

Promotion in times of endangerment: the Sign Language Act in Finland

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Abstract The development of sign language recognition legislation is a relatively recent phenomenon in the field of language policy. So far only few authors have documented signing communities' aspirations for recognition legislation, how they work with their governments to achieve legislation which most reflects these goals, and whether and why outcomes are successful. Indeed, from signing communities' point of view, it appears most current legislation leaves much to be desired. One reason for this is the absence of language acquisition rights and the right to access services directly in sign language. This paper, through appealing to a critical language policy framework and employing principles of the ethnography of language policy, will illustrate this by critically analyzing the ambitions and motives, as expressed by the Finnish Association of the Deaf, for a Sign Language Act in Finland. It also compares the situation of signers in Finland with that of the Sámi, the other minority group mentioned in the constitution with designated language legislation. The findings suggest that the Act is innovative and internationally unique in different aspects but does not reflect FAD's most important pursuits, and is very different from the Sámi Language Act. An exploration of the reasons behind this difference, which makes Finland's sign languages both promoted and endangered, can make significant contributions to the field of sign language policy but also to the wider (critical) language policy field.

Keywords Sign language legislation · Sign language planning and policy · Finland · Critical language policy

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During the last decades of the twentieth century deaf communities worldwide, particularly in European countries, have turned towards a linguistic human rights discourse to achieve legal recognition of sign languages (De Meulder 2015b; Murray 2015). This discourse parallels that of language minorities such as Welsh and Gaelic people, and of indigenous groups such as the Māori and Sámi (May 2011). It illustrates how signing communities resist, change and influence dominant language policies, and attempt to control language planning efforts from the bottom-up.

When this discourse emerged in the late 1990s, it was seen as a way to secure and promote achievements of the years before. Scientific research in the 1960s and 1970s had established sign languages as fully-fledged languages (Stokoe 1960; Tervoort 1953). After over a century of oppression, the 1990s showed a growing openness towards the use of sign languages in education. This coincided with the growing internal and external identification of signers as cultural-linguistic minority groups (Lane 2005). At the end of the twentieth and the beginning of the twenty-first century the tide turned, and the medical discourse on deafness has become increasingly prominent again (Ladd 2003): as of 2006, 80 % of deaf children in Northern Europe were receiving cochlear implants (CIs) (Boyes-Braem and Rathmann 2010); their parents generally do not receive appropriate advice and information on bilingualism and the risks of adhering to monolingual education practices in spoken language (Humphries et al. 2012; Takkinen 2012); sign bilingual education is losing ground; the majority of deaf children is being individually mainstreamed and often do not have contact with deaf peers; and in most European countries deaf schools are steadily being closed down, with a subsequent loss of contexts in which sign languages can emerge and/or be transmitted. Further, there is a huge imbalance between allocation of resources to medical 'cures' for deafness and to those perspectives which value sign language, and genetic interventions are being developed which could effectively mean the end of signing communities' existence (Bryan and Emery 2014; Johnston 2006).

While some aspirations for sign language recognition remained similar to those of the 1990s, the challenges of recent times have led to legislation being seen as a way to reverse and/or halt the current dynamics. Not only is there still a desire for symbolical recognition of sign languages as *languages* and a demand for linguistic rights, but there is also an increasing awareness of the importance of language acquisition and educational linguistic rights (Locker McKee and Manning 2015; Murray 2015) and the right to a form of self-determination (Kusters et al. 2015).

While signing communities have significant parallels with national minorities and indigenous peoples, what makes them different from those groups is that their languages are usually not transmitted within the family, since over 95 % of deaf children are born to hearing (non-signing) parents (Mitchell and Karchmer 2004; Mitchell et al. 2006). Deaf schools, which traditionally served as the primary sites for peer contact between deaf children and adults, and thus crucial spaces for intergenerational transmission of sign languages and deaf cultures, have lost this function due to increasing degrees of individual mainstreaming. Also, technological developments such as the cochlear implant have led to a return to a medical discourse in which sign language is only seen as the last option, or denied altogether

to parents and deaf babies (Humphries et al. 2012). This is why language acquisition rights are currently paramount on the sign language recognition agenda.

It is important to understand the nature of these rights: they are often misunderstood as the mere ability to acquire and communicate in a language, or as the individual right to have a language one can express oneself in and identify with. Language acquisition rights have an essential cultural dimension too, and are about recognizing the cultural capital of sign language for deaf children, key to socialization and acculturation into signing communities and their cultural heritage (Ladd 2003).

