Language Legislation and Identity in Finland
Fennoswedes, the Saami and Signers in Finland’s Society

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## Tiivistelmä/Referat – Abstract

Finland is known for its language legislation which deals with the right to use one’s own language in courts and with public officials. In order to examine just how well the right to use one’s own language actually manifests in Finnish society, I examined the developments of language related rights internationally and in Europe and how those developments manifested in Finland. I also went over Finland’s linguistic history, seeing the developments that have lead us to today when Finland has three separate language act to deal with three different language situations. I analyzed the relevant legislations and by examining the latest language barometer studies, I wanted to find out what the real situation of these language and their identities are. I was also interested in the overall linguistic situation in Finland, which is affected by rising xenophobia and the issues surrounding the ILO 169. My findings were that while Finland writes good legislation, its actual implementation leaves a lot to be desired. An individual’s linguistic rights are supposed to be self evident, yet authorities often do not feel like providing them. Many minorities are also unaware of the existence of their linguistic rights. There is a lot of work to do in order to make sure that public authorities really live up to the language requirements that they are set and that minority language users are more aware of their rights. If minority language speakers do not know of their rights, they cannot demand them and the authorities will not automatically provide them for thinking that there would be no need for them. Language plays a complicated role in society but if a society, like Finland, decides to acknowledge multiple languages as deserving of being a part of Finland’s society, the society should also deliver.

## Avainsanat – Nyckelord – Keywords

kielessiset oikeudet, linguistic rights, Saamelaiset, suomenruotsalaiset, viittomaksielen käyttäjät, the saami, fennoswedes, sign language users, signers
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1. Introduction

Language has an important dual role as both constituting cultural identity for both individuals and the groups they are connected to and as a communicative tool. Both of these roles are important but when it comes to the functioning of society or the needs of the market, the identity constitutive role is often ignored.¹ The vast majority of states function on the basis of one language, modeling themselves after the European ‘nation state’ ideal, which means that each state only has room for one ‘nation’, with language often being an important differentiating factor between different ‘nations’. Some states do acknowledge more than one language, but rarely more than two that could have a role within the functioning of society. The most extensive recognition of language variety in a society is South Africa, with its 11 official languages, although it is a huge exception in the world.² It is often assumed that acknowledging linguistic variety is detrimental to the political unity of a state. As such, linguistic rights for minorities are often lacking, other than more generally accepted human rights which contain a language component, such as freedom of expression or nondiscrimination on the basis of language.

However, using legislation to make minority languages official is much needed in order to improve the status of those languages in society. This allows the scope of usage for these languages to spread into different levels and areas of society. This in turn ensures that language maintenance functions, since official languages have access to language maintenance and development infrastructure.³ Often for minority language the natural linguistic environment is rather weak and the languages have only limited uses, mostly in private contexts, which lead to these languages to becoming archaic and of diminishing its expressiveness. If a language is not used in politics, legislation and governance, it will lose its terminological potential in every way in social life. How could one talk about societal developments in their minority language if there is no vocabulary for that? This can

² https://www.good.is/articles/mandela-day-south-african-language-literacy
³ In Finland, some of these responsibilities are the KOTUS’s, although recently different universities have been charged with research and development of specific languages.
end up being fatal to a language, since one of its roles is as a tool of public communication.4

Linguistic rights are peculiar in the way that they are always both individual rights and collective or group rights. Linguistic rights cannot be properly implemented without acknowledging this, which is why States have often found them difficult to acknowledge and implement. Linguistic rights usually only matter to groups and people who can be considered minorities within their specific context, whether that means regionally or within the whole State. The speakers of the majority or dominant languages do not have to consider whether they can give their children education in their language, communicate with the public authorities with their language and get an answer in that language or whether they can see street signs in their languages. Language is an intrinsic part of society, no society can be linguistically neutral, and when one’s language is one of or the language that a specific society is build on, especially if it has a dominant position, they have little to no reason to consider their linguistic rights much. As a native Finnish speaker living in Finland, that is my position in this society. However, when a person belongs to a linguistic minority, these are all crucial issues for minority groups and in many ways can affect whether or not their languages will survive. This is why acknowledging and giving rights to linguistic minority groups is important for continued cultural diversity.

While Finland is rarely thought of as a country of much societal variety, and in some ways it has fulfilled the nation state ideal, with its widely spread common culture, rather homogenous population and with vast majority of the population speaking the same language. However, on the basis of its legislation and its constitution, Finland is rather multicultural. Promoting and supporting cultural variety within Finland has a strong anchor within Finnish legislation and political guidelines. One of the government’s jobs is to support the cultures and identities of not only Finnish and Swedish speakers, but also the indigenous Saami people, other historical minorities such as the Romani, and immigrant groups. The State’s attitude towards minorities and cultural rights has an

important role to play in guiding practicalities and the allocation of financial resources. Legislation can also be relied on in dispute situations between groups. Legislation also gives a background for following the development of the real life situation. However, legislation is never a perfect reflection of the actual situation in practice. To think so would be naïve. There is always a gap between the official norms and legislation and the actualization of those rights. Not even in a country like Finland which has a long history of the Nordic type rule of law approach to government.⁵

In Finland, people are mostly classified by their one, freely chosen mother tongue. When a child is registered as a Finnish citizen, their parents include information about their name, religion, and mother tongue. This arrangement was created for the purposes of keeping track of the national languages but now includes more variety. It has been possible to declare Saami language as a mother tongue since 1992⁶, and since 2013 it has been possible to choose a specific Saami language, Southern-, Inari-, Kildin-, Skolt-, Luulaja- or North Saami, as a mother tongue.⁷ Since 2008, it has been possible to declare a sign language as a mother tongue, for anyone for whom it might apply, but by 2011 only 200 people had done so.⁸ The registry is considered problematic because it only allows for one language which requires a multilingual person or family to choose which language to designate and thus does not reflect the real diversity of Finnish society, especially since often it might seem easier to choose one of the national languages instead of the language which expresses one’s primary ethnicity and culture. For many speakers of non-national languages, it might seem easier to declare Finnish or Swedish as a mother tongue for their child and for people to not change it later, especially if one might worry about losing some services by changing one’s mother tongue, or especially older Saami people might feel that their language skills

⁵ Saukkonen, Pasi, Erilaisuuksien Suomi (2013) p.125-126
⁶ Saami Language Act 7 §: a Saami with a domicile in Finland is allowed to declare Saami as a mother tongue
⁷ Saamebarometri 2016, p. 12. There are nine living Saami language, the six mentioned also have verified book languages. http://oikeusministerio.fi/material/attachments/om/toiminta/perusoikeudetjademokratia/PXdg55kFN/OMSO_39_2016_Saamebaro_120s.pdf
not proficient enough to amount to a mother tongue. Some people also might feel that to change one’s language later into sign languages or a clarifying Saami language can seem not necessary or difficult. However, declared mother tongue does not necessarily affect things much, although accurate statistics would help to improve in the providing of services and give a more accurate picture of the sizes of linguistic groups. Mother tongue can be changed at any point by a declaration to Väestöntilastokeskus.

In many ways, the two most important language rights are educational linguistic rights and the ability to use one’s own language when dealing with public authorities and courts. Education in and of minority mother tongues is important in order to ensure the transfer of the languages to the next generation and to give young people a proper base for learning other languages and to give them confidence in their identities. I have previously examined how well Finland has succeeded in educational linguistic rights. My findings were that Finland has made commendable efforts but there is still a long way to go. The languages examined there were Swedish, Saami languages, Roma Kale and Finnish Sign Language. This time, I want to concentrate on the other important issue, being able to use one’s language with public authorities, excluding courts for scope reasons. In Finland, this right is dealt within the general language acts. Language Act (2004) deals with the national languages Finnish and Swedish; Saami Language Act (2004) deals with the cultural autonomy and rights within the northernmost parts of Finland known as Sápmi, where they also have the right to communicate in Saami languages with authorities; lastly, Sign Language Act (2015) cements the rights of sign language users in Finland, including both Finnish Sign Language (viittomakieli) and Finland Swedish Sign Language (Finlandssvenska teckenspråk). Even though Roma Kale is mentioned in the Constitution, it does not have its own language act and whether it can be used with authorities is unclear, as such.

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9 see note 7, p. 46
10 Hirvenen, Anna Educational linguistic rights in the constitutionally recognized languages in Finland (2014), Bachelor’s thesis Tallinn University of Technology, p. 40-42
I will not consider it in this thesis.

Languages which are allowed to be used with public officials are more clearly a functional part of their society. Knowing that one can use their language when dealing with authorities can be very important also for the continued variety in the usage of minority languages and provides these languages with different domains which helps keep the language current and constantly developing. The more places where a person can use their language, the better it is for its vitality. Their recognition as languages that can be used in official situations also give them a somewhat ‘official’ status, whether or not that is the term the specific country uses and what other rights it might possess.

Finland denotes two spoken national languages as well as two national sign languages, Finnish and Swedish. Any of these languages can be used in order to gain Finnish naturalization or citizenship. In addition, the three Saami languages used within Finland, North, Inari and Skolt Saami, have been given official status within the Sápmi. Because the Saami are an indigenous, and as such in international legal terms, a separate people and the status relates in part with their languages, knowing a Saami language does not officially count towards language skills in gaining Finnish citizenship. There is also the issue that a considerable amount of the Saami lives outside the Finnish Sápmi, so there is a question of whether they should or are allowed to use their own language with public authorities outside that area. The Saami Language Act mostly concentrates within the Sápmi while also applying to State authorities.

Since the start of Finnish nationalism in the 1800s, there has been a liberal strain of it which states that ‘anyone who loves and gives to Finland, no matter their language, is a Finn’. In a country that was founded on a linguistic compromise, choosing to go bilingual even as unified republic, this

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11 Nationality Act §13
12 Topelius, Zacharius Maamme kirja/Bok om Vårt Land (1835), as summarized Saukkonen, Pasi, Erilaisuuksien Suomi, p. 21 (2013)
type of attitude makes sense and it can be seen especially with the efforts made for the Swedish language as a less widely used official language. In Finland, everyone has the individual right to use either Finnish or Swedish, whichever is one’s mother tongue, with authorities. Regionally, in the Finnish Sápmi, any of Finland’s three Saami languages can also be used. Sign language users or signers are also entitled to interpretation services. This means that in Finland, there are individual linguistic rights, as well as regional rights for the Saami. In addition, the Constitution allows the Romani and the openly defined ‘other groups’ the collective linguistic right to use and develop their own languages. The government also has the duty to make sure an individual’s linguistic rights work in practice. Because of this, Finland also has a law on the language skill requirements of public officials for Finnish and Swedish languages. The Act on Saami Language deals with the language skill requirements of authorities within the Finnish Sápmi.

My personal perspective on these issues is that of an outsider and as part of the dominant culture of Finland. Not only is my mother tongue, or own language, Finnish, but I have also grown up and lived in predominately Finnish speaking regions for most of my life. My perspective is not personal but it is not completely objective either. However, as a Finn, I am in favor of our official bilingualism and I find linguistic rights to be important for all of Finland’s linguistic groups and our society.

In this thesis, I plan on examining how the different language acts, for Swedish, Saami languages and sign languages, affect the identity of these people within Finland. Has a language act improved the situation of the Saami or the signers? Swedish has an equal status as a national language of Finland in law, is that reflected in reality? How does gaining a language act affect a minority language speaker’s identity? How aware are Finland’s linguistic minorities about their linguistic rights?

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13 This is in contrast to countries like Belgium and Switzerland where language rights are regional, instead of the whole state necessarily being multilingual.
14 This is how it is classified in the Finland’s ratification of the Language Charter/ECRML
15 Laki julkisyhteisöjen henkilöstöltä vaadittavasta kielitaidosta (2003/424) also known as Kielitaitolaki (Act on Language Skills for public officials)
16 Saami Language Act §14
I will examine these questions by first detailing the international development of rights relating to language and then seeing how those developments have manifested in Finland, starting with the national romanticism movement and the ideal of the nation state in Europe in the 1800s, especially the conflict between Finnish and Swedish speakers and nationalism’s effects on the Saami and signers, and then going through the development of constitutional linguistic rights independent Finland until the present day (2017). I will examine the developments and changes in the language legislation and the international treaties that Finland is party to which concern linguistic rights. Then I will examine the issues how Finland’s recognition of these languages has manifested in their identities and what the current linguistic atmosphere is like in Finland. Hopefully by then I will have answers to the questions I posed above.

2. Historical background

2.1 International Development of Language Issues as part of Rights discourse

There is often an assumption that a common language is a key component or incentive for growth of nationalism, that language has always had the dual role as being both identity constitutive and a communication tool. A common means of communication among people is thought to be at the heart of people joining themselves together in a political entity and under a nationality. However, for millennia and during the initial birth of nations, of countries like Sweden and England, language was not always the only or primary centralizing force in creating statehood or a sense of shared nationalism. For instance, for many centuries, Finland was known as simply the eastern side of Sweden, and Finnish speakers were also thought of as Swedes. It was only after the connection with Sweden was broken in 1809 that Finnish speakers started to consider themselves as not-Swedish, influenced by the national romanticism movement of that century. Not sharing one common
language was also normal within most empires, which were multilingual, and people lived within smaller communities that were monolingual or multilingual depending on frequency of language contact, like the historically multilingual Sápmi. People might have still identified with a sense of shared imperial nationhood.\(^\text{17}\) Additionally, no State has ever managed to be completely monolingual, and State borders do not follow linguistic borders.

As such, language has not always been a core idea of a nation or nationhood and there were other ways to distinguish between cultural communities. Things however changed in the 1830s, when romantic nationalism was largely built on the idea that a specific language is the soul of a nation and a crucial criterion of a nationality. This lead to national languages becoming an essential or a critical identifier for emerging states whose existence was associated with a specific nationality. In order to create a single nationality, it was politically necessary to impose an official language on everyone in the country. This ideal made minority languages and their speakers seem like a possibly politically critical threat to national unity. State monolingualism is still an accepted exception from the ideals of pluralistic diversity and democracy. The theory on this development on language influencing nationalism by Benedict Anderson\(^\text{18}\) deals with the elite’s decision to concentrate on one literary or administrative language in order to create a community of intercommunicating elite within a particular territorial State area and vernacular zone, especially if the purpose was to create a new state.

