instead of only humanity at large.²⁰

Human rights-based approaches have also been advanced by several academics,²¹ as well as, for example, former UN Special Rapporteur on human rights and environment David Boyd. Boyd emphasized principles of universality and non-discrimination built into a human rights-based approach, denoting that human rights must be granted to all people, including those who are in vulnerable situations.²² Former UN Special Rapporteur on human rights and climate change Ian Fry, in his work, identified climate change as impacting several human rights, including rights to life, health, food, water, sanitation, development, work, decent living conditions, and freedom from violence, sexual abuse, human trafficking, and slavery.²³ Fry has also paid particular attention to climate justice and human rights issues of certain climate change mitigation and adaptation measures, referring to the acute concern of Sami people about wind power as an option for green energy and the violations therein, due to wind power, of Sami rights and cultural practices.²⁴

Although a human rights-based approach was not originally a part of the global climate change regime (UNFCCC), the Paris Agreement (2015) acknowledges the human rights-based approach and climate justice. In the preambular text of the Paris Agreement, it is stated:

Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, chil-

¹⁷ UN Human Rights Council, Resolution, 18. October 2022, A/HRC/RES/48/13.

¹⁸ UN General Assembly, Resolution, 26. July 2022, A/76/L.75.

¹⁹ Knox, "Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment," 2018.

²⁰ Knox, "Climate ethics and human rights," 2014, pp. 22–23.

²¹ See, Shelton, "Litigating a rights-based approach to climate change," 2009, p. 211; Rajamani, "The increasing currency and relevance of rights-based perspectives in the international negotiations on climate change," 2010, pp. 391–429.

²² Boyd, *A Safe Climate*, 2019, p. 18.

²³ UN Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, 2022.

²⁴ UN Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, 2022, pp. 6–8.

dren, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.

Furthermore, in the preamble it is noted:

the importance of ensuring the integrity of all ecosystems, including oceans, and the protection of biodiversity, recognized by some cultures as Mother Earth, and noting the importance for some of the concept of “climate justice,” when taking action to address climate change.

Vulnerability and the climate justice approach are also recognized in the context of adaptation in Article 7 of the Paris Agreement, which gives a particular attention to Indigenous peoples’ knowledge. Article 7.5 reads:

Parties acknowledge that adaptation action should follow a country-driven, gender-responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional knowledge, knowledge of indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions, where appropriate.

In addition to women, gender and sexual minorities,²⁵ children and youth,²⁶ elderly people,²⁷ disabled persons,²⁸ and immigrants,²⁹ UN human rights bodies have highlighted Indigenous peoples as a major vulnerable group whose human rights, including the participatory rights, should be paid particular attention to in climate change policies and actions—not only because Indigenous peoples’ cultures and rights are at

²⁵ UN Committee on the Elimination of Discrimination against Women. General recommendation No. 37 on the gender-related dimensions of disaster risk reduction in the context of climate change, 13 March 2018, CE-DAW/C/GC/37; UN Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Women, girls and the right to a clean, healthy and sustainable environment, 5 January 2023, A/HRC/52/33.

²⁶ Office of the United Nations High Commissioner for Human Rights, “Analytical study on the relationship between climate change and the full and effective enjoyment of the rights of the child,” 4 May, 2017, A/HRC/35/13; UN Committee on the Rights of the Child (2023). “General comment No. 26 (2023) on children’s rights and the environment, with a special focus on climate change,” 22 August 2023, CRC/C/GC/26.

²⁷ Office of the United Nations High Commissioner for Human Rights, “Analytical study on the promotion and protection of the rights of older persons in the context of climate change,” 30 April 2021, A/HRC/47/46; Mahler, “Report of the Independent Expert on the enjoyment of all human rights by older persons,” 25 July 2023, A/78/226.

²⁸ Office of the United Nations High Commissioner for Human Rights, “Analytical study on the promotion and protection of the rights of persons with disabilities in the context of climate change,” 22 April 2020, A/HRC/44/30.