The second significant aspect in which signing communities differ from aforementioned groups, is that they are also (categorized as) people with disabilities, while lacking recognition of this unique dual category membership. Policy makers have tended to include signers' rights only or primarily in disability legislation (Reagan 2010) or blended disability perspectives into language legislation (Locker McKee and Manning 2015; Murray 2015). Nevertheless, an exploration of the current motivations of signing communities' aims for language recognition legislation point to an increasing focus: signing communities are claiming their status as "Sign Language Peoples" (Batterbury et al. 2007), collectivities which need to be granted legal protection and promotion akin to other linguistic and cultural minorities. A sub-aspect is signing communities' wish to carry on their lives in and through sign language, for example by being able to use sign language when accessing services, instead of having to use interpreters. What I will be arguing is that it is exactly these last two aspects, acquisition rights and the right to access services in sign language that most sign language legislation is currently lacking.

To illustrate this my focus will be on Finland, which constitutionally recognised its sign language in 1995, as one of the first two countries in the world to do so, and where the Sign Language Act¹ came into effect on 1 May 2015. I will be appealing to a critical language policy framework (Tollefson 1991), employing principles of the ethnography of language policy (McCarty 2010). This framework serves to critically analyse the ambitions and motives, as expressed by the Finnish Association of the Deaf (FAD), for a Sign Language Act in Finland, and how these aspirations are reflected in the Act, and to expose hegemonic discursive beliefs and implicit and explicit language ideologies on the part of policy makers. It also serves to compare the situation of signers with that of the only other minority group with designated language legislation mentioned in the Finnish constitution, the Sámi. This comparison brings up significant similarities and differences between the two groups, which have consequences for legislative demands and status.

The study includes multiple data sources: expert interviews with FAD senior staff members,² participant observation at academic and political events in Finland and abroad, and study and analysis of official documents which shape language policy in Finland. Exceptional in terms of research methodology is that the author is deaf herself and involved in activism for the recognition of sign languages.

¹ <http://www.finlex.fi/fi/laki/alkup/2015/20150359>.

² Interviews were conducted in International Sign. Quotes provided in this article were translated by the author from International Sign to English.

This paper will lead to the conclusion that the Sign Language Act is innovative in different aspects but does not reflect, despite close consultation, FAD's most important pursuits. It is also different from the Sámi Language Act. A tentative exploration of some of the possible reasons for this difference can make significant contributions not only to the field of sign language policy but also to the wider (critical) language policy field, by exposing policy makers' differential treatment of signers and their languages, and how signing communities attempt to work with them to achieve equal treatment and fairer language policies.

The recognition of sign languages

Following De Meulder's (2015b) strict legal definition, it is estimated that as of 2016, there are 33 countries that have accorded legal status to their sign language(s) in legislation that is concerned with language status and/or language rights. In contrast to the recognition of most spoken languages, including minority languages, the recognition of sign languages rarely means that they receive national, official or minority status, or inclusion in the constitution or language legislation.

The development of sign language recognition legislation is a relatively recent phenomenon in the field of language policy, with the first sign languages recognized in 1995. While there has been academic attention to the status (planning) and recognition of sign languages in general (e.g. Krausneker 2000, 2009; Reagan 2006, 2010) and published overviews aimed at policy makers (Wheatley and Pabsch 2012), few authors have documented signing communities' aspirations for sign language recognition legislation, how they work with their governments to achieve legislation which most reflects these goals, and whether and why these outcomes are successful (e.g. De Meulder 2015a; McKee 2006, 2011; Quer 2012). The documentation of these processes is crucial since it appears that most subsequent outcomes of legislation are unsuccessful, at least from signing communities' point of view (Murray 2015).

The legal status of Finland's languages

Although to date more than 150 languages coexist in Finland,³ in 2013 89.3 % of Finland's 5.5 million inhabitants were Finnish speakers, while 5.3 % were Swedish speakers, another 5.3 % were speakers of a language other than Finnish or Swedish, and 0.04 % were Sámi speakers (Statistics Finland 2014b). Section 17 of the Finnish Constitution on 'Right to one's language and culture' establishes Finnish and Swedish as the official languages (in the case of Finland, called 'national' languages) and makes provisions to protect these languages.

Section 17 §3 of the Constitution also specifically mentions four other language groups: the Sámi, the Roma, 'other groups', and '*viittomakielä käyttävien*', which can be translated as 'sign language using people' or 'signers', the expression I will

³ <http://www.kotus.fi/kielitieto/kielet>.

use in this article, which was at the time of constitutional reform in 1995 a new Finnish expression.

Section 17—Right to one's language and culture (§2).

The Sami, as an indigenous people, as well as the Roma and other groups, have the right to maintain and develop their language and culture. Provisions on the right of the Sami to use the Sami language before the authorities are laid down by an Act. *The rights of persons using sign language and of persons in need of interpretation or aid owing to disability shall be guaranteed by an Act.* (my emphasis)

From a legal perspective however, these groups are not official minorities nor their languages official minority languages because the Finnish legal system at present does not recognize these (Tallroth 2012). Still, Sámi, Romany and 'sign language' may be considered de facto minority languages of Finland, because they are very close if not identical to groups that in the context of international conventions as well as in other countries are referred to as national or official minorities (Tallroth 2012). Other long established minority languages such as Russian and Tatar are not granted official status despite their numerical superiority to authorized minority languages (Latomaa and Nuolijärvi 2005).