This is something that happened in Finland. While the elite was Swedish speaking, some of them started to change their names and language to Finnish in order to better speak and represent the majority population and build up a distinctive Finnish culture, which differed from the cultures of both the ‘old’ country Sweden, while not adapting to the ‘new’ country’s, Russian, culture. In early 1800s, Swedish was spoken by about 15% of the population of circa one million but this percentage

\(^\text{17}\) Orlin, Theodore, S. The Death of Languages; the Death of Minority Cultures; The Death of a People’s Dignity: Its Implications for Democracy and the Commitment to Human Rights in H.F Marten et al. (eds.) Cultural and Linguistic Minorities in the Russian Federation and the European Union (2015) p. 49-50

\(^\text{18}\) As summarized by Orlin, p. 50-51
has been slowly decreasing, partly from the overall population growth of Finland\textsuperscript{19} and language shift, since Finland was annexed by Russia and through the century of independence. Also, once a language acquires written form, its new fixity makes it appear more permanent than purely oral languages and this standardized language can be used to spread the chosen official language and nationalism. There was thus a political need to impose the chosen language on the collective through education, which happened to the Saami and the through the oralist tradition of teaching signers, and other administrative mechanisms.\textsuperscript{20} In Finland, this administrative language was Swedish for a long time, until Finnish was developed over the 1800s into a cultural and administrative language, although it has had a written form since the Lutheran Reformation.\textsuperscript{21}

After the fall of the European and the Ottoman empires post World War 1, it became necessary to deal with the aftermath of the nationalism movement which resulted in the redrawing of European borders by the creation of multiple new states, most at least somewhat through linguistic nationalism perpetrated by the political and nationalistic agendas of the elites or majorities. The purpose was to give European peoples self determination, with each country supposedly consisting of one nationality, expressing the nation state ideal. But as already mentioned, linguistic borders did not become state borders, and there were many clusters of people speaking different languages than the one that had been the nation building language. A widespread example of this was Hungarian, which is still an official minority language in at least 8 states that developed from the Austro-Hungarian Empire.\textsuperscript{22} Other examples are the nations/peoples which did not get their own states, such as the Saami, Romani and the Jewish people. It was felt to be necessary to officially deal with the possible problems that might come about in the losing and new states with these linguistic clusters. Thus the newly formed League of Nations created individual Minority Rights Regimes (MRR) to protect certain linguistic and religious minorities as groups within these nation states.\textsuperscript{23}

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\textsuperscript{19} Coleman, Michael \textit{You Might All Be Speaking Swedish Today} (2009), p. 3-4
\textsuperscript{20} see note 17 Orlin, p. 51
\textsuperscript{21} see note 19, Coleman, p. 8-9
\textsuperscript{22} Language Charter language covered
https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentid=09000016806dc1e8 p. 7
\end{flushleft}
(Austria, Bosnia and Herzegovina, Croatia, Romania, Serbia, Slovakia, Slovenia, and Ukraine)
However, some countries also solved their own regional linguistic issues without a MRR but through unilateral declarations to the League of Nations, such as Estonia, and thus were allowed as member states of the League. This was the beginning of the legal institutionalization of minority protection in Europe and the beginning of making it an international legal obligation. 24

Because of its particular historical development, Finland decided to become a bilingual country from independence through linguistic compromises and with a special arrangement for the majority Swedish speaking Åland Islands, which did lead to League of Nations interference and negotiations between Finland and Sweden in 1921. 25 Finland’s other minorities however, were not taken into consideration at the time. The continued use of Swedish can be seen as a reflection of their status as the former language of the elite and the continued political importance of them as a minority. But this still leaves Finland as an exception which accepts that nationhood can be equally reflected in different linguistic forms and from the start, a pluralistic use of language formed a part of Finland’s national identity.26

The minority linguistic issues at the time largely dealt with education issues. The leading court case of the League of Nations period is the 1935 Advisory Opinion by the Permanent Court of International Justice on Minority Schools in Albania. It establishes the difference between equality in law and equality in fact that is still considered influential and shows the importance of international law in protecting minorities and their languages. It allowed differentiated treatment, so called positive discrimination, as much as it is necessary in order to obtain equilibrium in the situations of the linguistic groups. It ensures that the majority are not given a privileged position in comparison to the minority and from this PCIJ opinion it could be found an implication that for the State, the survival of a minority language is a concern if not a duty which leads to an obligation to

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24 see note 17, Orlin, p. 53-54
26 Orlin, p. 52, footnote 2
take positive steps towards the survival of that language on the part of the State. 27

Ultimately, it was found that group protection provided through MRRs was very ineffective. They could not protect the Jewish or Romani people from Nazi Germany’s genocide, either as a group or as individuals. It was found, partly, through the example of Bernheim case in Upper Silesia, Germany in 1933 which was the only region where an individual was able to file a complaint on part of the group. That case highlighted the limitations of MRRs in general which showed that maybe a more individualized approach would work better. The general international atmosphere at the time also developed to preferring an individual rights approach, from the States that the MRRs had been forced on to the minority groups themselves. It had started to feel that the very identity of a minority was courting trouble. The idea was that since as long as individuals are protected, so will the group by extension, and that should be enough. 28 This wound up being the approach of the United Nation and its human rights of the individual. Only Article 27 of the International Covenant on Civil and Political Rights (ICCPR, 1966, in force in 1976) allows for the groups the right to enjoy one’s language, religion and culture as a group, and Article 2 non-discrimination prohibits discrimination based on, among other grounds, language and other group memberships.

After the fall of the MRRs, language did not really have a place within the rights discourse on its own. Of course there have been human rights with a language component from the beginning of human rights, especially freedom rights such as freedom of expression, as well as language as a nondiscrimination ground, but rights which specifically pertained to the language itself in its identity constitutive role or people having rights as speakers of specific languages took a long time. In many ways, the proper recognition and adherence to linguistic rights is still to come. Societies function in usually (un)officially in one language, with anymore than that being a subject to legislation. At some point in history, each country chose which language or languages are used in the public life of the country and this status not does need to be legislated for it to exist in practice.

27 ibid, p. 54-55
28 see note 23, Mazowar, p. 388
Every country does not feel the need to officially designate that a particular language is the language of legislation, of parliamentary discussions, of public education, services from officials or which is the language of the court. Yet, no country can be completely linguistically neutral, and thus a language is implicitly chosen, although this does not require monolingualism, official or not. And no matter what the official status of a country is, there is hardly any countries that is not multilingual in practice. However, official monolingualism is the rule in Europe, with only a few exceptions. Out of the countries that are officially multilingual and not federal States, there are only five within the Council of Europe member states, in addition to Finland there is Ireland, Luxemburg, Cyprus and Malta.  Council of Europe has 47 member states, but only 25 States have ratified the Language Charter. This reflects the fact that many countries do not consider language or language rights to be something that requires considerations or that should be legislated.

However, slowly since the late 1980s and early 1990s, there have been developments made to start including linguistic minorities and languages, of the national minorities as well as indigenous languages, into the rights discourse. In many ways, however, the identity part of language is often forgotten or ignored, in a way religion or other such identifiers are not. Language in society is a tricky issue and as such it has been given a heavy margin of appreciation in international court cases, and in its usage of education. Monolingualism is still very much accepted in ways that other non-pluralistic and nationalistic perspectives are not always, for example freedom of religion considerations.

30 It is also open for ratification by non-CoE states; 8 States have signed it and are waiting for ratification.
31 In the Belgian Linguistic Case, language of instruction in schools was not seen as an issue that parents have a say in, unlike religious education
2.2 Finland’s history

Finland was one of the earliest countries to have actual language legislation, since 1922. This was the result of how during its creation of a national identity, two ‘nationalities’ were formed, Finnish speaking one, and a Swedish speaking one. This gives Finland a rather unique linguistic perspective because while most multilingual countries are federations, like Belgium or Canada, Finland is a ‘unified’ nation state republic. Also while some countries like Ireland might give symbolic status to the ‘national’ language, Irish, Finland tries to treat both of its national languages as equals, even though the numbers vary drastically, with about 89% currently speaking Finnish while about 5% speaks Swedish.

The first important period in Finland’s linguistic rights history is the Christian/Lutheran Reformation in the late 1500s, which gave Finnish a written language for the first time. Afterwards, there were mostly religious writings in Finnish and a certain amount of literacy was achieved in Finland. While over time the languages used by public officials in Finland has varied from Latin, and Danish during Kalmar Union period, Swedish was the main language of education and governance for centuries. There were occasionally attempts to give Finnish more of a role in governance, with translations and interpreters, but those were often unsuccessful.

Like elsewhere in Europe, the 1800s became the second important period in Finland’s linguistic rights developments with the rise in romantic nationalism which came to be based on both Finnish and Swedish languages in Finland. In order to understand how we have come into this point for the languages in question, we need to delve into the development of how Finnish developed into a dominant language in Finland, overcoming Swedish for the position. Finnish first started gaining prominence after Finland was annexed to Russia after Sweden’s loss in the War of Finland of 1808-1809. At first, it seemed beneficial for Imperial Russia to let Finland develop as an autonomous

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32 see note 19, Coleman, p. 8; see also footnote 38, p. 17
Grand Duchy where Swedish laws were still in effect\textsuperscript{33} and promoting Finnish at the expense of Swedish would help Finland lose ties with its former mother country, although Swedish still continued to have official status and was the language of administration and legislation long into the 1800s. The disruption of relations between Sweden and Finland lead to the famous saying attributed to Adolf Ivar Arwidsson “we are not Swedes, we shall not be Russians, so let us be Finns” which formed an important part of the ideology of creating a separate, Finnish, identity to replace the identity as a subject in the Swedish realm, since the identity of Russian held little appeal.\textsuperscript{34}

At first, there was little need to impose the Russian language on the Finns because Russia had long been a multilingual and multiethnic empire. This lead into many develops with the Finnish language, transforming it from an ‘underdeveloped’ peasant language into a cultural language.\textsuperscript{35} Ultimately this created two competing groups by the 1840s, Fennomans and Svekomans, both of which considered their languages as basis of a ‘nationality’ and were influenced by linguistic nationalism. Svekomanic Swedish speakers dismissed and tried to hamper the development of Finnish, fearing the reduced role for Swedish and what that would mean for their political power.\textsuperscript{36}

European racial politics also affected the situation, with Finns being classified as ‘Asian’, along with and sometimes because of the Saami\textsuperscript{37}, while the Swedish speakers were obviously Germanic and European and thus higher on the racial hierarchy which was used to dismiss Finnish efforts at developing culturally. It took until 1863 and Alexander II’s language decree for Finnish to start gaining equal status with Swedish. The decree stated that over the period of 20 years, Finnish should be developed and made to have equal status with Swedish as an administrative language. While the language decree came into force in 1886, it took until 1902 for Finnish to gain true equal

\textsuperscript{33} Swedish Constitution of 1772
\textsuperscript{34} ibid, Coleman p. 5
\textsuperscript{35} Rantanen, Pekka & Ruuska, Petri Alistetun viisaus, in Kuriton Kansa (eds. Anttila, Kauranen, Löyttty, Pollari, Rantanen & Ruuska) 2009, p. 50
\textsuperscript{36} Tala, Heikki. Suomen kielipolitiikka http://www.simplesite.com/Tala/13312254
status with Swedish legally.\textsuperscript{38}

The Russian language had surprisingly little effect on Finland’s developing language policy. The Grand Duchy’s largely autonomous position made it so Russian language skills were only required on highest levels of administration, and the Russian population at its highest was only 0.2% of the population, although of course many of them lived in very concentrated areas. Overall, the historical Russian minority in Finland is considered to be circa 5000 people.\textsuperscript{39} It took until the late 1800s for Russians to start to resent Finland’s autonomous position, somewhat influenced by national romanticism on the part of Russia. The conflict lead into two periods of Russification in Finland, first between 1899 and 1905, which was partially ended by a general strike in Finland, and then from 1908 until Finland’s independence in 1917. Previously Russia had administrated its empire by making contracts with local elites and somewhat leaving them alone as long as they were diligent subjects. This approach was abandoned in order to create a European style monolingual national state, although one that followed the lines of unified Germany and Austro-Hungarian empire. The ultimate goal of Russification was to unite the Russian Empire under the Russian language. Russification arrived to Finland rather later than in many other regions in Russia, since Russification politics had already started for example in Poland in 1863. However, Finland had been a trustworthy subject so it was not until Finland started resembling more a foreign state rather than a part of Russia that assimilation was deemed necessary. Alexander III was frustrated by Finns lack of Russian language skills, in addition to Finland’s separate customs, currency, army and post office administration. Russification had a variety of manifestations, and for Finland it meant bringing the periphery closer to the empiric center and assimilating Finns.\textsuperscript{40}

\textsuperscript{38} Kolehmainen, T. \textit{Pipliasuomesta yleissuomeen} in Kielikello 2/2009  

\textsuperscript{39} Finland’s ECRML Fourth Report (2010), p. 6  
https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c8496

\textsuperscript{40} see note 34, Kuriton Kansa p. 41-42
The attitude towards tolerating Finnish also waned. While Finland was in some ways more ‘civilized’ or socially developed than Russia by the time of the annexation, Russia still held a cultural superiority over Finland and the Finnish language. It was fine to let Finnish develop and gain increased rights because it weakened the status of Swedish, which was a more equal, cultural, language with Russian than Finnish was. Displacing Swedish by supporting Finnish was a tactical decision, because once Swedish was displaced, the peasant language Finnish could not withstand against Russian and Finnish could be displaced by Russian. Efforts to that effect were designating Russian as the language of highest administration in 1900 and making the senate Russian in October 1903. For the period from the summer of 1914 until March 1917, Finland was officially a trilingual country with the senate functioning in Finnish, Swedish and Russian. Russia’s internal issues throughout the late 1800s and early 1900s prevented the Russification of Finland from being successful and by its independence in 1917 and beyond, the language strife strictly regarded the statuses of Finnish and Swedish.

After surviving a civil war in 1918, it was time to decide what type of country Finland would be. Finland toyed with the idea of a monarchy, even choosing a German noble as a king, but after Germany’s loss in WWI, Finland decided to become a republic. The Fennomans and Svekomans had very different ideas about how the language question should be solved. Fennomans thought about making Swedish a minority language, while the RKP/SFP, the Swedish People’s Party, wanted autonomy to the Swedish regions. Designating both Finnish and Swedish as equal national languages was thus a compromise and continued the equal status that had been established in the language decree of 1902.

