

Maartje De Meulder

The Power of Language Policy

The Legal Recognition of Sign Languages
and the Aspirations of Deaf Communities



JYVÄSKYLÄ STUDIES IN HUMANITIES 301

Maartje De Meulder

The Power of Language Policy
The Legal Recognition of Sign Languages
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ABSTRACT

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This thesis explores Sign Language Peoples' aspirations for the legal recognition of sign languages, with specific focus on Finland and Scotland. It highlights the timely need to strengthen (in practice) and scrutinize (academically) the legal measures that have been achieved as well as their implementation – and to measure all this against the challenges of endangerment and sustaining vitality. The theoretical framework for this study is centred in language policy and planning and political theory. The research methodology draws on principles of the ethnography of language policy and uses two traditional qualitative research methods, that is, interviews and participant observation, plus desk research. Sign Language Peoples' campaigns for recognition seek a differentiated citizenship – a form of group representation rights which can accommodate their communities' particular needs and practices. The study identifies five categories of recognition legislation and demonstrates that most legislation remains symbolic: while some legislation grants instrumental rights to sign languages, legislation establishing or protecting educational linguistic and language acquisition rights remains scarce. This is especially problematic given the complex combination of demographic, political, economic, social and educational pressures facing Sign Language Peoples' communities. The study further identifies both common ground with other linguistic and cultural minorities and one significant difference – that Sign Language Peoples are also perceived and administered as people with disabilities and, as such, manifest dual category membership. While this should not in theory be problematic, in fact the policies which govern their lives traditionally frame them within only one category – as people with disabilities. The study demonstrates how this has negatively impacted the recognition of sign languages and signing communities. It goes on to analyse the highly politicized nature of sign language planning, especially in relation to discourses around the linguistic rights of deaf children. It also critically evaluates the mixed rationales for sign language rights and the justifications on which these rights are based. The evidence suggests that sign language legislation and the arguments for sign language rights are subject to a very particular set of discourses, which expose them to a degree of scrutiny not experienced by discourses for spoken minority language rights and legislation. Comparison of these discourses leads the author of this thesis to argue that it is essential that the protection and promotion of sign languages should include recognition of the multilingual practices of signing communities, and of their group rights. To conclude, it is argued that recognition legislation should specifically address the issue of vitality and the factors and strategies needed to ensure this vitality, including ways in which sign languages can create new generations of users without relying solely on intergenerational transmission.

Keywords: language policy, language planning, critical language policy, ethnography of language policy, sign languages, deaf, Finland, Scotland, vitality, language legislation.

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DEDICATION

Voor Lief, die alles wilde weten.

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This doctoral dissertation has been written over the course of almost five years - even more, since I was already thinking about the subject of this dissertation long before I effectively started it. During those five years, I have often been in great doubt about the very thing I was doing: writing a dissertation on the recognition of SLPs' languages, cultures and identities when all around me I saw that very recognition slipping away. I saw deaf people giving up or having a very hard time raising their child bilingually, I saw deaf people giving up on pursuing higher education, I saw deaf parents reverting to mainstreaming their child because of the absence of sign bilingual education for their children, I saw the value of sign language in the education of deaf children being questioned (all over again), I saw deaf people struggling to live a respectable life as a deaf person every single day. Often, I felt almost guilty merely *writing about it* and not doing anything more active, accepting some practical responsibility. Over the years I have learned, though, that this scholarly piece of work might very well help with this recognition as well, by documenting SLPs' aspirations, their desire for recognition, and the barriers they are confronted with, and sharing this information with the wider academic world and the world beyond.

For this, I have been lucky to have a constant group of supporters around me, both near and far, who have guided me through this process of hope, doubts, joy and fears - sometimes all in one single day.

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I wouldn't even have dreamed of this dissertation if it weren't for my year in Bristol, UK, where I studied for an MSc in Deaf Studies at the (unfortunately now defunct) Centre for Deaf Studies, and that is in big part thanks to Paddy. He was the first person who told me I could do this before the thought of studying for a PhD had even crossed my mind, he has supported me all the way through, and he has deeply informed my ways of thinking and seeing the world. After finishing my MSc, I got a scholarship from the University of Bristol for doctoral research, but after long consideration I decided to turn this down and return to Belgium and work for the Flemish Deaf Association for a year. The planned one year became five years, which have been very important to me. They have not always been easy, though, and Paddy, having himself gone along a similar path, understood this as no one else did and was there at every step of the way. Also when, after five years, I returned to academic life and started this research, he was there and continued his guidance. Thank you.

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Ritva's support has been invaluable in navigating through the Finnish academic and administrative system, especially in the early stages when every-

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In the second year of this dissertation I became a mother and my second child was born just after I submitted this dissertation for review. This was a life-changing event, also in terms of balancing academic life and family life, but it has enriched my life in so many ways that I'm safe to say this dissertation has only become better for it. The support of Jan, my husband, friend and mentor, who saved me from this dissertation at times and in doing so has also been the greatest supporter I could wish for myself, has been essential to finish the whole thing. To Jan, Roos and Merel: you are the light of my life.

Jyväskylä, November 2016
Maartje De Meulder

FIGURES AND TABLES

FIGURE 1	The legal recognition of sign languages (WFD 2016)	84
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TABLE

TABLE 1	Research questions addressed in the articles	30
TABLE 2	Interviews with Finnish and Scottish informants	61
TABLE 3	Participant observation	64

“We have the right to be equal whenever difference diminishes us;
we have the right to be different whenever equality decharacterizes us.”
– Boaventura De Sousa Santos, 2001:37

“I cannot understand how a language like sign language - the richest in
expressions, the most energetic, the most incalculably advantageous in its uni-
versal intelligibility - is still so neglected and that only the Deaf speak it (as it
were). That is, I confess, one of those irrationalities of the human mind that I
cannot explain.”
– Pierre Desloges, first deaf author, 1779

“Is it not interesting, dear reader, that, given the time and space to look up
at the stars, that Deaf attention constantly turns to the education of future Deaf
children, rather than, as one might suppose, to better jobs or better TV pro-
grammes for themselves? If anything hallmarks Deaf communities as collectives
and as language minorities, it is this...”
– Paddy Ladd, 2003:442

CONTENTS

ABSTRACT	
DEDICATION	
ACKNOWLEDGMENTS	
FIGURES AND TABLES	
CONTENTS	
PREFACE	
SOME NOTES ON TERMINOLOGY	
LIST OF ORIGINAL PUBLICATIONS	
GLOSSARY	

1	INTRODUCTION	25
1.1	Starting points: promotion and endangerment hand in hand	25
1.2	Research questions	28
1.3	Background and policy context	31
1.3.1	Sign Language Peoples' communities and histories	31
1.3.2	The contemporary importance of sign language recognition for SLPs	34
1.4	Organisation of the Overview	37
2	THEORETICAL FRAMEWORK	39
2.1	Language policy and language planning (LPP)	39
2.1.1	Critical language policy	43
2.1.2	Sign language policy and planning	45
2.2	Political theory	46
2.2.1	Political theory and language policy	47
2.2.2	Language rights and language legislation within political theory and sociolinguistics	48
2.2.3	Political theory and SLPs' aspirations	51
3	METHODOLOGY	56
3.1	Ethnography of language policy	57
3.1.1	Selection of countries	58
3.1.2	Interviews	60
3.1.3	Participant observation	62
3.2	Limitations of the research methodology	66
3.2.1	Lack of proficiency in Finnish and the sign languages of Finland	66
3.2.2	Limited access to certain hearing informants	67
3.2.3	Elite interviews	68
3.3	Researcher's positionality and researcher effect	69
3.3.1	Researcher positionality	69
3.3.2	Researcher effects	69

4	FINDINGS	73
4.1	Overview of findings.....	73
4.1.1	Article 1: Tensions between Specificity and Universalism	73
4.1.2	Article 2: The Legal Recognition of Sign Languages	74
4.1.3	Article 3: The British Sign Language (Scotland) Bill	74
4.1.4	Article 4: The Sign Language Act in Finland	76
4.1.5	Article 5: The Recognition of Sign Languages and the Aspirations of Deaf Communities	77
4.1.6	Overview	78
4.2	The legal recognition of sign languages: a clarification.....	79
4.3	The lack of basic data.....	85
5	DISCUSSION, IMPLICATIONS AND CONCLUSION.....	88
5.1	The politics of sign language planning.....	88
5.1.1	The obstruction/watering-down of sign language recognition processes.....	88
5.1.2	The politics of linguistic rights for deaf children	91
5.2	Mixed rationales for language rights	95
5.2.1	The dependency argument.....	95
5.2.2	Acknowledging signing communities' multilingualism.....	96
5.3	Language rights as access to interpreters?	98
5.4	The importance of cultural protection and group rights	100
5.4.1	Other legal avenues	100
5.4.2	A Sign Language Peoples' Convention?.....	102
5.5	The vitality of sign languages.....	104
5.5.1	Are sign languages endangered?.....	104
5.5.2	The revitalisation of sign languages.....	107
5.6	Conclusion.....	109
5.7	Directions for future research.....	109
5.7.1	The implementation of sign language recognition legislation in Finland and Scotland	109
5.7.2	A Sign Language Recognition Index?	110
5.7.3	The functioning and politics of sign language boards	110
5.7.4	Strengthening the vitality of sign languages.....	110
5.7.5	The popularisation, institutionalisation and appropriation of sign languages	111
5.7.6	Multilingualism in signing communities	112
5.7.7	The importance of basic data.....	113
5.8	Summary	113
6	YHTEENVETO	116
7	REFERENCES	118

PREFACE

In 2004, I became involved in the campaign that led eventually, in 2006, to the recognition of Flemish Sign Language (VGT). With a small group of deaf and hearing people we set up the 'Deaf Action Front' and used the Flemish right to petition to start collecting signatures for a request to the Flemish parliament to discuss the issue of the legal recognition of VGT. We needed at least 15,000 signatures for parliament to have to listen to our request; within four months we had 71,330, making this the most successful petition ever handed in to the Flemish parliament. The petition launched a wave of action throughout the Flemish deaf community. Deaf people called on their friends, families and colleagues to sign, and talked with them about the importance of recognition. The petition was also supported by many public figures, and we received letters of support from all over Flanders, from school children to old people. Every morning we went to our letterbox full of anticipation, to see how many envelopes we had received in the mail, and we kept people updated about the number of signatures by means of an online graph. This was a petition that needed to be signed *on paper* - Facebook and Twitter did not then exist. It struck me that the issue of language recognition was really something that touched many people, even those who had no experience with sign language whatsoever. Immediately after handing over the petition to parliament Helga Stevens, then a deaf member of the Flemish parliament, started drafting a decree for which she negotiated extensively with the Deaf Action Front, the Flemish deaf association Fevlado, the Flemish Sign Language Centre and the major Flemish political parties as well as with the Minister of Culture. In April 2006, the Flemish parliament voted unanimously in favour of the law, and VGT was legally recognised. At the time of writing this, we have just celebrated the 10th anniversary of the recognition with a press conference, a parade for deaf children, a VGT festival and a flash mob.

In the same month, April 2006, New Zealand Sign Language was recognised as an official language in New Zealand by the New Zealand Sign Language Act. We witnessed this event from afar, and congratulated each other on the achievement.

In December 2007, I participated in a conference in Budapest marking the 100th anniversary of SINOSZ, the Hungarian national deaf association. At the time of the conference the Hungarian government had already ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) but it had not yet given legal recognition to *Magyar jelnyelv* (Hungarian Sign Language, HSL). After the conference, members of the Hungarian deaf community and invited guests, including me, formed a human chain by the River Danube and behind the parliament building, to maximise publicity. All of us, over 2,000 people, wore the same colours: blue ponchos and white gloves.

One year later, in September 2008, I was in Budapest again for the conference "Invisible culture - from a bird's eye view" organised by SINOSZ in order to call on the Hungarian government to recognise HSL. I was asked to give a presentation about the campaign leading to the recognition of VGT and I wit-

nessed from the front row how representatives of the Hungarian deaf community negotiated with government representatives about the recognition of their language, using examples from other recognised sign languages to demonstrate good practice. One year later, in 2009, Hungarian Sign Language was recognised by Act CXXV on Hungarian Sign Language and the use of Hungarian Sign Language (in 2011, Article H(3) was added to the Hungarian Constitution: "Hungary defends Hungarian Sign Language as part of Hungarian culture").

In September 2015 I found myself in Dublin, where I attended a rally for the recognition of ISL (Irish Sign Language). Mobilized by the Irish Deaf Society, deaf people had gathered together outside Leinster House, the seat of the Oireachtas, the Irish parliament. They held placards (and I was handed one too) with, among other things: "ISL is treated as a second class language, so are we!", "We demand ISL now!", "Make ISL the third official language of Ireland", and "ISL delayed is ISL denied". They approached incoming and outgoing Members of Parliament with an interpreter, handing out leaflets, and posing with them in a photo frame featuring "#ISL4all".

What struck me was the entirely different meaning of the legal recognition the three sign languages had been given, a few years apart from each other, and the continued absence of recognition of the fourth, in a country which grants official status to the Irish language.¹ While they all three had got the label 'recognised', that seemed to be the only thing they had in common. VGT was not given official (minority) status in Flanders and the law only recognised the language, not the rights of signers; in practice it was only a symbolic recognition, involving funding for research, the setting up of projects and the establishment of an advisory board. Responsibility for implementation of the decree lay with the Ministry of Culture. NZSL was granted status as an official language next to reo Māori and the Act mainly focused on the use of NZSL in judicial settings and the training of interpreters. The Act on HSL was a very ambitious mixture of different aims and claimed to be "the most complex sign language law in the world".² The Act covered, among other things, the education of deaf children, the training of interpreters, and the right of the HSL community to use, develop and preserve HSL as well as to foster, extend and transmit deaf culture.

What they had in common was the desire they reflected of each national deaf community to maintain and develop its language, and the enormous outpouring of pride, relief and happiness with which they were met when the legislation was finally passed - regardless of the exact meaning of the recognition. What they also had in common was the arduous and often complex phase of negotiations beforehand about what recognition should entail, and the maybe even harder post-recognition phase of making the legislation work.

¹ Meanwhile, on 19 October 2016, the Irish senate voted on a bill recognising Irish Sign Language. The bill passed second stage and will enter third stage in January 2017.

² http://kosaadam.hu/news_display/the_worlds_most_complex_sign_language_act_passed_in_hungary/

Nevertheless, in my view, the aspirations for recognition were not really clearly articulated beyond general phrases such as 'access to society', 'human rights' and the often-used but vague concept 'recognition', which seemed to be an endpoint in itself. This sparked my interest in what aspirations deaf communities really had when they sought to have their sign language recognised, what recognition meant, and what the barriers were to achieving it.

Two other factors contributed to my interest in the topic. The first is that I happened to be born and raised in Belgium, more specifically Flanders, the northern region of the country, where Dutch is the official language. In Belgium, the struggle for linguistic rights and the issue of multilingualism and linguistic diversity were and are very much present. The struggle of the speakers of Dutch, which was only recognised as an official language in 1898, after Dutch speakers increasingly resisted the almost total *frenchification* of public life, has many parallels with that of the speakers of sign languages. While Dutch is now the exclusive language of public affairs in Flanders, it only became so after a long history of oppression. To use a certain language is never self-evident in Belgium, and this made me realise even more the importance of protecting and maintaining one's language.

The other factor was my own position as a deaf person; not just my individual situation but also my being part of a national and international community of 'Sign Language People'. The issue of recognition was for me not just an abstract one but was at the very core of what it means to me and many other deaf people to live our lives in and through several languages, and what it means to experience that these languages are treated differently. Also, during my five years of doing advocacy for the Flemish Deaf association prior to starting this PhD, I witnessed how even at the highest levels of government there were still so many misunderstandings about sign languages and deaf people, and about what it was deaf people wanted to achieve with the recognition of their language. I also saw, in Flanders, the virtual absence of any recognition of Flemish Sign Language in the education and upbringing of deaf children, even after the 2006 recognition - and still now.

A combination of this experience, interest, position and eagerness to know more, led me to start the research of which the Overview is presented here.

SOME NOTES ON TERMINOLOGY

The d/D distinction

The use of deaf versus Deaf has been a longstanding writing convention in Deaf Studies since Woodward originally used the distinction in 1975 (Woodward 1975), although he has recently pointed out that many Deaf Studies scholars have continually mis-cited him (Woodward & Horejes 2016). The distinction was originally made to emphasise that there is a socio-cultural experience of being deaf, and deaf was not meant to be connected to the “medical model” or to exist in opposition to Deaf: indeed, people could be Deaf and deaf at the same time. Nevertheless, the d/D distinction has often been used to distinguish not only between signing deaf people (Deaf) and non-signing deaf people (deaf), but also between identities, with Deaf people being culturally Deaf and adhering to a Deaf identity, while deaf people adhere to a medicalized deafness. Kusters, De Meulder & O’Brien (forthcoming 2017:no page number) state that this dichotomy “is in fact an *over-simplification* of what is an increasingly complex set of identities and language practices” and that it has caused experiences of exclusion. Indeed, a number of researchers are moving away from the practice of using the term Deaf vs. deaf and only use deaf to talk about individuals, entities or theoretical concepts. This Overview follows the same approach.

Sign Language Peoples

The naming of deaf people, and the names they use to define themselves, has varied over time according to social and political trends. To write about deaf people as cultural-linguistic groups, several concepts have been developed in English and other languages. An influential concept, which has been gaining ground since the 1990s, has been the Finnish term *viittomakielinen* (‘sign language person’) introduced by Jokinen (1992, 2000a). In Finland, *viittomakielinen* is now used alongside the term *kuuro* (‘deaf’) (see Tapio 2013 for a discussion). The concept *viittomakielinen*, however, has been widely interpreted/translated into English as ‘sign language user’, when in fact this corresponds to a different Finnish word: *viittomakielen käyttäjä*. Nevertheless, ‘sign language user’ is most commonly used, sometimes combined with the specific name of the sign language, as in, for example, ‘BSL users’ (Emery 2006). ‘Sign language user(s)’ continues to be used in recent publications, e.g. Napier & Leeson (2016). It has the advantage that it is clear and comparable to e.g. English ‘speaker’. However, it is not used in this Overview, nor do I use it in the articles or any of my other writings. It makes the person and the language too distant from each other. Another concept that has been used is that of ‘signer’, sometimes preceded by ‘deaf’ (Napier et al. 2015) or by the specific name of a sign language, e.g. ‘FinSL signer’ (Tapio 2013). While this concept has disadvantages too (for example it can be misread as ‘singer’ and ‘FinSL signer’, for example, is quite long-winded to say or write), I have used this concept in this Overview and in my articles to refer to an individual person who uses sign language or to a group of individual deaf sign language-using people.

To refer to the group, several concepts have been used, too, such as ‘deaf community’ (or ‘Deaf community’), ‘signing community’, ‘sign language community’, ‘BSL community’, etc. In recent years, the concept of *Sign Language Peoples* (SLPs) and the ideas that it embodies has emerged (Batterbury, Ladd & Gulliver 2007). The concept seeks to reduce the power of medicalized perspectives by presenting the notion that deaf people who use sign languages are collectivities, and need to be recognised as cultural-linguistic minorities requiring legal protection akin to what is granted to other minorities. It also emphasises the parallels with indigenous peoples and their use of the concept of *First Peoples* by highlighting that SLPs have a shared past, present and aspirations for the future (Ladd 2015). The SLPs concept has limits too: it is first and foremost a political concept rather than a writing convention, and there has been discussion about whom exactly it includes (the same is true for the *viittomakielinen* concept). However, because of the political nature of my work, I have chosen for this Overview to use SLP(s), alternated with signers, signing communities, and deaf communities, depending on the context. The articles have followed a similar approach.

Sign languages: what kind of languages?