The rights of the Sámi to maintain and develop their language and culture are based on their status as an indigenous people, while the rights of the Roma are based on being representatives of a particular ethnic group (Ihalainen and Saarinen 2014). The 'other groups' are not specified, but do not refer only to traditional minorities, and will be applied to new (immigrant) groups if they can be regarded as minorities (Saukkonen 2013).

The last sentence of section 17 §3 seems like an afterthought following the specifications of the rights of the Sámi, Roma and other groups. Three points are worth mentioning:

- The rights of 'persons using sign language' are mentioned together with those of 'persons in need of interpretation and translation aid owing to disability'. This is due to the context in which the constitutional reference was developed. Kaisa Alanne (FAD):

The parliament heard several groups, including people with speaking disorders, and suggested referring to the rights of people in need of interpretation and translation aid owing to disability, and the rights of persons using sign language in one and the same sentence. FAD didn't want this, but we felt we had to accept this formulation or wait another 50 years till the next constitutional reform. We tried to explain that people with speaking disorders use Finnish and Swedish, which were already covered by legislation. That we were a distinct language group. But the Members of Parliament thought it was about the same group.⁴

⁴ K. Alanne, Director of FAD Development Department (personal communication, May 14, 2013).

- In contrast to the rights of Finnish and Swedish speakers and those of the Sámi, the Constitution does not grant signers any specific rights. It only recognizes that ‘people who use sign language’ have rights, without specifying what these are—and without recognizing the language itself.
- The Constitution uses the generic ‘sign language’ and not the names of the two national sign languages of Finland: Finnish Sign Language (FinSL) and Finland-Swedish Sign Language (FinSSL). This is possibly because of sign language research is rather young in Finland and it was not previously considered necessary to differentiate between sign languages (Salmi 2010). Also, FinSSL has long been considered a dialect of FinSL; only in 2005 did the organisation of FinSSL signers officially state that FinSSL is a language of its own which is strongly linked to the Finland-Swedish culture (Hedren et al. 2005).

Section 17 of the Constitution provides a clear obligation to legislators to develop further legislation. The linguistic rights of Finnish and Swedish speakers are regulated in the Language Act 1922 (updated in 2004), which contains exact provisions on the right to use Finnish and Swedish before the authorities and courts of law and sets a minimum of language rights. The Sámi Language Act (1922) and further changes in the legal situation of the Sámi as a result of the 1995 constitutional reform led to the Sámi Language Act (2003), which guarantees the Sámi the fundamental right to maintain their language and culture. The rights of Finnish, Swedish and Sámi speakers are further regulated in special legislation.

As for sign language, as a result of the constitutional recognition, several laws were passed covering different policy areas linked to sign language such as education, anti-discrimination, broadcasting, access to information, research, health care, social care, interpretation and translation and judicial matters (called ‘special legislation’). Still, for 20 years signers were the only language group in the Constitution (apart from the Roma), which didn’t have designated language legislation.

Finland: A model country regarding sign language rights?

General discussions on multilingualism or linguistic diversity in Finland often only concern Finnish, Swedish and/or Sámi, and/or the ‘other groups’ mentioned in the Constitution. Sign languages are only rarely taken into consideration, although some authors include them (e.g. Skutnabb-Kangas and Aikio-Puoskari 2003; Latomaa and Nuolijärvi 2005). Finland often presents itself as a model case of language policy, an example other European countries should follow (e.g. Ihlainen and Saarinen 2014 referring to the Language Act). It is also described as one of the most multicultural countries in today’s Europe (Saukkonen 2013) and the indigenous Sámi enjoy considerable self-government through the Sámi parliament.

Finland also has a longstanding position as a model country regarding sign language rights (Conama 2010), and is said to come closest to offering “genuine equality and full citizenship to their Deaf people and communities” on an international scale (Batterbury 2014:55). Other accounts describe the cooperative

approach of the Finnish parliamentary system, combined with established welfare state nationalism and the recognition of other minority languages as being more sympathetic towards sign language (Reffell and Locker McKee 2009). Although Finland's position is indeed exceptional from an international perspective, it may be romanticized at times, also by signing communities outside Finland.

The picture of historical Finland is different. During the phase of Finnish nationalism in the late nineteenth century (the 'Fennoman movement'), Finland exercised strong assimilation policies towards signers (Salmi and Laakso 2005), and other minority groups such as the Sámi (Minde 2005) and Roma (Bakker 2001). Regarding sign languages, those policies were executed through monolingual education in Finnish and coincided with an international ideology of oralism (Ladd 2003), which removed sign languages and deaf teachers from the educational domain and in Finland (as in most other countries) lasted for almost a century. In 1929, Finland even took the internationally rare decision to legally deny deaf couples marital rights in the name of 'racial hygiene'. They were only allowed to marry again in 1969 (Salmi and Laakso 2005).

