

# COMMON, IMPOSED, OR PUBLIC? ASPECTS ON THE UNDERSTANDING OF ROADS IN LATE MEDIEVAL AND EARLY MODERN FINLAND

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In this short article I will discuss the nature and understanding of public roads in late medieval and early modern Finland (fourteenth to sixteenth centuries). My aim is not to give a detailed study on the matter, but rather to discuss certain themes of interest on the perception of roads and traveling in the medieval legislation of Sweden and Finland. My basic question is that of the public road as a space of interaction: how it could be studied, what source material do we have, and – above all – in which ways do the available sources relate to the understanding of public roads in late medieval and early modern Scandinavia. I will focus especially on Finland and the jurisdiction concerning public roads there, but many of the topics may have relevance to the Northern Baltic Sea region in general.

In the Finnish and Swedish historiography, roads, highways, long-distance routes, and facilities attached to them such as bridges, inns, and transport systems have usually been treated in two ways. First, a road or a network of roads and routes has been characterized as a physical framework of communication and transport through which the interaction of both local and transregional society and economy took place. Secondly – and probably more common – public roads have been understood as manifestations of the coercive power of the realm where the basic infrastructure of communication and transport was assigned to the care of local landowners as a part of their annual revenue. In Finland various social, cultural, and economical dimensions of everyday travelling in the early modern period have been studied rather extensively in the context of the 200th anniversary of the Finnish National Road Administration in 1999, but a typical treatise on roads still consists of a local history description of known roads and transportation systems of a single area and a list of

known information on their maintenance as available in the court records and other sources from the sixteenth to eighteenth centuries.<sup>1</sup>

Until recently, much of the interest on late medieval and early modern roads and routes in Finland has focused on two basic themes dominating the interest of both historians and archaeologists. One is the traditionally-assumed dominance of water routes over roads and highways, where several older theories considering long-distance travelling and transport by water were abandoned in the 1980s. Today, a more balanced view over the needs, motives, and means is suggested, and the studies stress the overall adaptation of travelling and transportation of the past societies to seasons.<sup>2</sup> The other mainstream topic has been the actual formation of the network of public highways and roads in Finland, where systems of common roads and transport have been studied and evaluated from the point of view of coercive authority, administration, and economy as a kind of precondition to the independent Finnish state. In this, the structural premises of national infrastructure have repeatedly been anchored in the medieval and early modern legislation of the Swedish crown, where distinct jurisdiction over public roads and means of transport first started to emerge in the thirteenth and fourteenth centuries. Not all the scholarship, of course, is written to justify the state-building process in Finland, but many of the traditional assumptions on the role of the roads in local societies have centred more on the supposed clash of interests between the collective mentalities of the peasants and the coercive authority of the realm than the actual use and understanding of roads in the medieval and early modern society. Basically, the initiatives taken have been portrayed as those of the coercive power, whereas the role of the local societies has often been described as that of the taxpayers and janitors of the infrastructure obliged by the crown.<sup>3</sup>

<sup>1</sup> For aspects and issues considering the study on the history of roads, transport, and travelling in Finland before 1860, see Swedish and English summaries in *Maata, jäätä, kulkijoita. Tiet, liikenne ja yhteiskunta ennen vuotta 1860. Tuhat vuotta teitä, kaksisataa vuotta tielaitosta*, 1, ed. by Tapani Mauranen (Helsinki: Tielaitos, 1999), 437–461 and essays in *Traffic, Needs, Roads: Perspectives on the Past, Present and Future of Roads in Finland and the Baltic Area*, ed. by Tapani Mauranen (Helsinki: Tielaitos, 1999).

<sup>2</sup> Jaakko Masonen, *Hämeen härkätie, Synty ja varhaisvaiheet*, Tiemuseon julkaisuja, 4 (Helsinki: Tie- ja vesirakennushallitus 1989) and Jaakko Masonen, *Tracks, Paths and Roads: Infrastructure and Transport in Finland and the Baltic Sea Area from the Viking Age to Medieval Times (800–1500 AD)*, Road Museum Reports, 1 (Helsinki: Finnish National Road Administration, 1995).