When not talking about specific cases, this Overview will group sign languages together as one category. This does not mean I want to approach sign languages as a monolithic group of languages. Just like with spoken minority languages, there is an enormous diversity between sign languages.³ Sign languages have emerged in specific geographic territories (villages, cities, regions, countries), rather than in relation to specific (national) spoken languages. This illustrates why for example British Sign Language (BSL) and American Sign Language (ASL) or Flemish Sign Language (VGT) and Sign Language of the Netherlands (NGT) are very different from each other. There are national (and often legally recognised) sign languages, such as British Sign Language (BSL), Austrian Sign Language (ÖGS) or New Zealand Sign Language (NZSL), to name just a few, but even these often have regional differences. Sign languages are often regarded as non-territorial languages because they are typically used throughout a country, as opposed to spoken minority languages, which are usually identified with a particular area of the territory of a state. However, some sign languages are territorial/regional languages, such as FinSSL in Finland (Hoyer 2004) or Catalan Sign Language (LSC) in Spain (Quer 2012). Other sign languages have emerged in shared signing communities, that is, communities with an unusually high prevalence of (most often hereditary) deafness, and are used by both the deaf and hearing inhabitants of those communities (see e.g. Kusters 2015 for a discussion of the shared signing community of Adamorobe, Ghana). They have been called village (or rural) sign languages (Zeshan & de Vos 2012) or shared sign languages (Nyst 2012). New sign languages are still being discovered, created and documented; these are called emerging sign languages (Meir et al. 2010): young sign languages that arise in a village or in an institutional context such as a

³ The same is true for deaf communities. There is no monolithic ‘deaf community’ but a diversity of deaf experiences.

deaf school, e.g. Al-Sayyid Bedouin Sign Language (Kisch 2012), Nicaraguan Sign Language (Senghas 1997) or San Juan Quiahije Chatino Sign Language in rural Mexico (Hou forthcoming 2017). This Overview and the articles are about the bigger, national sign languages, and sometimes about smaller regional sign languages such as FinSSL. The situation of village sign languages and emerging sign languages is too distinct in several aspects for it to make sense to include them here.

LIST OF ORIGINAL PUBLICATIONS

- Article 1 De Meulder, M. (2015): Sign language recognition: tensions between specificity and universalism in international deaf discourses. In A. Kusters & M. Friedner (Eds.), *It's Small World. International Deaf Spaces and Encounters* (pp. 160-172). Washington, D.C.: Gallaudet University Press.
- Article 2 De Meulder, M. (2015). The Legal Recognition of Sign Languages. *Sign Language Studies*, 15(4), 498-506.
- Article 3 De Meulder, M. (2015). A Barking Dog That Never Bites?: The British Sign Language (Scotland) Bill. *Sign Language Studies*, 15(4), 446-472.
- Article 4 De Meulder, M. (2016). Promotion in Times of Endangerment: the Sign Language Act in Finland. *Language Policy*. Advance online publication March 2016 (DOI: 10.1007/s10993-016-9403-5).
- Article 5 De Meulder, M. & Murray, J.J. (in press) *Buttering Their Bread on Both Sides? The Recognition of Sign Languages and the Aspirations of Deaf communities*. *Language Problems and Language Planning*.

GLOSSARY

ASL	American Sign Language The language signed in the USA.
BDA	British Deaf Association Established in 1890 as the BDDA (British Deaf and Dumb Association) and the largest representative body of signing deaf people in the UK. In 2004, the BDA added the catchphrase “Sign Community” to its name to differentiate itself from deafness-related organisations and to demonstrate that it represents the sign language community. In 2011 the catchphrase was dropped after consultation with the membership.
BSL	British Sign Language The language signed in the United Kingdom.
CLP	Critical Language Policy Emerged as a response to earlier language planning work and sees language policy as a mechanism serving and maintaining the interests of dominant groups, and creating and sustaining various forms of social inequality, including among dominant and minority language users.
CRPD	UN Convention on the Rights of Persons with Disabilities Adopted by the General Assembly of the United Nations on 13 December 2006 and the first human rights treaty adopted in the 21 st century, the CRPD caters to persons with disabilities, a group of about 1 billion people worldwide. Deaf people are included in the Convention and specific reference to sign languages and deaf culture is made 8 times in 5 different articles.
ECRML	European Charter for Regional or Minority Languages The Charter was adopted by the Council of Europe in 1992. Designed to protect and promote regional and minority languages as a threatened aspect of Europe’s cultural heritage and to enable speakers of those languages to use them in private and public life, it covers regional and minority languages, non-territorial languages and less widely used official languages. Up till now, no

Member State has ratified the Charter for any sign language.

ELP	Ethnography of language policy Ethnographic theory and research method for studying language policy and language planning processes.
EUD	European Union of the Deaf A European non-governmental organisation established in 1985 whose members comprise NADs from all of the 28 EU Member States, in addition to EFTA countries Iceland, Norway and Switzerland. Based in Brussels, Belgium.
FAD	Finnish Association of the Deaf Established in 1905. Currently a Deaf-led advocacy, expert and service organisation.
FinSL	Finnish Sign Language The language signed in Finland, primarily by people coming from Finnish speaking families who have attended Finnish deaf schools. One of the two national sign languages of Finland.
FinSSL	Finland-Swedish Sign Language The language signed mainly in the coastal areas of Finland among those people whose family background is Swedish speaking, and who have attended the now closed deaf school in Porvoo. One of the two national sign languages of Finland. Severely endangered language with about 300 signers left, of whom 150 are deaf.
ILO 169 Convention	Convention of the International Labour Organisation on Indigenous and Tribal Peoples (1989) Also known as ILO-Convention 169. A major, binding international convention concerning indigenous peoples and forerunner of the Declaration on the Rights of Indigenous Peoples.
IS	International Sign A mode of signed cross-linguistic communication arising between signers of different sign language communities.

LPP	Language policy and planning Designation used to refer to language policy and planning.
NAD	National Association of the Deaf NGO representing deaf people in a specific country.
NGO	Non-governmental Organisation Any organisation that is not part of the structure of government.
NZSL	New Zealand Sign Language The language signed in New Zealand.
SCoD	Scottish Council on Deafness NGO founded in 1927 as the Scottish Association for the Deaf, by missionaries and teachers of the deaf. Currently an umbrella organisation with its membership consisting of about 90 charities and organisations all over Scotland. Works not only on BSL issues but also on broader issues relating to deafness. Based in Glasgow and the lead organisation behind the BSL Bill in Scotland.
SLP(s)	Sign Language People(s) Concept representing the notion that sign language-using deaf people are collectivities and need to be recognised as cultural-linguistic minorities, emphasising the parallels with indigenous peoples and their use of the <i>First Peoples</i> concept. Highlights that SLPs have a shared past and present and shared aspirations for the future.
VGT	Flemish Sign Language (Vlaamse Gebarentaal) The language signed in Flanders, the northern part of Belgium.
WFD	World Federation of the Deaf An international non-governmental organisation established in 1951 representing approximately 70 million deaf people worldwide. Has consultative status within the United Nations. Based in Helsinki, Finland.

1 INTRODUCTION

1.1 Starting points: promotion and endangerment hand in hand

The 21st century has brought about a unique dynamic for sign languages. Their legislative recognition is proceeding hand in hand with external factors that are endangering these languages, and sign languages have reached a critical tipping point as they respond to pressures and opportunities.

This research is situated within a broader development within Deaf Studies and language policy characterised by a growing attention to deaf communities' political practices and aspirations. The recognition of sign languages is one domain in which the building of both knowledge and theory is taking place, from both a social science and a legal perspective.⁴ It is an increasingly popular topic in international deaf discourses, and increasingly also a topic of academic research. It is also a topic that is in constant flux and evolution. At the moment of writing this Overview, Members of the Northern Ireland Legislative Assembly have signed a pledge calling for a British Sign Language/Irish Sign Language Bill in Northern Ireland.⁵ In March 2016 the Maltese Parliament approved a Bill declaring that the Maltese Sign Language is to be considered an official language of Malta.⁶ In May 2015, Papua New Guinea's (PNG) government officially endorsed PNG sign language as the country's fourth official language, alongside English, Tok Pisin and Motu.⁷ In the same year, Finland

⁴ Rob Wilks' PhD research at the University of Leicester is currently exploring sign language recognition from a legal perspective, by looking at how deaf people fit into equality law to determine whether or not sign language recognition offers a solution to the disability quandary deaf signers face. His research also looks at sign language recognition in countries such as New Zealand and Finland to see how they have dealt with deaf people in equality terms as a result of this recognition. The outcomes of his research will contribute to mine and other social science research in important ways.

⁵ <http://limpingchicken.com/2016/03/15/deaf-news-first-steps-towards-bslisl-bill-in-northern-ireland-with-public-consultation-launched-today/>

⁶ <http://www.eud.eu/news/maltese-sign-language-recognised-maltese-parliament/>

⁷ <http://www.radionz.co.nz/international/pacific-news/274199/sign-language-becomes-an-official-language-in-png>

passed its Sign Language Act, recognising Finnish Sign Language (FinSL) and Finland-Swedish Sign Language (FinSSL) (see Article 4), Scotland the British Sign Language Scotland Act (see Article 3 and De Meulder in press), Serbia the Law on the Use of Sign Language and South Korea the Fundamental Law of Korean Sign Language. In Norway, a general Language Act is being prepared which would include Norwegian Sign Language, and the laws recognising Flemish Sign Language and New Zealand Sign Language are currently being evaluated (le Maire 2016; Human Rights Commission 2013).

Campaigns for the legal status and protection of sign languages are taking place worldwide. However, an important starting point for this research was that in my view these campaigns have got ahead of research into their motives and outcomes. Sign language recognition was and to a certain extent still is being used as a very vague denominator that includes many different legal and non-legal measures and with lots of terms used interchangeably: recognition, official status, official recognition, recognition as an official language, and legal recognition, to name just a few examples, with these terms not always reflecting what is actually meant by them. With some exceptions, I could not find in-depth analysis of several issues:

- What this recognition of the national sign language(s) effectively meant in country-specific cases;
- What deaf communities aspired to with it and how they justified their demands;
- How governments and other stakeholders understood and interpreted these demands;
- How deaf communities worked with their governments to achieve this legislation;
- Whether the outcomes were successful or not, and why;
- How recognition was situated in the larger picture of the protection and promotion of sign languages.

What I *was* seeing was that the recognition of sign languages was high on the international deaf political agenda as expressed by international and regional organisations such as the World Federation of the Deaf (WFD), the European Union of the Deaf (EUD), and NADs (National Associations of the Deaf). Improving “the status of national sign languages” is one of the primary objectives of the WFD,⁸ and the EUD has on its website a separate section called “EU Sign Language Recognition”, covering topics such as individual country updates about recognition legislation, UNCRPD implementation, the European Accessibility Act, the Web Accessibility Directive and Multilingualism and Language Diversity. The 2010 Brussels Declaration on Sign Languages in the European Union,⁹ adopted and signed by National Associations of the Deaf of the European Union member states, called upon the European Union and its member states “to take

⁸ <http://wfdeaf.org/whoarewe/mission-and-objectives>

⁹ <http://www.eud.eu/about-us/history-eud/achievement/brussels-declaration/>

all legal measures necessary to secure that in consultation with the Deaf Community the national sign languages are recognised on an equal footing with the respective spoken languages of the Member States.”

I also witnessed the growing trend to discuss recognition of sign languages in international deaf discourses both in real life events such as international conferences and in social media discourses. Each time a sign language was recognised, this was welcomed as a collective feeling of accomplishment and deaf people in different countries cheered each other on to have their sign languages recognised. This feeling of accomplishment seemed to happen regardless of the effective meaning and status of the recognition in question. However, while deaf communities have the ability to and do support each other across borders to achieve successful recognition, in the end every country is different; the collective and universalist aspirations of sign language recognition need to be achieved, interpreted and implemented in and by individual states, through national legislation, and what these aspirations are is determined by national contexts.

I was interested in both the specificity and the universalism of the concept of sign language recognition (see Article 1), and this was one of the first objectives of this research. I therefore decided to look not only at international aspirations and how they were formulated (see Articles 1 and 5) but also at specific cases, to see how these international aspirations were translated to national contexts. For my two cases, I chose Finland (Article 4) and Scotland (Article 3), although throughout the time spent working on my PhD I have also followed developments in other countries. In Section 3 (Methodology) I discuss why I chose these two cases. Another important objective of the research was to collect data on existing sign language recognition legislation in order to refine existing typologies of recognition as a basis for further research (see Article 2), to throw some light on the white noise of sign language recognition discourses. In Section 4 (Findings) I discuss how I approached this and what the challenges were.

Another important objective for this research was the wish to identify common ground with other linguistic and cultural minority groups. Indeed, since the mid-twentieth century, SLPs have emphasised their ontological status as first and foremost that of language and cultural groups rather than groups of people with disabilities, and the campaigns for the legal status and protection of sign languages can be more easily and rightly comprehended through comparison with those of other language minorities such as the Gaelic and Welsh people, and indigenous people like the Māori and Sámi. This comparison proved not to be straightforward since SLPs are also (categorised as) people with disabilities, and therefore they are seen as members of two categories. This dual category status and the consequences of this for the legal recognition of sign languages and signers has been a key principle in this research (see Article 5). Notwithstanding this dual category status, I have attempted to focus primarily on the language and cultural category of membership rather than the disability one, through comparison with other language minorities and indigenous peo-

ples, both in general and in specific cases, such as the Gaelic people in Scotland (see Article 3) and the Sámi people in Finland (see Article 4).

A third starting point for this research was the realisation that the impact of the legislation recognising the various sign languages had been limited, in terms of both the rights and the social mobility obtained. This became clear through my engagement with deaf discourses online and in real life, which continuously expressed disappointment with the outcomes obtained, and through my reading of studies on the outcomes of sign language recognition legislation which showed the gap between aspirations and reality, especially in terms of legislation that failed to touch upon linguistic rights in education and language acquisition rights (e.g. Behares et al. 2012; de Quadros 2012; McKee 2007, 2011; McKee & Manning 2015; Murray 2015; Reagan 2010; Quer 2012). I also read accounts of countries where legislative recognition had still not been achieved (Geraci 2012; Schermer 2012b). My objective, then, was to address some of the possible reasons for these limited outcomes, and I have done so for the two specific cases of Scotland and Finland (see Articles 3 and 4) and also more generally (see Article 5).

My final starting point was the observation that in international deaf discourses the recognition of sign languages is sometimes seen as the Holy Grail, a way to save the languages, and it is perceived as an end rather than a beginning. Laws alone, however, cannot save a language, and the objective that followed from this observation was to look at how legislation can address the concern of the vitality of sign languages, and what other things apart from legislation are needed to ensure their vitality and survival. This last objective is the one that is worked out least in the articles, because it only became clear later in the research, and it actually demands a whole new research project. An attempt has been made to address the question in Article 5, and in this Overview.

Altogether, this research highlights the need to strengthen (in practice) and scrutinize (academically) the implementation of legal measures that have been achieved – and to weigh them against the looming challenge of endangerment and sustaining vitality.

1.2 Research questions

This thesis is article-based and includes 5 articles:

- Article 1 De Meulder, M. (2015). Sign language recognition: tensions between specificity and universalism in international deaf discourses. In A. Kusters & M. Friedner (Eds.), *It's Small World. International Deaf Spaces and Encounters* (pp. 160–172). Washington, D.C.: Gallaudet University Press.
- Article 2 De Meulder, M. (2015). The Legal Recognition of Sign Languages. *Sign Language Studies*, 15(4), 498–506.

- Article 3 De Meulder, M. (2015). A Barking Dog That Never Bites?: The British Sign Language (Scotland) Bill. *Sign Language Studies*, 15(4), 446–472.
- Article 4 De Meulder, M. (2016). Promotion in Times of Endangerment: the Sign Language Act in Finland. *Language Policy*. Advance online publication March 2016. DOI: 10.1007/s10993-016-9403-5.
- Article 5 De Meulder, M. & Murray, J.J. (in press) Buttering Their Bread on Both Sides? The Recognition of Sign Languages and the Aspirations of Deaf communities. *Language Problems and Language Planning*.

The articles each explore a different aspect of the recognition of sign languages and aim to answer the following research questions, which evolved during the research process.

(1) What are the political, cultural, historical and legal factors that come into play in shaping Sign Language Peoples' international aspirations for sign language recognition, and how are these formulated and translated to national contexts?

(2) What sign language recognition legislation currently exists and how can existing typologies of sign language recognition be refined as a basis for further research?

(3) Can common ground be identified with other linguistic and cultural minority groups, and what are the consequences of SLPs' dual category status for sign language recognition legislation and implementation?

(4) To what extent has eventual legislation met deaf communities' agendas and expectations, and what are the potential reasons for the limited outcomes of sign language recognition legislation (also in comparison to spoken languages)?

(5) What is the role, if any, of recognition legislation in maintaining and enhancing the vitality of sign languages, and what factors other than legislation are needed to strengthen this vitality?

All the articles address Research Question 1, discussing either the formulation of international aspirations (Articles 1 and 5) or the specific translation of these aspirations to national contexts (Articles 3 and 4). Article 2 addresses Research Question 2, and further reference to this article is made in Articles 3, 4 and 5 since it lays a basis for the categorisation of legislation on sign language recognition. Articles 3 and 4 specifically address Research Question 3 by comparison with Gaelic speakers in Scotland and the Sámi people in Finland, respectively, and attempt to identify common ground with those national/indigenous minorities. Research Question 4 is addressed in general in Article 5, which discusses possible reasons for the limited outcomes of sign language recognition legislation, but also in Articles 3 and 4, which specifically discuss nation-specific barriers to successful recognition (in Finland and Scotland). Research Question 5 is addressed in Article 5, but a more thorough discussion of

the vitality of sign languages is included in Section 5 of this Overview (Discussion, Implications and Conclusion). The following table indicates how the research questions are addressed in the articles, who the informants were and how the data have been collected (see also Section 3 Methodology).

TABLE 1 Research questions addressed in the articles

ARTICLE	INFORMANTS	DATA	AIM
1) Sign language recognition: tensions between specificity and universalism	None	Literature study Participant observation	Exploration of the international aspirations of sign language recognition and challenges in translating these to national contexts
2) The legal recognition of sign languages	None	Countries' recognition laws Personal communication	Development of a typology of sign language recognition legislation
3) The British Sign Language (Scotland) Bill	Rachel O'Neill Graham Turner Wilson McLeod Lilian Lawson Mark Griffin, MSP	Interviews with key players Participant observation Desk research	Description and critical analysis of the pathway to the BSL Bill and strategies used + comparison with the Gaelic Language Act
4) The Sign Language Act in Finland	Kaisa Alanne Markku Jokinen Liisa Kauppinen Karin Hoyer Seppo Pukko Virpi Thurén	Interviews with key players from the FAD Participant observation Desk research	Critical analysis of the motives for a Sign Language Act and comparison with the situation of the Sámi.
5) The recognition of sign languages and the aspirations of deaf communities	None	Literature study Participant observation Countries' recognition laws	Addressing potential reasons for limited outcomes of legislation Discussing the role of legislation and other factors in the vitality of sign languages

A final note: to limit the scope of the work, this dissertation chooses not to directly address claims to sign language rights (usually educational) through complaint and litigation, e.g. through publicized cases in various countries such as the U.S. (Siegel 2008), Belgium (Murray, De Meulder & le Maire 2016) and Australia (Komesaroff 2007, 2013). Indeed, direct actions, whether successful or

not, contribute to progress towards legal recognition (through consciousness raising).¹⁰

1.3 Background and policy context

This section aims to give a general background to the historical and contemporary situation of Sign Language Peoples (SLPs) and sign languages. Indeed, an understanding of this situation is necessary to fully grasp the importance of the recognition of their languages and cultures for SLPs and the reasons why so far the outcomes have been limited.