Contemporary Finland is described as a state "that combines tolerance and minority rights with a strong sense of a quite exclusivist form of nationality" (Saukkonen 2012:10) and as a country with a "deeply anchored language-based 'Fennoman' conception of the nation" (Saukkonen and Pykkönen 2008:52). Despite its model position, there is still a strong monolingual ideology and practice that explicitly and legally codifies most language policies, but also adopts implicit and unwritten language policies, especially towards minority languages which are "tolerated rather than actively encouraged" (Conama 2010:173).

Against this backdrop, the development of the Sign Language Act took place.

Development of and motives for a Sign Language Act

More than 10 years after the constitutional recognition, the Finnish Association of the Deaf (FAD) still felt that the signing community was in an unequal position compared to other language groups in Finland, and that legislation was needed to guarantee a stronger status for sign language.

In 2010, FAD launched its second language policy programme, written and published in collaboration with the Research Institute for the Languages of Finland (Suomen viittomakielten kielipoliittinen ohjelma 2010). One of the key objectives of this programme was demonstrating the need for a separate sign language act. Originally, FAD planned to look at provisions in the Sámi Language Act, which is in itself largely a replica of the Language Act (Tallroth 2012). This endeavor to model sign language legislation on existing legislation for spoken minority languages is not unique to Finland; see De Meulder (2015a) for a discussion of the British Sign Language Act 2015 and McKee (2006, 2011) for the New Zealand Sign Language Act 2006.

Five main motives guided the consequent negotiations between the Government and FAD, in line with the general motives of signing communities for language recognition (De Meulder 2015c).

1. Following the unclear constitutional reference and emphasizing the dual category membership, the Act was expected to clarify the status of signers as a linguistic and cultural group in Finland and the status of sign language as a language. Markku Jokinen (FAD):

The government has consistently viewed us as a disability group and laws are geared to this perspective. When we try to promote a language and cultural group perspective, the government gets confused, as does the disability movement, who try to take us into their umbrella. They think we are trying to butter our bread on both sides. We have tried to explain that's not the case. We need both perspectives, parallel and equal to each other. [...] The Ministry of Justice has understood this, that deaf people also need to be treated as a language and cultural group.⁵

2. The Act was expected to fill in the missing link between the constitution and special legislation, which is dispersed and ambiguous, and has a discretionary interpretation. The aim was for authorities to take sign languages into consideration when preparing special legislation or providing administrative instruction. These first two motives are the expression of a wish to define implicit language policies, already used by the Finnish Government, and devise new sign language-centered policies.
3. A crucial motive was serious concerns about the right of children to acquire sign language as their own language, which is not established in Finnish legislation. Parents of deaf children receive sign language classes at home free of charge, but these are only delivered on request and on medical grounds with parents having to obtain a doctor's referral.⁶ Also, the classes are considered a temporary solution until the child acquires speech, rather than as language classes crucial for child and family. Kindergarten education in sign language is scarcely available (WFD and EUD 2015). Kaisa Alanne (FAD):

[...] A law can support parents in learning sign language, so that they feel they are 'allowed' to do it, that it is permitted. There are still many hearing parents who are learning sign language sneakily! Because the medical world is advising them against it. Finland is a free and progressive country, should parents really learn sign language on the sly? That makes me think of a country like Korea. A law can help parents to make the choice for sign language. Maybe they would like to make that choice now already, but don't feel supported to do it.⁷

⁵ M. Jokinen, FAD Executive Director (personal communication, May 3, 2012).

⁶ While this has rightly been criticized by FAD, compared to other European countries where many hearing parents do not receive sign language teaching at all, let alone at home free of charge, this situation is very progressive.

⁷ K. Alanne, Director of FAD Development Department (personal communication, April 19, 2012).

4. The Act was expected to improve the delivery of services in sign language. These had been sporadic and patchy (Finnish Government 2013) and challenged by the dispersion of the signing community, the small number of signers, inadequate economic resources and low awareness of linguistic rights of signers (Finnish Government 2014a). Moreover, an important demand of FAD, paralleling that of other language groups in Finland (Finnish Government 2013) was the delivery of services in sign language (not via an interpreter), especially for target services like those for elderly deaf people and deaf people with memory diseases, and mental health and substance abuse services.
5. A fifth and last motive originated in the “passive assimilation policy”⁸ of the Finnish authorities towards FinSSL signers which led to the very precarious status of the language, with only 300 signers left, classified as “severely endangered” by UNESCO,⁹ and expected to become extinct within 10 years if no revitalisation programme was set to start.