Another issue related to this was the Åland question. Åland islands had been annexed to Russia at the same time as mainland Finland. However, once Finland gained its independence, Ålanders wanted to be rejoined with Sweden, since they were Swedish speakers themselves and felt

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41 ibid. p, 50
42 see note 36, Tala
culturally closer to Sweden. This affected both Finnish and Swedish speaking Finns in the mainland, since Ålanders make up a significant proportion of the Swedish speaking population. Fennoswedes had already made attempts to enhance and concentrate the amount of Swedish speakers in Finland through various means, such as preventing Finnish speakers from buying land within historically Swedish speaking regions, and hindering emigration from those regions. The loss of Åland islands would have been devastating to the status of the Swedish language. The question also created tensions between Finland and Sweden. So the question was forwarded to the League of Nations, which in 1921 decided that geographically and historically, the Åland islands belong to Finland but the islands need to be designated as neutral and demilitarized under international law with a treaty. It is often considered one of the League of Nations few successes. The Language Act is not applicable within Åland and domicile in Åland requires proven proficiency in Swedish.

After gaining independence from Russia in late 1917, Finland ended up being an officially bilingual country, although over the 20th century, especially the latter half and into the 21st, its linguistic situation became more complex, when the assimilation projects against the Saami, signers and the Romani ended and there was more of an effort to integrate those languages and their speakers into the Finnish society. Language considerations never went away in Finland, and the national Language Act was updated regularly during the 20th century.

After independence, there was a need to create a unified nation, albeit one in that functioned in two languages. This lead to assimilation efforts for speakers of languages which were not Finnish or Swedish. This affected both signers and the Saami, especially through the medium of education which was conducted in spoken Finnish or Swedish operating through oralism ideology for signers

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43 see note 35, Kuriton Kansa p. 47
44 Convention Relating to the Non-Fortification and Neutralization of the Aaland Islands (Treaty Series 1/1922)
46 Åland Autonomy Act §7
and which separated the Saami from their families, language and cultures and was very devastating for many generations. The relationship between the Saami and the State of Finland\textsuperscript{47} is considered colonialist because of the asymmetrical power structures between the two different peoples, the Finnish ‘nation’ and the ‘indigenous’ Saami. Once Finland gained its independence in 1917, it soon started to adopt similar social Darwinist ideas as its Nordic neighbors in the 1920s and 1930s. The Saami were seen as a marginalized and disappearing part of the population which was reflected in educational and language policies. As a result of these policies, Saaminess became stigmatized, the Saami started to feel ashamed of their heritage and did not want to highlight their differences and their identities and significant proportions of them assimilated into the norms of the majority society. While nationalism built the Finnish people into a State, it also destroyed the different social and cultural structures of the Saami while also subjugating them economically and marginalizing the Saami culture.\textsuperscript{48} The Sápmi, has been split between four countries through different state borders between 1595 and 1940s. They were split again in 1995 when Norway did not join the European Union when Finland and Sweden did creating yet new border between the Saami people.\textsuperscript{49} For a long time, it did not seem like the Saami or the signers had a place in Finnish society.

Finland’s first constitution of 1919 was very much of its time and as far as rights are concerned, it followed the continental European rule of law state tradition. During the development of the first constitution from 1917 until 1919, constitutional rights where not a centered topic. In general, the rights chapter in the 1919 constitution followed general European developments, specifically Belgian, Prussian and Austrian constitutions. Although naturally the Russification periods and the 1918 civil war also left their marks on the constitution. After the constitution came into force, there was only one change made to the rights section, in 1972 an addendum for the right to work, until the 1990s, although developments to update it had been going on since 1970s.\textsuperscript{50}

\textsuperscript{47} as well as Norway, Sweden and Russia.
\textsuperscript{48} Seurajärvi-Kari, I. Alkuperäiskansatutkimus, alkuperäisliike ja saamelaiset (2011) p. 27-30
\textsuperscript{49} Seurajärvi-Kari, Irja Saamen kieli ja saamelaisten kielelliset oikeudet 2000-luvulla, in Monikielinen Eurooppa (2005), p. 347
Language rights were part of the rights system from the beginning. At the time, the concentration was on the two (spoken) national language, Finnish and Swedish which were given equal status. The right to use one’s mother tongue with public authorities, and to get official documents in that language and to use it in court was included, and in general both national languages should be considered equal, be given the same opportunities and they should be treated on the same basis. These rights were to be ordained by law and additional legislation was created for this purpose. These were the original Language Act of 1922 and the Language Proficiency Act which establishes the standards that public authorities need to meet linguistically.

This is still the basis of the individual language rights of the speakers of the national languages in the current constitution, as well as the updated Language Act. Additionally, with the new constitution, the Saami languages, the Roma Kale dialect and first Finnish sign language and then later Finland Swedish sign language were added to the list of Finland’s constitutionally recognized languages. This lead to the first Saami Language Act in 1992 which was updated at the same time as the national Language Act in 2004. The new constitution also included the group right to develop and maintain their languages to the aforementioned linguistic groups as well as ‘other groups’ which is defined openly, but is considered to include at least Finland’s traditional minorities such as Jewish people and the Tatars. This section is inspired by ICCPR Art. 27 and is considered to be an overall protective provision for linguistic, cultural and religious minorities and to provide a cultural and linguistic collective rights to Finland’s minority groups. This right also

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50 Perusoikeuskomitean mietintö p.13, in Constitutional committee was established in 1970, and in their report 1974:27 they thought that constitutional rights provisions should be updated completely [47]
51 1919 Constitution, §14
52 148/22
53 149/22
54 Constitution 731/1999 §17
55 423/2003
56 516/91
57 §17(3)
58 p. 318
59 see note 47, p. 92
works as a basis for individual linguistic rights, even though the subject of the right is the linguistic group itself.  

In the 1919 constitution, the traditional freedom rights of the citizens and legal protections were guaranteed, some of which also included a language component, such as freedom of speech, freedom of association and equality before the law. Such rights were often exclusive and only given to Finland’s citizens. The change from a rule of law towards a welfare state over the 20th century required the expansion of rights to include also economic, social and cultural rights as well including all the people within Finland’s jurisdiction. The close ties of rights to a specific nation state had started to be seen as problematic by the 1990s and so it was better to more closely follow the path of human rights treaties. Human rights treaties are considered the current international standards required of constitutional rights, while not ignoring the national contexts. This also allows for a more specific phrasing to national legislation than that what is found in human rights treaties. 

The three generations of human rights all have a different relationship with language considerations. The first generation is generally considered as freedom rights, they are considered negative because they denote what governments should refrain from doing. They are mainly collected in the ICCPR and the European Convention on Human Rights as very individual rights that the State needs to not interfere with. Freedom rights with a language component are freedom of speech, relating also to not restricting private communication in any language; freedom of association of a language group and right to privacy. The second generation is the rights collected in ICESCR and the European Social Charter which are positive rights, rights that the State must take action in order to provide and to grant them either to just its citizens or to all the people within its jurisdiction. The most important such right is the right to education, which in Finland is free for all. The third generation is 

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ibid, p. 110  
Perusoikeuskomitean mietintö 1992:3, p.45-47 [47]
collective rights, including minority and indigenous peoples’ rights. These deal with granting self
determination and autonomy for certain groups, usually within a specific region. Both Swedish
speakers and the Saami are given linguistic autonomy in Finland. 62

This third type of right is the one I am most concerned with in this thesis. One part of collective
rights such as self determination or autonomy is allowing a minority language a real part of the
public society.

One of the reasons for Finland’s updated constitution was the fact that the rights inscribed there
were falling behind Finland’s international obligations based on the human rights treaties from the
UN, ILO and Council of Europe (CoE) that Finland had signed and ratified over time. The 1919
constitutional rights were over 70 years old, and mostly consisted of rather narrow and shortly
phrased freedom rights, by the time the process really got under way in 1989, so it was necessary to
both increase to amount of rights and make them more detailed and specific. 63 It was also deemed
necessary to see whether collective rights could be added to the constitution. 64 While comparatively
and overall Finland provided some of these rights quite well in regular legislation, it was felt to be
necessary that the constitutional rights are updated, as well as make the rights apply to everyone
within Finland’s jurisdiction instead of just Finnish citizens. The turning point was the ratification
of the European Convention on Human Rights in 1990 because not only did it make the human
rights monitoring system part of the general knowledge in Finland, it also made it possible for
Finnish courts to better apply and use these treaties in their decisions, especially since Finland is
a dualist country and these treaties are considered part of Finland’s domestic legislation after
ratification. 65 In order to again follow the general European and international developments in this
area, the Constitutional Rights Committee compared the solutions in socially comparable developed
Western nations, especially ones where there had been recent similar projects, which where the

62 ibid, p. 49-51
63 ibid, p. 86
64 ibid, p. 11
65 Perusoikeuskomitea, p. 69-70
Scandinavian countries, USA, Canada, Netherlands, Germany, Switzerland and Austria.  

These developments lead to the constitutional reform in 1995 which recognized the Saami as indigenous peoples of Northern Finland and their cultural autonomy, the Romani as a traditional minority as well as the rights of the signers of Finnish sign language, Finland Swedish sign language was explicitly included in 2015 under the definition of ‘viittomakieli’, sign language. Currently, Finland has a reputation as a human rights defender and has been commended on their linguistic rights approach.  

Finland’s language legislation consists of the aforementioned reformed Constitution of 2000 which guarantees equality regardless of native language in a non-discrimination clause, the clause granting the right to one’s own language and culture and guaranteeing both individual and collective rights to language users. It establishes Finnish and Swedish as equal national languages while also providing the right to speakers of Saami languages as an indigenous people, the Romani and openly defined and adaptable ‘other groups’ to develop their languages and cultures collectively. In addition, Finland has specific language legislation for the 1) national languages, the general Language Act 2004, which was first written in 1922 and which has worked as a framework for later language legislation, and starting on the 1990s when the constitution was updated (1995), there have been 2 language acts created for the Saami people, the more general Saami Language Act, first created in 1992 and then updated in 2004. Additionally, in order to ratify Convention on the Rights of Persons with Disabilities, there is a narrow general language act for Finland’s two sign languages, which in 2015 for the first time explicitly included both Finnish and Finland Swedish sign language. Finland also has two regions, the Sápmi and Åland islands, were the Saami and the Swedish speaking majority, respectively, have enhanced
rights to protect their languages and cultures. These rights are set out in the Åland Autonomy Act\textsuperscript{75} which designates Åland islands as a region which is monolingually Swedish speaking and the Act on Saami Parliament\textsuperscript{76} or Sámediggi which has the responsibility to actualize the cultural autonomy of the Saami in the Finnish Sápmi where the Saami languages have more official status than elsewhere in Finland.

The acts are mostly of a general nature because other special legislation, such as educational and relating to municipalities, acknowledges language considerations. Under §37 of the Language Act, the Government also has a duty to publish a report every four years to the Parliament, to monitor on the development and application of the various language acts. The languages the report concentrates on are Finnish, Swedish, the Sámi languages, Romani, sign languages and other language groups, depending on the contemporary context. The other languages currently include Russian, Karelian, Yiddish and Tatar which are also considered under Article 7 general principles of the European Charter of Regional or Minority Languages as non-regional languages. The most recent one if from 2013\textsuperscript{77}, the new one is in the works and is to be published later in 2017.\textsuperscript{78}

This is the point we have achieved in 2017. The road to it, however, has been long and political and some of it dates to pre-independence time. Finnish had to fight for its equal status with Swedish while currently Swedish has to fight to keep its prominence. The Saami languages were subjected to assimilation attempts until the post-WWII period through education. Other languages are slowly being acknowledged more, especially in providing mother tongue education and services in both the Swedish and the Saami languages. The rising multilingualism in Finnish society constantly creates more complexity in Finland’s linguistic map, with Russian and Estonian establishing themselves as

\textsuperscript{75} Åland Autonomy Act/ Ahvenanmaan itsehallintolaki 1991/1144

\textsuperscript{76} Act on the Saami Parliament/ Laki saamelaiskäräjistä 1995/974
\url{http://www.finlex.fi/fi/laki/ajantas/1995/19950974}

\textsuperscript{77} \url{http://www.oikeusministerio.fi/material/attachments/om/julkaisut/6K2MUGLwd/language-legislation-2013.pdf}

\textsuperscript{78} The preliminary results have already been published in Språkbarometri and Saamebarometri, but the full report is to be officially published after the submission of this thesis.
the third and fourth largest languages. The legal linguistic situation of Finland is already rather complicated yet the reality is even more.

3. International Legislation

In this section I will give an overview of the relevant international treaties dealing with linguistic rights and how they related to Finland.