1.3.1 Sign Language Peoples' communities and histories

SLPs are and have always been a dispersed people because they are known to be present in all countries of the world and live dispersed across nations. Their communities have been described as diaspora communities (Emery 2015) and it is widely recognised that they belong to a transnational deaf community (Murray 2007). Equally, sign languages are minority languages that exist in every country in the world. Of course, there is nothing automatic or natural about the concept of minority. Rather, the concept is socially constructed, just as the ascription of the term 'minority' to any given group is a political process (Grin 2003; May 2012b). This minority status of sign languages and SLPs is the result of social, political and historical processes linked to wider unequal power relations. Krausneker (2003) refers to sign languages as "minorised minority languages": they are minority languages in numerical terms and are unequal in terms of power, but they are then minorised by institutions, policies and research which either ignore them or even explicitly exclude them.

It is estimated that there are at least as many sign languages as there are spoken languages in the world, that means, between 6,000 and 7,000 (Skutnabb-Kangas 2000)¹¹, although many of them remain undocumented and in most cases they are not taken into account when the number of languages in the world is cited. The World Federation of the Deaf estimates that there are about 70 million deaf people worldwide for whom sign language is "their first language or mother tongue".¹² SLPs' communities and their languages have historically emerged in specific geographical locations around the world, rather than in relation to specific (national) spoken languages. This emergence has centred around places where deaf people have lived together or gathered frequently, such as deaf schools, within large multi-generational deaf families, in large cit-

¹⁰ Thank you to Rachel McKee for bringing this to my attention.

¹¹ The Skutnabb-Kangas' figure is an estimate. The estimate the Ethnologue uses for example is far smaller: 138 documented and identified sign languages; although they state they know there are many more but research is needed to document them: <https://www.ethnologue.com/ethnologueblog/ted-bergman/why-are-sign-languages-included-ethnologue>

¹² <https://wfdeaf.org/whoarewe>

ies, and in places with high rates of hereditary deafness. Since over 95% of deaf children are born to hearing (non-signing) parents (Mitchell & Karchmer 2004), sign languages are usually not transmitted within the family.

SLPs have for two centuries been conceptualised worldwide as hearing-impaired, disabled people, requiring medical cures and management as charitable cases (Lane 1992). At the same time their languages have been treated as compensatory tools rather than languages in their own right, and their (existing) sign language communities have not been perceived as language communities (Branson & Miller 1997). Oralism was the dominant educational ideology in deaf education for much of the 20th century. It prioritised the instruction of spoken language over the use of sign language, attempted to eradicate the use of sign languages by deaf children and their parents, and excluded deaf teachers from the education of deaf children. Following the UN International Convention on the Prevention and Punishment of the Crime of Genocide (1948), these practices have been described as *linguistic and cultural genocide* (Skutnabb-Kangas 1999; Jokinen 2000b, 2005b; Ladd 2003)¹³. Because of these educational policies, deaf people have experienced high levels of internalised oppression, leading to a rate of acquired mental illness double that of the hearing population (Hindley & Kitson 2000), low levels of educational attainment and high degrees of illiteracy. The damage to deaf people's collective lives has been just as bad (Ladd 2003): a retarding of their development of a sense of self-worth and collective aspirations, delayed entry into community life, delayed and reduced exposure to deaf cultural heritage, damage to traditional cultures and art forms (Mirzoeff 1995), and exclusion from the sources of information open to majority societies. This partly parallels the assimilationist ideologies to which many other linguistic and cultural minorities have been subjected (Skutnabb-Kangas 2000).

After this period of oralism, the 1970s and 1980s brought change. These decades are termed by Ladd (2003) the "Deaf Resurgence", a period of progress and reinvigoration taking place across Western Europe and the USA. This period was characterised by, among other things, the academic (linguistic) recognition of sign languages¹⁴ (pioneered by Stokoe 1960 and Tervoort 1953), and by the increasing external and internal identification of SLPs as cultural (Padden & Humphries 1988) and linguistic (Skutnabb-Kangas 2000) minorities which are entitled to legal protection akin to what is granted to other such minorities. This coincided with a growing openness towards the use of sign languages in education.

¹³ In 1982 the UK deaf-led pressure group the National Union of the Deaf (NUD) appealed to the UN to have oralism classed as a crime under the 1948 Genocide Convention. Ladd (2003) states that although it failed to be heard, it sowed the seeds for changes within UNESCO and the later formal UN recognition of the WFD as a consultation body.

¹⁴ Other characterising features of this period were the return of sign languages to deaf education and the wider public domain, the growth of sign language television, recognition of the concepts 'Deaf history' and 'Deaf culture', and the founding of the discipline of Deaf Studies (Ladd 2003).

This paradigm shift repositioning SLPs in terms of language and cultural identity was internationally influenced from the late 1970s via publication and research on sign language and deaf culture, sign language performance, and discourses of language and identity generated and transmitted influentially from Gallaudet University in particular. Researchers from the U.S. who advanced political arguments that contributed to changing the discourse of language recognition and aspirations (particularly regarding education) include Jankowski (1997), Johnson, Liddell & Erting (1989), Siegel (2008) and Humphries (2013). It can be argued that the relatively early politicization of the ASL community is an important part of the historical context for aspirations that have developed elsewhere, including Europe.¹⁵ The ‘Deaf President Now’ action for instance, although not directly linked to legal recognition, deliberately used sign language as emblematic of deaf cultural identity and as central grounds for political self-determination (Jankowski 1997).

Following this period of Deaf Resurgence, during the last decades of the twentieth century deaf communities worldwide, but particularly in European countries, have turned towards a linguistic human rights discourse to achieve legal protection and promotion of sign languages (Murray 2015). If successful, this discourse would initiate a paradigm shift in the way SLPs are perceived and treated, and enable their own social policy and educational priorities to be recognised and implemented. This discourse again has parallels with that of other language minorities such as the Gaelic and Catalan people and indigenous minorities such as the Māori and Sámi (May 2012b).

Despite these developments, a 2009 report from the World Federation of the Deaf (Haualand & Allen 2009) showed that in most countries, SLPs are not yet able to access even basic human rights like access to sign language in their upbringing and education, and access to full citizenship in the majority society through the provision of sign language interpreters, appropriate TV programming, health care information etc. More recent research on the outcomes of sign language recognition legislation has demonstrated that the instrumental rights and social mobility obtained as a result have been limited, and that legislation especially lacks educational linguistic and language acquisition rights (Article 5; Article 4; Article 3; McKee & Manning 2015; McKee 2007, 2011; Murray 2015; Quer 2012; Reagan 2010). Indeed, a key element is that even if sign languages are recognised in one way or another, this represents merely the beginning of the struggle to achieve the form of differentiated citizenship and group rights that SLPs’ communities seek (Emery 2006, 2009). This is a radical paradigm shift which still meets with incomprehension on the part of many policy makers, believing as they do that deaf people are merely individual disabled people whose only wish is to hear, and seeing sign languages as tools for people who are incapable of mastering the spoken majority language. It also meets with resistance from the more powerful medical-charity complex in society, which influences policy makers’ discourse and decision processes (see for example the

¹⁵ Thank you to Rachel McKee for bringing this to my attention.

development around the recognition of sign languages in Italy, Spain and Scotland, which is discussed later in the Overview).

1.3.2 The contemporary importance of sign language recognition for SLPs

When this linguistic human rights discourse emerged in the 1980s, it was seen as a way of securing and promoting the achievements of the Deaf Resurgence, and of tapping into the potential of this promising period. From the very start, the linguistic rights of deaf children and their education in sign language have been among the primary aims of sign language recognition campaigns (Ladd 2003). Indeed, campaigners and SLPs communities knew that the quality of life for SLPs depended (a) on maintaining a critical mass of sign language-using deaf people, and (b) to a large extent – as for any cultural-linguistic minority – on education. Current sign language recognition legislation gives the impression that recognising a sign language primarily means providing more interpreters. While access to majority society (mostly through interpreters) is indeed an important aim of these campaigns, the initial aspirations of sign language recognition campaigns were not primarily about interpreters but about education and language acquisition rights for deaf children. As this Overview and the five articles demonstrate, the current most important aspirations *continue* to be education and language acquisition rights; maybe even more so than ever before.

Indeed, after the (relatively short) period of Deaf Resurgence, at the end of the 20th century the tide turned and the medical discourse on deafness since then has again become increasingly prominent. For a large part, this has to do with the emergence of the cochlear implant (CI), a surgically implanted electronic device that can be implanted in babies as young as a few months old and is marketed as *the* solution to make deaf children hear (see Blume 2010 and Mauldin 2016 for a discussion). Napier and Leeson (2016) cite Blume (2010) and Humphries et al. (2012) for an estimation of 80% of deaf children born in the developed world to now receive cochlear implants. However, a discourse needs more than just an electronic device to be effective. The emergence of the cochlear implant coincides with monolingual education practices in spoken language promoted by doctors and early intervention services and practised by hearing parents who do not generally receive appropriate advice and information on bilingualism and the cognitive, social and emotional benefits of early exposure to sign language, and are often even explicitly told *not* to sign with their child.¹⁶ Several cases have been documented where pressure has been exerted on the parents of deaf children to get them to consent to a cochlear implant.¹⁷ The ma-

¹⁶ For how this plays out in Flanders, a world pioneer in universal neonatal hearing screening, see Matthijs et al. (2012) and Bosteels et al. (2016).

¹⁷ In Denmark as recently as 2015 a deaf couple who chose not to implant their deaf child were told by their kindergarten that if they stood by their choice they would report them to the municipality for child neglect. The couple have since moved to Sweden (Mejdal 2015). In the USA in 2002, a deaf mother's refusal to give her child a cochlear implant was brought before a Wyoming family court as evidence of child neglect (<http://www.bridges4kids.org/articles/2002/9-02/GRPress9-6-02.html>). In 2013, the Austrian Deaf Association reported two cases where pressure had been exerted by hospi-

jority of those children who have had an early implant have limited or no access to sign language during what is considered to be the critical period for language acquisition (Humphries et al. 2012, 2015). Also, there is little funding for parents to have such access, even if they wanted to.

The rise of this normalising, medical discourse was strengthened by the already existing discourse emphasising the importance of the educational inclusion of children with disabilities which in most cases meant and means that an individual child with disabilities is placed in a local regular school (Brennan 2003; Doherty 2012; Foster et al. 2003; McKee 2008). As a consequence of this evolution, in recent years deaf communities have been witnessing the closure of (often residential) schools for deaf children, educational settings dating back to the late eighteenth century. In the United Kingdom for example, the number of deaf schools has fallen from 75 in 1982 to only 21 in 2016 (Weale, 2016). These schools have traditionally served as spaces for peer contact between deaf children and adults, and thus as crucial spaces for the development and intergenerational transmission of sign languages and deaf cultures. While deaf children placed in regular schools are generally supposed to be instructed by teachers competent in sign language and to receive support measures and/or reasonable accommodation, such as sign language interpreters, this is not always the case, and many deaf children are isolated among non-signing children without any support services.

Deaf-led NGOs have traditionally resisted having deaf children swept under the mandate of full inclusion, seeing individual placements in local schools as linguistically and socially isolating.¹⁸ They argue for a special group right to ensure that the education of deaf children is protected, enabling them to be taught in their own groups, or in separate schools or settings, through the medium of sign bilingualism, and that educational policies should reflect and incorporate SLPs' histories, epistemologies and value systems. This group right is critical to SLPs' way of life (see also Emery 2006).

The resistance SLPs' communities have shown against these policies demonstrates a profound difference between deaf people and other people with (primarily physical) disabilities, who seek the *elimination* of separate, group-focused education. The issue of what inclusion means for deaf children is a very real one, since the UN Convention on the Rights of Persons with Disabilities (CRPD), which includes deaf people, has the right to inclusive education (Article 24) as one of its main premises. Analysis and discussion of the CRPD's impact on deaf people is still rare (e.g. Batterbury 2012; De Meulder 2014; Kusters et al. 2015) and an analysis of the legislative history and on-going interpretation of Article 24 on education is long overdue (but see Murray, De Meulder & le Maire 2016).

tals on parents of deaf children in order for them to consent to a cochlear implant (http://www.ots.at/presseaussendung/OTS_20130214_OTS0074/selbstbestimmt-entscheiden-statt-zwang-zum-cochlea-implantat).

¹⁸ See for example <https://wfdeaf.org/databank/policies/education-rights-for-deaf-children>

Given the aforementioned fact that over 95% of deaf children are born to hearing (non-signing) families and that sign languages are therefore not usually transmitted within the family, the developments above have significant consequences for the contexts in which sign languages can emerge and/or be transmitted, and lead to grave concerns about their future vitality (see also Section 5 of this Overview).

Added to all this is the current development of genetic interventions, which could effectively mean the end at some time in the future of the very existence of signing communities. Kusters et al. (2015) describe the long history of eugenics that SLPs have come up against: preventing them from marrying (e.g. in Finland in the past, see Article 4, and in Ghana in the present, see Kusters 2015), sterilising them (pre and post WW2), eliminating them physically (under the Nazi regime), aborting deaf foetuses, screening them out via IVF and more recently introducing gene therapy to 'cure' deafness (Porter & Smith 2013; Thomson 2014). Emery & Ladd (forthcoming) talk about the widespread movement expressing deep concern that society is headed towards an acceptance of genetics under a liberal guise. Since genetic interventions are increasingly a concern for people with disabilities as well (Garland Thomson 2012), they suggest that SLPs and people with disabilities might come together to resist such moves. Bryan & Emery (2014) and Kusters et al. (2015) argue that genetic interventions to remove the 'deaf gene' means a loss of diversity, and that there is a need for recognising the right of deaf people to be born; since deaf people make up a collective minority group, genetic practices to eliminate deafness are, in fact, moves towards the ultimate elimination *of the group*.

While some aspirations for sign language recognition have remained similar to those of the 1990s, the challenges of recent times have led to legislation also being seen as a way to reverse and/or halt current dynamics. Not only is there still a desire for symbolic recognition of sign languages as languages and a demand for linguistic rights, but there is also an increasing awareness of the importance of language acquisition and educational linguistic rights, and the right to a form of group-differentiated rights. This last category of rights is seen as crucial to ensuring that SLPs are protected from practices that are detrimental to their culture and wellbeing and are able to protect and develop their own cultural characteristics. SLPs thus seek *more* than the equal participation of their individual members in society; merely recognising the rights of individuals (e.g. to interpreter or sign bilingual education) will not protect the group's survival.

In the face of all this, it becomes clear that sign language recognition legislation is about much more than just sign language; it is almost daunting to realise what is currently expected of this legislation. The five articles and this Overview make clear, however, that most sign language recognition legislation is still mainly about sign language because this has proven to be the easiest path to follow and to achieve, but as the articles (especially Article 5) and this Overview make clear, SLPs need and want something that goes beyond the mere recognition of sign languages as languages.

The above also demonstrates the remarkable resilience of SLPs, whose languages, cultures and identities were undermined and destroyed but who found the courage to march the streets and petition parliaments for the legal recognition of their languages. Yet, because of oralism and the resulting gap in educational achievement for many deaf people and because of the lack of political awareness, there are limits to what they have been able to achieve so far. This is a crucial difference with other language minorities. Although they too have been oppressed and marginalised and their languages, cultures and identities have been damaged, they have not been perceived as people with a disability who are to be pitied and cured. Other (hearing) language minorities therefore have not been caught in the same policy web of social welfare, charity and disability discourses as SLPs have. They have been able to learn the majority language more easily and thus have had access to education in that language. This has equipped their leadership to defend and argue their agenda better than that of SLPs, and has made them less vulnerable to the possibility of losing control over who is representing them (see also Article 3). On the other hand, their ability to assimilate has also led to linguisticide (what this means for SLPs I discuss in Section 5.5., The vitality of sign languages).

1.4 Organisation of the Overview

This article-based thesis includes five articles and the present Overview, which includes 5 sections. I refer to this text as an Overview to distinguish between what has been done in the articles and what is done here. Four articles were published in international peer-reviewed journals and one in an edited volume. While Article 5 is a co-authored paper for which I did the groundwork, Articles 1-4 were written by me alone. Article 1 is a chapter in a book edited and published by Gallaudet University Press on transnational sameness and difference in deaf communities. Articles 2 and 3 are part of the same special issue of *Sign Language Studies*, on sign language policy and planning. As mentioned above, one of my research aims has been to establish common ground with other linguistic and cultural minority groups. I thus wanted to make my research known and published outside of the sign language niche journals. Article 4 was therefore published in *Language Policy* and Article 5 will be published in *Language Problems and Language Planning*.

While the articles represent original empirical research, in this Overview I summarise the findings of the individual articles and discuss them in a larger framework. This Overview is constructed in the following way. In Section 2 the theoretical framework is introduced, that is, language policy and planning (LPP) and political theory. The LPP part specifically discusses critical language policy (CLP) and sign language policy and planning. The next part addresses how political theory has engaged with language policy, language rights and language legislation, and its discourse about deaf communities' aspirations. Next, in Section 3, the methodological framework is presented, introducing the ethnogra-

phy of language policy and the principles it employs, along with a discussion of the limitations of the research methodology. Section 4 summarises and discusses each article in turn, presenting their findings, and ends with two sections that could not be addressed in the articles. Finally, in Section 5, the implications of the research are discussed, along with directions for future research.

2 THEORETICAL FRAMEWORK

The theoretical framework of this research has two principal bases, each of which can be sub-divided, as follows:

- (1) Language policy and planning (LPP)
 - 1a. Critical language policy
 - 1b. Sign language policy and planning
- (2) Political theory
 - 2a. Political theory and language policy
 - 2b. Political theory and language rights/language legislation
 - 2c. Political theory and SLPs' aspirations

2.1 Language policy and language planning (LPP)

Language policy and planning are interrelated, partly overlapping concepts with some authors seeing a tendency for language policy to be somewhat broader than language planning (e.g. Grin 2003) while others see language policy as part of the larger process of language planning. Kaplan & Baldauf (1997:xi), for example, define a language policy as “a body of ideas, laws, regulations, rules and practices intended to achieve the planned language change in the societies, groups, or system” and see it as the result of, or as being directed by, language planning. Johnson (2013a) argues that this definition does not take into account that language policy does not necessarily need to be enacted by an authoritative body; that it can also emerge from a bottom-up movement or grassroots organisations, and that not all language policies are intentional or carefully planned. Indeed, language policies exist even where they have not been made explicit or established by authority. They can be official regulations like language laws but equally unofficial, covert mechanisms connected to language beliefs and practices. Language policies are thus not just products but also processes, and exist across multiple contexts (Johnson 2013a; Spolsky 2004).

Spolsky (2004:9) employs a broader definition of language policy, which “may refer to all the language practices, beliefs and management decisions of a community or polity”, while Johnson (2013:9) defines it as “a policy mechanism that impacts the structure, function, use, or acquisition of language [...]”. Spolsky (2004, 2014) distinguishes between three components of the language policy of a speech community:

- (1) Its language practices - “what people actually do”;
- (2) Its language beliefs and ideologies - “what people think should be done”; “language policy with the manager left out”;
- (3) Any specific efforts to modify or influence that practice by any kind of language intervention, planning or management.

Spolsky (2004) sees these beliefs, ideologies and practices *as* language policy, and asserts that “to study one component of language policy while ignoring the other two will provide a very incomplete and biased view” (p. 39-40). It is important to recognise that this research has focused only on the third aspect of Spolsky’s categorisation and did not, or at least not primarily, study language practices or ideologies and beliefs, although general ideologies towards sign languages have been included in some instances. Johnson (2013:7) has also emphasised the important connection between language policy and language ideologies: a “policy can emerge from particular language ideologies, a policy can engender language ideologies, or a policy can be interpreted and appropriated in ways that depend on language ideologies” (see Krausneker 2015 for a useful overview of ideologies and attitudes towards sign languages).