²⁹ UN High Commissioner for Human Rights, “Addressing human rights protection gaps in the context of migration and displacement of persons across international borders resulting from the adverse effects of climate change and supporting the adaptation and mitigation plans of developing countries to bridge the protection gaps,” 23 April 2018, A/HRC/38/21; Reports of the UN Special Rapporteur on the human rights of internally displaced persons: 21 July 2020, A/75/207; 9 August 2011, A/66/285, 3 August 2009, A/64/214.

stake, but because of Indigenous peoples' unique and valuable knowledge related to climate change.³⁰

As proposed by the IPCC, supporting Indigenous peoples' self-determination, recognizing the rights of Indigenous peoples, and utilizing Indigenous peoples' knowledge are crucial components of combatting climate change; such measures will not only accelerate effective and robust climate-resilient development pathways, they will also address historical inequities and unjust processes—actions that, in turn, can increase resilience and contribute to multiple benefits for health, well-being, and ecosystems.³¹ This IPCC analysis is important, because climate change and related impacts, in combination with legal and institutional barriers that affect coping mechanisms and the adaptive capacity of Indigenous peoples, make climate change an issue of human rights, inequality, and justice. Thus: including Indigenous peoples and Indigenous peoples' knowledge in climate change related measures are a fundamental part of climate justice.³²

Arctic Indigenous peoples have already been on the frontlines of the climate battle for more than two decades. It was the famous petition of the Inuit Circumpolar Council³³ (ICC) to the Inter-American Commission on Human Rights (IACHR), against the United States, in 2005,³⁴ that started a global discussion on the need to adopt a human rights-based approach to climate change mitigation and adaptation policies. The petition relied heavily on the climate change research of the Arctic Climate Impact Assessment (ACIA) which, already in 2004, pointed to dramatic changes in Arctic environments and communities, especially for Indigenous peoples.³⁵ Despite the petition having carefully described impacts of climate change on Inuit culture and lives, as well as its claims that the inactions of the United States, the largest emitter of GHGs at the time, was in violation of affected Inuit rights to life, health, culture, and property, after consideration and oral testimonies the Inter-American Commission did not proceed forward with the matter.

As pioneers in this regard, Inuit had brought forward their petition at a time when legal connections between human rights, State/national Constitutions, sectoral legislation, and climate change had not yet been formerly outlined as such in such a venue. Since then and in more recent years, climate change-based litigation has exploded worldwide; at the beginning of 2023, the Sabin Center's Climate Change Litigation databases reported a documented count of 2,180 such cases filed in 65 jurisdictions and international or regional courts, tribunals, quasi-judicial bodies, or other adjudicatory bodies, including special procedures of the United Nations and arbitration tribunals.³⁶

³⁰ UN Special Rapporteur on the rights of indigenous peoples, "A thematic study on the impacts of climate change and climate finance on indigenous peoples' rights," 1. November 2017, A/HRC/36/46 UN Permanent Forum on Indigenous Issues, Impact of climate change mitigation measures on indigenous Peoples and on their territories and lands, 19 March, 2008, E/C.19/2008/10.

³¹ IPCC, "Technical summary" [Pörtner H.-O. et al.], 2022d, pp. 85–86, 108–109.

³² IPCC, "Technical summary" [Pörtner H.-O. et al.], 2022d, pp. 108–109; see, Saami Council, "Climate change in the Sápmi," 2023, p. 32.

³³ Inuit Circumpolar Conference at the time being.

³⁴ ICC, "Petition to the Inter-American Commission on Human Rights," 2005.

³⁵ ACIA, *Impacts of a Warming Arctic*, 2004.

³⁶ Sabin Center for Climate Change Law; UN Environment Programme, "Global Climate Litigation Report, 2023, p. 4.