<sup>3</sup> Important essays and studies concerning the infrastructure of roads in Finland are Henrik Gabriel Porthan, *Beskrifning öfver vägarne i Finland (1792)*, *Opera Selecta V*, Suomalaisen kirjallisuuden seuran Toimituksia, 21:5 (Helsingfors, 1873); Väinö Wallin (Voionmaa), *Suomen maantiet Ruotsin vallan aikana*, *Fennia*, 8:2 (Helsinki: Geograph

Despite the fact that public roads and routes have repeatedly been considered as the very infrastructure through which local and transregional economic and social exchange took place, little scholarly energy has been spent on the various roles of the road as a deliberate physical space which applied to certain judicial and social norms of the past and built up a space of human interaction of its own. No doubt, some Finnish scholars have tentatively discussed the mental consequences of inn-based transportation systems and everyday travelling for the early modern understanding of distances and space, but not much has been written on what the available sources actually tell us about the contemporary perception of roads and travelling in the past.<sup>4</sup> Another interesting question is the difference between the official infrastructure of common roads and the traditional, casual, and sometimes even clandestine routes and paths employed by local communities. Did the official status of the routes actually manifest itself in everyday life and travelling, or is the difference between public roads and local paths just an administrative conceptualization?

In the current study of history, structuralist, sociological, or other theories on the nature of modern societies are often favoured as kinds of paradigmatic starting points for the conceptualization of the various entities of human interaction in the past. Even if many of these conceptualizations tend to deconstruct the past from the point of view of late nineteenth- and twentieth-century thinking, some provide important insights into categories of human activity and interaction in the past. For a better understanding of the medieval and early modern public road as a space,

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Society of Finland, 1893); *Suomen teiden historia I–II* (Helsinki: Tie- ja vesirakennushallitus, 1974–77); Juhani Viertola, *Kustavilaisen ajan maantierakennukset*, Turun yliopiston julkaisuja, C 27 (1980). On Sweden, see for instance Nils Friberg, *Vägarna i Västernorrlands län, 1*, Meddelande från Geografiska institut vid Stockholms högskola, 80 (Stockholm, 1951).

<sup>4</sup> On travelling and distance in early modern (16th to 17th century) Finland, see for instance Marko Nenonen, “Kulkijan taival, maata, jäätä, kulkijoita: tiet, liikenne ja yhteiskunta ennen vuotta 1860”, *Suomalaisen arjen historia 1*, ed. by Anssi Mäkinen et al. (Porvoo: WSOY, 2006), 274–334 and Tapio Salminen, “Liikkeellä maailmalla”, *Suomalaisen arjen historia 1*, ed. by Anssi Mäkinen et al. (Porvoo: WSOY, 2006), 152–173. On medieval travelling see Norbert Ohler, *Reisen im Mittelalter* (München: Artemis, 1986). In studies of medieval road systems the geographical distribution of roads has traditionally been verified through itineraries and other material related to the chronology of travelling, see for instance Friedrich Burns, Hugo Weczerka, *Hansische Handelsstrassen I–II*, Quellen und Darstellungen zur Hansischen Geschichte, Neue Folge Band XIII, 2 (Weimar: Böhlau, 1967), 88–93. David Harrison has recently stressed the obvious longevity of certain elements such as bridges in the actual landscape of travelling and transport, David Harrison, *The Bridges of Medieval England: Transport and Society 400–1800* (Oxford: Oxford University Press, 2004), 3–4.

for instance, certain conceptualizations of the French sociologist Henri Lefebvre and his later British colleague Anthony Giddens are certainly of use. Lefebvre is noted for his influential if not also heavily criticized *La production de l'espace* (1974), which focuses on the nature of absolute and abstract space, whereas Giddens' theory of structuration as presented in *The Constitution of Society* (1984) discusses the duality of structure and agency in social interaction.<sup>5</sup>

In a Lefebvrian sense of the word, a public or common road is essentially a produced space, a construction of the contemporary society and its institutions based on values and social meanings which constitute spatial practices and perceptions characteristic to the public road. In the Giddensian world of structure and agency, such social practices and perceptions of the produced social space are then negotiated over and over again as a result of the conflicts that emerge in the human interaction taking place in the social system called the road. In my mind, an essential amendment to such a deconstruction of the road as a social space is, however, that the basic role of the road must not be understood only as that of a social system liable to perceptions and meanings, but also as a deliberate route of travel, transport, and communication characteristic to both humans *and* animals such as wayfaring moose, ants and birds. Consequently a road is not only a function of space in which meanings are produced through human action and perception, but also the space in which various physical categories of routes such as paths, roads, motorways, railroads, waterways, winter tracks are a result of the dialogue between practises, needs, and contemporary technology applicable for executing the desired activity taking place on and through the road.