Spolsky (2004) says that what we are usually trying to understand in studying language policy is what non-language variables co-vary with the language variables. Indeed, “language and language policy both exist in (and language management must contend with) highly complex, interacting and dynamic contexts, the modification of any part of which may have correlated effects (and causes) on any other part” (p. 6). Because a lot of non-language variables are at play (political, demographic, social, cultural, bureaucratic and so on), “a simple cause-and-effect approach using only language-related data is unlikely to produce useful accounts of language policy, embedded as it is in a ‘real world’ of contextual variables” (p. 7).

Important for this research are the different orientations of language policies. Several authors have made several interesting distinctions in this regard. Kloss (1998) distinguished between tolerance-oriented and promotion-oriented language policies. Wiley (2002) observed promotion-oriented, expediency-oriented, tolerance-oriented, restrictive-oriented, null policies and repression-oriented language policies. Most useful for this research are Ruiz’ (1984) distinctions between language as problem, language as right and language as resource. The language-as-problem orientation sees minority languages as problematic for majority language acquisition and has as its goal linguistic and cultural assimilation. The language-as-right orientation is reflected in the linguistic human

rights movement, while the language-as-resource orientation envisions linguistic diversity and multilingual education as resources for native and non-native speakers. Ruiz' approach has also been used by Conama (2010) in his study of sign language policies in Finland and Ireland.

The term "language planning" was introduced by Haugen as "the activity of preparing a normative orthography, grammar, and dictionary for the guidance of writers and speakers in a non-homogenous speech community" (Haugen 1966:673). Later, this kind of language planning would become known as corpus planning (Johnson 2013a:27). Rubin (1977:282) defined language planning as "deliberate language change, that is, changes in the systems of a language code or speaking or both that are planned by organisations established for such purposes or given a mandate to fulfil such purposes". Two decades later, Cooper proposed an alternative definition: "language planning refers to deliberate efforts to influence the behaviour of others with respect to the acquisition, structure, or functional allocation of their codes" (Cooper 1989:45). Spolsky (2004:8) prefers "language management" to "language planning" and defines this as "cases of direct efforts to manipulate the language situation; intervention directed by a person or group".

To summarise, a distinction can be made between four kinds of language planning that are particularly relevant to sign language planning: (1) status planning, (achieving particular roles for a language in society) (Haugen 1959, 1987; Kloss 1969); (2) corpus planning (directed towards internal linguistic aspects of language planning) (cf. the works of Haugen and Kloss as cited before); (3) language acquisition planning (expanding the number and proficiency of those who learn the language) (Cooper 1989), and (4) attitude planning (directed towards attitudinal changes towards a language) (Reagan 2010).

The fact that there is no real agreement on the exact nature of the relationship between language policy and language planning and the fact that much of the literature on language policy addresses language planning issues (and vice versa) makes the LPP designation a useful one (Darquennes 2013).

The realisation of language policy: capacity, opportunity and desire

While legislation can assist in protecting languages, and the members of minority groups do not bear sole responsibility for the destiny of a language, in the end the realisation of language policy depends on people's behaviour, whether or not they *use* the language. For a language to thrive, three conditions must be met, each of which is a necessary though not sufficient condition for language use. The three conditions do not stand apart from each other, but cross-fertilise each other (Grin 2003):

1. *Capacity* to use the language: members of the language community (and perhaps also people who do not identify with that community) must know the language and if they do not, must be given the opportunity to learn it. Capacity therefore requires an adequate degree of linguistic competence, and is mainly developed through the education system.

2. *Opportunities* to use the language: this is where the state has a crucial role to play through its language policies. By creating opportunities for people to use their language outside the strictly private sphere (e.g. education, the courts, administration and public services and the media), the authorities contribute to the provision of a linguistic environment. Of course, people provide an opportunity themselves too, by using the language.

3. *Desire* or *willingness* to use the language: this largely reflects people's attitudes towards different languages, and is most directly linked to people's behaviour. Members of a linguistic community will only use their language if they have a desire to do so. Typically, they are bilingual, so in various activities they have a choice of which language to use. Desire is the result of a complex construct drawing on the individual as well as the linguistic environment in which one lives. For example, people are more likely to use a language if it is not the object of negative judgement, ridicule or oppression. State policies in favour of minority languages can also contribute to the social legitimisation and symbolic prestige of a language.

Grin (2003) believes that in the case of minority languages people are, to a larger extent than for dominant languages, dependent on the state for those conditions to be present. The role of language policy is to ensure that all three are present, i.e. policy measures must focus on guaranteeing people's capacity to use their language, provide them with opportunities to use it, and encourage their desire to use it.

These three conditions have been used by sociolinguist Miquel Strubell (1996) in his 'Catherine Wheel' language planning model, the basic idea of which is that in the case of minority languages there is a link between "competence in a language, its social use, the presence and demand for products and services in/through the language, and motivation to use and learn it, which in turn enhances competence in the form of a wheel" (p. 6). Strubell goes on to say that because the wheel does not always run smoothly and there are several obstacles between each stage of the wheel, language planners must identify strategic interventions to overcome these obstacles. One of these interventions concerns the active offer of services in the minority language. The active offer is a key concept in language planning "by which service providers take affirmative steps to publicise the availability of services in different languages and ensure that people feel equally comfortable in dealing with public bodies when using the language of their choice" (Walsh & McLeod 2008:34). Mac Donnacha (2002) explains that the idea behind this principle is that it is not sufficient "to respond passively only to proven and demonstrated demand for a minority language and that it is instead necessary to stimulate and increase the demand for and delivery of services in the language in an effort to strengthen and secure it more generally" (cited in McLeod 2006:13).

Of all three conditions, the last condition, desire (or motivation), is now increasingly understood to be the most crucial barrier to successful language maintenance and revitalisation (Cowell 2016). Indeed, much recent research shows that language shift (changes in the daily patterns of language use in an

entire community whereby a competing language is used more and more frequently) now typically occurs not because people are directly prohibited from using their language (except for some boarding school situations) but because they find another language more useful and/or prestigious (Cowell 2016). What follows, according to Cowell, is that merely giving speakers the *right* to speak their language via legal means, or increasing their *possibilities* of using it via e.g. government services in the language, does not necessarily affect people's *need* or *motivation* to use the language and identify with it. These motivations are directly tied to language ecology and ideology, with ideologies always reflecting underlying socio-cultural conditions. Language maintenance and revitalisation is thus, he argues, fundamentally an anthropological, political and economic problem, not a linguistic one, and efforts to address maintenance and revitalisation without addressing underlying causes will not be successful. This links to Spolsky's (2004) view, discussed above, that language policy can and must be seen as beliefs, ideologies and practice, and that to study one without the other might only give a biased view.

This research has focused only on explicit language policies (legislation) and has not directly studied deaf communities' language beliefs, ideologies and practices. As such, it is complicit in this view. It is crucial to understand those beliefs, ideologies and practices not only in themselves, but also as a means to make language policies work. Indeed, Johnson (2013a:109) mentions that minority language users can be suspicious of the motives behind a policy (e.g. why are they encouraging *our* language and not theirs? Is it to keep us subjugated?), and they might want their children to acquire the majority language or they might not see a need for their mother tongue in the modern world.

Another important condition for making legislation work is that it is known and trusted by the persons and groups concerned (Laakso et al. 2016). They must know the content and intention of legislation so that they know what rights they are entitled to. Indeed, deaf signers often do not seem to know these rights (see for example Article 4).

2.1.1 Critical language policy

The first sub-division of the language policy and planning framework is critical language policy (CLP). Critical language policy sees language policy as a mechanism serving and maintaining the interests of dominant groups, and it seeks to "unmask the ideologies behind language policies" (Lin 2015: para. 1). It emerged from Tollefson's (1991) historical-structural approach to language policy, which focuses on the historical and socio-political processes that lead to the development of language policies, and as a critique of the pragmatic/technicist, problem-oriented approaches of early LPP in the 1950s and 1960s. These early approaches mainly catered to the needs of newly established, post-colonial states, and saw minority languages as limited to the private language domain, which left many of the languages increasingly marginalised and facing language shift (Lin 2015; May 2015). For Tollefson (1991:6), language policy is "one mechanism for locating language within social structure so that language determines who has access to

political power and economic resources. Language policy is one mechanism by which dominant groups establish hegemony in language use”.

CLP acknowledges that language policies often create and sustain various forms of social inequality, with policy makers promoting the interests of dominant social groups (Tollefson 2006). Specifically, it is argued that it creates inequality among dominant and minority language users (e.g. Phillipson 2003; Shohamy 2006). As a research approach, CLP seeks to develop more democratic policies that reduce inequality and promote the maintenance of minority languages (Tollefson 2006); see e.g. May & Hill (2005) on Māori in New Zealand, Hornberger (1987, 1988) on Quechua in South America and McCarty (2002) on Navajo in the U.S. CLP is significantly influenced by critical theory, highlighting the concept of power, particularly in institutions involved in reproducing inequality, e.g. Bourdieu’s (1991) theory of linguistic and cultural capital, Gramsci’s (1992) concept of hegemony and Foucault’s (1991) concept of governmentality.

In a later reformulation of his definition, Tollefson (2013) emphasised that language policy creates systems of inequality but also that it *resists* such inequality. Indeed, CLP has been criticised for being too deterministic and underestimating the power of agency (Johnson 2013a), for not capturing the *process* of language planning and not acknowledging that linguistic minorities can and do resist dominant language policies and develop alternative ideologies. Johnson (2013a, b) has argued for the need for balance in the critical conceptualisations of language policy. While language policies can be used to marginalise minority and indigenous languages and their users, they can also have the opposite effect and can be “an important, indeed integral, part of the promotion, maintenance and revitalisation of minority and indigenous languages around the world (even if this has not been the trend, historically)” (p. 8). This calls for a balance between structure and agency in language policy and planning research, between the understanding of policy as a mechanism of power and an understanding of the power of language policy to interact with policy processes in different ways. Critical approaches can thus be combined with other approaches that *do* focus on language policy agency, like the ethnography of language policy, which is also committed to an agenda of social justice (see 3.1 in this Overview). When combined, these approaches “offer an important balance between structure and agency - between a critical focus on the power of language policies and an ethnographic understanding of the agency of language policy actors, which is a balance that is very much needed in the field” (Johnson 2013a:43). This research is an example of such a combined approach.

Johnson (2013) further emphasises that at times the dichotomy between critical approaches focusing on the power of macro-level policies and ethnographic approaches focusing on the agency of individuals to resist macro-level policies is a false one. Indeed, “language policies *can* be powerful champions of linguistic diversity” (Johnson 2013a:103, my emphasis) and the power of both macro-level and micro-level language policies can be combined to promote and protect minority and indigenous languages. Johnson (2013a) refers, for example,

to the Māori Language Act (1987), which has supported the Māori-medium education movement (May & Hill 2005).

What this all means in terms of this study is that it is crucial to look at language policy as a multi-layered construct. Language policy is not a mere top-down process where those who are meant to put the policy into action are just powerless implementers, without any agency. It is important to look at and analyse language policy in terms of processes, of how people *create, interpret* and *appropriate* language policies. Appropriation in this context refers to the way in which language policies are put into action, the way in which people make them their own. Ricento & Hornberger (1996) introduced the metaphor of an onion to evoke these multiple layers of language policy, and they have argued that LPP has not successfully accounted for activity in all these layers, occurring at every level of policymaking, across multiple contexts and levels of institutional authority. An important consequence of looking at language policy in this way is that the concepts of top-down policies and bottom-up policies are relative, and depend on who is doing the creating and implementing, and in which layer.

2.1.2 Sign language policy and planning

The 21st century has seen “a veritable explosion of different kinds of language planning activities for sign languages around the world”, covering status, corpus, acquisition and attitude planning (Reagan 2010:156). State support for lesser used languages in the form of language planning and policy measures tends “to translate more and more often into language legislation” (Ó Flatharta 2015:378). The last two decades have seen a substantial growth in the most visible kind of language planning for sign languages: their legal recognition.

Cooper (1989:41) described language planning in reality as “a messy affair, ad hoc, haphazard, and emotionally driven”. Schermer (2012a:890) has added to this that for most languages “language planning is not formally and rationally conducted by some central authority” and if this is true for most languages, it is certainly true for most sign languages. The typical scenario for sign languages is that language planning activities “take place in an ad hoc fashion in order to respond to the practical needs that arise on the go” (Quer & de Quadros 2015:136).

The goals of language planners may not always coincide with those of the language communities (see for example Behares et al. 2012 for Uruguay; Geraci 2012 for Italy; Meir & Sandler 2008 for Israel; de Quadros 2012 for Brazil; Quer 2012 for Spain and Catalonia and Schermer 2012b for the Netherlands). The campaign for sign language recognition has broken the pattern of the long history of sign language planning mostly from a language-as-a-problem perspective (Ruiz 1984, see also Murray 2015 and Nover 2000). Sign languages have historically been (and often still are) seen as inappropriate in the education of deaf children (see de Quadros 2015; Reagan 2011; Ladd 2003), needing standardisation (see Adam 2015; Eichman 2009; Al-Fityani & Padden 2010), seen as manual codes for spoken languages (see Van Herreweghe, De Meulder & Ver-

meerbergen 2015), and the subject of devaluating, audistic,¹⁹ stereotypical and economic ideologies (see Krausneker 2015). By contrast, the recognition of sign languages is often seen as driven by deaf communities because the demand for legal recognition springs from SLPs themselves (see Article 1; Murray 2015). Also, while the law has historically been used with the idea of looking after deaf people (e.g. special educational needs legislation), to curb what deaf people can do (e.g. prohibiting them from driving forklifts) or to provide for their unnatural state through welfare, sign language recognition legislation has been described as an exception to this trend because SLPs have been involved in the creation of this legislation (Bryan & Emery 2014).

Bryan & Emery (2014) argue that although the law affords deaf people rights and protection, the dominant group enjoys privileges and can still use the law as a mechanism to continue a hearing hegemony. They add that society has a tendency to reward (also legally) deaf people who, perhaps unintentionally, conform to a hearing construct of who we should be. Krausneker (2015) makes a similar point, claiming that the adaptation of deaf people to majority standards often comes with privileges, such as basic accessibility. When, on the other hand, deaf people or communities do not fit into the stereotype of what society expects them to be, the law can deny them legal rights or pose limitations on them. Bryan & Emery (2014) give the UK Human Fertilisation and Embryology Act (2008) as an example; Kusters et al. (2015) describe the UNCRPD as posing limitations on the right to be different.

Indeed historically, in their quest to achieve rights, deaf people have had to downplay differences so as to avoid negative labels and to prove their status as equal to hearing people (Bryan & Emery 2014). Legislation granting legal status and protection to sign languages can be said to be different because ultimately it seeks to respect and recognise difference. As will be shown in this dissertation, most sign language recognition legislation does not go far beyond a symbolic recognition of the given sign language.

2.2 Political theory

Political theory is the second basis of the theoretical framework of this Overview. In what follows I will discuss three different aspects of this: (1) how political theory has engaged with language policy; (2) how political theory (and sociolinguistics) have engaged with language rights and language legislation, and (3) how it has engaged with SLPs' aspirations.

¹⁹ An audistic ideology sees hearing as essential and perceives hearing ways of understanding the world as superior (Krausneker 2015). The term is derived from "audism", a term coined by Humphries (1977).

2.2.1 Political theory and language policy

Political theorists have only recently begun to address language policy directly, for example, when linked with language rights for linguistic and cultural minority groups (Kymlicka & Patten 2003; Patten 2001; Patten 2009; May 2014) or access to English as an element of global citizenship (Van Parijs 2011). The engagement of sign language policy and Deaf Studies researchers with political theory is equally recent (e.g. Emery 2006). The key reason for this late engagement, according to May (2015), is the dominance of post-WWII orthodox liberalism or liberal egalitarianism, which sees individual and universal citizenship rights as championing collective or group-based rights (for this liberal egalitarian view see e.g. Rawls 1971, 1999; Barry 2001). Within a framework of liberalism, May (2015) explains, citizenship and human rights are seen as individual rights. Claiming group-based rights is perceived as problematic because, within this framework, citizens' private identities, including group-based identities and memberships, are seen as irrelevant to questions of citizenship. This is in contrast to debates on language rights and language policy which presuppose a view of language as a collective or communally shared good of a particular linguistic community; "after all, a language dies if and when you have no one else with whom to speak it" (May 2015, para. 1). This orthodox liberalism led many political theorists to view the notion of language rights with some reluctance, dismissing them as group-based rather than individual, and thus problematic. The significant exception to this is the Canadian political theorist, Will Kymlicka (1995, 2001), although he too argues from within liberal political theory (see 2.2.3). The individualist approach was reflected in the development of many international human rights instruments after WWII - most notably the UN Declaration of Human Rights (1948). For May (2015), this approach also explains why the few developments in international law that *have* addressed language rights, like the ECRML, have had relatively little impact (Grin 2003; Nic Craith 2006).

May (2015) argues that the arguments against language rights are most often directed towards migrant groups and the wider politics of multiculturalism (Kymlicka 2007), but at times they also explicitly address national minority groups, for whom language rights are seen as detrimental to their civic participation and inclusion and linked to what is seen as their on-going "ghettoization" (e.g. Pogge 2003; Latin & Reich 2003). Educational policy, particularly bilingual education, is often to the fore in these debates (May 2015).²⁰

Nevertheless, May (2015) claims, the relationship between language policy and political theory, although a historically and contemporarily sensitive one, and an underdeveloped one, is very important (see also Ives 2014). Indeed, language policy is never developed in a historical, political or social vacuum, as

²⁰ May 2015 emphasises the crucial importance of the interdisciplinary engagement of political theory with e.g. education, law and sociology. He claims that many language policy researchers and sociolinguists are far more open to engaging with political theory than the other way around, while political theorists often seem to be inclined to make claims about themes such as bilingual education without having any direct expertise in the area (see also Ricento 2014).

the previous section on language policy has demonstrated, but is always situated in relation to particular histories, identities, conceptions of citizenship and language ideologies. What political theory has to offer language policy is a primary concern with the rights and entitlements of citizens (May 2015), where the basic questions are always: on what basis can citizenship rights (such as language rights) be attributed? Do linguistic minorities deserve to have their first languages protected and fostered by the state as part of their wider rights as citizens? Similar questions and their answers, although not explicitly from a political theory perspective, have been addressed by e.g. Grin (2005) and Dunbar (2001, 2006).

Engaging in political theory as part of language policy thus unavoidably means looking at the bigger picture, the often highly contested nature of language policy and language rights, and the ideologies that underlie them. This means going beyond a mere descriptive analysis of language policy, and including “its development and implementation in specific contexts, not least because development and implementation are always deeply political, if one cares to look” (May 2015: para. 1).

2.2.2 Language rights and language legislation within political theory and sociolinguistics

In recent years, political theory has also engaged with language rights and linguistic justice (see e.g. de Schutter 2007; Kymlicka & Patten 2003; Patten 2009; Van Parijs 2011). The concept of linguistic justice (de Schutter 2007) has emerged because of the confusion between language legislation and language rights. Laakso et al. (2016) maintain that language legislation is a much broader concept than language rights, and that invoking language rights does not mean “using them as a universal trump card overriding all other concerns of fairness and appropriateness” (para. 1) but rather that the primary function of language rights is “to recognise and promote legitimate and reasonable expectations of protection by speakers and users of a wide range of languages” (Laakso et al. 2016, para. 1).

For Laakso et al. (2016), legislation has two important aspects, namely, recognition, and the regulation of the allocation of resources. The recognition afforded by legislation means that legislation results in society recognising the language users’ legitimate expectations and the language users themselves. It may render individuals, groups and their claims visible and accepted. If the law refuses to acknowledge these claims, their bearers may perceive themselves as invisible and disempowered. The regulatory function of legislation requires that the law should aim to institutionalise “the outcomes of deliberation, contestation and compromise concerning the allocation of resources and of reasonable accommodations amongst competing interests” (para. 1). According to Laakso et al. (2016), it is in this deliberation, in particular in parliamentary deliberation and in the preparatory stages of new legislation, that arguments concerning effectiveness, feasibility and fairness are found. These two aspects, they posit, directly affect the language speakers’ opportunities and desire to use the language. While laws alone cannot rescue a language and language policies cannot

guarantee that these laws are properly implemented, Laakso et al. (2016) claim that nevertheless legislation can limit or broaden the spectrum of choices that people have, including their choice of language.