Indigenous peoples' success in international climate change litigation occurred in 2022, when the UN Human Rights Committee found, in the case of *Daniel Billie et al. v. Australia*,³⁷ that the Government of Australia was in violation of the rights of members of Indigenous communities of Torres Strait Islanders. The UN Human Rights Committee found that Australia's failure to adequately protect Indigenous Torres Islanders against adverse impacts of climate change violated the Indigenous Torres Islanders' rights to enjoy their culture (ICCPR art. 27) and to be free from arbitrary interferences with their private life, family, and home (art. 17). Significantly, in this decision the UN Human Rights Committee highlighted the claimants' spiritual connection with their traditional lands, as well as the dependence of the claimants' cultural integrity on the health of their surrounding ecosystems.³⁸

In *Daniel Billie et al. v. Australia*, the UN Human Rights Committee set a significant precedent for Indigenous peoples' land rights in relation to environmental interference, including that of climate change, by recalling that ICCPR article 27, when interpreted in the light of the United Nations Declaration on the Rights of Indigenous Peoples³⁹ (UNDRIP), enshrines the inalienable right of Indigenous peoples to enjoy the territories and natural resources that they have traditionally used for their subsistence and cultural identity.⁴⁰ The decision also shows that the UNDRIP is no longer regarded as merely a non-binding, aspirational, quasi-judicial declaration, but rather that the UNDRIP is, and can be, used as a legal source internationally and nationally, including in the interpretation of legally-binding conventions. The Norwegian Supreme Court, in the *Nesseby* judgement, has also asserted that the UNDRIP is a primary Indigenous Rights instrument, as well as that the UNDRIP reflects international law including ILO Convention 169.⁴¹

What is particularly significant in the *Billie et al. v. Australia* case, however, is the recognition by the UN Human Rights Committee that the rights falling under ICCPR article 27 include the right of Indigenous peoples to transmit their culture and traditions to future generations—in this particular case, Australia had violated this right by failing to adopt timely adequate climate change adaptation measures.⁴² This case also sets important standards and guidance in Sápmi for the safeguarding of the rights of the Sami people, keeping in mind Sami children and youth as well as future Sami generations.

The right of the Sami to transmit their culture to future generations thus includes that their rights are respected regarding green transition projects. In Norway, the NHRI is currently recommending that Norwegian State authorities should adopt measures to ensure that Sami rights are respected in the renewable energy transition, including under ICCPR article 27, and in light of cumulative impacts of past, pres-

³⁷ UN Human Rights Committee, *Daniel Billie et al. v. Australia*, 22 Sept. 2022, CCPR/C/135/D/3624/2019.

³⁸ Ibid., see, also, <https://climatecasechart.com/non-us-case/petition-of-torres-strait-islanders-to-the-united-nations-human-rights-committee-alleging-violations-stemming-from-australias-inaction-on-climate-change/> (accessed on 16 April 2024).

³⁹ UN Declaration on the Rights of Indigenous Peoples, Resolution adopted by the General Assembly on 13 September 2007, 61/295.

⁴⁰ UN Human Rights Committee, *Daniel Billie et al. v. Australia*, para 8.13.

⁴¹ Supreme Court of Norway, HR-2018-456-P (*Nesseby*), 2018, para. 97.

⁴² UN Human Rights Committee, *Daniel Billie et al. v. Australia*, Para 8.14.

ent, and potential future interferences.⁴³ The NHRI report emphasizes that a human rights-based approach, with broad and inclusive public participation in decision-making by affected communities, can contribute to legitimacy and democratic support for a rapid and comprehensive green transition.⁴⁴