### *Between modern theories and medieval everyday life – the evidence of medieval legislation*

Considering the sources, what does the conceptualization of the road as both produced and technologically- and functionally- applied social space add to our understanding of the perception of roads in the late medieval and early modern Finland?

The basic normative legislation on common roads, travelling, certain types of accidents and personal safety of the travellers on the road are found in the law codes of kings Magnus Eriksson and Christopher of Bavaria.

<sup>5</sup> Henri Lefebvre, *The Production of Space* (Oxford: Blackwell, 2007); Anthony Giddens, *The Constitution of Society* (Cambridge: Polity Press, 1984).

King Magnus Eriksson's law was codified at the turn of the 1340s and 50s, and it stabilized itself in use during the third quarter of the fourteenth century. Both a combination of older provincial codes of local Swedish law of the late thirteenth and early fourteenth century and a contemporary piece of normative legislation for the entire realm, the law had a profound impact on the jurisdiction in Finland ever since the late fourteenth century. King Christopher's law is generally considered as an updated edition of King Magnus's code. It was corroborated in 1442, but substituted the older code only around the mid-sixteenth century and was made the sole official code of law in Sweden by King Charles IX in 1608.<sup>6</sup> I will concentrate here only on the law code of King Magnus, but it is important to understand that ever since the Middle Ages – alongside the normative sentences of the laws – a lot of the jurisdiction on travelling and transport was regulated through ordinances and statutes of the crown enforced by letters of territorial agents of coercive authority such as bailiffs, castellans, and governors of one or multiple provinces of the realm. In addition to the preserved statutes and letters, further information on the perception of the road as a space can be found from the court records of the sixteenth and seventeenth centuries.

In the law code of King Magnus Eriksson, regulations concerning roads and travelling are found scattered in several of the *lagbalks* – sections or books of the code regulating certain spheres of public and private jurisdiction. Legislation on the physical infrastructure of roads and bridges is introduced in *bygningabalken* (*Book of Constructions*), which discusses matters concerning the structure, proprietorship, and common duties in a village, whereas regulations concerning inns, innkeepers, and prohibition of forced confiscation of victuals and lodging are presented in *konungs-balken* (*Book of the King*). Matters of human interaction on the public road are discussed in *edsöresbalken* (*Book of Sworn Peace*).<sup>7</sup>

The first chapter of the *bygningabalken* decrees that there has to be one common road (*almænna wægher*) leading into and out of every village.

<sup>6</sup> On the adaptation of King Magnus's law code in Finland and the role of Swedish lands laws in the jurisdiction of Finnish areas, see Hannu Tapani Klami, *Jus Finnicum: Ruotsalaisen maakuntaoikeuden omaksumisesta Suomessa*, Suomalaisen lakimiesyhdistyksen julkaisuja, A:154 (Vammala, 1981), 128–132.

<sup>7</sup> For the edition of King Magnus's law code, see Konung Magnus Erikssons landslag [MEL], *Samling af Sweriges Gamla Lagar*, 10, ed. by D. C. J. Schlyter (Lund: Berlingska boktryckeriet, 1862). Here, the citations of MEL are based on respective sections of the law in *Codex Aboensis (Codex f.d. Kalmar)*, facsimile edition, ed. by Raimo Hüütiäinen (Helsinki, 1974).

The word common (Old Sw. *almän*) here means common duty, a public road maintained by all the landowning yeomen in the village according to their share of land in the village. If unanimous, the peasants were entitled to sustain more common roads if they liked. Similarly, the two common roads entering and leaving the village could be built as one traversing it only if the village was unanimous about it. In the next chapter the translocation of the parish road is further decreed to be mandatory only through the authorization of the parish court, and if the road was translocated one of identical quality had to be built instead. Every single landowner was to answer for the common roads, bridges, and fences according to their share of land.<sup>8</sup> The idea of the legislation was obviously to ensure that every village of the realm was reachable through a network of common roads, but at the same time the law pointed out which of the roads and paths were to be considered a special space of interaction controlled by the coercive authority of the realm and which were not. From the point of view of the crown, the legislation thus reserves the role of the road as a public space only to those categorized as common, i.e. maintained by the taxpaying landowners, whereas other local roads and paths were considered as “non common”. Since the code does not make a distinction between summer highways and winter tracks, the sentences were applicable to both and open to seasonal changes in the actual infrastructure required by the crown.

