My background is in philosophy of law but I work with different academic disciplines: law, philosophy, anthropology, theology, history and economics. My approach to protection of sacred sites is interdisciplinary, multidisciplinary and cross-disciplinary. Generally, my aim is to present different theories concerning law and cultural ecology and apply these to case studies on protection of sacred sites.

Regarding the topic of protection of sacred sites, I have worked with Patrick Dillon on combining the theory of cultural ecology with the theory of legal pluralism. The idea has been to help recognise indigenous customary laws in the Arctic. Also, it has been related to recognition of indigenous customary laws concerning sacred sites or heritage sites. We have analysed how protection of sacred sites is regulated in British Colombia (Canada) in relation to the Nisga'a people. We have also analysed how the situation looks with regard to Finland's Sami. We made all this in the frameworks of cultural ecology and legal pluralism. This research needs continuity. Sacred sites play an important role, especially in indigenous communities. The Sami call those sites "sieidi". They may be stones, hills, islands, etc. Sacred sites need both legal protection and social awareness.

In terms of legal pluralism, there are different normative/legal systems (customary, local, indigenous, state, European, international; written, unwritten; secular, religious, etc.). There are tensions among them as well. Legal pluralism is about a "situation in which there are at least two normative systems in the same social sphere, and there is no rule of recognition", i.e. "which rule is more important and which rule to choose and apply"[1]. In practice, we can see tensions between, e.g., Sami old customary laws concerning natural resources management and Finnish state legal regulations. There is no way to reconcile both as there are different (personal) loyalties, interests and values involved. Only formally speaking does state law always prevail. In practice, it is much more complicated. For example, for indigenous people, their customary laws may prevail if there is a conflict with state law. It may concern, for instance, reindeer pastures, shamanism or offerings.

The Italian philosopher of law Francesco Viola thinks that legal pluralism does not regard "plurality *in the* order" but "*of the* orders". Thus, legal orders "compete and concur" in the regulation of state of things regarding social relations of the same kind.[2] As it was pointed out in another place, "Legal pluralism is not about different normative mechanisms, which are applicable to the situation within the same legal system"[3]. There are different legal systems, e.g. a given indigenous legal system v. a given state legal system. And there is a clash of rules, values, interests.

While coming with legal pluralism into cultural ecology, how much should we refer to "relational" or "co-constitutional" ways of thinking, which is explained by cultural ecology?

It is clear that “cultural ecology is concerned with the reciprocal interactions between the behaviour of people and the environments they inhabit.”[4] What is the difference between “relational” and “co-constitutional” ways of thinking? That is it: “In cultural ecological terms, a regulation emanating from a higher authority would be ‘relational’; a co-constitutional regulation would be one originating from the people as a whole”.[5] Also, as Dillon points out, “Behaving within a context is a ‘relational’ process; i.e. it is informed by previous experiences and accumulated knowledge. Relationally dependent behaviour enables distinctions to be made between one situation and another.”[6] So, e.g., Finnish state laws on public lands, reindeer husbandry, fishing waters, hunting grounds and so on will be also “relational”, as these are given by a state/higher authority, without consultation with or participation of people at the grass-roots level.

A “co-constitutional way” way of thinking might be more important for indigenous rights or protection of sacred sites. Why? A “co-constitutional” way of thinking is always related to a continuous process and development of customs/traditions. As Dillon thinks, “In addition to the relational context, unique, personal contexts are simultaneously created. These additional contexts are a property of the uniqueness of individual moments; they are literally constructed out of the ways in which individuals engage with the affordances of their environment as they exist at that time: the individual, the environment and the context all co-construct each other. This is called a ‘co-constitutional’ process (…)”.[7] A “co-constitutional” way of thinking will be related to processes of making customary laws concerning, e.g., protection of sacred sites. Such laws were developed by generations, in keeping up with traditions and with respect for holy places such as sacred sites. The current Western legislator is not able to realize it, at least to a greater extent. But, for instance, indigenous people or local people that are deeply rooted in the traditions of their ancestors and histories/stories/narratives of their local “fatherlands”, are able to understand the distinction between both ways of thinking.

Let us take some examples/case studies from Canada and Finland in the context of protection of sacred sites. The Nisga’a people are aboriginal people living in British Columbia, Canada. They have an agreement with the federal government. This is The Nisga’a Final Agreement of 1999.[8] It is a part of Canadian constitutional law. Among many states of things regulated by this treaty, such as self-determination, self-government, land rights, natural resources management, jurisdiction and the police, the treaty also regulates protection of sacred sites. First, chapter 1 (“Definitions”) of the Nisga’a Final Agreement defines ‘heritage sites’ as including ‘archaeological, burial, historical, and sacred sites’. Second, paragraph 36 (‘Protection of Heritage Sites’) of chapter 17 (‘Cultural Artifacts and Heritage’) establishes that Nisga’a Government “will develop processes to manage heritage

site on Nisga'a Lands in order to preserve the heritage values associated with those sites from proposed land and resource activities that may affect those sites". It looks like the Nisga's are "lords" in their own territories when it comes to protection of their sacred sites. They know better what such places are and how to care for them, also in a spiritual way, which is not understood by contemporary atheistic or secular societies. Broadly, it is also a matter of natural resources management. For example, when a mining company wants to operate in the Nisga'a territories, the company must receive a permit from the Nisga'a.