Climate Change and Sami Rights-Based Approach in the Climate Policy of Finland

Finland (as well as Norway and Sweden) has granted a Constitutional status for the Sami people to maintain and develop their culture and related traditional ways of life.⁴⁵ Indigenous peoples' human rights, which are interlinked into Finland's Constitutional rights of Sami, are protected by several international human rights conventions⁴⁶ and enshrined in the UNDRIP. Climate change might violate several human rights of the Sami. The most obvious violation, as such, is that of Sami rights to culture and traditional livelihoods, including to transmission of their (Sami) cultural heritage and traditional knowledge, as well as the Sami right to self-determination; these rights are interlinked, and they should be implemented and read together, as noted by the UN Human Rights Committee.⁴⁷ Also recognized by the UN Human Rights Committee are the rights to privacy, home, and family life, both as applicable and, as such, potentially violated in the context of climate change and Indigenous peoples' rights.⁴⁸

Additionally, the Sami people's right to health is impacted by climate change, as illustrated by a recent report by the NHRI.⁴⁹ As a component of their right to health, the Sami people also have rights to a traditional Sami diet and related Sami food sovereignty.⁵⁰ In a report commissioned by the Government of Finland on Sami adaptation to climate change, studies referred to show that a decrease of the Sami traditional diet might cause health problems for Sami people.⁵¹ Climate change might affect the health and well-being of Sami in multiple ways—examples of this mentioned in previous studies include accidents related to changed circumstances, health risks related to heatwaves, increase of allergies, and negative impacts on mental health⁵² (including worry and stress about the future of traditional livelihoods).⁵³ In the worst cases, circumstance-related accidents, such as snowmobile accidents due to unpredictable

⁴³ Norwegian National Human Rights Institution, *Canary in the Coal Mine*, 2024, p. 9.

⁴⁴ Norwegian National Human Rights Institution, *Canary in the Coal Mine*, 2024, p. 8.

⁴⁵ Section 17.3. in Finnish Constitution; Chapter 1 Section 2 in Swedish Constitution (1974:152); Section 108 of the Norwegian Constitution (LOV-1814-05-17).

⁴⁶ CERD; CESCR; CRC; ICCPR.

⁴⁷ UN Human Rights Committee, *Tiina Sanila-Aikio v. Finland*, CCPR/C/124/D/2668/2015; UN Human Rights Committee, *Klemetti Näkkäljärvi et al. v. Finland*, CCPR/C/124/D/2950/2017.

⁴⁸ UN Human Rights Committee, *Daniel Billie et al. v. Australia*, 22 September 2022, CCPR/C/135/D/3624/2019.

⁴⁹ Norwegian National Human Rights Institution, *Canary in the Coal Mine*, 2024, p. 27–30.

⁵⁰ See, Huambachano, "Indigenous food sovereignty," 2019, pp. 1–6; Whyte, "Food sovereignty, justice and Indigenous Peoples," 2017, pp. 1–21.

⁵¹ Jaakkola et al. "The holistic effects of climate change on the culture, well-being, and health of the Saami, the only indigenous people in the European Union," 2018, pp. 401–417.

⁵² Jaakkola et al. "The holistic effects of climate change on the culture, well-being, and health of the Saami, the only indigenous people in the European Union," 2018, pp. 401–417.

⁵³ Näkkäljärvi et al., "Final scientific report of the project SAAMI. Adaptation of Saami people to the climate change," 2020, p. 271.

snow conditions, have even led to death.⁵⁴ Thus, climate change impacts can even violate the right of life. The UN Human Rights Committee has confirmed, in its General Comment on the Right to Life (art. 2), that the duty to protect life also implies that State parties should take appropriate measures to address the general conditions in society that can either give rise to direct threats to life or prevent individuals from enjoying their rights to life with dignity. Such general conditions can include, for example, degradation of the environment and deprivation of Indigenous peoples' lands, territories, and resources.⁵⁵