3.1 The United Nations system and linguistic rights

Most often, linguistic rights are protected in human rights treaties in a nondiscrimination capacity and as a part of fair trial considerations. Language as a basis of non-discrimination is included for example in Article 26 of ICCPR, Article 2 of ICESCR and Article 14 of ECHR. Right to free interpretation in (criminal) trials, if the accused does not sufficiently understand an official language of the State, is provided for in ICCPR Article 14 and ECHR Article 6. ICCPR Article 27 is in many ways the minimum standard for minority rights. It is phrased negatively, requiring that a State is not allowed to infringe on minorities using their languages privately and in some cases with public officials. Although it does not require a State to give an official status to any minority languages, it can be used in order to require the State to help maintain and develop its linguistic minorities and their languages and cultures. Finland sees as its constitutional duty to protect minority rights based on international treaties. 79

The starting point of human rights is the United Nations’ Universal Declaration of Human Rights, which expresses the treaty obligations of the Charter of the United Nations. In its preamble, it recognizes the inherent human dignity which includes self identification with the communities and cultures people identify with. Language is considered an important element, a part of the foundation of cultural identity which allows oneself to express themselves and connect and identify with

79 Perusoikeuskomitea 1992:3, p. 314-315
While the UDHR is non-binding, it has an important role as the wellspring of later, more developed human rights treaties and establishing the common understanding of what human rights include, and could be considered customary international law. Because of the failure of the MRRs, it was felt that there was no need for minority rights, yet there is protection for equal rights and non-discrimination clauses which are worded in such a way that could be used to provide protection for members as individuals of a linguistic group. There are no collective rights included, but prohibition of discrimination is inclusive of minorities. However, because of the drafters were aware of the then recent history of minority rights, there is no clear protection of linguistic rights, which was not accidental nor without controversy. There were perspectives that it would be a disservice to the protection of human rights to not have an alternate to the MRRs that would protect minorities. However, ultimately there was not enough support for a minority rights clause since it was considered by for example Eleanor Roosevelt that there was no place for minority rights in a document about human rights, especially since she also considered minorities to be an European problem. Thus more extensive protection was left for later human rights instruments. 81

In order to create legally binding rights, United Nations created two covenants, one on civil and political rights and another on economic, social and cultural rights. ICCPR’s Article 27 was an important milestone in international minority protection. It acknowledges the collective dimension of language, protecting the right of minorities to express themselves in community with other people of their group. It shows a different approach to the UDHR by providing actual minority protection for minority groups. It also provides stronger protection and requires more positive/active State commitment for minority linguistic interests. While the rights still concentrated on individuals and their human rights, for the right is provided to people who ‘belong to’ the acknowledged minorities, including linguistic minorities. But it does acknowledge minorities beyond non-discrimination and it can be seen as being a reaction to the criticism of UDHR. However, the language of the Article is still considered vague and cautious and it has required

80 Orlin, p. 48
81 Orlin, p.60-63
interpretation into its actual scope, which happened in 1990 in Human Rights Council’s General
Comment No. 23\textsuperscript{82}, which explicitly required that Article 27 has to be interpreted as establishing
positive duties on the part of the State.\textsuperscript{83}

ICCPR Art. 27 has played an important role for indigenous peoples and their land rights and
livelihood issues with States\textsuperscript{84} and while that makes it into an important part of the puzzle of
minority protection within international law, it has not yet been used for language or education
related rights, even though they could fall under its scope. As such, these issues are currently rather
unexplored within the HRC. While linguistic rights have become a rising concern within Europe
and are at the top of the minority agenda for many European minority communities, especially since
Article 27’s scope includes the right to keep and preserve the cultural and linguistic identity of
second generation migrant groups, as of 2013 linguistic rights are significantly missing from the
HRC’s insight.\textsuperscript{85} However, Article 27 was explicitly used as the basis for Finnish Constitution’s
new section on the right to language and culture §17(3) which deals with collective dimension of
linguistic rights.\textsuperscript{86} So it has the potential to be used in that manner by States and linguistic groups.

The second covenant, on economic, social and cultural rights, has Article 15 protects the right to
take part in cultural life. At the time of adoption, it only referred to the dominant national culture of
the country. However, it could be interpreted to include minority cultures and their languages.

While this is not the case quite yet, since 1990 the ESCR Committee has required member states of
the covenant to report periodically on minorities and indigenous people and their cultural rights.
This shows a slow developed towards more protection for minority cultures.\textsuperscript{87}

\textsuperscript{82} http://indianlaw.org/sites/default/files/resources/UN%20OHCHR%20Comments%20on%20Article%2027.pdf
\textsuperscript{83} Orlin, p. 63
\textsuperscript{84} Kitok v Sweden; Länsman et al. v Finland
\textsuperscript{85} Yupsanis, Athanasios, Article 27 of the ICCPR Revisited (2013), p.405
\textsuperscript{86} Perusoikeuskomitea 1992:3 , p. 92
\textsuperscript{87} Orlin, p.64-65
This was the status quo for decades. Things started to change in the 1990s. The beginning of this was the UN’s General Assembly Declaration on the Rights of Persons Belonging to –Linguistic Minorities in December 1992. It is legally non-binding but it established the fact that the recognition of linguistic rights of minorities is part of the principles of rule of law and the normative requirements of democracy. It requires that States should encourage conditions for the promotion of minority identities and this should be done through legislation and other appropriate measures to achieve these ends. It provides normative authority to argue for States’ positive obligations to protect the languages of their linguistic minorities. As an UN-approved instrument it can be considered to reflect the consensus among member states and could give support for the assertion that States have an obligation to take proactive measures in the use of minority languages in order to protect languages from death. 88

There are two ILO instruments that need to be acknowledged here. The first was an effort to deal with the issues of indigenous peoples. In 1957, Convention No. 107 on the Indigenous and Tribal Populations was adopted. At the time, Finland considered whether the treaty was applicable in Finland and whether they should ratify it. However, for various reasons, Finland decided to not do so. 89 ILO No. 107 is now also considered as using the approach of willing assimilation, and it was not very conducive to indigenous people keeping their cultures and languages. 90

In 1989, with the changing atmosphere for linguistic minorities and indigenous peoples in general, ILO wanted to update its protection of indigenous peoples. This lead to ILO No. 169 on Indigenous and Tribal Peoples which is more protective of indigenous cultures and their languages. It has not been ratified widely, although Norway was one of the first countries to do so for the Saami. Ever since its adoption, Finland has been trying to ratify it off and on, but there has been consisted issues

88 Orlin, p. 66-67
89 I must admit that I read somewhere that the conclusions Finland came into at the time wa that the Saami did not necessairly quality under ILO 107 and even if they did, they were a small population that would soon be fully assimilated into Finnishness or otherwise die off. However, I cannot find the source of that impression at this time.
regarding land and resource rights as well as the definition of the Saami. In general, it is accepted that if Finland’s Saami Language Act was properly implemented in practice, the linguistic rights of the Saami would be quite well handled, and would not raise issues with ratifying the ILO 169 on linguistic rights grounds.

3.2 The European system of linguistic rights

For Finland, regional European developments have also shaped its handling of its linguistic situation. The European, or any regional system really, can be in many ways more concrete and offer broader protection than the United Nations could with its global reach and more normative than legally binding role. In Europe, the Council of Europe has played an important role in developing rights. Starting with the European Convention on Human Rights (ECHR) and its continent wide justice system through the ECtHR jurisprudence help create a consistent approach to the understanding and application of human rights in Europe and elsewhere. However, within the ECHR system, there is no minority rights clause and as such there is no direct way to claim minority rights at the ECtHR. There is also no mention of linguistic rights, language can only be a non-discrimination ground under Article 14 or in combination with the established freedom rights that are reflected in the ECHR. Articles that relate to this thesis are Article 10 freedom of expression and Article 11 freedom of assembly. So there has been some case law which protects minority rights, including the use of language. Unfortunately, the case law often does not necessarily extend the protection towards languages as much as it could, as there is a wide margin of appreciation in matters relating to language. The approach of the Court may change in the future and its decisions will still affect how minorities and their languages are protected by the member states. It continues to still be an important forum for minority rights developments and the protection of minority languages. Finland joined the Council of Europe in 1989 and ratified the ECHR in 1990 and the changes required by the ratification was one of the major pushes towards the updating of the Finnish

91 Saamebarometri, p. 37
92 ibid p. 67-69
By the early 1990s, it was clear in Europe that there would be a need for additional efforts to protect minority languages, thus Council of Europe created the European Convention for Regional or Minority Languages or the Language Charter in 1992 and in 1995 the Framework Convention for National Minorities (FCNM), both of which came into force in 1998. Finland ratified both of these treaties before their entry into force. The articles that are relevant for this thesis is Article 10 Administrative Authorities and Public Services of the Language Charter and the linguistic rights within Article 10 of the FCNM. Finland has ratified the Article 10 of the Language Charter for both Swedish as a less widely used official languages and the Saami languages as regional languages. The Language Charter has last been dealt internationally with in the Fourth Reporting Cycle which was submitted in September 2010, the fifth cycle was supposed to be reported in 2011, the sixth in 2014 and Finland was due the seventh cycle March 2017. The overall linguistic situation has been dealt with in the four-yearly language reports in 2013, with the new one to be published in later in 2017.

Article 10 concerns the provision of public services and the right to use one’s own language with public officials. For Swedish, as a less widely used official language, Finland has ratified Article 10 like this:

In Article 10:
Paragraph 1, sub-paragraphs a (i), b, c
Paragraph 2, sub-paragraphs a, b, c, d, e, f, g
Paragraph 3, sub-paragraph a
Paragraph 4, sub-paragraphs a, b
Paragraph 5

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93 Perusoikeuskomitea 1992:3, p. 69-70
94 see note 34, Finland Fourth Cycle Report on the Language Charter (2010)
Article 10 – Administrative authorities and public services

1 Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a i  to ensure that the administrative authorities use the regional or minority languages;

or

b  to make available widely used administrative texts and forms for the population in the regional or minority languages or in bilingual versions;

c  to allow the administrative authorities to draft documents in a regional or minority language.

2 In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

a  the use of regional or minority languages within the framework of the regional or local authority;

b  the possibility for users of regional or minority languages to submit oral or written applications in these languages;

c  the publication by regional authorities of their official documents also in the relevant regional or minority languages;

d  the publication by local authorities of their official documents also in the relevant regional or minority languages;

e  the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

f  the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

g  the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.

3 With regard to public services provided by the administrative authorities or other persons acting on their behalf, the Parties undertake, within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible:

a  to ensure that the regional or minority languages are used in the provision of the service; or
With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

a translation or interpretation as may be required;

b recruitment and, where necessary, training of the officials and other public service employees required;

The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned

The general point of view in Finland is that each public authority is self-regulating as far as the implementation of language legislation is concerned. This can mean the arrangement of training in Swedish language, although these are often only voluntary which does not always lead to those who would be most in need of bettering their language skills to take part in the courses. The main requirement for each public authority however is that there is always a sufficient amount of people with Swedish skills among their staff at all times.95 This is especially important in the 33 bilingual municipalities, 18 of which are designated majority Finnish and 15 of which are Swedish majority for the period of 2013-2022. 96

For the Saami languages as regional or minority languages:

In Article 10:
Paragraph 1, sub-paragraphs a (iii), b, c
Paragraph 2, sub-paragraphs a, b, c, d, e, f, g
Paragraph 3, sub-paragraph b
Paragraph 4, sub-paragraphs a, b
Paragraph 5

Article 10 – Administrative authorities and public services

Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

95 see note 34 Finland’s Fourth Country Report on the Language Charter, p. 52 (2010)
96 https://www.kotus.fi/julkaisut/nimijulkaisut/paikannimijulkaisut/ruotsinkieliset_kuntien_nimet
a  to ensure that the administrative authorities use the regional or minority languages; or

b  to make available widely used administrative texts and forms for the population in the regional or minority languages or in bilingual versions;

c  to allow the administrative authorities to draft documents in a regional or minority language.

2  In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

a  the use of regional or minority languages within the framework of the regional or local authority;

b  the possibility for users of regional or minority languages to submit oral or written applications in these languages;

c  the publication by regional authorities of their official documents also in the relevant regional or minority languages;

d  the publication by local authorities of their official documents also in the relevant regional or minority languages;

e  the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

f  the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

g  the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.

3  With regard to public services provided by the administrative authorities or other persons acting on their behalf, the Parties undertake, within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible:

a  to ensure that the regional or minority languages are used in the provision of the service; or

4  With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

a  translation or interpretation as may be required;

b  recruitment and, where necessary, training of the officials and other public service employees required;
The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.

§31 of the Saami Language Act deals with the providing funds from the State budget in order to support the efforts of the various public authorities within the Finnish Sápmi in attempting to uphold the requirements of the act in question. This budget allocation includes translation, interpretation and advertising costs as well as providing additional funds for the Saami language training for staff.\(^7\)

As far as the FCNM, Finland is just finishing the fourth cycle, with the Committee of Ministers adopting the Recommendations Resolution in March 2017\(^8\), based on the country report submitted by Finland in 2015. The recommendation for immediate action included for the Saami:

- Engage in a constructive and high-level dialogue with the Sámi people, possibly in a government-led platform, to ensure that the interests of all parties are adequately addressed both in national legislation and through the ratification of the ILO Convention No. 169 on Indigenous and Tribal Peoples; strengthen the knowledge of the Sámi languages, maintain and develop the \textit{cultural identities} of the Sámi in the Homeland while targeting also Sámi living outside of the Homeland; [italics are mine]

For the national languages:

- Intensify efforts to adopt and implement the Action Plan related to the 2012 Strategy for the National Languages of Finland in order to guarantee that the knowledge, visibility and presence of the Swedish language is maintained in education, \textit{in the administration}, in the labor force and in the public at large;

The intensified atmosphere of hate speech and renewed language conflict has also been noticed by the Committee of Ministers:

- Defuse the climate of increasing \textit{interethnic prejudice and tension} by stepping up efforts to combat all forms of intolerance, racism, xenophobia and hate speech, in particular in social media; promptly condemn all instances of racism and ethnic hostility in public discourse; raise

\(^7\) see note 95, p. 80
\(^8\) [https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806fe1a6](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806fe1a6)
public awareness of the legal remedies available against hate crime and hate speech; strengthen the role of law enforcement and the judiciary to detect and sanction hate speech and hate-motivated offences; raise the level of recruitment of persons belonging to minorities in the police.

These were the issues requiring immediate action. The Committee of Ministers also recommended that Finland should facilitate people being able to express more than one linguistic identity in population registries. Currently a person is only able to choose one official mother tongue, even though many people might feel connected to more than one linguistic identity. There is also a need to collect new types of equality data in order to improve minority protection and equality policies. One issue particularly relevant in this thesis is the recommendation relating to the right to use one’s own languages:

“Intensify efforts to ensure that \textit{first language} access to social welfare and health services is adequately available, in particular in Swedish and Sámi, and that any administrative reforms guarantee the \textit{linguistic rights} of persons belonging to minorities” [my italics]

Finland’s sign languages are not included in either treaty, except implicitly under the Language Charter Article 7(5), which Finland declared at ratification, to apply, \textit{mutatis mutandis}, the principles listed in paragraphs 1 to 4 of the said Article to the Romanes language and to the other non-territorial languages in Finland.  

4. Case Studies

In this section, I will deal with each of Finland’s three language acts to see how they provide the right to use one’s language with public officials and how that affects the identity issues of the minorities. I will briefly summarize the acts in questions and then go over the various issues with their implementation. Since the acts are the main sources of this particular right, I thought it would

99 Finland’s instrument of acceptance of the Language Charter, deposited on 9 November 1994
make sense to analyze the act and its implementation together and see how it affects the linguistic
group in question. While the language acts also acknowledge the linguistic rights relating to fair
trial issues, for simplicity I decided to limit the scope to just the use of one’s language with public
authorities.

