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Who are the silent agents in law drafting and why SILE only focuses to some of them?

Occasionally SILE project has been asked why it only focuses on specific silent agent groups and not others. It is an important question. This blog answers to this question and clarifies the concept of silent agents as it is perceived in SILE project.

We are all silent

Silent agent in law drafting means anyone who is excluded of drafting of laws that concern themselves. In this sense, almost all of us are silent as only few of us participate in law drafting processes as private persons. In most or at least in significant drafting's of laws there would be a possibility for participation by using lausuntopalvelu.fi service where one can leave a written statement to drafts of government proposals. There is also a possibility to participate in law drafting processes by joining different discussion events or other interactional proceedings hosted by law drafters.

However, most often we do not follow law drafting or know how to find information* on it, let alone understand how to make our voices heard. Ministry officials do the lay work of drafting and other key stakeholders participating in law drafting are public authorities, advocacy organizations, NGOs, and experts on different fields. They either represent our perspective well or they do not. Through them It is possible to try to make an impact as well.

Either way, law drafting processes do not typically actively pursue to hear the kind of citizen level actors whom the law concerns. Although sometimes this is done. According to the guide for hearing in preparation of legislation this should be done, and the constitution defines (14 §) the function of the public authority as promoting the possibilities for the individual to participate in societal activity and influence the decisions that concern oneself. This is difficult though, as everyone who is affected by for example a law cannot be reached, let alone heard. Neither can there be found a representative to all key target groups. Therefore, it would be important to remember to ask if some key target group has been unidentified in law drafting.

Some are especially or extremely silent

Even though we are usually more than happy to leave law drafting to others, many of us would have the abilities for participating if we just were willing or knew how we should act to make our voices heard. Some do not have these abilities, or the abilities are weak. Therefore, silence has different degrees. The most silent do not have a voice at all for communicating matters important for them to others. Such as for example small children and elderly with severe memory disorders and others suffering from severe cognitive restrictions. Silent target groups of regulation are of course animals as well which are wholly depended on human actors.

For many, life circumstances may restrict the possibilities or capability to express their perspectives on the content of laws in drafting. Some may experience shame of their position, or they might not think that they deserve to make their voices heard. Some may not have the resources, or someone is simply very marginalized or difficult to reach to begin with. Some do not trust the public authorities, or they may fear them. There might be many reasons.

On the other hand, it is important to remember that some silent minority groups, or groups that experience unfair treatment, may have loud advocates. These advocates, such as NGO's, may be well represented in law drafting processes and they bring out important points. In these cases, it is important to pay attention if the versatility of the group is truly recognized; or is there another key target group that is overshadowed by this active representation? The field of NGOs has its own battle for societal attention and funding while individual NGO's may have a sincere passion for supporting exactly their own target group. NGO's have different possibilities of doing impact work based on resources and getting financed as well. Therefore, some NGOs are more silent than others. The field of NGOs has also pointed out that there are no functioning structures for conveying their information on silent agents.

Therefore, SILE project has a broad understanding on the concept of silent agents. It means all the missing perspectives of targets of regulation which are often overlooked in law drafting such as assessments on the impacts of the law on the everyday life of silent agents. It is important to understand the realities in which laws and procedures "produced" by these are applied so that laws function in the way intended and so that possible side effects will be minimized. The same principal applies to animals as well. Thus, silence connects these different actor groups. On the other hand, silence comes back to the character of the law drafting processes; current hearing practices do not support the participation of those who are difficult to reach, and it is difficult to get a comprehensive understanding on their experiences with these practices.

The agency of silent groups again explains the differences in degrees of silence. In other words, agency may have individual or group specific restrictions that make it difficult to participate in decision-making concerning oneself. These restrictions do not necessarily define one's life entirely. For example, the previously mentioned feeling of shame may be linked to an issue sensitive to oneself that the legislation aims to effect but not necessarily to other aspects of life. Correspondingly, someone may be overwhelmed in their everyday life where they still manage in many areas but might not have the resources for matters outside of it. Someone again might be socially competent in a familiar crowd, but official proceedings with strangers cause anxiety.

By using the concept of silent agents, the aim is to remind how many persons who are affected by the law are excluded in law drafting processes. The concept pursues to be illustrative yet without stigmatizing silent agents in principle or holistically with a single restriction.

Why SILE project only focuses on specific silent groups?

SILE project focuses specifically (but not only) to specific silent groups. They have a few connecting characteristics. For one they are often considered to pose a risk to themselves, or the society, or societal activity produces risks to their well-being. Therefore, legislation aims either to protect or control them or both. Correspondingly, their social status easily awakens moral standings – it is not always clear which kind of regulation should be applied to them. Other actors may have financial interests related to them as well. Law drafting concerning these silent agent groups is often tensed. Based on this premise, SILE project focuses especially on children and youth under child protection, persons with psychosocial challenges (concerning especially substances, mental health, or debt issues), prisoners and persons without Finnish citizenship. Additionally, the project studies animals' position in law drafting.

The perspective could be something other than the previously mentioned but due to the versatility of silent agents' research delineation is necessary. We genuinely want to understand the position of the agent groups that we study. Although the project is broad, we cannot familiarize in detail with the living circumstances and matters of several silent agent groups. Therefore, there are researchers that are previously specialized to each of the silent group's position in the project. On the other hand, even the

current delineation is challenging as many of the previously mentioned groups have a lot of internal variation as well as cross-sectionality. At the same time, there is similarity in these groups' social status.

Ultimately, the delineation is pragmatic. The intention is not to exclude any groups as if they did not deserve our attention or as if they were not silent. Of course, our delineation can still include other silent groups than the ones mentioned: such as persons with disabilities or those who experience harms from gambling. In so far as the problems they experience interrelate to the aspects examined in SILE they obviously belong to the groups studied by SILE, as part of their versatility. As the research progresses, we may widen the basic delineation defined above if it turns out to be possible within our resources.

On the other hand, part of the examinations of the project in principle concerns all the silent agent groups or just anyone; one such concerns algorithmic use of information. Other collecting thematic perspectives are in planning as well. In many events the perspective is so general that anyone interested in the matter is welcome.

One of the ultimate goals of the project is to plan methods together with the stakeholder groups for law drafting that supports the participation of silent agents from different backgrounds in hearings. When the hearing (or conversation more specifically) is not possible it is important to find methods to relate the experiences of silent agents in the law drafting's starting points, goals and means. It is important to develop this kind of operating models in such a way that we have the best understanding possible on the possibilities, restrictions, and matters to be considered in the context. Understanding is then built upon first working with the chosen groups. When the model first functions with certain preconditions, it is possible to broaden its use. It is impossible to draft one hearing model at once that would be suitable for all silent agents.

Join our discussions and development

SILE project uses traditional methods in researching law drafting processes and enforcement of laws, and their effects by collecting research material and analyzing it. Additionally, we organize different kinds of events for stakeholder groups and pursue to develop above-described hearing models in the spirit of co-creation where stakeholder groups become partners. We have met with different representatives of NGO's and other entities also by directly discussing the possibility of working together. All in all, we are willing to discuss with everyone interested in the project. SILE project does not advocate any certain kind of reforms. In other words, it does not have its own political goals. The starting point for examining and discussing is to advance the perspective of silent agents and the versatility and pluralism stemming from it. We are more than happy to answer to any questions, for example by writings like this; see also a summary of a seminar held in December. You may also contact us directly and familiarize with our activities and approach by participating in the events organized by us.

*More information on law drafting including the documents can be found on LAWRADAR lakitutka.fi.