The Government of Finland chose to implement a justice and human rights-based approach in the preparation process of the Climate Act,⁵⁶ including with an emphasis on the rights of the Sami people. A climate justice and human rights-based approach, as adopted in the Paris Agreement, are reflected in both the renewal process and the content of Finland's Climate Act. In 2019, the Government of Finland commissioned a Sami project related to climate change (SAAMI—Adaptation of Saami people to the climate change).⁵⁷ The main objectives of the project were to investigate the effects of climate change on Sami culture, identify ways for reindeer-herding Sami to adapt to climate change, and determine related required actions. The research classified direct and indirect climate change observations made by Sami persons themselves. The project also looked at possibilities for the Sami to influence climate policy, which were very limited at the time.⁵⁸ The SAAMI project was very influential; Sami status in the new Climate Act is, to a large degree, based on the recommendations of the SAAMI project's final report.

As a part of the preparations of the Climate Act, the Finnish Ministry of Environment commissioned a study on the relationship of the Climate Act and fundamental and human rights.⁵⁹ The Sami people's rights and their unique situation in relation to climate change were also briefly addressed in this study, which further encouraged incorporating Sami rights into the text of the Climate Act.

The Finnish Climate Act also adopts an intertwined justice and human rights-based approach; according to the Government Bill, the subjective aspect of the justice approach is based on human rights obligations, such as those in human rights treaties and case law, as well as the Constitution.⁶⁰

The Climate Act, additionally, includes a Climate Change Panel⁶¹ with the task of producing, compiling, and analysing scientific information, as well as identifying information needs concerning climate change mitigation and adaptation for climate policy planning, implementation, monitoring, and decision-making (Section 20).

⁵⁴ Näkkäläjärvi et al., "Final scientific report of the project SAAMI. Adaptation of Saami people to the climate change," 2020, p. 237.

⁵⁵ UN Human Rights Committee, General Comment No. 36, 3 September 2019, CCPR/C/GC/36, para 26.

⁵⁶ It should be noted that in Finland, the original Climate Act is from 2015; renewal process took place in 2019–2022, with the new Act in 2022 + the amendment in 2023.

⁵⁷ Näkkäläjärvi et al., "Final scientific report of the project SAAMI. Adaptation of Saami people to the climate change," 2020.

⁵⁸ Näkkäläjärvi et al., "Final scientific report of the project SAAMI. Adaptation of Saami people to the climate change," 2020, p. 10. Description sheet in English.

⁵⁹ Ekroos et al., *Ilmastolain kytkennöistä muuhun lainsäädäntöön sekä perus- ja ihmisoikeuskysymyksiin*, 2020.

⁶⁰ HE 27/2022 vp (Finnish government bill), p. 55.

⁶¹ The Panel was originally established in 2011, by the Ministry of the Environment. The role and tasks of the Panel were first defined in the 2015 Climate Act.

From its inception, the Climate Change Panel has been very active in advancing a climate justice and human rights-based approach into climate policy. The panel has produced a separate memorandum on the rights and climate justice of the Sami people, including addressing concerns related to green transition and calling for the full respect of the rights of Sami, not least their right to participate in the mitigation and adaptation policies.⁶²

Rights of the Sami People in Finland's Climate Act

The objectives of Finland's Climate Act and the climate policy planning system that is based on it also include to contribute to ensuring that the obligations concerning the reduction and monitoring of greenhouse gases, strengthening of sinks, and adaptation arising from the treaties binding on Finland and from European Union legislation are met (Section 2). Therefore, the Climate Act has a justice and rights-based approach that is directly derived from the Paris Agreement. In the Government Bill related to the Climate Act, human rights treaties are also referred to as relevant instruments for the implementation of the Act.⁶³ In addition, other objectives of the Climate Act and the climate policy planning system based on it are to: 1) contribute to ensuring sustainable development and justice in climate measures, and 2) contribute to ensuring the prerequisites for the Sami people to maintain and develop their own language and culture (Section 2).