Finland considers linguistic rights, both individual’s right to one’s own language and the collective
right to development to maintain one’s language and culture, as constitutional rights. Not only is
language a basis of non-discrimination\textsuperscript{100}, but from the beginning language considerations were part
of the development of Finland’s constitutional rights and Finland’s identity as a bilingual country.
This continued when it came time to update its constitution. Finland chooses to classify two
languages, Finnish and Swedish, as equal national languages, while updating the situation in the
1990s it included mentions of the Saami languages, Romani language and Finnish sign language as
well as ‘other groups’.

4.1 Swedish language

Swedish language has been spoken in Finland for centuries and by the Treaty of Pähkinäsaari 1323
Finland had become an integrated part of the kingdom of Sweden and Finnish in many ways had to
give way to Swedish in administration and higher education from the 1600s during Sweden’s great
power era. Its situation only started to slowly change during the latter half of the 1800s and
starting from 1902 it has had to share the status of national language with Finnish. Ever since
Finland’s annexation by Russia in 1809, the status of Swedish has been steadily waning. Yet it still
plays an important role in Finnish society and Finland continues to be officially bilingual. While the
era of language strife is generally considered to have ended by the mid-1930s, the relationship
between the two national languages has gone through lots of variation over time. The current
situation is unfortunately worsening and the inter-linguistic group issues have become tenser.\textsuperscript{101} I

\textsuperscript{100} §6
will deal with those issues below.

4.1.1 Constitution and National Language Act

Constitution Section 17 - Right to one's language and culture
(1) The national languages of Finland are Finnish and Swedish.
(2) The right of everyone to use his or her own language, either Finnish or Swedish, before courts of law and other authorities, and to receive official documents in that language, shall be guaranteed by an Act. The public authorities shall provide for the cultural and societal needs of the Finnish-speaking and Swedish-speaking populations of the country on an equal basis.

Swedish is designated as a national language of Finland and it has an equal status with Finnish. A Swedish speaking person is entitled to being treated the same as a Finnish speaker and this is especially in relation to the right to use one’s language with authorities. This linguistic right has been there from the first Finnish Constitution of 1919. Everyone also has the right to designate Swedish as their mother tongue in official statistics, or change their language into Swedish by a declaration.

By 2003 it had become clear that Finland’s language legislation needed to be updated. The new constitution had came into force in 2000 which strengthened the principles of Finland’s official bilingualism, the importance of linguistic rights and the duties of authorities when it comes to language questions. It is important that lower level legislation follows the spirit of the constitution which calls for linguistic equality both in a non-discrimination way and as a right to maintain and develop one’s language. Since the first act on national languages came into force in 1922, it had been changed six times, with the major changes happening in 1935, 1962, 1975 and 1992. The original 1922 act had become hard to understand, narrow and partly difficult to implement in practice. It was especially difficult in the sections dealing with language use in courts which

101 Språkbarometri 2017, p. 7-9
102 Hallitusmuoto 1919 §14
103 §17 Valtioneuvoston asetus väestötietojärjestelmästä (2010/128)
affected general considerations for the right to fair trial. Thus the changes needed were both linguistic and technical. Domestic legislation is not the only one that applies to Finland’s linguistic rights situation. Domestic legislation needs to live up to the requirements of the international treaties and regional European developments Finland had committed itself to. So there were also practical reasons to change the act. Because the old act was difficult to implement, there was an effort to make the new act into a more flexible law that would make it easier to guarantee each individual’s linguistic rights in each situation in the most sensible way possible.\[104\]

While the Language Act concentrates on the national languages, it does acknowledge the complete linguistic situation in Finland, mentioning that Åland islands\[105\] and the Sámi Homeland or Finnish Sápmi\[106\] are excluded from its considerations because of the different linguistic situation there, and the use other languages\[107\] are considered within the relevant special legislation. The purpose of the Language Act is to ensure that the constitutional rights of Finnish and Swedish speakers, especially the right to use one’s own language in court or with public authorities, are protected equally. This is meant to not only ensure societal and cultural equality between the two languages but to ensure people’s right to fair trial and good governance regardless of their language. The consideration of an individual’s linguistic rights is to be considered self evident to the extend that a person should not have to appeal to them separately and it is part of the duties of public authorities to ensure that a person can be serviced in their own language. Working towards this requirement is the Act on the Required Language Skills of Public Authorities. This Language Proficiency Act gives the same authorities as mentioned in the Language Act\[108\] the duty to ensure that each self-regulating authority makes arrangements such as language training and other human

\[104\] Nuolijärvi, Pirkko *Suomen kielet ja kielelliset oikeudet*, in Monikielinen Eurooppa (2005), p. 288

\[105\] Constitution §7, Åland’s linguistic situation as an almost unilingually Swedish speaking area is covered in Åland Autonomy Act 1144/1991 §7 designates the language to be Swedish

\[106\] §8; Saami Language Act

\[107\] §9

\[108\] Language Act §3 The scope of application of the Act (1) This Act applies to courts and other State authorities, the authorities of one or several municipalities, independent institutions under public law, Parliamentary offices and the Office of the President of the Republic (an authority), unless otherwise provided.
resources measures available to make sure that its staff at all times has the necessary language skills in either Finnish or Swedish to be able to fulfill the requirements of the Language Act and other legislation.\textsuperscript{109}

The basic unit of linguistic divination is the municipality\textsuperscript{110}, which is either unilingually Finnish or Swedish, or bilingual with one of the languages as a majority language. The exception to this is Inari, which has four administrative languages, Finnish and the three Saami languages because of its specific history. In the other municipalities of the Finnish Sápmi, Enontekiö, Utsjoki and part of Sodankylä, Saami languages also have a certain status, and the Saami languages can be used with these authorities.\textsuperscript{111} The extent of linguistic rights the municipal authorities are required to provide depends on whether the municipality is designated uni- or bilingual and in which language it is unilingual. All central governmental authorities and authorities that do not only include unilingual municipalities are functionally bilingual. There are currently 33 bilingual municipalities in Finland, and in these municipal authorities, all Finnish and Swedish speakers have the equal right to be provided services in their own language. This is also the case with all State authorities. This includes the right to use one’s own language when one is heard in a matter, and the authority in question needs to arrange the possibility for that. In unilingual municipalities the language to be used is the language of the municipality although one can request otherwise from the authority or other legislation provides otherwise.\textsuperscript{112} With administrative matters and proceedings, the language of the party is usually used, unless it cannot be decided on that basis, so the majority language of the municipality is used. In unilingual municipality the language of the municipality is used unless the authority finds that with regard to the rights and interests of the parties, then the other language can be used.\textsuperscript{113} In general, the authority has discretion to decide the appropriate language. For those who would have the right to use their own language which is different from the language of the

\begin{footnotesize}
\begin{itemize}
  \item[109] Language Act §4 5); Kielitaitolaki 2003/424 §2
  \item[110] §5 Linguistic divination of the country
  \item[111] Saami Language Act §2 1)
  \item[112] §10 private person’s right
  \item[113] §12; §13-17 deals with language use in courts
\end{itemize}
\end{footnotesize}
authority or the language of the proceedings, the authority has the duty to arrange free interpretation if the party does not provide interpretation themselves.\textsuperscript{114}

Authorities have a duty to take initiative in ensuring that an individual’s linguistic rights are implemented in practice. Bilingual authorities need to be able to service their public in both Finnish and Swedish and this needs to be demonstrated to the public both when providing services and in its other activities. When bilingual authorities contact private individuals, the language they use needs to be the language of the individual if the authority is aware of which it is or it can be found out, or both just in case.\textsuperscript{115}

There are also requirements towards the promotion and follow-up of linguistic rights. The cultural and societal needs of Finnish and Swedish speakers have to be provided on an equal basis. When it comes to organizing administration, it is important to ensure that suitable territorial divisions are made so the linguistic rights of the national language speakers are not weakened. Authorities are required to promote the cultural traditions of the country and the use of both languages. Special measures can be undertaken in order to ensure this happens.\textsuperscript{116} Each authority is supposed to self-regulate and supervise the application of the Act within its area of operation, although the Ministry of Justice can also issue recommendations, take initiatives and other measures to rectify observed defects and monitors the enforcement and application of the Act.\textsuperscript{117} Most importantly, every four-years, during the electoral period, the Government has to report to the Parliament on the application of language legislation and on the securing of linguistic rights as well as other linguistic conditions if necessary. The Language Report considers the national languages Finnish and Swedish and at least the Saami languages, Romani (Roma Kale) and sign languages.\textsuperscript{118}

\textsuperscript{114} §18; §15 civil cases §16 non-contentious civil cases have exceptions for providing interpretation
\textsuperscript{115} §23 The duty of the authorities to fulfill linguistic rights
\textsuperscript{116} §35
\textsuperscript{117} §36
\textsuperscript{118} §37
4.1.2 Identity and the current Language situation

Here I will go over the results of the Språkbarometern/Kielibarometri 2016, which measures the situation between the national languages on a municipal level in the 33 bilingual municipalities from the perspective of the municipal minority language with a response rate of 42%. This is part of the Government’s Language Report to the Parliament and it has been in use since 2004 and is conducted every four years. I am dealing with the preliminary findings which were published in September 2016.\textsuperscript{119}

The previous language barometers were conducted in 2008 and 2012 and since then both Finnish and Swedish speakers in bilingual municipalities feel that the situation between the linguistic groups has gotten, if not worse, then become not stable. In 2008 both groups felt that the linguistic relationship between the groups was good, and for Finnish speakers in 2012 there was an increase in feeling the situation was improving. But since 2012, the overall feeling has gone down from ‘good’ to ‘variable’. The ‘bad’ group is relatively small, around 8%, which is positive for the overall atmosphere. But the situation is worsening to an extent. Rather surprisingly, Finnish speakers consider the linguistic situation to be worse in the municipalities where they are the minority, than Swedish speakers.\textsuperscript{120} It might be related to the fact that Finnish speakers are also more likely to demand services in their own language than Swedish speakers, circa 70% ‘almost always’ and ‘usually’ demand services in Finnish, while Swedish speakers only choose to do so almost 50% of the time and Swedish speakers are also much more willing, and probably able, to switch languages in case there are no available Swedish language services. Almost 82% of Swedish speakers switch languages, while less than 55% of Finnish speakers do so.\textsuperscript{121}

\textsuperscript{119} Ministry of Justice
\textsuperscript{120} Language barometer, p. 7
\textsuperscript{121} ibid, p. 1
Swedish speakers feel that their right to services in their own language is implemented better on a municipal level than on the State level. In comparison with the 2012 results, Swedish speakers have become somewhat more unsatisfied with the handling of their linguistic rights. When rating the services provided, Swedish speakers give State services on average a rating of 7,6 and for municipal services a 7,8. For Finnish speakers the same ratings are 9 and 8,7 out of 10.¹²²

Swedish speakers are over twice as likely to have felt discriminated against or harassed for their language in everyday life. 44,9% of Swedish speakers chose ‘often’, ‘sometimes’ or ‘a few times’ when asked if they have experienced harassment or discrimination, while only 20,5% of Finnish speakers felt the same. The two linguistic groups also have different points of view on whether the general attitude to speakers of other languages has improved since 2012. Over half of Finnish speakers chose that the attitudes had changed to be either more positive or a lot more positive, while only 19% of Swedish speakers chose these views. Over 40% of Swedish speakers felt the situation had turned more negative or a lot more negative, while 17,5% of Finnish speakers agreed. Overall, Swedish speakers have a more negative view of the linguistic atmosphere.¹²³ This might also account for Swedish speakers demanding their linguistic rights less than Finnish speakers and being more willing to change languages when their rights are not met.

These attitudes are not new, and for a while Swedish speakers have become more frustrated with Finland’s language policy. Their linguistic rights do not really work in practice and there have been regional developments that have weakened the position of Swedish. Swedish language areas were connected with Finnish speaking areas during the beginning of this decade in police and prosecutorial districts and Swedish was made non-mandatory subject in matriculation exams. This builds an overall atmosphere of inequality for the Swedish language and its speakers. There have also been increasing negative attitudes from a section of Finnish speakers who feel that the status of Swedish is not justifiable in the Finland of 2010s. Officially, Finland is more worried about the

¹²² ibid, p. 2
¹²³ ibid, p. 8-9
concerns of the Swedish speakers and there are no plans to change Finland’s bilingualism.\(^{124}\)

Despite the best efforts of Finland, it is clear that positive developments are difficult to achieve, as shown in the Language Barometer. While it is commonly accepted that the Finnish nation was founded by two ‘nationalities’ and the history of Sweden is an integral part of Finland’s own, and Swedish language has played an important role in Finland’s developments, the current atmosphere is found to be variable and negative. There have been harsh debates about the non-Finnish speaking populations of Finland, the Saami, the Fennoswedes and immigrant, and various forms of hate speech have found more ground in public debate, especially online.\(^{125}\) This was connected to rising right wing popularism, although the recent municipal elections results in April 2017 indicate this issue might be lessening.\(^{126}\)

As a rule of law nation, Finland should ensure that its legislation does not include any dead letter acts, but the situation with Finland national Language Act is that it is not considered to live up to its provisions in practice. The authorities of bilingual municipalities have the obligation to provide the linguistic rights of Swedish speakers in an equal manner to Finnish speakers. There is always supposed to be staff that could take care of the service needs of Swedish speakers. Considering the high rate of Swedish speakers switching to Finnish in order to get their services provided, authorities are not living up to their legal obligations. While municipal authorities are rated higher, there is still clear need for improvement.

As an equal national language with Finnish, and thus as equal Finnish citizens, Swedish speakers should not be denied the right to function in Finnish society in Swedish. This, however, is rarely the case. Not only are Swedish speakers’ linguistic rights less in practice than they are in legislation, the

\(^{124}\) see note 5, Saukkonen, (2013) p. 174
increased negative atmosphere surrounding non-Finnish speakers and their languages and the experience of harassment and discrimination for speaking another language affect the feeling of national unity. While Fennoswedes do identify as Finnish citizens, the continued lack of improvement in the implementation of the Language Act can lead some of them towards conspiracy theories about Finland’s ‘real’ attitude towards Swedish and its speakers. In addition to this, Finnish speakers as municipal minority speakers also feel that the linguistic situation is more negative than Swedish speakers in the same position. This is somewhat surprising but can relate to dominant language speaker attitudes. Since Finnish is the majority language, a Finnish speaker should not be inconvenienced even in majority Swedish speaking municipality. However, it also indicates that both sides find something to improve on in the linguistic situation of bilingual municipalities. Since the attitudes has changed from overall ‘good’ to ‘variable’, maybe the situation will finally lead to concrete actions. This requires a change in attitude for those Finnish speakers who question the current linguistic situation. Maybe the Swedish speakers should also be more adamant at demanding their linguistic rights. Finland is a bilingual country and it should function as one too.