This links to Williams' (2013) position on the merits of language legislation: it recognises the symbolic value of a language; it considers language as an integral element of both human rights legislation and an equality agenda; it recognises the worth of a language and its associated cultural systems; it influences the power relationship between the citizen and the state; when allied to sound policy, it recognises the language as a public good, meaning among other things that the costs involved become a legitimate mainstream expenditure; and it may heighten the sense that the language belongs to a common shared heritage by valuing the intrinsic worth of its speakers.

Within the discipline of sociolinguistics, the growing presence of linguistic rights can be attributed to four distinct but closely inter-related academic movements (May 2012a), which together constitute a field of academic enquiry about language rights within sociolinguistics, and are also linked to political theory.

- 1) The Language Ecology (LE) movement makes links between linguistics and ecology and situates the loss of the world's languages within a wider ecological framework (e.g. Nettle & Romaine 2000);
- 2) The Linguistic Human Rights (LHRs) movement argues for the greater institutional protection and support of minority languages within national and supranational contexts, advocating that minority languages and their speakers should be accorded at least some of the protections and institutional support that majority language speakers already enjoy, and that linguistic rights are fundamental human rights (Kontra et al. 1999; Skutnabb-Kangas & Phillipson 1995; Skutnabb-Kangas 2000);
- 3) Academic legal discourse focusing on the specific implementation of minority language rights in national and international law, echoing LHR arguments (e.g. de Varennes 1996; Henrard 2000);
- 4) Accounts that continue to stress the importance of minority language rights, but also address the social constructionist and post-modernist understandings of language on which these accounts are based (leading to an essentialised view of languages and those who speak them), and highlight the constructedness of language(s) and the contingency of the language-identity link (e.g. Blommaert 1999; May 2005a, 2008).

May (2012) mentions five key concerns underpinning much of this work on the advocacy of minority language rights:

- 1) The exponential decline and loss of many of the world's languages, described by some sociolinguists as linguistic genocide (Skutnabb-Kangas 2000);

- 2) The concern about why certain languages and their speakers have come to be minoritised in the first place. This is neither a natural process nor even a linguistic one; it is a historically, socially and politically *constructed* process (May 2012) and has to do with how distinctions are made between so-called *minority* and *majority* languages, and the central influence of nation-state building and nationalism in this process;
- 3) Critique of the principle of language replacement that underlies the social and political processes in the previous points, namely “that one should/must learn these languages *at the expense* of one’s first language” (May 2012:135). Central to this principle is the idea that by learning these languages, minority language speakers’ mobility will be enhanced. Minority languages are constructed as having identity value but no instrumental value, while for majority languages the opposite is said to be the case. May (2012) posits that *all* languages embody and accomplish both functions (identity and instrumental) for those who speak them, but that languages differ in the degree to which they can accomplish each of these functions, and this in turn depends on their social and political construction and context. Minority language rights advocates argue that the position of limited instrumentality of a particular minority language at any given time need not be permanent; this position can be changed by changing wider unequal power relations.
- 4) A fourth principal concern of proponents of language rights are “the legal protections that can potentially be developed in order to enhance the mobility of minority language speakers while at the same time protecting their right to continue to speak a minority language, *if they so choose*” (May 2012:136). Here, the influence of the LHRs movement is most prominent;
- 5) A final concern addresses the question of how to recognise language rights while at the same time avoiding essentialising the languages and their speakers to which these rights apply (Patrick & Freeland 2004; May 2005a). This involves rejection of the essentialist tendency reflecting an overstated link between language and (ethnic) identity and acceptance of the contingent nature of the language-identity link, recognising that “our social, political, and linguistic identities are inevitably plural, complex and contingent” (p. 138). However, May (2012) argues, what these constructionist accounts fail to address is “why, despite the clear presence of hybrid linguistic identities, historically associated languages continue often to hold considerable purchase for members of particular cultural or ethnic groups in their identity claims” (p. 138), even when holding on to these languages can have negative consequences such as oppression and discrimination. Advocacy of minority language rights, then, does not necessarily entail an essentialised view of the language-identity link. Advocates generally do not want to preserve the ‘authentic’ culture from long ago. Rather, it is about the right “to maintain one’s membership in a distinct culture, and to continue developing that culture in the same (im-

pure) way that the members of majority cultures are able to develop theirs” (Kymlicka 1995:105). This by no means excludes cultural change, adaptation and interaction. The crucial difference, May (2012) holds, is that members of minority groups themselves are able to retain a degree of control over the process.

2.2.3 Political theory and SLPs’ aspirations

A political theorist who has directly addressed the issue of the status of SLPs and the justification of their claims is the Canadian Will Kymlicka. His position on language rights is situated within the broader framework of group-differentiated rights for minorities (Kymlicka 1989, 1995, 2001, 2007). Kymlicka argues – from within liberal political theory – for the on-going importance of individual citizenship rights while at the same time emphasising, or at least developing an understanding of, the importance of wider cultural and linguistic membership to such rights, entailed in his notion of “group-differentiated” rights. These are not necessarily collective in the sense that they always privilege the group over the individual. In essence, they are about the idea “that justice between groups requires that the members of different groups be accorded different rights” (Kymlicka 1995:47). A second important point to understand about group-differentiated rights is that they are not aimed at internal restrictions limiting their members’ freedom but at external protections, “intended to ensure that individual members are able to maintain a distinctive way of life *if they so choose* and are not prevented from doing so by the decisions of members outside of their community” (May 2014:386). Kymlicka argues that granting, for example, language rights to a minority contributes to putting the group on a more equal footing, by reducing the extent to which its members are vulnerable to the larger group. This being the case, he argues that the maintenance of a minority language constitutes a legitimate external protection.

He then addresses how such rights might be applied, and here he distinguishes two key minority groups: national minorities, and ethnic minorities (or immigrant groups), which together constitute “ethnocultural groups”. National minorities have always been associated historically with a particular territory but because of having been subject to colonisation, conquest or confederation, they now have minority status within a particular nation-state. Examples are the Welsh in Britain, the Basques and Catalans in Spain or the Québécois in Canada. They also include indigenous peoples such as the Māori in New Zealand and the Sámi in Finland. Ethnic minorities or immigrant groups have migrated from their country of origin to a new host nation-state (or, in the case of refugees, have been forcibly relocated). Both of these groups, Kymlicka (1995) argues, should be granted, in addition to the civil rights already available to them, two forms of group-specific rights: self-government rights and polyethnic rights. Self-government rights grant such groups a certain form of self-determination aimed at guaranteeing inclusion and representation equal to that of majority groups, while polyethnic rights are intended to help ethnic minority groups to continue to express their cultural, linguistic and or religious heritage.

Kymlicka (1998) includes a chapter on the movement towards a politics of identity, in which “a wide range of previously disadvantaged groups seek public recognition of their distinctive identities and needs” (p. 90). He calls these groups “non-ethnic groups”²¹ and among them are women, gay and lesbian people, religious minorities and people with disabilities. All these groups, he argues, seek not only common national citizenship but also “group-specific forms of recognition, affirmation, and political participation” (p. 90). In this chapter he addresses the question of whether these non-ethnic groups can be included under what he calls the “multicultural rubric”. To illustrate his case, he chooses to discuss the situation of gay and lesbian people and people with disabilities, in what he calls “new social movements”. Interestingly enough, he then chooses deaf people to represent the group of people with disabilities, while at the same time arguing that deaf people “never saw themselves as disabled” in the first place (p. 95). Both gay and lesbian people and deaf people, he argues, are “increasingly moving towards quasi-‘cultural’ conceptions of their group identity, and quasi-‘ethnic’ models of group organisation” (p. 90), and often compare themselves to ethnic groups. For deaf people, he exemplifies the quasi-ethnic group identity by the historical treatment of sign languages which, he says, closely parallels that of other minority languages. Despite the oppression of their languages, deaf people, like most national minorities, have always retained a deep commitment to their languages, “and resent being forced to use a language that is not their own” (p. 94). Regarding the quasi-ethnic models of group organisation, Kymlicka refers to deaf schools and clubs, theatre groups and service agencies, and the fact that deaf communities are primarily found in big cities and near deaf schools. This leads Kymlicka to ask, “If ethnocultural groups are worthy of recognition because they provide people with valuable cultural practices and group identities, and not because they are united by shared blood, then why not also include non-ethnic groups that have developed a common culture, like gays or the Deaf”? (p. 97) He admits this is a legitimate point, but he counters that for gays the problem is the lack of a shared territory, historic homeland, and intergenerational continuity, and the fact that most gay people only enter the gay community after they have already been socialised into a national community. This last aspect, Kymlicka suggests, leads to gay people not wanting to give up their national membership but wanting rather to make their national community more inclusive of gay people, and this, he says, makes them more similar to immigrant groups.²²

He then goes on to discuss the situation of deaf people, and here he makes a few crucial errors, also discussed in Breivik (2005) and Emery (2006, 2009), and taken up further here. Partly, these errors result from a diachronic reading of his chapter, which was written almost 20 years ago. Partly, they reflect a typical hearing, audio-centric position. Kymlicka says the situation of deaf and gay

²¹ While ‘ethnocultural groups’ are the above-mentioned national minorities and immigrant groups.

²² He makes an important observation, though, that the ethnic model of inclusion taken by white ethnic groups is not readily available to and may not be sufficient for other groups like African-Americans and gay people, who share comparable barriers and prejudices.

people is different because although he acknowledges a similar problem in terms of intergenerational continuity, “for many deaf children, their primary socialisation is into the Deaf culture and sign language” (p. 100), which leads to deaf people exhibiting the same commitment to their first language as national minorities do. Even for those who have entered deaf communities only later in life, “after learning to speak”, he maintains, “the fact is that they can interact with the hearing world only through translators, or lip-reading, which works only for a limited range of social circumstances. Insofar as they wish to participate in the social world it will largely be through Sign” (p. 101). It is for this reason that deaf people have attempted to create a “distinct institutional culture” based on signing, and that although they have rarely taken up the rhetoric of nationalism, “there is an important sense in which they are genuinely separatist” (p. 101). He then quotes Oliver Sacks²³ saying that “the deaf world feels self-sufficient, not isolated - it has no wish to assimilate or be assimilated; on the contrary, it cherishes its own language and images, and wishes to protect them” (p. 101). In 1998, when the chapter was written, the U.S. was experiencing the effects of its recent mainstreaming laws encouraging deaf children to attend local hearing rather than residential deaf schools. The resistance deaf communities had shown against these policies, Kymlicka says, demonstrated a profound difference between deaf people and other people with disabilities, “most of whom seek integration into the larger mainstream society in which they were born and raised” (p. 101). For deaf people, Kymlicka says, “the aim of political mobilisation is not primarily to gain access to the mainstream society, but to protect and enhance their separate institutions” (p. 102).

All this makes deaf people for Kymlicka much closer to a genuinely national form of cultural separateness than gay people, who are closer to immigrant groups. The reason is “that Deaf people were raised in a Deaf culture, and indeed this is the only culture they are effectively able to participate in” (p. 102). Pursuing integration would thus mean “abandoning their original language and primary cultural identity” (p. 102). While deaf people, according to Kymlicka, will never become a genuinely national minority and will at best remain a quasi-national group, their “cultural nationalist aspirations” must be respected and accommodated as far as possible, “not only because this is the language and culture they cherish, but also because the obstacles to integration in the mainstream are enormous - much greater than for immigrant groups, or even for more traditional ‘national’ minorities” (p. 102). Nevertheless, he adds, including gay and deaf people under the heading of multiculturalism might create “unnecessary confusion” (p. 102) and a blurring of the meaning of multiculturalism. “Multiculturalism should be seen as one part of a larger struggle to build a more tolerant and inclusive society, working together with policies to promote the integration of gays and people with disabilities” (p. 103).

²³ Oliver Sacks was a British neurologist and the author of *Seeing Voices* (1989), covering the March 1988 Deaf President Now protests at Gallaudet University and various other topics related to deaf communities.

It is worth unpacking each of Kymlicka's arguments because they are of primary importance for this thesis and go right to the heart of what political theory can mean for language policy and Deaf Studies. While I fully agree with Kymlicka's assessment that deaf people exhibit the same tenacious commitment to their languages as national minorities do and that the "cultural nationalist aspirations" of deaf people must be respected and accommodated - this is indeed one of the main tenets of this thesis - I have a different opinion as to the reasons why this must be the case (see also Articles 4 and 5 for a discussion of this).

To start with, Kymlicka is overestimating the intergenerational continuity of deaf communities, and he engages in a static, artificial and old-fashioned distinction between what he identifies as deaf and hearing cultures. In answer to his assertion that many deaf children are born and raised within deaf culture, statistics have shown that over 95% of deaf children are born within hearing, non-signing families (Mitchell & Karchmer 2004), and while it is true that for some of them their primary socialisation will be within a deaf culture, there is an increasing number of deaf children who will be socialised into the deaf community only later, if at all. The reason that deaf communities are committed to their languages is not that most children are born and raised within deaf culture (because most are not), but that deaf people know the importance of socialisation within a deaf community for those children's well-being and development, and want to guarantee these possibilities for each child, while not denying them the right to socialisation within the mainstream. Kymlicka's argument about children being born within deaf culture is understandable given his time of writing, with one of the (then) most-cited texts on Deaf culture having been published ten years earlier (Padden & Humphries 1988). Reading it from a contemporary viewpoint, however, it reflects a monolithic/essentialist dichotomy between deaf culture/deaf world and hearing culture/hearing world. Rather than treating what has been seen as Deaf culture as an overarching concept, today there is an increasing tendency within Deaf Studies to use more specific terms for different elements in 'Deaf culture', e.g. deaf ontologies (Kusters et al. forthcoming 2017), deaf epistemologies (Paul & Moores 2012), Deaf Gain (Bauman & Murray 2014), Deafnicity (Eckert 2010), deaf sociality (Friedner 2014; Kusters 2015) and deaf space (Gulliver 2009; Kusters 2015). All these terms are used in different contexts to refer to different aspects of deaf experiences and lives.²⁴

Secondly, Kymlicka claims that also those who enter deaf communities only later in life, "after learning to speak" (an expression which is in itself full of meaning and value judgments), need to rely on interpreters and lip-reading and can only participate in the "social world" through sign language. While it is true that deaf people prefer to live their lives and interact with what he calls the hearing world in and through sign language, his claim overlooks deaf peoples' very diverse language competences and language practices, making use of mul-

²⁴ For a more extensive discussion of the concept of Deaf culture, see Kusters, De Meulder and O'Brien forthcoming 2017.

tiple languages and language modalities to interact with each other and with this hearing world. Kymlicka's statements make it look as if deaf people attempt to create a distinct culture based on signing out of some misguided need for it.

The next point in which Kymlicka errs is in his claim that the aim of the political mobilisation of deaf people is primarily to protect and enhance their separate institutions, not to gain access to mainstream society. This is so, he says, because deaf culture is the only culture deaf people are effectively able to participate in and pursuing integration would mean abandoning their primary language and cultural identity. I would say that deaf communities' aim for political mobilisation is both, and definitely *also* to gain access to mainstream society (as the struggle for the recognition of sign languages shows). However, deaf people want this integration to be based on their own terms and conditions, without needing to abandon their language and cultural identity. Kymlicka's statements have an essentialist character, as if deaf people have just one identity - a 'deaf' one - and are neither part of nor wish to be part of a larger national identity. It also makes an artificial distinction between 'deaf' and 'hearing worlds. Breivik (2005) argues that Kymlicka's writing "tastes too much of political correctness, as his reading is too close to the few and officially sanctioned texts on deafness (Padden & Humphries 1988; Sacks 1989). To write about the self-sufficiency and protectiveness of Deaf communities implies a simplification, resulting from a biased or limited knowledge of diversity within Deaf communities" (p. 199).

Kymlicka's engagement with SLPs' aspirations and the aim of their political mobilisation is still instructive, but it needs to be rebuilt from a contemporary point of view. This research has attempted to do that by focusing on the aspirations of SLPs for the legal protection and promotion of their languages.

3 METHODOLOGY

Language policy has always drawn upon a broad constellation of research methods with roots in disciplines as diverse as anthropology, law, linguistics, political science, social psychology, and sociology (of language), among others (Hult & Johnson 2015). The data collection toolkit on which LPP researchers draw includes survey questionnaires, census and demographic data, linguistic corpora, interviews, policy documents, participant observation and participatory action, while the analytical toolkit includes statistical, experimental, ethnographic, linguistic, and discourse-analytic approaches and their many variations (Hornberger 2015).

For this research, appealing to the above-mentioned theoretical framework, I have employed principles of the ethnography of language policy using two traditional qualitative research methods (interviews and participant observation) and desk research. This made possible the collection of a broad range of views and data triangulation. Indeed “as a way of looking, ethnography involves experiencing through participant and nonparticipant observation, enquiring through formal and informal interviews, and examining through the analysis of documents and cultural artifacts” (McCarty 2015, para. 2). I combined the three methods until I reached the point of data saturation.

My interviews were mainly expert interviews with people affiliated to organisations in Finland and Scotland (NGOs, universities, parliament). My participant observation was mostly done at academic and political events in Finland, Scotland, and elsewhere. Desk research entailed the study and analysis of official documents which shape language policy in both countries (e.g. drafts of legislation, government memoranda, other government documents such as the evaluation of language legislation, documents of the Council of Europe such as monitoring cycles of the European Charter for Regional or Minority Languages, language policy programmes of deaf advocacy organisations, etc.).

3.1 Ethnography of language policy

The ethnography of language policy (ELP) (Canagarajah 2006; Johnson 2013b; McCarty 2010) emerged around the same time as critical language policy and started with Hornberger's (1988) ethnographic portrait of the Quechua language and bilingual education in Peru. The ELP is described by Hornberger & Johnson (2007 in Johnson 2013a:44) as "a method and theory for examining the agents, contexts, and processes across the multiple layers of language policy creation, interpretation and appropriation". Hornberger & Johnson (2011) suggest the following contributions of the ELP:

- (1) Illuminating and transforming the development of LPP in its various types and across the various processes of the LPP cycle;
- (2) Shedding light on how macro and micro LPP interact; and
- (3) "Uncover the indistinct voices, covert motivations, embedded ideologies, invisible instances, or unintended consequences of LPP" (p. 275).

The ELP as a theory and method is designed to examine the efforts made by local communities. It provides the balance mentioned in the theoretical framework between structure and agency in language policy, foregrounding the power and agency "of those who have traditionally been positioned merely as policy implementers and repositioning them as active policy interpreters, appropriators and creators" (Johnson 2013b:2). It attempts to understand and construct language policies from the ground up.

This research further uses an empowerment-oriented approach (Hornberger 2015), which engages in "research on, for and with subjects": it "uses interactive, dialogic methods and seeks to take into account the subjects' research agenda, involve them in feedback and sharing of knowledge, consider representation and control in the reporting of findings, and take seriously the policymaking implications of research" (Hornberger 2015: Who researches whom in LPP?, para. 3). This involves a critical, emancipatory research paradigm, which implies that the researcher needs to think "what it means to do empirical research in an unjust world" (Lather 1986:256) and addresses the important questions of "How will your research findings affect those studied?" and "In what ways will your research findings be used?" (Lin 2015).