Another set of regulations concerning the infrastructure of roads is decreed in the twenty-seventh chapter of the *Book of Constructions*, where the building and care of bridges is regulated through a hierarchy depending on the size of the taxpaying community obliged to take part in the construction. In the beginning of the chapter, the common duty of building and maintaining roads and bridges is repeated and the physical width of a *landsväg* and *thingsväg* is set at ten ells (app. 5.5 to 6 meters). A bridge on *kyrkoväg* (church road) should be five ells wide. A *landsväg* means literally *lands road*, a common road sustained by the whole of the land (lat. *terra*), and a *thingsväg* is a common road of the parish level used to reach the sessions of the local court of justice. Further in the chapter common bridges are categorised as *landsbridges*, *häradbridges*, *churchbridges*, *mill-bridges*, and *cattlebridges*, which tells about the categorization of various types of common roads and structures both from the point of view of the obliged community and the actual function of the road in the travelling of

<sup>8</sup> MEL, Bb I; *Fornsvensk lexikalisk database* [FLDB], <<http://spraakbanken.gu.se/fsvldb/>> (12.10.2009), *almän*; *Codex Aboensis*, 105: ”Hurw böndherne agæ bygggiæ aff nyo met raa och wæghum”.

the local people.<sup>9</sup> The point of view of the legislation is, however, not necessarily the natural orientation of everyday travelling of the local community, but that of the infrastructure of the coercive authority, where mills, cattle, churches, and things built up important assets for the economic resources of the crown, as well as a channel for the control of the local community and its communication.

In addition to the equivalence of common and public instead of “non common” and local, another interesting dimension of the road in the law code of King Magnus considers the nature of the road as a space of human interaction. Such spatial functionalizations of the road are presented in the *Book of Sworn Peace* (*edsöresbalken*), which deals with crimes against the general safe conduct in land and ways of purification on unfounded charges.

In the *Book of the Sworn Peace*, several decrees in chapters 15–20 deal with the problem of safe conduct of travellers. According to these, any offences against travellers on the road are categorized as more severe if conducted during a trip into or from a church or session of the local court of justice. In such cases, any acts of violence and killing were considered as those against Sworn Peace in the realm and were punished more severely than others.<sup>10</sup> However, not all the offences during journeys of church and court were incriminating: if the violence occurred without any preceding hostility on the road, no disruption of the Sworn Peace had happened and the violence or killing was to be sentenced according to ordinary cases in law. If somebody set an ambush on his way to church or court, but the ambush did not take place, again no disruption of the Sworn Peace had happened. And finally, if a traveller called at an inn or some another place of interest on his way to or from a church or a court and then got beaten or killed, no disruption of the Sworn Peace had happened.<sup>11</sup> In chapter 45 of the book, any projected and executed acts of highway robbery and piracy are criminalized, but if a person was arrested before the actual robbery had taken place, he had the possibility of purifying himself in front of twelve men. Should he fail, he was to be executed by the sword.<sup>12</sup> The legislation concerning offences against travellers on the road emphasizes the importance of the motive of the travelling as the main legal distinction concerning the nature of the space the traveller produced while on the road. According to the law code not all the travelling was considered equal from

<sup>9</sup> MEL, Bb XXVII.

<sup>10</sup> MEL, Eb XV, XVIII.

<sup>11</sup> MEL, Eb XVI, XVIII, XIX.

<sup>12</sup> MEL, Eb XLV.

the point of view of the coercive authority of the realm, but trips and journeys motivated by the coercive institutions (church, local court of justice) obviously produced a space different from everyday journeys of work and communication among the members of local communities in the land.