4.2 The Saami Languages

The Saami are the only indigenous people within the European Union. The indigenous status of the Saami has been established in Finland’s constitution in 1995, and this status was also acknowledged in Protocol No 3 of Finland’s EU membership treaty. In Finland there are around 10,000 Saami, consisting of three different linguistic groups from four different municipalities of northernmost Finland. The Saami languages are thought to be at least 3,000 years old, at which point it separated from the common Finnic protolanguage. Written languages have been developed on and off for about 400 years. The Saami have cultural and linguistic autonomy within the Sápmi, which

\[127\] see note 124, Saukkonen, p. 176
consists of the Act on Sámediggi/Saami Parliament (1995\textsuperscript{130}), and the Saami Language Act (1992/2004).\textsuperscript{131} The Saami have long been considered to be a different ethnicity than the other peoples in the region, although the Saami have always lived a multicultural and multilingual existence, with the Saami people differing between languages, livelihoods and geography. The Saami as an indigenous people have the right of self determination as to who is a Saami and who is not, which makes the Saami identity more explicitly political than the other linguistic groups I deal with here.

The Saami were the subject of assimilation projects partly as a result of Finland’s own nationalism project. The Saami as a different ‘people’ were a threat to Finnish nationalism in a way the Swedish speakers were not. Finnishness can be expressed in both Finnish and Swedish, but the Saami did not want to perform Finnishness since they have their own, separate culture. Because of this, the education system isolated generations of Saami children from their languages and cultures and assimilated them into mainstream Finnishness. This explicit assimilation project started from mid 1800s and lasted until the 1950s. From the 1950s and 1960s, there started to be general urbanization in Finland, and for the Saami this lead to simultaneous assimilation and ethnic revival phases. The international and European developments in minority and linguistic rights were the background to Finland’s legal developments.\textsuperscript{132}

At this point, it is good to bring attention to the fact that looking at the Saami with the emphasis on linguistic rights is a rather Finnish thing and it is not always positive. The Saami are looked at more as a linguistic minority, instead of a separate people with a different culture and as an indigenous people who are entitled to more extensive rights than other national minorities. In Sweden and Norway, Saaminess is more tied into the livelihood of reindeer herding, which is legally exclusively

\begin{itemize}
\item \textsuperscript{129} ibid., p. 342; most likely there were developments by Christian missionaries.
\item \textsuperscript{130} The predecessor of the Finnish Sámediggi, which was adapted to fit the developments of the other Nordic countries in the early 1990s, was the Saamelaisvaltuuskunta which was founded in 1972 and held its first elections in 1973.
\item \textsuperscript{131} ibid., p. 345
\item \textsuperscript{132} see note 119, p. 343-344
\end{itemize}
Saami. This is not the case in Finland, and Finns in Lapland can also herd reindeer. And because of Finland’s experience with dealing with two national languages, it had been natural to start developing the rights of the Saami through linguistic rights.\footnote{Veli-Pekka Saamelaiskiista (2015), p. 220} However, currently, the legal developments of the Saami have stagnated. While the development of the linguistic rights in legislation are considered successful, there are still issues with implementation, with the day to day experience being conflicting and the Sámediggi having rather limited resources to improve the situation.\footnote{ibid, p. 266} There is also conflict about the definition of Saami in the the Sámediggi Act and ILO Convention No169 has been in ratification limbo over quarter century.\footnote{ibid, p. 267} As such, examining linguistic rights without being able to delve deeply into the issues of the Saami as an indigenous people is somewhat problematic. However, I do not have the space here to deal with these issues, so I will deal with the linguistic right to use the Saami languages with authorities within the Sápmi, as well as the basics of the issues with the current Finnish Saami definition, specifically Sámediggi §3(2).

4.2.1 Constitution, Definition of a Saami and the Saami Language Act

Section 17 - Right to one's language and culture

(3)The Sami, as an indigenous people, as well as the Roma and other groups, have the right to maintain and develop their own language and culture. Provisions on the right of the Sami to use the Sami language before the authorities are laid down by an Act.

Section 121 - Municipal and other regional self-government

§121(4) Provisions on self-government in administrative areas larger than a municipality are laid down by an Act. In their native region, the Sami have linguistic and cultural self-government, as provided by an Act.

Act of Saami Parliament/Sámediggi 974/1995

Section 3 — Definition of a Sámi

For the purpose of this Act, a Sámi means a person who considers himself a Sámi, provided:

(1) That he himself or at least one of his parents or grandparents has learnt Sámi as his first
language;
(2) That he is a descendent of a person who has been entered in a land, taxation or population register as a mountain, forest or fishing Lapp; or
(3) That at least one of his parents has or could have been registered as an elector for an election to the Sámi Delegation or the Sámi Parliament.

In 1992, the Saami languages were first given legal recognition in Finland when the first act on the use of Saami with authorities came into effect. However, during its first decade in force, there were many changes in Finnish legislations and European level developments, as Finland had updated its constitutional rights in the mid 1990s and Council of Europe’s Language Charter and the FCNM came into force in 1998. So the 1992 Act became quickly rather outdated, it was also considered to have been unclear, difficult to implement and to have content issues. So the aim of the new Act was to clarify the legislation and make implementation of it easier and update the rights so that they fulfill the requirements from the other legislation. It was thought especially important to ensure that authorities within the Sápmi would take better initiative to use the Saami languages and provide services.  

The Saami Language Act was created in order to protect and ensure the Saami their linguistic rights to develop and maintain their language and culture that had been guaranteed by the constitution. It is in many ways equivalent to the national Language Act, which makes sense considering they were updated at the same time. However, while the Language Act provides rights for Finnish and Swedish speakers all over Finland, the Saami Language Act is to an extent more geographically limited. While there are many governmental agencies such as KELA, Tax agency and agencies dealing with issues of equality, non-discrimination and consumers’ rights that have duties under the Act, most of the provisions only apply to the four municipalities that are considered to encompass the Finnish Sápmi, those being Utsjoki, Enontekiö, Inari and Sodankylä.  

136 Seurajärvi-Kari, p. 346
137 2003/1086 2§
138 Chapter 3, §11-§18
Finland’s Saami languages are North Saami (1514 speakers), Inari Saami (253) and Skolt Saami (332). North Saami is the most spoken Saami language in Fennoscandia, while Skolt is also spoken in the Kola Peninsula in Russia, and the Skolts were actually moved from the Petsomo area into the municipality of Inari post WWII, when Finland lost the so called second arm to Soviet Union. Inari Saami is only spoken around the lake Inari region in Finland. All are considered various levels of endangered. All three Saami languages have equal status in Finland, and being provided services in a Saami language this is that the mother tongue of the person in question is against the linguistic rights provided in the Saami Language Act. The Saami Language Act does not deal with the definition of Saami, but it refers to the definition in the Sámediggi Act. It is mostly language based, requiring that at least one of a person’s grandparents has learned a Saami language as their first language. Three generations is often considered sufficient for there to still be recoverable heritage left and that is the approach of the linguistic requirement. The other requirements deal with eligibility for voting in Sámediggi elections, this requirement is fulfilled if one’s parent has or could have had the right to gain these voting rights.

The last requirement is a controversial one and has caused lots of grief since the mid-1990s.

Sámediggi §3(2) That he is a descendent of a person who has been entered in a land, taxation or population register as a mountain, forest or fishing Lapp;

In addition to land rights, this section is one of the cornerstones of the issues with ratifying ILO 169. When the Sámediggi Act was developed, it was felt to be necessary to include reference to old taxation registers, because that was the basis of land and water rights of the Saami. However, these registers were supposed to be only from 1875 or more recent. This was supposed to limit the definition of the Saami to only those who have recent enough heritage to still be connected to it. However, the year dropped off between the Government’s bill and the Parliament’s Constitutional Rights Committee, which deleted the limitation because it would have required a decree. This

139 It is also known as Saami Domicile Area/Homeland; Sámediggi Act (974/1995) 4§
140 see note 7, Saamebarometri, p. 13
141 Sámediggi Act 3§
made the Act uneven because while main defining characteristic was linguistic and that connection needed to be within the last three generations, a secondary defining characteristic of being taxed as a ‘Lapp’ went back unlimited centuries. It was also not limited to the accepted Sápmi region but anyone within Lapland who has an ancestor in such taxation register could claim Saamihood. The Sámediggi has been against this definition since its inception, because southern Lapland has been almost completely Finnicized for centuries. The purpose of the Saami definition is to protect those with current, living connections to their Saami heritage, especially those who speak the languages and want to maintain and continue developing them and their cultural autonomy. If all those with a drop of Saami heritage in Finnish Lapland could claim Saamihood, Saaminess would be drowned out by the Finnicized people and their culture would be swallowed by the mainstream.\footnote{see note 133, Lehtonen, p. 65-66}

Another problematic element here is that in Finland, if one is rejected by the Sámediggi, meaning they are not allowed to officially be considered Saami, the can appeal the decision to Finnish Supreme Administrative Court. For the most part, the Supreme Court has followed the decisions of the Sámediggi and looked at §3 comprehensively, and in its case law it has limited the use of taxation registers to be 1870 or newer to complement the three generations rule of the linguistic requirement. However, in 2011, four people that had been rejected by the Sámediggi were given Saamihood by the Supreme Court based on a taxation register from 1825. This change was met with fear about a change in the Supreme Court’s way of handling the cases. There were assumptions that CERD Committee had considered Finland’s definition to be too narrow and the Supreme Court had reacted to that. This may or may not have been the case but some fault also lay with the Sámediggi. Instead of giving thorough reasoning why these people were rejected like usual, in these cases the statements regarding the rejection were insufficient, so the Supreme Court had insufficient cause to reject them. Whatever the reason, these decisions showed that the Saami were not in control of the
objective/group definition of Saaminess, and this section of the definition needed to be changed. Unfortunately, this still has not happened in 2017. Hopefully the issue will be settled with the Nordic Saami Convention, that has been in works since 2006 and is meant to harmonize the Nordic approach to the Saami. This Convention would adopt the Norwegian Saami definition, which would in §13 expand the linguistic requirement to four generations, and having a parent who has the eligibility to vote in Sámediggi elections.

While the other language act talks about speakers of the national languages, this Act speaks of the Saami as an ethnicity. In many ways both language acts cover the same ground, with the Saami one being more limited in geographical scope, and the requirements for language proficiency being less, and Saami is not used in public as much as Swedish is required to. While all legislation is required to be published in both Finnish and Swedish, there is discretion in choosing which legislation is translated into which Saami language, in general it is those that are considered relevant to the Saami. For example, the Finnish Constitution has been translated into North Saami, while the Saami Language Act has naturally been translated into all three Saami languages.

The authorities in question cannot limit or refuse to provide services to a Saami in their Saami language, if they so request, on the basis that the Saami knows another language, for example Finnish or Swedish. This provision is lacking from the national Language Act, although given the endangered condition of the Saami languages, adding this extra protection makes sense. Unfortunately, it is unclear how aware either the authorities or the Saami themselves are about this provision. According to Saamebarometri 2016, the knowledge about linguistic rights is poor on the part of both the Saami and the municipal authorities.

143 Saamelaiskiista, p. 68-70
144 http://www.oikeusministerio.fi/fi/index/valmisteilla/kehittamishankkeita/pohjoismainensaamelaissopimus.html
146 §9
147 North: Sámi giellaláhka; Inari: Sämikielä laahá; Skolt: Sää’mkioll’lääkk
148 Saami Language Act §4(2)
When providing information to the public, the authorities need also use Saami languages, unless it would be useless, this is especially important within the Sápmi. In general, the authorities within the Sápmi have special obligations to use Saami languages. When a Saami is in need of services from these authorities, they can choose to use either Finnish or Saami, or Swedish as is set out in the Language Act. The Language Proficiency Act is partially applicable to the language skills required of authorities within the Sápmi. In general, the authorities must ensure that their offices are able to provide services also in Saami languages. In order for the staff’s language skills to be sufficient for their particular services, the authorities can arrange training in the Saami languages. Proficiency in Saami language(s) can be designated as a required job skill by law or equivalent act. If Saami language skills has not been designates as a job requirement, it can still be considered a special merit for the applicant.

The authority always has the obligation to use Saami when contacting a party they know is Saami, even if that is not the language of the proceedings. If it cannot be determined whether the party in question is a Saami, Finnish and Saami both have to be used. If a written communication in Saami has arrived to the authority, they have an obligation, without additional considerations, to reply in that Saami language. Authorities also have general obligation to promote the use Saami languages. Additionally, if the language of the oral proceedings is a Saami language, an effort must be made to have this matter be handled by someone who is a Saami speaker. If such a person cannot be found on staff, the authority must provide cost-free interpretation unless the party themselves provides interpretation for themselves.

149 see note 7, Saamebarometri, p. 24
150 §8
151 §11; §12-§16 contain these special provisions.
152 §12
153 §14(3)
154 §14(1)
155 §14(2)
156 §15
157 §19
As in the Language Act, this Act also has provisions on promoting the linguistic rights of the Saami. The authorities have the same obligation to implement linguistic rights by taking initiative to ensure that the rights function as they should in practice. The authorities must also demonstrate to the public that they can provide services also in Saami languages. This is the minimum requirement and authorities are allowed to provide better rights than provided in this Act.\textsuperscript{158} In order to ensure this, employees of authorities that are completely or partially within the Sápmi, and who have worked in these authorities for at least a year, can apply for a paid leave of absence or a temporary release from work in order to acquire the required language skills in Saami. This arrangement can come with the condition of a promised continued employment, at that authority after the achievement of the necessary language skills, up to one year.\textsuperscript{159}

As with the Language Act, all authorities are responsible for fulfilling these provisions within their own area of responsibility by self regulation. The Sámediggi has the equivalent responsibility of the Ministry of Justice to monitor the implementation of this act and to take initiative to rectify any defects. The Saami languages will also be reported on in the Language Report established in Language Act §37. The Saami Language Office and the Sámediggi’s Saami Language Council are responsible for compiling the information for the report and submitting it to the Sámediggi which then submits it to the Parliament every election period.\textsuperscript{160}

4.2.2 Current Language situation

Here I again begin with the language barometer results. The results and analysis of the first Saamebarometri 2016 were published in November 2016. It was conducted through phone interviews of 80 people who have registered a Saami language as their mother tongue in the National Register, living within the four municipalities of the Sápmi.\textsuperscript{161} The functioning of the

\textsuperscript{158} §24  
\textsuperscript{159} §25  
\textsuperscript{160} §28-§29
updated Saami Language Act (SLA) was first examined in a 2007 study which covered the years 2004 to 2006. That research showed grave deficiencies in the implementation of the SLA, there were too few Saami speaking staff members on both State and municipal level, the availability of interpretation services were given with too much delay and the general knowledge of and informing about the SLA was weak. The linguistic rights of the Inari and Skolt Saami were especially weak. This was a decade ago and the purpose of this language barometer was to see if things had changed.