While the ELP is not always particularly well suited for LPP research, it has been useful for, among other things, language planning processes (Johnson 2013). However, following Johnson (2013a), using ethnography to study language policy is non-traditional for several reasons:

- The object of study is not a culture or a people, as is generally the case in ethnography, but a policy and a system. However, the goal is not merely to obtain "an insider's account of the policy per se, but an account of how the human agents engage with LPP processes" (Johnson 2013a:145);

- Typically, ethnographic methods employ long-term participant observation in a particular site or community. For language policy, though, there often is no site in which the policy is created. Because language policy is in itself multi-layered and multi-sited, the ELP similarly collects data from multiple sites and can therefore be said to be a multi-sited ethnography (Marcus 1995);²⁵
- Linked to the previous point are issues related to timing because “when policy moves fast, how long can ethnography take?” (Walford 2002:23). The ELP does not always allow for the extended engagement that the use of ethnography presupposes, because of the need to move from site to site, “causing discontinuous engagement characterized by heightened periods of intense data collection followed by brief lulls” (Johnson 2013a:146). Walford characterises this as “compressed ethnography”, which can nevertheless establish a thick description of how community members create, interpret and appropriate language policy;
- The insider-outsider dichotomy that characterises and influences ethnography and ethnographic methods is ambiguous in the ELP and can better be described as a multi-dimensional continuum, “since no outside researcher is ever truly an insider; nor is an outside researcher ever truly an outsider - as soon as they enter the research context, they have influenced it in some way” (Johnson 2013a:146-7). What is crucial in the ELP is to develop an understanding of how the participants view their policy landscape - which policies are most important to them and what they mean to them - and then examine how the empirical data collected line up with already established LPP frameworks and theories. Hymes (1990) has described this as a dialectic process from etic1 (knowledge of theories, frameworks and policies) to emic (collecting ethnographic data to derive findings and test theories and frameworks) to etic2 (based on these findings, re-tooling existing theories/frameworks).
- The goal of the ELP is not an objective description of a culture, but “(1) a critical understanding of how imbalances of power hegemonically perpetuate and normalise linguistic and cultural hierarchies that lead to deficit approaches and (2) challenging such practices for social justice” (Johnson 2013a:147).

3.1.1 Selection of countries

When I started my research in late 2011, I decided to select two or more cases to test my research questions, and they became Finland and Scotland. At the time, the Finnish Deaf Association (FAD) had just submitted its second language policy programme, which asked the Finnish government to formally start preparations for a Sign Language Act. It was expected that during the next few years the negotiations for this Act would become one of the main priorities of the FAD. Also, my funding institution being the University of Jyväskylä, it was logical to

²⁵ See also Hualand (2012) for multi-sited ethnographic research and the position of a deaf researcher in this.

include Finland. There were, though, other reasons why I thought Finland was an interesting case (described in more detail in Article 4):

- Finland is often presented (and often presents itself) as a model case of language policy, an example other European countries should follow; it also has a longstanding (though sometimes romanticised) position as a model country regarding sign language rights;
- Including Finland allowed for comparison with the Sámi, the other minority group mentioned in the constitution with designated language legislation (the Sámi Language Act) and it was therefore important for the third research objective, identifying common ground with other linguistic and cultural minority groups;
- Finland has a quite unique language policy situation, with 150 languages coexisting in the country and two national languages.

The reasons I decided to select Scotland were the following:

- In 2011, the initial preparations for negotiations for a BSL Act were taking place and, just as in Finland, it was clear that we were about to enter an interesting new phase;
- Including Scotland allowed for comparison with the situation of Gaelic, one of the other autochthonous languages of Scotland with designated language legislation (the 2005 Gaelic Language Scotland Act), which again made Scotland important for the third research objective, identifying common ground with other linguistic and cultural minority groups;
- The political situation in Scotland is such that it has a distinct, more left wing, nationalist political culture than the rest of the UK (McCrone 2001). Its progressive government has repeatedly deviated from Westminster on major issues and I thought it would be interesting to see how Scotland's devolved government would seek to distinguish itself from the rest of the UK in possibly being the first (and it is in fact still the only) country in the UK to grant legal status to BSL.
- Having lived in the UK for one year, my knowledge of British Sign Language and my network in the UK would be an asset for the fieldwork.

What I had not expected or dared to hope at that time was that both Finland *and* Scotland would grant legal recognition to their respective sign languages within the course of my PhD studies (in March and September 2015 respectively). This allowed me to follow the process right the way through to the passing of the legislation in question.

Initially, I planned to include two more countries: Flanders (Belgium) and New Zealand. Flanders I had chosen because it is my home country, is unique in terms of language policy, and has begun to evaluate its recognition legislation; New Zealand because of the unique status of NZSL as an official language, potential comparisons with the Māori situation, the availability of research on

the development of the NZSL Act (McKee 2007, 2011; McKee & Manning 2015), the evaluation of the NZSL Act underway, and my understanding of NZSL (which is quite comparable to BSL). In the end, I decided to leave it at two countries, for a range of reasons:

- Four and even three countries would be a lot to include and would give me more data than I could process in the given time frame;
- Because of its geographical distance, including New Zealand would be time-consuming and financially challenging;
- Both Flanders and New Zealand had already passed sign language recognition legislation (both in 2006) and there did not seem to be a case for new legislation being developed within the next four years, so I would be unable to follow the process.

3.1.2 Interviews

My interviews were expert interviews (Mangen 1999) or elite interviews (Harvey 2011) with mainly deaf but also hearing experts affiliated to organisations in Finland and Scotland (NGOs, universities, parliament). This means my informants either were leaders of organisations or institutions or held strategic positions in them, and/or held important social networks. In every case, they had access to social and linguistic capital and were able to exert influence. This did not mean they were all-powerful and could determine policy at will, but they were influential. Conama (2010) and Emery (2006) as deaf researchers/activists have also interviewed experts in policy research, writing about language policy and citizenship respectively.

When starting my research, I more or less knew which key people were involved in the recognition process in each country. I contacted them and asked them whether they would agree to be interviewed, and if they knew other people I should contact. All the people I contacted were prepared to be interviewed.

Table 2 below gives an overview of my informants and interviews. This table only lists the formal interviews; outside of these there were several other occasions on which I had the opportunity to talk to my informants for a shorter or longer time (see participant observation).

In Finland, I interviewed six different experts, with each interview lasting about 1.5 to 2 hours. At that time, all these informants were attached to the FAD as senior staff members. Of the six Finnish experts, four were deaf. With them, and with two hearing experts, the interviews were carried out in International Sign (IS). One other hearing expert did not know IS and I did not know FinSL, so this interview required the assistance of a deaf interpreter, who worked between FinSL and International Sign (IS).

In Scotland, I formally interviewed five different experts, with each interview lasting from 1.5 to 3 hours, but I also had discussions with several other people which were not filmed and were more like informal conversations. These experts were attached either to the Scottish Council on Deafness (SCoD) (the lead organisation behind the BSL Bill), or to Heriot-Watt University or the

University of Edinburgh, and were in that capacity involved in the Bill's preparations or negotiations. One of them, Mark Griffin, is a Member of the Scottish Parliament (MSP) (Labour), and he introduced the Bill. The interviews with the deaf and hearing signing experts were carried out in BSL. For the interviews with the (non-signing) MSP and the Gaelic expert, I booked a VGT-English interpreter, who came over to Scotland for the days of the interviews. I had to arrange it in this way because I was not entitled to BSL interpreters, while the Flemish government provides limited funding for certain assignments abroad.

All combined, this resulted in a total of about 22 hours of interview data for Finland and Scotland together.

TABLE 2 Interviews with Finnish and Scottish informants

FINLAND	TIME OF COLLECTION	EXPERT	DATA TYPE	SETTING
	18 April 2012	Karin Hoyer (hearing)	Interview in IS	FAD
	19 April 2012	Kaisa Alanne (deaf)	Interview in IS	FAD
	19 April 2012	Seppo Pukko (hearing)	Interview in IS through deaf and hearing interpreter	FAD
	2 May 2012	Liisa Kauppinen (deaf)	Interview in IS	FAD
	3 May 2012	Markku Jokinen (deaf)	Interview in IS	FAD
	14 May 2013	Kaisa Alanne (deaf)	Interview in IS	FAD
	15 May 2013	Virpi Thurén (hearing)	Interview in IS	FAD
	10 February 2014	Kaisa Alanne and Markku Jokinen (deaf)	Interview in IS	FAD

FINLAND	TIME OF COLLECTION	EXPERT	DATA TYPE	SETTING
	18 April 2012	Karin Hoyer (hearing)	Interview in IS	FAD
	19 April 2012	Kaisa Alanne (deaf)	Interview in IS	FAD
	19 April 2012	Seppo Pukko (hearing)	Interview in IS through deaf and hearing interpreter	FAD
	2 May 2012	Liisa Kauppinen (deaf)	Interview in IS	FAD
	3 May 2012	Markku Jokinen (deaf)	Interview in IS	FAD

	14 May 2013	Kaisa Alanne (deaf)	Interview in IS	FAD
	15 May 2013	Virpi Thurén (hearing)	Interview in IS	FAD
	10 February 2014	Kaisa Alanne and Markku Jokinen (deaf)	Interview in IS	FAD

In line with ethnographic research, the research questions were open ended, allowing for dialogue, and subject to change. All the interviews were video recorded and then translated into English. This was more difficult for the Finnish interviews than for the Scottish ones. The Finnish informants often discussed Finnish concepts in International Sign, for which I then had to find a suitable English translation.²⁶ This was much more straightforward for the Scottish interviews.

Translating from sign language to the written modality of a given spoken language is a very time-consuming process (see Young & Temple 2014 for more on translation issues in a sign language context). However, since I was primarily interested in the *content* and *meaning* of the signed utterances and not in their linguistic or artistic characteristics, I approached the translations flexibly, translating some parts or even some sentences into Dutch (my mother tongue) and some into English, depending on the topic and the best translation I could find in either of the two languages. I translated all my interviews, but in the first instance I did not try to translate everything perfectly. I only did so for very specific utterances or for quotes I intended to use (which turned out to be very few, given the limited word count for the articles).

3.1.3 Participant observation

The expert interviews were only one part of my data collection, and maybe not even the most important one. They were supplemented with participant observation covering a broad range of situations:

- Other conversations I had with the experts outside the interviews, for example when I met them at events we both went to or when we stayed in touch via Skype or e-mail after the interviews (most of them voluntarily kept me up to date with the latest developments in the bill or the negotiations). These conversations were mostly more informal than the interviews, and allowed for a different conversation style. Often during those conversations there were also other people present, which allowed me to witness how the experts explained certain of the issues we had discussed during the interviews to other people, with different backgrounds from mine. I often found this very instructive.
- Speeches, lectures and workshops given by experts on different occasions to different audiences about topics related to my research;

²⁶ For more on linguistic, usage and status issues of International Sign, see Rosenstock & Napier (2015).

- Formal meetings that I attended that took place during the negotiations (for example the Cross Party Group on Deafness in the Scottish Parliament), although this was not always possible; most of them were not open to outsiders, or they were not fully accessible to me (as was the case of Finland; see 3.2);
- Lastly but most importantly, participant observation included numerous conversations I had with a wide range of people in a wide range of contexts. These were mostly informal conversations when (mostly deaf) people approached me to talk about the recognition (or not) of the sign language(s) in their country. This happened quite a lot because many people, also internationally, knew what my research was about and were eager to discuss the subjects with me. Because of attending conferences and other events in different countries (see Table 3), I had the opportunity to talk to deaf people of many different nationalities, and this was a useful addition to the expert views I had access to in the interviews. Sometimes these conversations were also with hearing experts in language policy or legislation whom I met at conferences. These also were very instructive because they gave me a better understanding of the situation of other language minorities, and I would have liked to have more of these conversations (see 3.2).
- Participant observation also involved my attending many conferences and deaf political events, which introduced me to other deaf experts' and policy makers' discourse on the recognition of sign languages.

All these situations provided elements of interaction with stakeholders about ideas emerging in the research, and conversations around the edges of data gathering and events.

An overview of the official events where I engaged in participant observation can be found in Table 3. These were mainly deaf events but some, like the language policy conferences in Spain, Finland and Canada, were events mostly attended by scholars in hearing language policy, outside the sign language field.

Not listed in the table below are the many occasions on which I talked (and taught) about my research not at scientific conferences or formal political events, but in more informal educational settings. For example, during my research I have been invited a few times to teach at the Frontrunners programme, an international deaf youth leadership training programme in Denmark (<http://frontrunners.dk/>). This has allowed me to talk about and discuss my research with a group of young deaf people from all over the world, adding yet another perspective to the ones I already had. I have also taught on the Deafhood course in Flanders, attended by a very varied (both in age and background) group of deaf people, and I have given several other Deafhood workshops in several European countries. While these workshops were not always directly about my research, they provided me with valuable insights into deaf peoples' attitudes towards sign languages and their status and recognition.

I kept track of all these observations and conversations in my field notes. These opportunities for input/output were not incidental to the research process, but of high value to the insight and currency of my conclusions on this topic, and they ensure transformative impact of this work among the communities of interest.

TABLE 3 Participant observation

Date and place	Event/organisation	Involvement
2004-2006, Belgium	Member of the Deaf Action Front	Campaigning for the recognition of Flemish Sign Language
December 2007, Budapest, Hungary	Conference organised by the Hungarian Deaf Association	Presentation about the recognition of Flemish Sign Language
September 2008, Budapest, Hungary	Conference, "Invisible Culture - From a Bird's Eye View" organised by the Hungarian Deaf Association	Participant
2008-2016	Governmental Advisory Board on Flemish Sign Language	2008-2012 member 2012-2016 president
August 2010, Brussels, Belgium	Internship at the European Union of the Deaf (EUD)	Research assistant for the preparation for publication of "Sign Language Legislation in Europe" (Wheatley & Pabsch 2010, 2012)
November 2010, Brussels, Belgium	Conference "Implementation of Sign Language Legislation" organised by the EUD and Adam Kosa, MEP	Participant
September 2011, Barcelona, Spain	Mercator conference, "The role of legislation in enhancing linguistic diversity: recent developments and trends"	Poster presentation about the recognition of Flemish Sign Language
March 2012, London, UK	BSL Symposium "After Recognition - The Way Forward" organised by the BDA	Participant
March 2013, London, UK	Seminar, "BSL Recognition - The Way Ahead" marking the 10 th anniversary of BSL recognition, organised by the BDA and DCAL	Presentation, "Strategies towards and motives for a Scottish BSL Act"
September 2013, Belfast, Northern Ireland	Conference, "Recognition of Signed Languages in the UK and Ireland" organised by Queen's University	Presentation, "Recognition of Flemish Sign Language"
July 2013, Lisbon, Portugal	6 th International Deaf Academics and Researchers	Presentation, "The Deaf Recognition Agenda"

	Conference	
February 2014, Helsinki, Finland	Viittomakielen päivä (Sign Language Day) in the Finnish Parliament	Participant
March 2014, London, UK	BSL Symposium, "Strengthening Our Rights" organised by BDA	Participant
April 2014, Copenhagen, Denmark	Hoffman conference organised by the Danish Deaf Association	Presentation, "A critical evaluation of the legal recognition of Sign Language Peoples' languages, cultures and identities"
June 2014, Jyväskylä, Finland	Sociolinguistics Symposium 20	Presentation, "A critical evaluation of sign language recognition legislation"
September 2014, Calgary, Canada	Multidisciplinary Approaches in Language Policy and Planning Conference	Presentation, "A critical evaluation of sign language recognition in Scotland and Finland"
October 2014, Göttingen, Germany	Symposium, "The promises and perils of diversity and inclusion: deaf people in multiple contexts" organised by the Max Planck Institute for the Study of Religious and Ethnic Diversity	Presentation, "The UNCRPD and legislation on the accommodation of linguistic and cultural diversity"
February 2015, Leuven, Belgium	7 th International Deaf Academics and Researchers Conference	Participant
July 2015, Istanbul, Turkey	XVII World Congress of the World Federation of the Deaf	Presentation, "Sign Language Recognition: Current State of Affairs" (with Verena Krausneker)
September 2013, Dublin, Ireland	Seminar, "What can we learn from Europe? The case for ISL recognition"	Participant
November 2015, Glasgow, Scotland	Scottish Universities Insight Institute, University of Strathclyde, Conference "Planning for the National BSL Plan: Building a sustainable framework for British Sign Language in schools"	Keynote presentation, "The British Sign Language (Scotland) Act and the promotion of sign languages"

3.2 Limitations of the research methodology

Each research methodology has its limitations, which can never be fully predicted before the start of the research. It is nevertheless important to be aware of them, to be open about them and not to downplay them. Below, I discuss three major limitations of my research methodology: issues of linguistic competence in the (sign) languages of Finland, my limited access to certain hearing informants,²⁷ and the fact that my interviews were all expert interviews.

3.2.1 Lack of proficiency in Finnish and the sign languages of Finland

When I started my PhD research, I lacked any proficiency in the two Finnish sign languages and in Finnish. I was well aware of this when I selected my case countries, but it turned out to be more challenging than I had expected. Because of my personal situation with a family and professional commitments in Belgium, I was not able to stay in Finland for very long at a time, which I would have needed to do in order to become immersed in the languages. My knowledge of the sign languages of Finland thus remained limited to a few signs, although my receptive skills were somewhat better towards the end of my research period. When I knew the context I could understand some things, but not enough to carry out interviews or watch and understand movies on social media, and definitely not enough to express myself. An additional challenge was that when I was in Finland, the Finnish deaf people who approached me almost always used International Sign to communicate with me because they knew I was proficient in it (and not in FinSL or FinSSL). A shared language allowed for easier communication, but it also led to my not being exposed to sign language in Finland as much as I could have been.

This lack of proficiency in the sign languages of Finland had two major consequences. One was that the interviews with Finnish informants were carried out in International Sign (as discussed above, in most cases directly, without an interpreter, in one case with a deaf interpreter). All the experts (especially the deaf experts) were proficient in IS, were used to giving presentations about their work to international audiences, and had no problems making themselves clear. Nevertheless, the topic of the interviews was very specific and often it was important to discuss quite specific Finnish legal or policy concepts that might not have an equivalent meaning in English, e.g. the words “oma kieli” or “viittomakielinen”, and it was a challenge explaining them in IS. Comparing the interviews with the written documents I had sometimes presented me with a problem, too, because they were each in a different language (IS and English respectively) or they were translations from two different languages (IS to English for the interviews and Finnish to English for the documents, see below). Consequently, in Finland I regularly went back especially to one informant to

²⁷ It is debatable whether this is effectively a weakness of the methodology or a reflection of the barriers faced by deaf researchers. I nevertheless chose to include it here.

check for accurate meanings and the translation of concepts. IS, too, although I have good receptive and productive skills in it, remained a second language.

The second consequence was that I was unable to access most of the Finnish deaf community's online discourse e.g. on Facebook, YouTube, vlogs, television programmes, and so on. This proved to be a rich source of information in Scotland, where I could, for example, access the Facebook group set up by the Scottish government where BSL signers could post videos explaining their experiences with discrimination. In Scotland, I could also watch television programmes like *See Hear* (BBC2), which sometimes discussed issues related to the BSL Bill. While Finland did not have a similar Facebook group set up by the government, there *was* an online discourse (and daily news in FinSL) that I could have accessed in addition to my formal interviews, participant observation and desk research, but which in fact I accessed only rarely and with only partial success. I sometimes asked people to translate the videos for me but even then my access to the content remained limited.

My lack of knowledge of Finnish was another problem. Although several government documents were available in English, other documents necessary for my research were only available in Finnish. This was the case with several crucial documents, like the FAD's proposal for a Sign Language Act (April 2012) and the government's reply to this, several other internal FAD documents regarding the Act, working group reports, memoranda, the government's proposal for a Sign Language Act (December 2014), the readings of the Bill in Parliament, and reports of Parliamentary Committee meetings, to give but a few examples. Fortunately, the University of Jyväskylä came forward with funding to have an English major student translate some of these documents for me, but since there was no budget to translate all of them, I had to make a selection. These selected documents were then translated by someone with no background in the field. All in all, I felt that the translated documents gave me a sufficient grasp of the issue and I could always ask my informants for comments on the translation or certain concepts (which I indeed did several times), but this was not comparable to my position in Scotland, where I could freely roam through the many available sources, both signed and written.