Since signers are the only language group mentioned in the Constitution without a designated institution of the State to observe and improve status and linguistic rights (cf. the Sámi Parliament and the Advisory Board on Romani Affairs), FAD also specifically asked the Government to set up an Advisory Board on Sign Language Affairs, responsible for monitoring implementation of the Act and overseeing linguistic rights and conditions of signers in Finland.

Provisions of the Sign Language Act

On 12 March 2015, the Finnish Parliament unanimously voted in favour of the Sign Language Act. It is a rather unique piece of legislation within the Finnish legal system. The Act is very concise, containing 5 different articles.

Art. 1 (sign language) defines “sign language” as Finnish Sign Language and Finland-Swedish Sign Language and a “signer” as a person whose own language is sign language.

Art. 2 (Purpose of the Act) states the Act’s purpose is to promote the realization of the linguistic rights of signers (as required by the Constitution and international human rights conventions¹⁰).

Art. 3 (Promotion duty of an authority) states that authorities¹¹ must in their actions promote signers’ opportunities to use and receive information in their own

⁸ <http://svenska.yle.fi/artikel/2014/02/12/passiv-assimileringsspolitik>.

⁹ http://www.uclan.ac.uk/research/explore/projects/sign_languages_in_unesco_atlas_of_world_languages_in_danger.php.

¹⁰ Such as the UN Convention on the Rights of Persons with Disabilities, which Finland is expected to ratify in 2016.

¹¹ An authority is defined in the Act as courts and other authorities of the state, municipal authorities, independent public law institutions and bureaus of the Parliament. The Act would also pertain to other institutions managing public administration. Beside the state, government officials include municipalities, federations of municipalities, the province of Åland, the Evangelical-Lutheran church and other

language. This article also intends to increase authorities' awareness of sign languages and of signers as a linguistic and cultural group.

Art. 4 (Linguistic rights of signers) refers to special legislation regulating signers' right to receive teaching in their own language and to sign language as a subject, and the right to use sign language or interpretation and translation arranged by an authority.

Art. 5 regulates the date of entry into force of the Act.

Provisions of the Sign Language Act: Reflecting FAD's motives?

In this section I will discuss the provisions in the Sign Language Act compared to FAD's motives for the Act. I will first discuss the absence of new rights, then innovative aspects, and conclude with the three most important aspects that are lacking: a statutory monitoring mechanism, language acquisition rights, and the delivery of services in sign language.

Absence of new rights for signers or responsibilities for authorities

The Sign Language Act is a framework law that does not contain any new rights or responsibilities for authorities, and its brevity has already been criticized by experts (Finnish Government 2014a). The Language Act and Sámi Language Act include both the minimum obligations of authorities *and* the rights of individuals. The Sign Language Act includes authorities' duties but not the rights of individuals, which are covered in special legislation. It merely re-establishes, strengthens, and frames existing rights, making them more visible and supporting taking them into consideration more effectively via the administrative branches responsible for the implementation of special legislation (Finnish Government 2014b). In practice, the most important implementation measures will be educating teachers and interpreters, and securing their availability.¹²

This means that from the point of view of individual signers, the special legislation on education, health care, social care, the judicial sphere and broadcasting may be more important than the Act itself, because rarely enforced rights are mentioned (Conama 2010). Ó Flatharta et al. (2013) and Skutnabb-Kangas and Aikio-Puoskari (2003) make similar observations for the Language Act and Sámi Language Act respectively.

Innovative aspects of the Act

The Sign Language Act is the first piece of Finnish legislation explicitly defining 'sign language' as both FinSL and FinSSL. This is crucial on a symbolic and

Footnote 11 continued

autonomous units as well as independent organisations of public administration such as the Social Insurance Institute and public law associations.

¹² M. Soininen, Senior Officer at the Ministry of Justice (personal communication, April 9, 2015).

practical level, given the very precarious status of FinSSL. For 2015, the Finnish Government granted 250.000 euros to start a revitalisation programme for FinSSL, facilitating planning of the necessary linguistic resources for the development of teaching and interpreting services. The Constitutional Committee in its memorandum expressed the hope that this grant would become part of structural funding.

Another innovative and internationally unique aspect of the Act is that it does not link its provisions to hearing status. The definition in Article 1 of a ‘signer’ as ‘a person whose own language is sign language’ is open to include both deaf and hearing people. The expression ‘own language’ (*‘oma kieli’* or *‘omaa kieläään’*) is a common expression in Finnish language legislation and also used in section 17 of the Constitution in the context of the rights of Sámi and Roma and in the 10th Article of the Language Act, in which it has the same meaning as the traditional expression “mother tongue” (Finnish Government 2014a). The core group of ‘signers’ is stated to be composed of deaf, hard of hearing and deafblind people, but sign language is also the mother tongue of people of whom at least one parent or elder sibling is a signer and sign language has been used with the child since birth (Finnish Government 2014a).