In Finland's Constitution, the Sami, as an Indigenous people, have the right to maintain and develop their own language and culture (Section 17.3). Additionally, in the Sami homeland, the Sami have linguistic and cultural self-government, provided for in Finland's Sami Parliament Act⁶⁴ (Section 121.4 of the Constitution of Finland). Thus, the Constitutional status of the Sami in Finland has been reaffirmed in one of the objectives of the Climate Act. Moreover, as discussed earlier, climate justice—also recognized as an objective of the Climate Act—directly relates to the rights of Sami in relation to climate change mitigation and adaptation, as also highlighted by the work of Finland's Climate Change Panel that produces information for the purpose of the Climate Act.

Section 14 of the Finnish Climate Act has been titled "Promotion of Sami culture;" it states that, when climate policy plans are prepared, consideration shall be given to the right of the Sami people to maintain and develop their own language and culture in the Sami homeland. To safeguard this right, the authorities are to negotiate with the Sami Parliament of Finland when preparing the plans. These negotiations are to take place in accordance with the procedure laid down in section 9 of the Act on the Sámi Parliament. The provisions of Finland's Skolt Act (253/1995) on promoting the living conditions of the Skolt Sami people and opportunities to practice their livelihoods in the Skolt area, and on maintaining and promoting the Skolt culture, are also to be taken into account in the preparation of the plans (Section 14).

The Act on the Sámi Parliament is currently under a process to be renewed; the

⁶² Näkkäläjärvi, Juntunen, & Jaakkola, *Ilmastopolitiikan oikeudenmukaisuus alkuperäiskansa saamelaiden kannalta*, 2023.

⁶³ HE 27/2022 vp (Finnish government bill), p. 17.

⁶⁴ Act on the Sámi Parliament (974/1995).

corresponding new Government Bill (100/2023) proposes substantial strengthening of the negotiation duty of the authorities under section 9, embracing the principle of “free, prior and informed consent” (FPIC).⁶⁵ In the current Act on the Sámi Parliament, section 9, it is stated that the authorities shall negotiate with the Sami Parliament of Finland in all far-reaching and important measures that may directly or in any way affect the status of the Sami as an Indigenous people, listing therein different areas such as community planning, the management, use, leasing, and assignment of State lands and conservation and wilderness areas, and others. The list is not exhaustive; at the end of the list, an objective of negotiation includes “any other matters affecting the Sami language and culture or the status of the Sami as an Indigenous people” (Section 9.1, item 6).

According to section 9 of the current Act on the Sámi Parliament, to fulfil obligations of negotiation the relevant authority must provide the Sami Parliament of Finland with the opportunity to be heard and discuss matters, and, at the same time, failure to use this opportunity by the Sami Parliament in no way prevents said authority from proceeding in the matter (Section 9.2). The current section 9 does not contain any qualitative requirements for the negotiations; however, Finland's Ministry of Justice and the Sami Parliament of Finland have together created a memorandum encouraging state authorities of Finland to improve and strengthen the quality of the negotiations with an aim to reach common understanding or agreement between negotiators.⁶⁶

Section 21 of Finland's Climate Act establishes a Sami Climate Council in Finland to support the preparation of climate policy plans; the Government of Finland is to appoint the Sami Climate Council (hereafter referred to in this article as the Sami Climate Council) for a fixed term. Appointed members of the Sami Climate Council are to include both persons in possession of traditional Sami knowledge and persons representing key fields of science. The task of the Sami Climate Council is to submit opinions on climate policy plans with regard to promotion of Sami culture. The Sami Climate Council might also carry out other tasks concerning the production of information related to climate change and Sami culture and rights. A reasonable remuneration can be paid to the members of the Sami Climate Council for carrying out their duties (Section 21).

According to the same section 21, further provisions on the tasks and composition of the Sami Climate Council and other procedures concerning the activities of the Sami Climate Council, including on the selection, terms of office, and remuneration of its members, can be laid down by Finland Government decree (Section 21).