In comparison, in Finland, there in no such agreement between the Sami people as an indigenous people and the central government. The Sami people are still struggling for some decent level of self-determination in Finland. Their Sami Parliament is only an advisory body and seems located quite low in the Finnish constitutional system. Instead, when it comes to protection of sacred sites, there is some old-fashioned law concerning protection of antiquities (The Antiquities Act of 1963[ix]). However, this law is not particularly dedicated to protect sacred sites of the Sami people. In practice, sacred sites of those indigenous peoples are often destroyed by tourists in Finnish Lapland and there are no criminal consequences in such cases. Paradoxically, despite the good results of the Finnish educational system in the world rankings of education, social awareness concerning protection of sacred sites, especially the sacred sites of the Sami people, is rather low.

Generally, while analysing the Finnish law and the Finnish policy towards the Sami, as well the Finnish government's correspondence with UN bodies in the field of human rights and the Sami, we must notice that "The Sami are not lords in their own country."[10] The same might be said about protection of sacred sites of the Sami people in Finnish Lapland. The Sami are not legally responsible for this area of social life, according to Finnish law.

A comparative approach might be inspiring for future research about sacred sites. The "Canadian model", which is based on the idea of both self-determination of aboriginal peoples and recognition of indigenous customary (land) laws/rights, might be relevant for Finland. The Nisga'a people are legally responsible for the protection of sacred sites in their territories. This seems inspiring. Of course, not everywhere in Canada the situation is so advanced, but this model shows some possibilities for the legislator in Finland in the field of protection of sacred sites.

The framework of legal pluralism and cultural ecology helps us understand that the Western legislator often is to depreciate "the soul of the land", i.e. sacred sites, especially those of indigenous peoples. This Western ignorance brings not only social conflicts, more misunderstanding and personal pain, but also shows arrogance. Traditionally, in indigenous cosmologies, lands are both material and spiritual entities. There are "the masters of the

places" (spirits) there. These places are special in every possible sense then. This is about both nature and divinity. It is a time to understand this spiritual approach and help protect sacred sites. One can combine both "relational" and "co-constitutional" ways of thinking, recognising indigenous rights and customary laws by state law and in state jurisdictions.

Endnotes

[1] D. Bunikowski, *Indigenous peoples, their rights and customary laws in the North: the case of the Sámi people*, [in:] *East meets North – Crossing the borders of the Arctic*, ed. by M. Lähteenmäki, A. Colpaert, Nordia Geographical Publications, 43(1), Yearbook 2014, Oulu, p. 77. See also: D. Bunikowski, P. Dillon, *Arguments from cultural ecology and legal pluralism for recognising indigenous customary law in the Arctic*, [in:] *Experiencing and Safeguarding the Sacred in the Arctic: Sacred Natural Sites, Cultural Landscapes and Indigenous Peoples' Rights*, ed. by L. Heinämäki, T. Herrmann, Springer 2017, Cham, p. 41.

[2] F. Viola, *The rule of law in legal pluralism*, [in:] *Law and legal cultures in the 21st century*, ed. by T. Gizbert-Studnicki, J. Stelmach, Kluwer 2007, Warsaw, p. 109. See also: D. Bunikowski, P. Dillon, 2017, p. 41.

[3] D. Bunikowski, P. Dillon, 2017, s. 41.

[4] Ibidem, s. 38.

[5] P. Dillon, D. Bunikowski, *A framework for location-sensitive governance as a contribution to developing inclusivity and sustainable lifestyles with particular reference to the Arctic*, Current Developments in Arctic Law, vol. 5 (2017), ed. by K. Hossain, A. Petrétei, Rovaniemi 2017, p. 18, footnote 2.

[6] D. Bunikowski, P. Dillon, 2017, p. 39.

[7] Ibidem.

[8] The Nisga'a Final Agreement of 1999. http://www.nnkn.ca/files/u28/nis-eng.pdf. Cited 8 Nov 2014.

[9] Antiquities Act, 1963, http://nwfp-policies.efi.int/wiki/Antiquities_Act,_1963_(Finland). Available 6 April 2022.

[10] See more: D. Bunikowski, *Notes on the contemporary legal-political situation of the Sami in the Nordic region*, Current Developments in Arctic Law, vol. 2 (2014), ed. by T.

Koivurova, W. Hasanat, Rovaniemi 2014, pp. 20-25.

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