Monitoring of the Act

Despite FAD’s request, a specific provision on the follow-up and supervision of the Act is not included. The Government did not consider this necessary because the starting point is that each authority supervises the implementation of the Act in their field (Finnish Government 2014b). Linguistic rights of signers are also part of the follow-up assignment of the Ministry of Justice regarding the application of language legislation; Art. 37 of the Language Act obliges the Government to discuss sign language in its four-yearly report. The Government further stated that the follow-up of the development of linguistic conditions is also realized by the Advisory Board on Language Affairs, which does officially not have sign language under its remit but which can participate in the pursuing of legislation on other languages, and in which a FAD representative has been appointed for the term 2012–2015. During the first reading of the Bill, however, the Parliament strongly expressed the wish to see a Sign Language Advisory Board established, to assist in promoting the realization of linguistic rights (Finnish Government 2014a).¹³

Children’s right to acquire sign language as their own language

The Act re-establishes signers’ right to education in sign language as provided in special legislation (e.g. the Basic Education Act). However, the fundamental principle necessary for using the provisions in special legislation is missing from the Act, since it does not provide language acquisition rights. Those rights are currently

¹³ Meanwhile, the Finnish Government has established a sign language advisory working group to promote communication and information between key actors, monitor implementation of the Sign Language Act and draw up a report on the overall situation of FinSSL (<http://www.oikeusministerio.fi/fi/index/valmisteilla/kehittamishankkeita/viittomakielenyhteistyoryhma.html>).

also not provided in special legislation (although revisions to the legislation on early upbringing could change this).

During negotiations for the bill, FAD proposed that a new 3rd clause be added to the 1st article of the bill: “The prospect of acquiring sign language as a mother tongue, first language or second language and the chance to use Sign Language should be guaranteed for everyone who has a need for Sign Language use in the early stages of language development or later on due to deafness, hearing impairment, deafblindness or other reasons” (Finnish Government 2014a). The University of Jyväskylä made a similar submission. FAD also stated that the issue of language acquisition should be considered in special legislation. By doing so, the right of a deaf child’s parents to receive sign language teaching could be secured as well as the earliest possible use or acquisition of sign language by a deaf child or a child with varying degrees of hearing impairment. This way, sign language could become his or her mother tongue, i.e. the ‘own language’ mentioned in the Act.

However, Finnish language legislation mainly focuses on administrative matters and education. The issue of language acquisition and the right thereof is not in accordance with this spirit. During the first reading of the Bill, the Members of Parliament acknowledged that the prerogative to one’s own language is a basic right, and that because of the specific situation of intergenerational transmission, this right in particular should be strongly protected. When the Act was approved, the Parliament, on the initiative of the Education and Culture Committee and the Constitutional Law Committee, accepted a statement requiring that future Governments take action to improve the linguistic rights of signers in such a manner that the right to use one’s own language is secured.

Delivery of services in sign language

An important demand of FAD was the provision of services directly in sign language, specifically for certain target dispensations. During the negotiations, FAD referred to the Patient Act (785/1992) and the Client Act (821/2000) which state that the mother tongue and cultural background of the patient need to be taken into account as much as possible in his or her care and other treatment. They also argued there are qualitative differences in interpreting services and that FinSSL signers are often offered interpretation in FinSL. However, the Government argued that the delivery of services can be implemented through interpretation and translation services.

Even with this right to interpretation and translation services (and other linguistic rights enshrined in special legislation), the fact remains that signers in Finland have little knowledge of their linguistic rights (Finnish Government 2013), although the younger generation seems to be better informed than the older one (Conama 2010). They will not always try to use FinSL or FinSSL when communicating with authorities or accessing services (not only because of lack of awareness but also because of the onus placed on them for booking interpreters). This means that their linguistic rights are only secured *if they themselves request it*. The Government recommends that knowledge about linguistic rights should be spread and that signers are given the necessary information about what they should do to receive the

services to which they are entitled. Often, public authorities argue that services in a specific language are weak or absent because there is no or not enough demand from the language group. It is therefore important that provisions in FinSL and FinSSL reflect the principle of ‘active offer’. The Sámi parliament for example has stated that authorities should provide services in Sámi on their own initiative and not only when customers request them, and that they should be informed about their right to use Sámi (Finnish Government 2013).

Comparison with the Sámi situation

I will now proceed to compare the situation of signers in Finland with that of the Sámi people. Indeed, since the Sámi and signers are currently the only two minority language groups in Finland with designated language legislation, it is useful to compare their legislative and practical situation.

Legislative situation

When inquired about the reasons for the differing legal status of Sámi and signers, the Ministry of Justice replied:

The reasons for this difference are practical and economical. For example, there are not enough interpreters of the Finnish-Swedish Sign Language [sic] at the moment. There have to be interpreters so that persons using sign language can communicate with the authorities. Besides, the linguistic communities of the persons using sign language are very small and scattered [...].¹⁴

I will discuss the size and territoriality arguments, and then turn to two other possible reasons for this difference in legal status and demands.