This all shows that for transnational studies on this topic, working with source materials across languages, modalities and genres (from conversations to legislation) is complex, and important to be aware of.

3.2.2 Limited access to certain hearing informants

While the primary aim of my research was to collect deaf views on the aspirations for sign language recognition legislation and the barriers they confronted in the process, I thought it was important to access the views of policy makers and experts from other language minorities too, and they turned out to be mainly hearing, non-signing people. Since I am deaf, it was not easy to interview such people: a formal interview involved a major organisation with deaf and hearing interpreters needing to be hired. The interpreting hours I am entitled to because I live in Belgium can be used abroad, but this entails a lot of bureaucracy and red

tape, and is not easy to arrange, given the different fees of interpreters in different EU countries. For two interviews with hearing, non-signing experts in Scotland I managed to take a VGT interpreter to Edinburgh for a few days, someone who was capable of interpreting between VGT and English on an academic level (something which is in itself rather exceptional, given the level of training of most VGT interpreters). One interview with a Finnish non-signing informant was done with the assistance of a deaf and hearing interpreter paid for by the University of Jyväskylä, but this also involved a lot of organisation.

In both countries, but especially in Finland, given different circumstances, I would have liked to interview more policy makers (e.g. Members of Parliament) and experts or activists from other language minorities. The interviews with the Scottish MSP and Gaelic expert, for example, turned out to be very valuable in different ways. I consider the low numbers of interviews with these groups to be a weakness of the methodology, and I think it is crucial that deaf researchers, especially those engaged in transnational research, should have easier access to non-signing informants through more flexible interpreting arrangements between countries, especially within the EU.

3.2.3 Elite interviews

Another weakness of the methodology is that all my interviews were expert interviews. On the one hand this had several benefits. The linguistic capital of these experts meant that they had no difficulty in expressing what they wanted to say, and their experience and position meant they had already thought deeply about the issues I was asking them about. On the other hand, there were some disadvantages. Sometimes it was not clear whether their responses reflected official discourse or their personal opinion. The literature about elite interviews (Mangen 1999; Harvey 2011) further warns that this kind of interview is subject to a high risk of cancellation or curtailment, and that the actual time available for the interview might be limited. While it was not always easy to plan the interviews, given the busy schedule of the informants, they all seemed to be interested in the topic, and eager to be involved and to share their views. However, since the costs of data collection were high and the interviews non-repeatable, they had to be good first time round. Another disadvantage was that because of the influential position of the informants, they could also turn out to be gatekeepers to information.

The most relevant weakness of elite interviews is that their representativeness is limited. This might be the case in any instance where the views or aspirations of a certain community are sought, but it is especially relevant in deaf communities, where the great majority of members do not have access to the same linguistic, cultural and social capital as the sort of people who were my informants. The interviews are thus not a reflection of the aspirations of deaf communities but give an account of the views expressed by expert or elite members of these communities, and/or by the organisations they work for.

3.3 Researcher's positionality and researcher effect

3.3.1 Researcher positionality

I came to the research field not as an inexperienced novice but as someone with an activist background: I had done advocacy for the Flemish deaf association for five years, I had been very closely involved in the campaign for the recognition of Flemish Sign Language, and I had attended international deaf political and academic events for many years prior to my research. I thus had quite a good grasp of the issues at stake for (mostly) western deaf communities, I knew some of the barriers they were confronted with when campaigning for legislation, and people knew me as someone interested in those issues. Moreover, I am a deaf researcher, something which is still uncommon in academia (Kusters et al. forthcoming) and this also had an influence on the research process and therefore on its outcomes (see researcher effects).²⁸

An important issue that it was important to be aware of here was that of representation. Indeed, deaf scholars "speak for" deaf communities and yet are part of the privileged elite I have already referred to. This is especially relevant when doing research in communities that include few literate deaf people who can react to research that they do not endorse (see also Kusters et al. forthcoming). Although this was not the case in my research, the fact that not only was I part of an elite myself but so too were most of my informants means that this research represents only one voice, which may not be one shared by deaf people in different positions.

3.3.2 Researcher effects

One consequence of my own activist position, and a researcher effect, was the issue also mentioned by Ladd (2003:423), who found himself "constantly desiring not only to identify the problems and issues around Deaf culture, but wishing to 'solve' them as well", which affected his ability to simply observe. I was confronted with this, too. When informants related their issues and problems with the recognition process, I found myself sometimes wondering how these problems could be approached and what would be a good strategy to overcome them. This was reinforced by informants sometimes asking for my opinion or approach during interviews. For example, they would end their account with questions like "What do you think?", "What would you do?" or "How did you approach this in Flanders?". This meant that the interviews often turned out to be conversations rather than question-and-answer sessions, and it also meant that informants often saw me as a peer, a colleague, rather than a (novice) researcher with no theoretical or practical experience with the issue at hand.

²⁸ For an extended discussion of deaf scholars' relationship with research participants and other issues, see Kusters et al. forthcoming.

I do not think that this asking for my opinion is really deaf-specific; I can imagine it also happening when hearing language policy researchers/activists engage in interviews or conversations with (expert) members of other minorities. However, it might be something that is more likely to happen in deaf-deaf interviews because of the deaf cultural value of egalitarianism, which makes it easier to ask for each other's opinions (Ladd 2003). Conama (2010), who also interviewed deaf experts on language policy issues in Finland and Ireland from his own position as a deaf researcher/activist, accounts a similar experience, saying the deaf interviewees regarded him "as one of their own" (p.127) and were eager to know more about his work. I do not think the fact that the interviews could easily become conversations negatively impacted on the research or the outcomes (quite the opposite, in fact), but it was important to be aware of it. I was always happy to engage in these conversations but at a certain point I also tried to make it clear that this interview was not about what I would do or about my views, and tried to steer the conversation back to the subject at hand. I also sometimes re-engaged with experts on issues they had asked me about during interviews when I met them informally during participant observation.

A related issue was that during the course of my research, I repeatedly got requests from various countries to provide them with assistance on the recognition of their sign language. The way in which this assistance was sought varied, with some countries just e-mailing me, "We heard of you and your work, could you please send us some documents about how we can achieve recognition in our country?" while other countries sent me drafts of bills and asked for detailed feedback or even involvement in meetings. I always tried to answer these requests, time permitting, but I was also very reluctant to give the impression that the recognition of a sign language (or any language for that matter) is a simple issue or that I knew the answer to all the questions. Also in some cases I just did not have enough background information about the judicial and political system of the country, its language policy and its ideologies, nor did I have the time to find this out. Then I simply told the people who asked me for information quite honestly that I could not help them.

In this connection, what I also tried to do was to disseminate information about recognition legislation in more informal language, for use with a broader public. For this I used my own personal blog (<http://bristol.verbeeld.be>), which I generally use to write about deaf-related and activist issues. For example, in May 2014 I wrote about the recognition of Danish Sign Language,²⁹ in March 2015 about the Sign Language Act in Finland,³⁰ and in September 2015 about the British Sign Language (Scotland) Bill,³¹ a post that was also translated into BSL by a Scottish deaf interpreter.^{32 33}

²⁹ <http://bristol.verbeeld.be/2014/05/13/recognition-of-danish-sign-language/>

³⁰ <http://bristol.verbeeld.be/2015/03/12/sign-language-act-approved-in-finland/>

³¹ <http://bristol.verbeeld.be/2015/09/17/british-sign-language-scotland-bill-passed-final-hurdle/>

³² <http://bristol.verbeeld.be/2015/10/15/british-sign-language-scotland-bill-passed-final-hurdle-translation-to-british-sign-language/>

³³ Thanks to Rachel O'Neill for provide funding for this translation.

I considered it very important to do this and the amount of positive feedback I got, mostly from deaf people, showed that it was also much appreciated.

Another researcher effect was that most informants, especially deaf informants, did not explain certain things in-depth because they thought I knew about them already, or had experienced something myself and therefore would understand it or find it self-evident. This has been described by other deaf researchers too, for example Conama (2010) and Sutherland & Rogers (2014). Interestingly, this also happened the other way around. Sometimes I caught myself interrupting informants too soon, mostly realising this only after the interview was finished. I then started to ask questions about a different topic, because, sometimes wrongly, I thought I already knew what they were talking about or where they were going to, or knew why this was important and felt I had to somehow chase new information. I was also influenced by the fact that I knew that my informants were busy people and that the interviews had to end at a given time; sometimes this knowledge made me feel pressed to discuss as many new topics as possible with them within the limited time available. But in some cases, when I was watching the tape again after the interview was over, I realised I did not after all know where the informant's narrative was going, or it would have just been interesting to hear about these supposedly self-evident issues from a different angle, or because in his or her narration an informant could sometimes suddenly make a good, new point on the issue, or state something in a way I had not thought about before. I became aware of this effect during the first interviews and I tried to avoid it happening during the later interviews, and not interrupt informants too soon.

Yet another researcher effect was that when I asked my questions, the informants often became aware of issues they had not been aware of before, started to think about something in more depth or from a different angle, or realised the complexity of it all. This relates to Canagarajah & Stanley's (2015: para. 2-3) statement that "rather than remaining detached in the name of objectivity, LPP researchers can help community members interrogate their viewpoints and interests." Indeed, "the very process of research encourages their participants to reflect on their planning options and formulate new policies" (para. 1). One informant at the end of an interview said, "It's good that you've clarified a few things for me as well, makes me realise what our next steps should be", while another said, "Because you're asking I realise we'll have to think very well about how we are going to formulate and justify such a law".

Sometimes my presence was also used as some kind of leverage, to exert pressure on governments or make them aware they were being monitored. One interview took place two days before my informant had to go to parliament to take part in the bill's negotiations: "The day after tomorrow, we can tell the parliament that this process is being investigated by you. So that they know they are being monitored (laughs)".

Other informants used me as a sounding board to test out certain ideas, or saw the interviews as a kind of practice or preparation for when they would meet government officials. Sometimes the interviews were also seen as an op-

portunity to voice concerns in a way they could not be voiced in an official situation:

Informant X: "This is good practice for tomorrow, a kind of therapy." (*laughs*)

Informant Y: "X is happy with all the questions, he is preparing for tomorrow and is now getting everything off his chest."

Informant X: "Yes, Maartje is my own private counsellor!" (*laughs*)

Maartje: "Sorry for unsettling you!"

Both: "No, it's good! We love it."

This all illustrates some of the points raised in the Methodology section about the ethnography of language policy framework, more specifically researcher positionality as a 'peer' vis-à-vis the issues at stake.

4 FINDINGS

4.1 Overview of findings

This section presents the findings of this study, briefly summarising each article in turn and discussing the questions addressed, the methodological choices, analysis and findings.

4.1.1 Article 1: Tensions between Specificity and Universalism

De Meulder, M. (2015). Sign Language Recognition: Tensions between Specificity and Universalism in International Deaf Discourses. In M. Friedner & A. Kusters (Eds.), *It's a Small World. International Deaf Spaces and Encounters* (pp. 160-172). Gallaudet University Press.

This article is a chapter in an edited volume exploring the sometimes controversial concept of DEAF-SAME (“I am deaf, you are deaf, and so we are the same”) and its influence on deaf spaces locally and globally. It focuses on the role of national and international encounters and the role of political/economic power structures on deaf lives and the creation of deaf worlds, and considers questions about how deaf people negotiate DEAF-SAME and difference.

My starting point for this article was that while sign language recognition is one of the major concepts in international deaf political discourse, its use and meaning have not been given much academic reflection. When the concept is used, it is implied that it means both the international deaf political demand for recognition and the specific national implementation of this universal idea. This is the very tension between universalism and specificity inherent in the topic of sign language recognition.

The article describes the international political timeline for recognition and how it became a topic on SLPs’ political agenda. It also introduces the difference between implicit and explicit recognition which I would continue to use in the following articles. Finally, it makes a first attempt to describe SLPs’ aspira-

tions for sign language recognition and how these aspirations are met by recognition legislation.

The article argues that while the cross-national use and understanding of the concept of sign language recognition brings with it opportunities (inspiring and strengthening deaf communities' collective ethos) it also has limitations that need to be recognised.

4.1.2 Article 2: The Legal Recognition of Sign Languages

De Meulder, M. (2015). The Legal Recognition of Sign Languages. *Sign Language Studies*, 15(4), 498–506.

This article provides an analytical overview of the different types of explicit legal recognition that have been given to sign languages, based on an analysis of current legislation on the subject. Five categories are distinguished: constitutional recognition, recognition by means of general language legislation, recognition by means of a sign language law or act, recognition by means of a sign language law or act including other means of communication, and recognition by legislation on the functioning of the national language council. Examples of each category are given in the article. The article further describes three categories of implicit (legal) recognition: where sign languages have been mentioned only in legislation on disability, equality or education; where recognition has been granted by a declaration or government decision; and the USA and Canada, which have recognition on most of the state levels but not at federal level.

The next section (4.2) discusses how I came to these categorisations, what the challenges were, and practical applications of the categories.

4.1.3 Article 3: The British Sign Language (Scotland) Bill

De Meulder, M. (2015). A Barking Dog That Never Bites?: The British Sign Language (Scotland) Bill. *Sign Language Studies*, 15(4), 446–472.

The third article describes and critically analyses the pathway towards and (legislative) history of the British Sign Language (Scotland) Bill up to its introduction in the Scottish Parliament in October 2014, and the strategies used to achieve it. Data collection was done by means of interviews with key players involved in the process, the analysis of official documents, and participant observation. The article also discusses the bill in relation to the Gaelic Language (Scotland) Act 2005. The article looks at how the bill was proposed and discussed, and presents evidence from the first and second consultations. This led to three main findings:

- (1) The negotiations for the bill were characterised by a representational imbalance and the absence of a well organised deaf grassroots movement. Many of the charities involved in negotiations were charities that presented themselves as working 'for the deaf', having other agendas than the promotion of BSL – principally to continue to raise money for projects for the whole spec-

trum of deafness. The Scottish government nevertheless subsequently identified those charities as representing BSL signers. Indeed, instead of the direct relationship that usually holds between minority language associations and the government, and occurs for example for Gaelic and Welsh, BSL signers in the UK have traditionally been represented by charities for deaf people, which are led mostly by hearing individuals (Ladd 2003). These bodies are linked to the UK's charity system, where the government has transferred major social responsibilities to non-governmental organisations. Even though the public perception of such charities is very positive (they are seen as 'helping the deaf'), the system has been vehemently criticised by the wider disability movement because of its medicalisation of disability, its downplaying of political activity and its removal from visibility of those whom the charity actually serves in favour of its own representatives (Shakespeare 2006). The bill was thus developed within a context where the strongest and best-funded parties were those with an at least ambiguous relationship with and attitude towards BSL, with some of them, like Action on Hearing Loss, holding an even explicit agenda supporting policies which may result in the future eradication of the BSL community altogether.

- (2) Although the bill was modelled on the Gaelic Language (Scotland) Act 2005, it is only a weak copy of this legislation, and much narrower. Just as with the Gaelic Language Act, the bill does not effectively confer legal status on the languages (the phrase "equal respect" in the Gaelic Language Act has no recognised legal meaning), it creates no enforceable rights and has weak enforcement mechanisms, it says nothing about the content of public bodies' language plans, the power of the Gaelic Language Board and BSL National Advisory Group are weak compared to similar offices in Wales and Ireland, and neither law addresses the private sector. Also, both laws are based on an administrative model of language planning, which has its risks; it could be that the bill simply put existing activity on a statutory footing. But while a Gaelic Language Board was set up under the terms of the Gaelic Language Act, no such board was included in the final BSL Act – although a National Advisory Group has been set up by the Scottish Government since adoption of the Act. Also, the BSL Bill, unlike the Gaelic Language Act, does not contain a single reference to culture or cultural rights. In my article I have described it as a "sterile bill" which strips the language of its rich cultural and historical background and merely perceives BSL as a "tool" to access services and BSL signers as "service users".
- (3) The bill contains nothing about a duty to deliver and a right to receive education in BSL, or on the rights of deaf children to acquire BSL from birth. This is crucial, especially since this was one of the initial reasons why the SCoD proposed the bill and is one of the most important international aspirations of deaf communities with regard to sign language recognition (see also Articles 1 and 5). The Gaelic Language Act, although lacking in any legal requirements and obligations in relation to Gaelic education (a very important demand of Gaelic campaigners), at least requires the Gaelic Lan-

guage Board to produce a National Gaelic Education Strategy and authorises it to develop educational guidance. Also, Gaelic education is already fairly well established in Scotland, in contrast to education in BSL. One lesson learned from Gaelic is that an excessive emphasis on provision by public authorities fails to tackle the central problem of the lack of (early) language acquisition or the use of the language in families and the community, and I argued that “the bill would do nothing to stop BSL from sliding into linguistic obsolescence” (p. 465). Here already I touched on the issue of the vitality of sign languages, which would become more prominent in the later articles.

4.1.4 Article 4: The Sign Language Act in Finland

De Meulder, M. (2016). Promotion in times of endangerment: the Sign Language Act in Finland. *Language Policy*. Advance online publication 5 March 2016.

The fourth article used a critical language policy framework, employing principles of the ethnography of language policy, to critically analyse the ambitions and motives, as expressed by the Finnish Association of the Deaf (FAD), for a Sign Language Act in Finland. The Act came into effect on 1 May 2015. It also compared the situation of signers in Finland with that of the Sámi, the other minority group mentioned in the constitution with designated language legislation. The data collection was done by means of expert interviews with senior staff members at the FAD, participant observation at academic and political events in Finland and abroad, and the study and analysis of the official documents which shape language policy in Finland.

The article first analyses the backdrop against which the development of the Sign Language Act took place: it discusses the legal status of Finland’s languages and in particular the legal status of sign language in the Finnish constitution, and the position of Finland as a model country regarding sign language rights. It then moves on to describe the development of a Sign Language Act in Finland, and the five main motives which guided the negotiations between the government and the FAD: (1) to clarify the status of signers as a linguistic and cultural group in Finland, and the status of sign language as a language (emphasising the second category of the dual status); (2) to fill in the missing link between the constitution and special legislation; (3) serious concerns on the part of the FAD about the right of children to acquire sign language as their own language; (4) to improve the delivery of services in sign language, especially those directly in sign language (not via an interpreter) for certain target groups; and (5) concerns about the very precarious situation of FinSSL, which had been classified by UNESCO as “severely endangered”.

The findings suggest that the Act is innovative and internationally unique in various ways. For example, it is the first piece of Finnish legislation explicitly defining sign language as both FinSL and FinSSL. It is internationally unique in that it does not link its provisions to hearing status and legally codifies the idea behind the concept ‘viittomakielinen’. Nevertheless, the Act does not reflect the FAD’s most important concerns: there is no specific provision for the follow-up and supervision of the Act, it does not provide language acquisition rights, and

it fails to address the FAD's request for services directly in sign language for some target groups, implementing the delivery of services through interpretation and translation.

The last part of the article discusses various reasons for the differing legal status of Sámi and signers: their demographic size (but here the explicit language policies of the Finnish government demonstrate an at least ambiguous attitude), their different territorial status and status as a people, and their different ways of acquiring and using language. The article closes with a discussion of the meaning of language rights for signers in Finland in the current climate, where endangerment and the promotion of sign languages go hand in hand.

4.1.5 Article 5: The Recognition of Sign Languages and the Aspirations of Deaf Communities

De Meulder, M. & Murray, J.J. (in press). *Buttering their Bread on Both Sides? The Recognition of Sign Languages and the Aspirations of Deaf communities. Language Problems and Language Planning.*

The fifth article starts from the actual situation, as shown by studies on the outcomes of sign language recognition legislation: that the instrumental rights and social mobility obtained as a result have been limited, and that legislation especially lacks educational linguistic and language acquisition rights. It sets this against the desired outcomes of sign language recognition legislation. Positioning sign languages and SLPs as having dual category status, it addresses two of the potential reasons for the limited outcomes: the deficit frame, and the issue of the political participation of SLPs.