My main interests in these findings concern the knowledge of linguistic rights (2.2) and the recent developments (2.3) as well as the sections dealing with the right to use own language with municipal authorities other than health and social services (2.6) and with State authorities (2.7).

The knowledge about the SLA and the linguistic rights of the Saami in general was rather split. Four respondents considered themselves as being very knowledgeable and 31 quite knowledgeable (35/80) while 31 did not really know them and 13 had no knowledge of their linguistic rights (45/80). When it came to whether the respondents felt that the right to be provided services in their own language is important or not, there was a conflict between the personal level and the societal level. If the respondents could use Finnish or were used to being provided services in Finnish, it was not felt to be personally important for them to be serviced in Saami. Yet even for them it was acknowledged that for the overall situation of the Saami languages this was an important right, especially for certain age groups. The overall result was that even if it was not a right one might personally take advantage of, it was important that such a right exists. (54 vs 26)163

When it comes to exercising this right, however, the results were somewhat in conflict with the societal importance view. Most did not attempt to be serviced in Saami, unless they knew for certain that it was possible by knowing who speaks Saami at each authority. Some were unaware of

161 Saamebarometri, p.14; this is about 6% of all Saami speakers within the Sápmi, and 8% of those between the ages 18 and 80; the interviewees were between 20 and 80 years old.
162 ibid, 14
163 ibid, p. 23-24
even this fact and as such did not even attempt to use Saami. They were also unaware at which authorities they might have the right to request the usage of Saami. The two most common reasons for not exercising this right was the assumption that it would not even be possible to have the service provided for in Saami so there was no use trying and being accustomed to using Finnish with the authorities. The latter situation was even considered acceptable for some with sufficient Finnish skills. There were also considerations about one’s personal Saami skills. Some did not have literacy in their Saami language or they could not write in Saami. In order to develop Saami languages for this type of usage, it has required the creation of many new words and concepts and the so called ‘virkasaame’ was considered to be difficult to comprehend. But some also felt that they should settle for the situation and using Finnish because of a lack of other options. 164 31 respondents had made attempts at exercising their rights, and a few mentioned doing it for the principle, especially at authorities with only Finnish speaking staff, in order to remind them of how the situation should be according to the SLA. 165

The overall picture of the availability of Saami language services was split. Four respondents thought the situation was good while 36 found the situation satisfactory. Four thought there were no services in Saami and 36 found the availability to be bad. Here there are some differences between the municipalities. Utsjoki has the biggest Saami population, and all four ‘good’ responses came from there. Comparatively the most ‘satisfactory’ responses were also from Utsjoki, although all municipalities were represented. Inari Saami chose ‘bad’ comparatively the most. Inari and Sodankylä were responsible for the ‘no services’ responses. Additionally, the responses of the North Saami were more positive on average than that of Inari and Skolt Saami. According to these result, the situation has actually somewhat improved in recent years. Majority of the respondents felt that the situation had either improved (39) or stayed overall the same (25). 10 respondents did not have an opinion and six felt that the overall situation had worsened. 166

164 ibid, p. 25
165 ibid, p. 26
166 Saamebarometri, p. 27-28
Since the emphasis on this study was on health care and social services, other municipal authorities were not dealt with in dept in the interviews. A general question was posed enquiring about whether other municipal services are provided in the Saami language of the respondent, such as in municipal governance. The overall situation was mixed and had clear municipal variety. Two and 27 found that the other municipal services were provided ‘well’ and ‘partially’, 21 of which were from Utsjoki. While 42 did not think other municipal services were available in Saami, while nine could not respond. Many responses consisted of specific mentions of employees or departments. The majority of the other three Sápmi municipalities felt that there were no services in other municipal authorities. Only one Skolt Saami had experience with a Skolt speaking employee in Inari, while two Inari Saami had the experience with the one and the same Inari Saami employee, also in Inari. The rest were strictly about North Saami.\(^\text{167}\)

The last question I am concerned with here, is whether there were, in general, State authority or services in Saami languages, for example KELA, Forest Ministry, and the police. The overall, well arranged provision of State services in Saami languages does not exist, although many individual authorities or services were found to have given positive experiences. 33 were able to mention one or more State services were they were able to use Saami while 41 did not know of any, and six could not respond to the question. How many of these experiences are recent is questionable, and there have been many centralizing changes in Finland’s infrastructure in recent years, so whether these services are still available is unclear. KELA and Forest Ministry were given the most positive mentions. These reflect the availability of Saami speaking staff members.\(^\text{168}\)

The respondents were also asked for comments regarding improvements to the situation. Many felt that if the SLA was properly implemented, there would be no need for other measures. Adult education in Saami languages was also found to be an important concrete measure to improve the language skills of the municipal and State authority staff members. The SLA does provide for this,

\(^\text{167}\) ibid, p. 31-33  
\(^\text{168}\) Saamebarometri, p. 33-34
and while this project is constantly ongoing in Sápmi, there is not enough of it and too few can take part in these language training projects. There is need for more State funding for this. 169

The overall findings of the Saamebarometri is that the linguistic rights of the Saami are implemented badly in Finland. The best situation is for a North Saami speaker in Utsjoki. While Inari has four official languages, the services in any of the Saami languages is weak, the Forest Ministry can service people in Inari Saami and there is a Skolt speaker in Ivalo’s KELA. Enontekiö can provide some social services in Saami and the overall worst situation is in Sodankylä. In Utsjoki there are some municipal employees with who one can speak North Saami, for other languages and municipalities there were only individual mentions, usually teachers. Over half of the respondents could not mention any State authority where they had been able to use Saami. People living in Inari had the most experience with State authority services in Saami. 170

In addition to providing more language training, there was felt to be a pressing need to inform people better of their linguistic rights and the provisions of the Saami Language Act. There seems to be a real lack of knowledge about the Saami Language Act, by the Saami themselves, the local authorities and the Finnish speakers in Sápmi. 171 There seems to be a general vicious circle of ‘the Saami do not know their rights->they do not ask to be served in Saami->authorities assume they do not want to be served in Saami->there is no need to improve availability of Saami speaking employees’. If everyone were more knowledgeable about what rights and obligations the Saami Language Act provides, the situation could improve greatly.

169 ibid, p. 37
170 ibid, p. 39-40
171 ibid, p. 40
4.3 Sign Languages

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).¹⁷²

Finnish Sign Language and Finland Swedish Sign Language were developed in mid-1800s when the first school for the deaf was founded in Finland and both languages developed from Swedish Sign Language. Legal recognition of Finnish sign language happened in the 1990s, when the right to interpretation and development of language and culture for signers was incorporated in the new §17(3) of the Finnish constitution which came into force in 2000 and as part of the process towards ratifying the UN Convention on the Rights of People with Disabilities in 2016¹⁷³, a general language act for Finland’s sign languages was created.¹⁷⁴

Since being deaf or hard of hearing is not specific to any ethnicity, most countries have at least one national sign language. Just like Finland has two national spoken languages, it also has two sign languages which developed within the Finnish speaking and the Swedish speaking populations.¹⁷⁵

Because of migration, however, the amount of sign languages is increasing in Finland, especially Russian Sign Language.¹⁷⁶ Because the signer community is build on the same three elements, language, culture and identity, as other linguistic and cultural groups, they consider themselves primarily a linguistic group, not a disability one. The surrounding society, which is build with hearing people in mind, is what makes signers appear disabled, while that is not their personal view of their lack or diminished hearing capability. As such, the perspectives need to be considered together, and not just concentrate on the disability part which has been the case for a long time. As a

¹⁷⁴ Viittomakielilaki 359/2015 http://www.finlex.fi/fi/laki/alkup/2015/20150359
¹⁷⁵ I have found no information about a Saami sign language.
¹⁷⁶ Ministry of Justice, Viittomakielisten kielelliset oikeudet (2011), p. 15
cultural group, Finnish signers’ linguistic rights were recognized in 1995 in the Finnish Constitution.  

In 2011, it was estimated by Finland Association of the Deaf (FAD) that there are 4000 to 5000 deaf/HoH signers and an additional 6000 to 9000 hearing Finnish Sign Language (FSL) signers in Finland. The amount of Fennoswede Finland Swedish Sign Language (FSSL) signers was then thought to be below 200 but now, 2017, it might be as low as 90. Official statistics are of no help at this time, because few signers have designated a sign language as their mother tongue, because the community is not used to doing so. Each year there are about 50 to 60 children born with hearing problems for whom a sign language would be the natural mother tongue.  

4.3.1 Finnish Sign Language (viittomakieli, FSL)  

Finnish Sign Language is one of Finland’s national sign languages. It was given constitutional recognition in 1995 and it has also been included in special legislation, for example educational, since then as one of Finland’s recognized languages. It is the mother tongue of 10,000 to 14,000 Finns. It ‘developed’ in the middle of the 1800s when Carl Oscar Malm founded the first school for the deaf in 1846 in Porvoo who learned his sign language in Stockholm. From the beginning of 1900s and until early 1970s, it was forbidden to teach sign language in school but it never went away and it has regained its place in education. The training of interpreters almost exclusively is for Finnish Sign Language and there has been some language shift from FSSL into FSL because of this. The right to use one’s language with authorities is usually handled through interpretation services meant for disabled people, although Finland has recognized sign languages as languages. Sign languages have become accepted part of Finnish culture and the linguistic situation.

\footnote{177 §17(3)}  
\footnote{178 see note 153, p. 15-16}  
\footnote{179 Alanne, Kaisa Viittomakieli raivasi itselleen sijan Suomessa http://yle.fi/uutiset/3-9462006}
4.3.2 Finland Swedish Sign Language (Finland Svenska teckenspråk, FSSL)

This section is going to be a little bit different. When I was writing my Bachelor’s thesis in 2014, the status of the Finland Swedish Sign Language (FSSL) was rather uncertain. The Finnish term ‘viittomakieli’ usually only meant Finnish Sign Language (FSL), so I did not consider the educational linguistic rights of FSSL users at the time in any depth, mostly noting the lack of interpreters. In order to provide a proper picture of what has become of FSSL, a brief consideration of the educational linguistic rights is necessary. It provides the background for the current status of FSSL and the problems FSSL users have in order to get their rights to use their own language with public authorities and in courts.

Finland Swedish Sign Language was developed among deaf people and their relatives within the Swedish speaking communities in Finland. It differs from both Finnish Sign Language and Swedish Sign Language, although both languages influence it, for good and bad. It was previously believed that there were around 300 users of FSSL, of which half were also deaf. In order to prepare the Sign Language Act of Finland, in March 2015 the Ministry of Justice established a cooperation group to map out the overall situation of both sign languages. This revealed that the situation of FSSL is even direr than was suspected. FSSL was already classified as extremely endangered by UNESCO and it is in danger of dying out completely in 10 years’ time. In August 2015 the findings of the FSSL organization Finlandsvenska teckenspråkiga rf were revealed and it showed that there are only about 90 deaf users of FSSL, instead of the assumed 150. The signers are usually rather old, with almost 70% of them having been born in the 1950s. However, the number of 90 signers is a complicated estimate because the situation of FSSL users is complicated. One thing that is beneficial for the linguistic group is the fact that it is somewhat regional with the users mostly living in the Swedish speaking western coast, in Pohjanmaa and Uusimaa regions.

\[180\] see note 10, Hirvonen p. 6, 31-32 (2014)
4.3.2.1 Educational linguistic rights of FSSL signers

While many other languages saw their situation acknowledged better in Finland in the 1990s, the situation was not like that for FSSL. In fact, the only school for deaf Fennoswedes was closed down in Porvoo in 1993. This disrupted dramatically the ability of signer Fennoswede children to learn their language and culture in a physical environment and to pass them on to future generations.

Since deaf children are born to hearing parents in 90-95% of cases, the Swedish speaking parents especially of school age FSSL signer children moved to Sweden. Those who stayed in Finland either learned in Finnish Sign Language schools or with the help of interpreters in integrated classes. However, the use of interpreters is made difficult, because there is a lack of sign language interpreters who can use FSSL or have sufficient skills in spoken Swedish. 182 The situation with FSSL signers is that their interpreters might have to know 4 languages in a given interpretation situation, having to have proficiency in both national spoken and both national signed languages. Because deaf or hard of hearing children are rarely born into families using sign language previously, the connection with a sign language and deaf/HoH culture is more dependent on societal structures than it is for other linguistic groups for whom language(s) come from the family. 183 A sign language is the natural mother tongue of a deaf person, and if they are not able to connect with that language within society, they might be left languageless. Unfortunately, in Finland, the societal structures that should support a FSSL signer developing or acquiring and maintaining their language are lacking. These lacking features can be fatal for the language, especially for languages like FSSL, because it is still lacking in an established or a general form (‘book’ language form). For example, there is currently not yet an established organization that would be responsible for the study and education on the language. The purpose of the Sign Language Act is to develop Finland’s

181 OMSO Selvitys suomenruotsalaisen viittomakielen kokonaistilanteesta (2/2016), p. 8
182 ibid. p. 9
183 However, a sign language can also be one of or the only mother tongue for a hearing person, if they are born to at least one deaf parent or have deaf siblings. Their situation has different problems.
sign languages but this is rather difficult for FSSL because there is a lack of teachers, trainers and interpreters with FSSL skills. FSSL’s situation is very challenging and a separate revival program for it might be required. An overall strategy for the language is required and has been acknowledged from at least 2011 when the linguistic rights of sign language users were last checked.  