Demographic size of language group and territorial concentration

The small number of signers in any country is often used as an argument for withholding or limiting linguistic rights (Wilcox et al. 2012). Recent statistics put the number of deaf signers in Finland at around 3.000 (Takkinen et al. 2015). But since the Finnish Government’s position is that sign language is also the mother tongue of people of whom at least one parent or elder sibling is a signer and sign language has been used with the child since birth (Finnish Government 2014a), one would need to add 6.000–9.000 hearing signers (Suomen viittomakielten kielipolitiikan ohjelma 2010), which brings the total number of signers to a minimum of 9.000. The number of speakers of Sámi is approximately 1.700–1.900 (Latomaa and Nuolijärvi 2002; Statistics Finland 2014a).

The Finnish Government granted protected status to Tatar and Karelian under the European Charter for Regional or Minority Languages; Finnish languages with an

¹⁴ M. Soininen, Senior Officer at the Ministry of Justice (personal communication, April 17, 2015).

equal or less number of speakers compared to signers: “slightly under 1.000” for Tatar (Latomaa and Nuolijärvi 2002:111) and 5.000 for Karelian,¹⁵ although very few of these, if any, use Karelian in their everyday lives or as mother tongue (Torikka 2003). If a critical mass of users is indeed important to the Finnish Government in granting language rights, their explicit language policies demonstrate an at least ambiguous attitude.

Close observation is needed to if and how the Sign Language Act succeeds or assists in developing and maintaining a critical mass of signers, including deaf signers, especially given the absence of language acquisition rights, and thus the opportunity to pass on the language to future generations. While the small number of signers is given as a reason for limited language rights, the Act does not really offer anything to strengthen the vitality of FinSL.

As for the territoriality argument, it is well known that territorial autochthonous minorities have in general more rights than non-territorial minority groups (Skutnabb-Kangas 2010). Signers live dispersed over Finland, and the Finnish Government perceives the delivery of services as challenging and expensive, especially in remote areas.

Status as a ‘people’

The Sámi as an indigenous people have the right to self-determination under international law and are granted considerable autonomy in Finland, although the implementation of this right is not always self-evident.¹⁶ Skutnabb-Kangas and Aikio-Puoskari (2003) state that as signers do not constitute a threat to sovereignty of a state because they do not have nor claim the right to self-determination, it should be easier for them to gain rights. However, a growing number of scholars state that ‘Sign Language Peoples’ are collectives worth of self-determination and group rights (e.g. Emery 2011; Kusters et al. 2015; Ladd 2003). Although they do not seek active secession from the state, they seek a form of differentiated citizenship (Young 1990) providing rights to accommodate their particular groups’ needs and practices and protection from harmful interventions (e.g. the aforementioned genetic interventions).

‘Linguistic bind’

A last difference between signers (primarily deaf signers) and Sámi which influences legal status and demands is their differing ways of acquiring and using language. Because of their biology, using the spoken modality of the majority language is not evident for most deaf signers. They thus cannot change their mother tongue towards the majority spoken language or at least shift languages when they want to do so, e.g. in accessing services. Skutnabb-Kangas and Aikio-Puoskari

¹⁵ <http://www.kotus.fi/kielitieto/kielit/karjala#Karjalanpuhujatjakarjalankielenasema>.

¹⁶ In the very same week as the Sign Language Act was approved, the Finnish Parliament rejected a law on the reform of the Sámi Parliament (and the definition of Sámi), which constitutes a serious violation of the Sámi’s right to self-determination—of which an important element is the right to define group membership.

(2003) state that despite technological advances, sign language is still the only language a deaf person can express himself/herself fully in, and that this could strengthen their demand for language rights.

While this argument is valid in theory, it is crucial that signers' right to language is granted, not as an accommodation to them because they lack proficiency in the majority (spoken) language, but as a right irrespective of this proficiency. I come back to this in the conclusion. It is again instructive to look at the Sámi Language Act here, of which Chapter 2 Section 4 states that an authority must not restrict or refuse to enforce the linguistic rights provided in the Act on the grounds that the Sámi also knows some other language like Finnish or Swedish.

Conclusion: Promotion and endangerment hand in hand?

With the passing of the Sign Language Act, Finland has strengthened its leadership position concerning sign language rights. It is as yet the only country in the world that has explicitly recognized its national sign languages in both the constitution and in language legislation, and implicitly recognized them in special legislation covering an array of policy domains. From a Nordic and international point of view, the Act is innovative. It has the potential to start the much-needed revitalisation of FinSSL and legally codifies the idea behind the concept of 'viittomakielinen' ('sign language person') (Jokinen 2000, 2001). The inclusion of this concept does not only demonstrate the well thought-out pragmatic approach of the FAD towards an increase in the critical mass of signers (by including hearing signers in the total population of signers), but is also a move away from the disability perspective.