The Finland government decree also specifies the tasks of the Sami Climate Council, which are to: 1) produce statements related to climate mitigation and adaptation plans, 2) produce a knowledge base related to climate policy impact assessment and monitoring (from the viewpoint of Sami culture), 3) produce statements related to local and regional climate change plans and measures, and 4) document and report

⁶⁵ HE 100/2023 vp (Finnish government bill); see also, Heinämäki, “Legal appraisal of Arctic Indigenous peoples’ right to free, prior and informed consent,” 2020, pp. 225–351.

⁶⁶ Oikeusministeriö [Ministry of Justice], “Memo on the negotiation duty of section 9 of the Act on the Sámi Parliament,” 23.11.2017, OM 2/551/2017.

on other knowledge bases that support Sami culture in climate change mitigation and adaptation.⁶⁷

An example of “other knowledge bases” referred to in listed item number 4 above could be, for example, to produce a cumulative impact assessment of planned climate change mitigation and adaptation measures. In addition, the Sami Climate Council could, for example, conduct assessments of impacts of climate change where coupled with other developments that affect Sami culture. The fundamental rights of the Sami in Finland’s Constitution, coupled with human rights (particularly article 27 of the ICCPR and related case law), require that—when activities are planned that would either be placed on or have effects on the Sami homeland—the impacts of such activities are to be assessed in the context of considering cumulative impacts of other past, present, and planned activities.⁶⁸ The prohibition to cause significant harm to Sami culture, derived from legal application of article 27 of the ICCPR,⁶⁹ has been included in Mining, Environmental Protection, Water, and Nature Conservation Acts of Finland, as well as in Finland’s Act on the implementation of the Nagoya Protocol on Biological Diversity.

Finland’s recognition of the use of Sami traditional knowledge is quite remarkable, in that it both embraces the approach in the Paris Agreement and follows recommendations of the IPCC. At the time of writing this article, Finland’s Sami Climate Council members have only recently been nominated; the Council’s future work will exhibit what kind of role Sami traditional knowledge will have in the work of the Council and also to what degree Sami traditional knowledge will be implemented and reflected in Finland’s climate change policies.

Regarding Finland Government decisions based on the climate policy plan, under the Climate Act (section 21b) and in line with the requirements of environmental legislation, the Sami Parliament of Finland and the Skolt Sami Village Committee of Finland also have the right(s) to appeal to Finland’s Supreme administrative court. This right to appeal was added to the Climate Act after its entry into force, following a commissioned investigation by Finland’s Ministry of the Environment that included an elaboration on rights-based climate change cases in State courts around the world, as well as international bodies, and supported the right to appeal for the Sami Parliament of Finland and the Skolt Sami Village Committee of Finland,⁷⁰ as proposed by the subsequent Government Bill.⁷¹

Conclusions

Finland’s Climate Act is a progressive piece of legislation that has been internationally celebrated as a forward-thinking model, not least due to its ambitious goal to reach net zero in 2035 and net negativity—meaning to absorb more CO₂ than emitted—by 2040. Moreover, with its strong focus on climate justice grounded in human rights

⁶⁷ Valtioneuvoston asetus saamelaisesta ilmastoneuvostosta, 435/2023.

⁶⁸ UN Human Rights Committee, *Jouni Länsman and Eino Länsman v. Finland*, Communication No. 1023/2001, UN. doc. CCPR/C/83/D/1023/2001, 17 March 2005. See, Heinämäki, “The prohibition to weaken the Sami culture in international law and Finnish environmental legislation,” 2023, pp. 84–100.

⁶⁹ ICCPR, GA resolution 2200 A (XXI).

⁷⁰ Vihervuori, *Uuden ilmastolain muutoksenhakusääntely, oikeudellinen selvitys ympäristöministeriölle*, 2022.