The legislation on offences against safe conduct on roads also reveals interesting gendered and other differences in defining the nature of public and private space of the travellers. Since the conduct of crimes against the Sworn Peace on land was not possible by women and minors, offences executed by them were sentenced according to what the law said on their guilt in ordinary crimes. Women in general possessed a safe conduct and Peace of their own, the offences against which were sentenced in various other sections of the law.<sup>13</sup> Something potentially important about the understanding of the road as a public and private space is also revealed in the first article of chapter eight of the *Book of the Accidental Killings*, where a fatal accident caused by a rotten bridge is considered an involuntary manslaughter liable to fines for those responsible for maintaining the bridge.<sup>14</sup> Similarly, proceedings with property found on the road is discussed in the *Book of Theft*, where the finder is obliged to publish the find to fellow travellers, the nearest village, and local court, and the expropriator is liable to witness his proprietorship through an abjuration of himself and two men. If no person emerged to claim the lost property during a year and a day after the find, two thirds of the worth of the object in question belonged to the king and one third to the finder.<sup>15</sup>

### Conclusions

To sum up, even a short survey of King Magnus's law code of the late 1340s suggests that the conceptualization of the road as a produced social space and functional platform of spatial activities opens up an interesting viewpoint to the late medieval and early modern perception of the roads and travelling in Finland and Sweden. According to the medieval normative legislation as presented in the law code and in force until the early seventeenth century, contemporary coercive authority considered the common road a public space where the production of the medieval equivalents of "public" and "private" were liable to not only the motives of the travellers but also to the coercive authority in controlling the resources and infra-

<sup>13</sup> MEL, Eb XXXII; Fridslagstiftning; *Kulturhistorisk lexikon för nordisk medeltid* 4, 623.

<sup>14</sup> MEL, Db m. wadh VIII.

<sup>15</sup> MEL, Tb XXXI.



structure in the realm. In the law the public nature of the common road thus appears as a kind of a judicial dimension of the coercive authority, a legal distinction designed to secure the interests of the central power instead of something more or less casual produced by the social interaction on road while travelling. Whether such a normative distinction also constituted a fact which regulated the perception and use of common roads and other local routes and paths in the everyday life of medieval travellers in Finland and Sweden, is – however – a matter of more profound study. Here, the available space does not allow such analysis, but any new considerations on the understanding of physical and sociocultural space on medieval Scandinavian roads and travelling will be warmly welcomed by the author.

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### *KOKKUVÕTE: Ühised, pealesunnitud või avalikud? Aspekte Soome kesk- ja varauusaegsete teede tähendusest*

Artikkel arutleb kesk- ja varauusaegsete (14.–18. sajand) teede olemuse ja tähenduse üle Soomes. Teedevõrk kujutas endast infrastruktuuri, mille kuningas kehtestas kohalike maaomanikest talupoegade hüvanguks. Teed olid ka avalikuks ruumiks, milles reisija isiklikku julgeolekut ei ohustanud vaid kaasreisijad, vaid ka tee tegelik seisukord ja kliima aastaajalised iseärasused. Kesk- ja varauusaegses Soomes oli avalik tee alati oluliseks ühenduslülilik kohalikul, regionaalsel ja regiooniuülesel tasandil, mida kasutasid nii valitsejad kui ka lihtrahvas. Kuid pidevalt hooldatud teedevõrk kujunes välja alles ajavahemikus 15. sajandist kuni 17. sajandi keskpaigani.

Soome varauusaegse teedevõrgu eripära avaldus mitte ainult reisimise tehnoloogiate ja motiivide kohanemises vastavalt neljale aastaajale ning aastaegade vaheldumisega seotud elanikkonna tegevustele, vaid ka asjaolus, et pidevalt hooldatud avalike teede infrastruktuur täitis sageli teistsugust rolli, kui teed ja rajad, mida kasutas kohalik kogukond. Juba alates kuningas Magnus Erikssoni kehtestatud seadusest 1340. aastal kujutasid mõned avalike teede kategooriad õiguslikku ruumi, milles kaasreisijate vastu sooritatud kuritegusid karistati rangemalt kui mujal. Paraku on teede kategoriseerimine varajases Rootsi seadustikus mõneti ebakindel,

sest seadused keskenduvad kas teedele kui kohustusele ja sunnivahendile või siis teele kui õiguslikule vastasmõju-ruumile, mis oli allutatud teatud tegevuskategooriatele, nagu näiteks kiriku, kohtuistungi või kohaliku veski külastamine.