As a result of the closing down of the Porvoo FSSL school, many signers had to switch languages to Finnish sign language or move to Sweden in order to get education or other services in a way that reflects their actual needs. FSSL signers have no opportunity to get basic education in their own language which is problematic from the perspective of the fulfillment of their constitutional rights. There has only been sporadic teaching of FSSL in recent years. The issues with arranging education in a sign language are the non-territoriality and small age groups. Teaching and learning materials are also lacking. There are many varieties of how education for signers is arranged, usually through individual and extended duty of education.

For the purposes of the Sign Language Act, in 2014 there was an overall study by Kuurojen Liitto¹⁸⁵ and Education Ministry of the number and type of study arrangements of signers in basic education during the school year 2013 to 2014, especially from a mother tongue perspective. This study also included FSSL signers and the hearing children of deaf parents and hearing siblings of deaf children. The amount of signer student was less than 100 in 23 schools, of which 2 where Swedish language schools where the students’ mother tongue was considered FSSL. One of the arrangements is using a sign language interpreter, which is possible in 21 schools, although in no school was it possible to have an interpreter during every class. ¹⁸⁶

¹⁸⁴ see note 181, p.9-10
¹⁸⁵ Finnish Association of the Deaf (FAD)
¹⁸⁶ see note 181, p. 11
Special schools are closing down, and because of nearby-school principle and conchlear implants that are increasingly chosen by the parents of deaf/HoH children, traditional deaf schools are numerically lessening and their student numbers are small, only in 3 schools with deaf/HoH students, the number of signing students was over 5, otherwise they are situated in nearby schools different parts of the country. The problems with the teaching of signing students are not so much administrative but relate to the local and regional educational arrangements and their development. The current legislation provides for flexible arrangement of teaching for signing students and the Basic Education Act (628/1998) protects the right for basic education rather well and since the Sign Language Act came into force on May 1st 2015, the right covers both of Finland’s national sign languages. There is a need for a development project for the education of signing students that should also take into account especially FSSL students and their needs. This type of project would let Finland to improve the implementation of the educational rights within the Convention on the Rights of Persons with Disabilities. The most pressing needs for the educational rights of FSSL signers is providing proper teaching materials and examining the different educational arrangements that have been utilized for signing students and providing schools with signing students with information on how to best implement them. There was a Ministry of Education project relating to these issues in 2015 and 2016 and it was hoped that the ministry could start producing the most needed teaching materials in 2016.187

4.3.3 Finland’s national sign languages, legislation and the Right to use own language with public authorities

While the starting point for Finland’s two national sign languages are different, with FSL being dominant and FSSL struggling for survival, I will consider their rights here together because since FSSL gained prominence, Finland usually considers them and their rights together, unless there is

187 ibid, p. 12-13
Constitution §17(3) The rights of persons using sign language and of persons in need of interpretation or translation aid owing to disability shall be guaranteed by an Act.

This provision came into force in 1995, and in 2015 the definition of ‘sign language’ for the first time explicitly included Finland Swedish Sign Language.

In the original suggestion made by the Constitutional Rights Committee in 1992 for the language right section, then §13(4) was meant to provide for the right for necessary interpretation and translation needs. Originally sign language users were supposed to be considered in §13(3) [now §17(3)] under ‘other groups’ along with the Jewish and the Tatars and others. The original 13(4) was a general provision and required legislation to designate how this rights should work in practice, mostly related to ensuring that a person’s individual rights are provided. This right to interpretation was also included in the suggested §6b fair trial and good governance as well as for social and healthcare purposes. At some point during the development, however, this changed. The current §17(3), which deals with the right to one’s language and culture, includes the requirement that the right to interpretation and translation for sign language users and other disabled people who would need interpretation services is to be guaranteed by legislation. This change was made in 1993 when the government bill regarding the updating of the constitutional rights. Instead of considering the right to interpretation on its own, it was felt that it was more necessary to mention the need to protect the rights of sign language users. However, it was also assumed that at some point sign languages would be given an Act to further establish their rights. This was somewhat achieved with the Sign Language Act in 2015, 20 years later.

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188 Perusoikeuskomitean mietintö 1992:3, p. 37
189 ibid, 318-319
190 Hallituksen esitys 309/1993
The purpose of the Sign Language Act was to improve the linguistic rights of the signers and make them more prevalent in society, both for the signers themselves to better be aware of their linguistic rights and for the appropriate authorities to be more aware of their duties towards the signing communities. The FAD had long felt that the position of signers was not equal to that of other groups in Finland, specifically Swedish and Saami which had their own language legislations so they wanted their own. The original idea was expressed in 2010 and it was thought that the sign language legislation should follow the other two language acts. The FAD negotiated with the government and had five motives\textsuperscript{191} for what it wanted the act to include. The first was to clarify that signers are both a linguistic and cultural group and a disability group. Previous legislation, including the Constitution, framed them as a disability group only and sign languages were not necessarily viewed as complete languages. Not all those who consider sign language as their first language are themselves deaf and not every deaf person wants to be labeled disabled. However, both a disability and a linguistic group perspectives are equally necessary for signers’ rights to be properly implemented. The Act did classify signers as a linguistic group, by not defining sign language users based on disability or hearing status\textsuperscript{192}, although interpretative services are still additionally provided to signers under the Act on Providing Interpretation Services on the Basis of Disability.\textsuperscript{193}

The second motive was to bridge the gap between the constitution and the special legislations relating to linguistic rights, for the authorities to take sign languages into account more when writing relevant legislation. There was a wish for Finland’s government to develop implicit language policy for sign languages. The third was a hope to provide children a right to language acquisition, so that deaf children are allowed to acquire a sign language as a mother tongue, instead of forcing them to learn a spoken language or get a cochlear implant. Finland does provide

\textsuperscript{191} see note 172, De Meuldre, p. 195-197

\textsuperscript{192} ibid, p. 199

\textsuperscript{193} 133/2010
[Finnish] sign language classes for parents of deaf children if they have a doctor’s referral and request the lessons. Kaisa Alanne of FAD felt it would be more beneficial for the families if there was a law that ‘allowed’ them to choose sign language for their children, instead of using it as a stopgap until the child could acquire a spoken language.\(^{194}\) It was hoped by both FAD and University of Jyväskylä, which has a sign language faculty, that in addition to defining sign languages and signers, §1 would include a third clause:

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.\(^{195}\)

FAD also hoped that language acquisition would be included in special legislation, in order to grant parents of deaf children the secured right to receive sign language teaching, which would make it easier for a deaf child to use or acquire sign language proficiency as early as possible. This would secure sign language as the child’s own language or mother tongue. However, language legislation in Finland concentrates on educational and administrative matters. Such a right as acquisition of a language does not currently fall under the spirit of Finnish language legislation. This does not mean that the issue is not considered important. The right to one’s own language is a basic one and since language is something that is transmitted inter-generationally, this right deserves strong protection. As such, future Governments are required to take action in protecting linguistic rights of signers in a way that secures the right to own language.\(^{196}\)

The fourth motive of the FAD was to change the way the linguistic right to use one’s language with authorities is handled. For the other languages with language acts have the right to be served in their own language, with interpreters and translation services being a secondary option. This is not the case for signers for who this right is still mostly delivered through signers using interpreters, rather

\(^{194}\) see note 172, quoted by De Meuldre, p. 196  
\(^{195}\) FAD submission, quoted by De Meuldre, p. 200  
\(^{196}\) see note 172, p. 200
than authorities being able to service them directly in sign languages. This would be especially important for groups such as elderly deaf people and those in need of mental health services. Other legislation recognizes that it is important to take a person’s mother tongue and cultural background into consideration, such as the Patient Act (785/1992), this can also be the case when a signer requires services from State or municipal authorities. The State has argued that the linguistic rights of the signers are implemented sufficiently through interpretation and translation services. However, the quality of the interpreters differ, the interpreter might lack sufficient knowledge of the topic in question and there have been occasions when FSSL signers have been offered interpretation in FSL. 197 This is clearly a problem.

The final motive was about Finland Swedish Sign Language (FSSL), which had been the target of a passive assimilation policy by the authorities which had lead the language to be considered severely endangered by UNESCO. Additionally there was a clear need for a State institution, such as the Sámediggi or the Advisory Board on Romani Affairs, which would be in charge of monitoring the implementation of the Act and overseeing the signers’ linguistic rights and conditions. Because Finland considers the implementation of linguistic rights to be something each authority is responsible on its own, it is a self-regulating system, it was not deemed necessary to include a specific provision to that effect, although the other language acts did so. Additionally, sign languages are among the languages of which situation must be monitored and reported on by the Government in the four-yearly Language Report established in §37 of the Language Act. 198

The Act itself ended up being very concise framework law, and while acknowledging the FSSL and designating sign language as a mother tongue regardless of hearing status were innovations, it did not include any new rights for the signers or new obligations for the authorities, its purpose was to

197 ibid, p. 200-201
198 see note 172, De Meuldre, p.199
strengthen and re-establish the existing rights while showing the authorities where to find the existing obligations and rights. This makes it very different from the other language acts, which delineate both the minimum rights and duties of national language speakers and the Saami regarding use of language with authorities. Instead, the Sign Language Act just refers to the existing special legislation, attempting to make them more visible so that they will be better taken into account when dealing with linguistic rights of signers. It is hoped that this leads to the proper training of interpreters and their availability. This makes the meaning of the Act for individual signers more symbolic rather than practical, since the special legislation is still were their rights actually reside.199

In May 2016, Finland had finally managed to update its relevant legislation, including creating the Sign Language Act, to ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol.200 Its Article 21(e) requires the recognizing and promoting the use of sign languages which is established by the Sign Language Act.

The right to use sign languages with authorities is unfortunately not a self evident. Usually information about services or client’s rights are only available in Finnish and Swedish and not in either sign language. This is why signers often are able to only find information by going to authorities themselves with interpreters, instead of being able to find information on line or through other means. However, some authorities do provide information in FSL online, for example KELA, the police and emergency personnel. But this information should also be given in other formats, like VHS or DVDs and more information should be provided on television in both sign languages. When a signer is visiting an authority face to face, they have the right to interpretation services. This can be difficult however, for example with judicial matters. There is not yet a set ‘book’ language for sign languages, there is no set way how sign languages should be translated. This

199 ibid, p. 198
affects the creation of the types of documents that signers might be entitled to, like the last will or a school report.  

4.3.4 Language situation and identity

The linguistic rights of signers are usually arranged through interpretation and translation services. But even with these rights, not all signers are aware of their linguistic rights. Although younger generations seem more informed of them than the older generations. There is not enough information in general available in sign languages. Often signers will not even attempt to use their sign languages, either because they are unaware of their rights, or because the onus is on them to arrange the interpretation services themselves before going to authorities. This shows the recurring issues of linguistic rights which are secured only if the minority language user request them, instead of them being provided without a request which is how linguistic rights are established in the national Language Act and the Saami Language Act. The Government has an obligation to spread information about linguistic rights and as such, signers should be informed of their rights and how to acquire them. The other recurrent issues is that public authorities claim that there are not enough requests for the usage of certain languages by those linguistic groups, so the authorities do not feel the need to actually provide the rights. For Swedish and the Saami languages, their Acts have the principle of ‘active offer’ and the rights of the signers should also reflect that.

When it comes to signers, it is important to remember that not all signers are deaf or hard of hearing, but are hearing people with signing family members. The right to use one’s mother tongue, a sign language, is as important for them as for all other signers. Acknowledging signers as a linguistic and cultural group, while not ignoring the disability aspect, is very important for showing signers that they are an accepted part of Finnish culture and society, because they are as Finnish as

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201 Viottomakielisten kielipoliittinen ohjelma (2010), p. 50
202 see note 182, p. 200-201
the speakers of Finland’s national spoken languages. 204

5. Conclusion

In this thesis, I have outline the legal developments relating to linguistic groups both internationally and in Finland specifically. I also examined the most recent research provided for the situations of all these languages and how their identity has developed in Finland.

The picture of Finland’s linguistic diversity and how it manifests in the society at large is a complicated one. On the one hand, linguistic diversity is acknowledged in legislation and considerations of linguistic rights are a normal part of Finland’s societal developments. However, Finland as a society in many ways is still very homogenous and for many Finns, linguistic minorities are not a part of everyday life since many parts of Finland are still very linguistically homogenous. There is clearly an urgent need to better inform everyone in Finland, both Finnish speakers, the relevant authorities and the speakers of minority languages themselves, of what Finnish linguistic rights include.

There are many ways both the legislations and their implementations could be improved for everyone’s linguistic rights to be respected and made into a more consistent part of Finland’s society. For instance, there are two different cultures in Finland, the Finnish one which functions in at least Finnish and Swedish and the indigenous Saami one. Cultural autonomy is important for both the Fennoswedes and the Saami and the respect for signers as a linguistic group. The real diversity of Finnish society is not always taken into consideration properly when making decisions such as municipal changes and arranging services, even though they should be.

In my introduction, I asked a few questions about these linguistic situations. While it is a bit early to say anything about the effect of the Sign Language Act, it does provide the signers with a definition

204 see note 179, Alanne
of themselves that they agree with. The situation of the Saami varies in different parts of the Sápmi, but nowhere is the situation as it should be. However, overall there is a feeling of positive developments in providing services in Saami. For the Swedes, there is a feeling of the situation getting worse, with the linguistic situation in general being rather harsh on minorities in general. I did not mention this at the time, but the conflict surrounding the ILO 169 also makes some Saami feel that it has complicated the linguistic situation negatively within the Sápmi.

When a minority language is given a language act, it shows that the country it is a part of considers it as also being included into the overall society. However, if the language act does not actually function in practice, this can lead to complications in the linguistic situation and the identity of the minority language speaker. Finland’s language legislation includes minimum rights that should provide everyone with the ability to function in society in either Finnish, Swedish, a Saami language or a sign language. But those lovely principles are not applicable in practice, because of a general unawareness of the existence of those rights on part of basically everyone in Finnish society. If authorities do not arrange services in the languages they should, the minority language speakers will not demand the services they have a right to, and the vicious circle keeps going. It is extremely important for Finland to finally realize that it is not a monolingual nation state, that it at least two national languages, an indigenous people and two sign languages. Once again, Finland’s legislation makes a good effort, if only society would actually implement it.
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