⁷¹ HE 239/2022 vp (Finnish government bill).

of the national Climate Change Panel, while also codifying Sami rights as part of Finland's climate policy planning, it shows a high-level legal commitment to implementing the justice and human rights-based approach of the Paris Agreement and as has been endorsed by UN Human Rights Bodies and the UN General Assembly. In a best-case scenario, Finland could, thus, not only pave the way to similar kinds of developments of climate change legislation in Norway and Sweden in relation to Sami rights, but it could also lead the way for other states that have Indigenous peoples within their state boundaries.

The Sami people's status as an Indigenous people is strong in Finland's Constitution. However, the protection of the Sami people's rights to maintain and develop their culture and related cultural self-government is rather weak in both the Act on the Sámi Parliament and other sectoral legislation. The Sami right to cultural self-government in Finland does not grant the Sami Parliament of Finland any powers to decide any matters related to traditional lands, waters, or areas as such—not even where related to Sami cultural heritage (unlike in Norway).⁷² For the most part, the Sami Parliament of Finland only has influence in Finland through statements and negotiations with State authorities.

Finland's Climate Act directly refers to the negotiation duty of Finland State authorities under section 9 of the Act on the Sámi Parliament. Without strengthening of section 9 of the Act on the Sámi Parliament, as currently proposed by the Government of Finland, the participation of and real influence of the Sami Parliament of Finland in climate planning may risk remaining minimal. On the other hand, Finland's Sami Climate Council, a unique and innovative establishment, might strengthen the negotiation positions of the Sami Parliament of Finland. Outcomes will very much depend on individual authorities and their approaches as to how much consideration they will give to the work of the Council, and how well and in good faith, negotiations are carried out with the Sami Parliament of Finland. Finland's Ministry of Environment has already shown an unprecedented approach to Sami rights during the preparation phase of the Climate Act: along with the Sami Parliament of Finland and the Skolt Village Committee of Finland, Sami society, as a whole, was largely involved in the process.

The impact of Finland's Sami Climate Council will likely depend on economic resources, in particular State funding. There is an interesting potential for cooperation between "Western" science and Sami knowledge within the work of the Sami Climate Council. The Sami Climate Council of Finland might also provide a significant contribution to the work of the IPCC. As stated by the IPCC, "Indigenous knowledge and local knowledge can provide important understanding for acting effectively on climate risk and can help diversify knowledge that may enrich adaptation policy and practice."⁷³ The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) has highlighted that most policymaking approaches around the world have prioritized a narrow set of values and in that vein frequently ignore values associated with Indigenous peoples' worldviews in relation to the environment.⁷⁴ The Sami Climate Council also has great potential to assist in Finland's climate

⁷² Myrvoll et al., "Unpredictable consequences of Sámi self-determination," 2012.

⁷³ IPCC, "Point of departure and key concepts" [R. Ara Begum et al.], 2022c, p. 124.

⁷⁴ Pascual et al., "IPBES 2022," 2022.

policymaking through incorporating Sami values—values that are inherently built on the survival of Sami culture, Sami practices, and Sami cosmovision as an Indigenous people.

The Climate Act is quite ambitious in its GHG reduction targets, which, when applied, will help the Sami people, as well. However, whether the culture and rights of the Sami people can be protected from climate change impacts will also depend on the degree of global success in combatting climate change. When considering Finland's Climate Act, incorporating Sami values and views into climate plans will likely have good prospects. At a minimum, the Sami Climate Council of Finland might be able to influence green transition plans in Finland that concern the Sami homeland to include the Sami concerns. However, the negotiation duty under Finland's current Act on the Sámi Parliament neither reflects the right of the Sami to self-determination, nor the right to Sami decision-making in the setting of priorities for the development of lands, waters, and natural resources. Since Sami culture is pressured by the cumulative effects of many activities in the Sami homeland and, coupled with that, the impacts of climate change, strengthening Sami rights in other sectoral legislation such as Mining Act and Environmental Protection Act in Finland is necessary if Finland is to enforce the Sami people's Constitutional status as an Indigenous people with rights to self-determination and related self-governance.

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