Still, looking at the close rapport between the Finnish Government and FAD and the extent of collaboration, one would expect more of FAD's aspirations reflected in the Act. Most notably absent are language acquisition rights and the right to access services directly in sign language, which are general weaknesses of sign language legislation which often merely focuses on the availability of interpreters (De Meulder 2015c; Reagan 2010).

The right for e.g. the Sámi to services in their language entails services in Sámi by personnel competent in Sámi, not the right to access services through a Finnish-Sámi interpreter. For signers however, this right is almost automatically understood as 'access to services through a sign language interpreter'. While the use of interpreters can bridge language gaps it does not really promote the use of the language (Tallroth 2012) and merely relies on a norm-and-accommodation approach (Kymlicka and Patten 2003) neglecting to recognize the mother tongue and distinct cultural and linguistic identities of signers. On the other hand, it has to be noted that it would be difficult for most states to practically implement this right for a small and dispersed population of signers (and for Sámi, implementation problems have been noted (Finnish Government 2009)). This demand could thus also be addressed at the level of policy and practice, rather than in legislation. Policy and practice should take into account the benefits in the long term of one, hearing people learning sign language and two, empowering and enabling members of

signing communities themselves to be educated so they can provide services to their fellow citizens.

The Sign Language Act is thus not only a result of collaboration but equally, like any language policy, the result of political expediency, pragmatic and economic considerations, hegemonic discursive beliefs and hidden language ideologies on the part of policy makers (Williams 2013), which come to the fore when comparing the situation of signers with those of the Sámi. Challenges for the FAD now lie in extending the close rapport with the Government to make the Act work and improve it, attempt to exert greater political influence e.g. by establishing a Sign Language Board, make signers aware of their linguistic rights, and influence societal attitudes, which shape language policies even more than legislation.¹⁷ Kaisa Alanne (FAD):

A lot depends on people, whether they fight for their right to use their language. The law can't do it all. It's always also about attitudes. The law can say 'you have to do this and this' but you also need to work at attitudinal change. That is what happened partly for Swedish. That way, a law can have more effect. This attitudinal change is something we need to work on for FinSL and FinSSL. We still depend too much on the government while we need to work at changing attitudes ourselves, and we need to fight for our language rights.¹⁸

The greatest challenge however, will be to find a balance in the current climate where the endangerment and promotion of sign languages go hand in hand (Wilcox et al. 2012). This is also relevant with a growing number of deaf people, especially the younger generation, with widely variable language access. The "new generation of Deaf multilinguals" (Jokinen 2005) has (writing and, less frequently, speaking) competence in the majority language(s) and their own and other sign language(s) (Tapio and Takkinen 2012). This is occurring through technological advances (the CI) and improvements in educational outcomes on the one hand (e.g. sign bilingual education in some countries, and access to regular education) and through increased international mobility on the other, with deaf people having more access to English and other sign languages (Multisign project 2011–2016¹⁹; Wang et al. 2014).

Others are denied access to sign languages or have only very little language exposure at all and end up with minimal linguistic competence in the majority language and their sign language, which positions them as 'impaired monolinguals' or 'marginal bilinguals' (Locker McKee 2008). There are also deaf people with varying degrees of fluency in each language.

While for the multilingual group the ability to shift languages might increase the sense of agency and options for participating in society, this is only so when there is no 'shift'—which seldom happens voluntarily and has everything to do with power relations (Skutnabb-Kangas 2000)—but rather a possibility, desirability and

¹⁷ A useful commentary about the tensions between top-down and bottom-up language planning efforts is noted in Gras (2008).

¹⁸ K. Alanne, Director of FAD Development Department (personal communication, April 19, 2012).

¹⁹ http://www.uclan.ac.uk/research/explore/projects/multilingual_behaviours_sign_language_users.php.

opportunity to use and continue to use several languages (signed and written/spoken) in different circumstances, by choice. This increasing multilingualism should not make deaf peoples' claims for language rights redundant. It should also not lead to resisting societal pressures to assimilate and conform and shift languages and identities—closer—towards those of the majority. Also, there is a growing number of deaf children with CIs who do not acquire sign language at home nor at school; it is not certain that they will identify sign language as the only language they can express themselves in. Some of them will feel equally or more comfortable expressing themselves in a spoken language (Punch and Hyde 2011; Takkinen 2012; Wheeler et al. 2009). Even then, it is necessary to guarantee those children the right to acquire sign language as their own language, since it is the only language which remains 100 % accessible to them.

It is hoped that this study can have a transformative effect on the future development of legislation which genuinely recognises Sign Language Peoples' languages, cultures and identities, and, through a Deaf Gain lens (Bryan and Emery 2014), acknowledges their contribution to a diverse humanity.

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