The deficit frame refers to the one-sided treatment of deaf people as disabled, which has influenced the kind of legislation that has been passed (e.g. granting sign languages legal status and SLPs linguistic rights in disability laws) and has led to confusion about the meaning and interpretation of their linguistic rights, legally securing the right of access to certain domains through sign languages, but not securing the right to sign. The deficit frame has also led governments to treat language planning for sign languages differently from that for spoken languages (the article discusses several examples of this) and to misunderstandings, myths and devaluating ideologies about sign languages which are then used to deny them legal status.

As for political participation, this is another issue the article describes as hampering SLPs' efforts to achieve meaningful protection and promotion of sign languages. Usually, recognition legislation encounters a variety of post-legislative problems linked to its implementation. The article highlights one possible exception to this, that is, sign language planning bodies, but argues that even here, challenges arise in the implementation phase, and these bodies face limitations in the scope of their mission vis-à-vis deaf community expectations related to sign language. These have to do with the insufficiency of quota to guarantee participation, language issues, educational attainment gaps, resource constraints, scope of responsibility etc.

The article goes on to argue that sign language recognition legislation should address the concern of sign language vitality. In particular, it contends that the increasing number of hearing people, usually adults, learning a sign language as a second language can be seen in terms of language endangerment, but it also makes a case for the vitality of sign languages.

Importantly, the article argues that while the focus on sign language rights has proven to be the easiest path to follow and achieve, SLPs need and want something that goes beyond the mere recognition of sign languages as languages. There should be a continued emphasis on according the same full range of rights to sign languages and signers as are found for other majority and minority languages and their speakers. This requires policymakers to see beyond a deficit frame, perhaps adopting a dual category frame in order to protect existing access rights. Achieving this in countries where legislation has already been passed will require a shift from the relatively simple recognition legislation to a focus on implementation. For those countries that are still working towards legal recognition the lesson should be that they should hold out for explicit legislation that addresses their concerns about language vitality.

4.1.6 Overview

ARTICLE	STARTING POINT	DATA	METHODS & ANALYSIS	FINDINGS
1) Sign language recognition: tensions between specificity and universalism	Meaning of "sign language recognition" in international deaf discourses. How this foregrounds tensions between specificity and universalism.	Literature study Participant observation	Analysis of difference between explicit and implicit legislation Analysis of meaning of "sign language recognition" in deaf discourses	Deaf communities demand explicit legal recognition. Aspirations for recognition. Strength of international collaboration but limits for comparison.
2) The legal recognition of sign languages	Significant diversity in scope and nature of recognition laws => get analytical grip on this diversity	Countries' recognition laws Personal communication with informants in different countries	Analysis of current sign language recognition laws	5 categories of most common types of explicit legal recognition 3 categories of implicit legal recognition
3) The British Sign Language (Scotland) Bill	Pathway and strategies towards the BSL Bill Comparison with Gaelic Language Act	Interviews with key players Participant observation Desk research	Critical language policy, employing principles of ethnography of language policy	Representative imbalance during process "Sterile" Bill seeing BSL as tool to access public services and BSL signers as "service users"

				Controversial issues postponed Absence of cultural rights Language planning model has risks
4) The Sign Language Act in Finland	Pathway and strategies towards SL Act in Finland Comparison with Sámi situation and analysis of reasons for different situation	Interviews with key players from FAD Participant observation Desk research	Critical language policy, employing principles of ethnography of language policy	Act is innovative Act does not reflect FAD's most important pursuits: sign language acquisition right and right to access services directly in sign language Act is different from Sámi Language Act
5) The recognition of sign languages and the aspirations of deaf communities	Instrumental rights and social mobility obtained as result of legislation are limited => why? Concerns about future vitality of sign languages => role of legislation?	Literature study Participant observation Countries' recognition laws	Analysis of desired outcomes of sign language recognition legislation and why these have not been achieved. Meaning of sign language recognition and other factors for vitality of sign languages.	Reasons for limited outcomes: deficit frame and political participation of SLPs SL recognition legislation should address sign languages' vitality. Increasing number of L2 learners can be seen as endangerment but also as case for vitality

4.2 The legal recognition of sign languages: a clarification

On March 16, 2016, the EUD announced that the Maltese parliament had approved a Bill declaring that Maltese Sign Language is to be considered an official language of Malta.³⁴ It was not clear what this declaration as an official language entailed: recognition as an official *language* (i.e. acknowledging that it is a language) or recognition as an *official* language (i.e. on an equal par with Maltese and English)? On the same day, someone posted on Facebook her congratulations to Malta, and said “only Luxembourg and Italy to go!” (Pabsch 2016), leading to comments from people in the Netherlands and Ireland that their sign languages did not yet have legal recognition either.

³⁴ <http://www.eud.eu/news/maltese-sign-language-recognised-maltese-parliament/>

March 18, 2016 was the 13th anniversary of the British government's recognition of BSL as a language. On Twitter that morning, a tweeter announced some BSL-based celebrations in Bristol, in the southwest of the UK, but added that "we really should stop saying that BSL was 'recognised as an official language'. It wasn't" (Gulliver 2016). Indeed, BSL was not given official, policy or legal status in the UK and it still has not been given this, with the significant exception of Scotland.³⁵ Another tweeter remarked "On this day 13 years ago, the Govt recognised British Sign Language and everyone said "Everything'll be fine now!" -Except it isn't. #BSLDay" (Dodds 2016).

When I started my PhD research in 2011, and still while I am writing this Overview, the recognition of sign languages is a topic that is very actual in international deaf discourse but is also quite confusing (see Article 1). "Sign language recognition" is used as a very vague denominator including many legal and non-legal measures and with a lot of terms used interchangeably: recognition, official status, official recognition, recognition as an official language, legal recognition, with the terms not always reflecting what is actually meant by them. While the meaning of sign language recognition is normatively inspired by internationally oriented aspirations and an international discourse, it has to be achieved, implemented and understood through national legislation. I have discussed this tension between specificity and universalism in Article 1. The risks of confusion and miscommunication are very much present, and made worse by the different languages of the legislative instruments, countries' different political and legal systems, the different ways in which countries deal (or do not deal) with language policy, and the fact that for intentional comparisons and at international gatherings English and often International Sign are used, which means that nuances sometimes get lost in translation.

This complexity is not unique to sign languages. Spolsky (2004), addressing the situation of spoken languages, declares that many countries' language policies are difficult to locate, describe and understand, and that "the chore of deciding whether a country has a policy and what the policy is, is often first tackled by a sociolinguist and published in an academic journal" (p. 14). About 125 of the world's constitutions express some policy about language, and about 100 of them name one or more official or national languages with special privileges of use, with 78 naming a single official or national language. In 32 of these 78 cases, the absolute statement is modified by a clause protecting other minority, national or indigenous languages. In 18 cases, there are two official or national languages named, as for example in Belgium; in half of these cases they are combined with protection for other minority languages, as for example in Finland. The South African constitution even lists eleven languages (including "sign language") (Spolsky 2004).

³⁵ Dr. Verena Krausneker remembers being invited to present at the Annual General Meeting of the British Deaf Association in Bristol in 2008 and the audience being quite disbelieving and even angry when she listed BSL as not recognised by law (personal communication, 24 June 2016).

Then there are countries which do not have a (written) constitution, and several constitutions do not mention language. Harder to locate, Spolsky notes, are policies that are written into Cabinet documents setting out priorities for funding. Auslan, for example, was recognised by the Australian government in policy statements in 1987 and 1991 as a “community language other than English”. Even more difficult are countries where there is a tension between local and federal policies, as is the case in India, for example. The most difficult to locate, describe and understand are countries like the UK and the USA where there is no single explicit document stating any language policy.

Therefore, to begin with I started collecting data in respect of existing sign language recognition legislation in order to refine existing typologies as a basis for further research. This did not prove to be an easy task. First of all, the existing, available information was not always reliable and/or it used different criteria. The WFD provided me with a (not officially published) overview (2013) making a distinction between “sign language recognised in other legislation”, including a range of laws but also parliamentary decisions and government resolutions, “sign language recognised in the Constitution” and “sign language officially recognised by the government”, including, for example, the UK. Haualand & Allen (2009:23) mention 44 countries with “any kind of formal recognition of the country’s sign language(s)”, with the levels of legislation varying from sign language being mentioned in an official guideline to the language having constitutional status. Most countries that responded to the WFD survey referred to educational laws/policies or laws/policies regulating social and/or welfare services when they were describing the ‘recognition’ that had been given to sign languages. In almost every other case, most reports only make a distinction between “constitutional recognition” and recognition “by other legal measures” (e.g. Wessel 2004; Timmermans 2005) or they just say “sign language legislation” (e.g. Reagan 2006; Wheatley & Pabsch 2010, 2012). Also, it was not easy to get information from specific countries. As a rule of thumb, I only included a country when I saw a specific piece of legislation.

Wilcox, Krausneker & Armstrong (2012) were the first to make a somewhat clearer distinction between the different kinds of sign language recognition legislation and its nuances. They refer to 44 countries “that have awarded their national signed language(s) official status as a language” but point out that (1), a significant number of national laws recognise “sign language” without actually mentioning the full name of the language (an inadequacy that becomes apparent when one compares it to the situation with spoken languages, which would never just be legally recognised as a “language”) and (2), that in several countries sign languages have been awarded legal status in laws that were specific disability laws, pointing to how difficult it is for legislators to categorise signers.

The year 2010 saw the publication of the first comprehensive overview of sign language legislation in Europe (Wheatley & Pabsch 2010).³⁶ Wheatley & Pabsch (2010) have a clear approach: they include any piece of legislation that

³⁶ Second edition published in 2012.

explicitly mentions the word(s) sign language:³⁷ constitutions, disability laws, laws recognising the profession of sign language interpreters, educational legislation, broadcasting legislation, and language laws. They avoid a clear definition of recognition, using both *recognition* and *mentioning* in legislation. Pabsch (2015) considers that while this approach allows for a wide range of interpretations as to whether the sign language is recognised or not, a strict legal approach from a language perspective could create a somewhat precarious situation for affirmative action policies such as reasonable accommodation, which are commonly granted from within disability legislation. Using such a strictly legal approach, Pabsch concludes, “a sign language would only be recognised, if the law itself somehow accords the national sign language a status akin to that of the national spoken language or of national minority languages, including all the same deducible rights, such as the right to education in sign language, right to an interpreter in court proceedings, etc.” (2015, Sign language legislation, para. 3).

While appreciating Pabsch’s comments, in this research I have nevertheless chosen to pursue a strictly legal approach: by recognition legislation I mean the according of legal status to a sign language in legislation on language status and/or language rights (see Article 2). Countries that have only (the operative word here is “only”) mentioned their sign language in educational, disability, equality, or other legislation are not included in my definition (while they would be included in Wheatley & Pabsch’s approach). I have also not included countries that have granted recognition by a government declaration or decision, nor the U.S. and Canada, where there is a mention of ASL or LSQ in some state or provincial legislation but no recognition on the federal level (see also Reagan 2011).

There are three reasons for following this strictly legal approach:

1. To bring clarity into the white noise of recognition, which includes a myriad of different laws and approaches;
2. To reflect deaf communities’ aspirations for the recognition of their languages, which are clearly linked to their being primarily linguistic cultural minority groups, not people with disabilities (see Articles 1 and 5); and
3. To reflect that what is at stake here is the legal status of a *language* and its signers, not the recognition of deaf people’s status as people with disabilities (however important that might be), and to attempt to find common ground with the legal situation of spoken minority languages.

Linked to this, I have to say that I do not believe that Pabsch’s (2015) concerns about the precariousness of affirmative action policies as a result of disability legislation following from such a legal approach are fully justified. From a language perspective, these policies and a legal approach can be complementary; indeed, given the dual category status of SLPs it might even be hard to separate the two (see Article 5). I have, in fact, positioned sign languages and SLPs as having dual category status (see Article 5), being seen (and sometimes seeing themselves) as both a linguistic cultural minority and a group of people with disabilities. What

³⁷ The appendix also lists the relevant articles in the original language.

follows from this is the distinction between implicit and explicit recognition (see Articles 2 and 5). Explicit recognition refers to the categories I describe below, and which are included in my strictly legal definition from a language perspective. Implicit recognition refers to legislation that implicitly acknowledges a sign language via other measures, for example, forms of disability access. An example of implicit recognition is the American with Disabilities Act (USA), which provides interpreting services, or implicit recognition laws recognising sign languages within a disability framework, such as those in Mexico, Chile, Lithuania and elsewhere (see Article 2).

To get an analytical grip on this diversity in recognition laws, I offered some sort of categorisation, distinguishing five categories (see Article 2):

1. Constitutional recognition
2. Recognition by means of general language legislation
3. Recognition by means of a sign language law
4. Recognition by means of a sign language law including other means of communication
5. Recognition by means of legislation on the functioning of the national language council

All in all, this means that about 37 countries, most of which are EU member states, fall into one of the five categories. The only EU member states that are as yet in none of the categories are the Netherlands, Ireland, Italy and Luxembourg.

This is not to say that my approach is the only correct one, or that it is not subject to limitations. For example, I have chosen to include Venezuela and Ecuador in my category of constitutional recognition, although they refer to sign language in the disability parts of their constitution. Another example is that I include sign language laws (such as those of Colombia, the Czech Republic, Spain and Poland) which, apart from their national sign language(s), also recognise “other means of communication”. It could be argued that a strict legal approach from a language perspective would mean excluding these countries. Another problem are the countries which have mentioned, or even recognised, their sign language in educational legislation, such as the Netherlands and France, respectively. Because acquisition planning is paramount on the deaf political agenda for sign language recognition, it could be argued that these countries should be included. However, that would mean including a country like the Netherlands, which has given no legal status whatsoever to NGT as a language. It is also not seen in deaf discourses as a country which has recognised its sign language (see the comments on Facebook at the start of this section) and Dutch sociolinguists have stated that the implicit legal recognition “is not sufficient under Dutch law to infer a legal status of NGT itself as a language” (Schermer 2012a:895). For reasons of clarity I have therefore decided not to include those countries. The exclusion of the U.S. is less clear-cut, since formal language recognition measures are rare in the U.S. (Spolsky 2004), which makes it hard for the country ever to be included in any of these categories.

Also, and importantly, this legal approach says nothing about the situation on the ground. The constitutional recognition of Austrian Sign Language, for example, while prestigious, and included in my categories, is purely symbolic, with deaf people lacking any linguistic or other rights they can claim on the basis of this recognition (Wilcox et al. 2012). When I was presenting my research at the World Federation of the Deaf conference in Istanbul in July 2015 (De Meulder & Krausneker 2015), one of the recurring comments from the international audience was that our legal description did not match the real situation, or the audience was anxious to know what this legal situation meant for the everyday situation of deaf people. Could they claim rights? If so, what rights? Did they have access to education? Had they been granted interpreters for access to services? These are questions which cannot be fully answered by merely looking at the legal status of a sign language.

My categories are thus just one way of approaching the legal recognition of sign languages. They have been used as a reference by the WFD (see Figure 1) and the EUD has invited me to talk about how we can harmonise the definition of sign language recognition within the EU member states so that all future presentations and publications will be consistent.³⁸

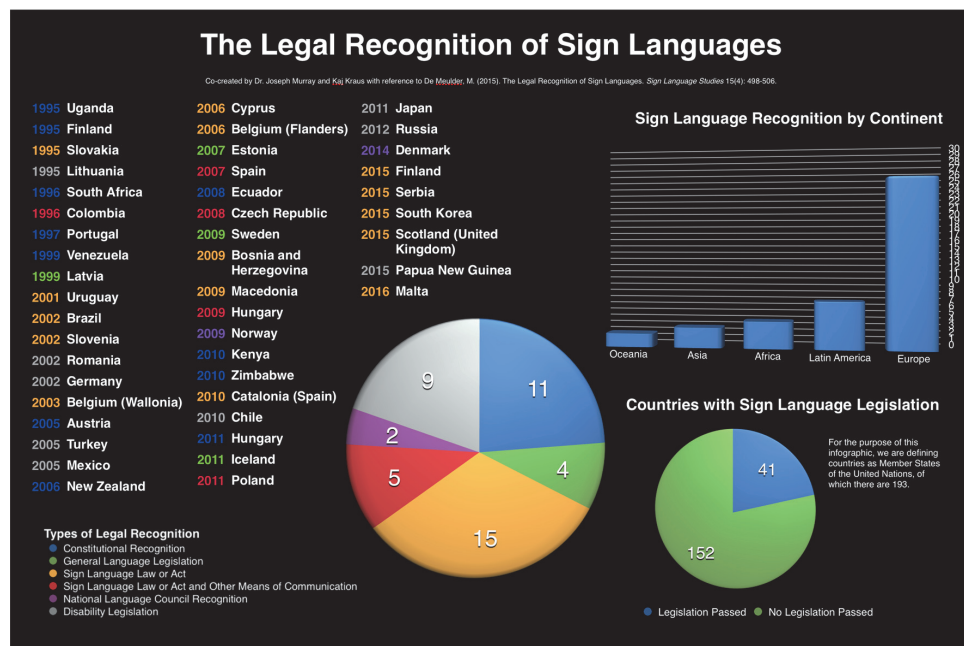


FIGURE 1 The legal recognition of sign languages (WFD 2016)³⁹

Co-created by Dr. Joseph Murray and Kaj Kraus with reference to De Meulder, M. (2015). The legal recognition of sign languages. *Sign Language Studies*, 15(4), 498-506.

³⁸ Personal communication Mark Wheatley, EUD Executive Director, 15 April 2016.

³⁹ At the time of writing this Overview, the infographic had not yet been published by the WFD.

4.3 The lack of basic data

Until now, there has never been a serious and thorough discussion of another barrier towards the legal recognition of sign languages. I have not discussed this barrier in any of my articles, due to space constraints: therefore I will discuss it now in this Overview. The barrier concerns the lack of demographic and socio-linguistic information: basic data about the number of signers and their level of competence in different countries. This issue is not unique to sign languages and is a complex situation for all languages, especially minority languages (Spolsky 2004). This hampers advocacy efforts because while size shouldn't matter when claiming language rights, from policy makers' perspective, claims for those rights and resources often need to be warranted with evidence about the size of 'need' and likely impact. Data from censuses for example guide the development and implementation of public policy, and the lack of statistical information about minority groups is often referred to (and used by) governments when such groups make demands (Skutnabb-Kangas 2010). It is therefore important, but risky, to acknowledge the gap in this kind of data. Important because reliable data can assist language planning efforts for sign languages and make SLPs' discourse more grounded. Risky because admitting that ultimately, no one knows the exact figures (yet), exposes a significant weakness in SLPs' discourse.

On a national level, very few countries have reliable data over many decades on the number of people in their population who are either deaf and/or a signer, and their level of competence. Because different definitions and indicators are used, it is difficult to compare from one point in time to another and from one country to another (Johnston 2006), and the lack of reliable data makes it difficult to discuss sign languages as minority languages or to include them in minority language policies and statistics. They also make numbers prone to being inflated or talked down, depending on the point of view. In the context of census figures in Australia for example, Johnston (2006:149) mentions a belief by deaf communities that their size "has been consistently and substantially underreported", while Mitchell et al. (2006), talking about the U.S. context, mention the tendency for advocates to *overstate* when citing statistics. What is certain is that unreliable data on the number of deaf and hearing signers and their level of competence in each country is a serious disadvantage when lobbying for their legal status. In some countries, for example Belgium and Germany, language censuses are legally forbidden. In other countries where language censuses have been carried out, this has led to different outcomes. There is a documented case from the 2001 Census in Austria, when people could tick-box one or several languages they used, choosing from German, Hungarian, Slovenian, Burgenland-Croatian, Romanian, Croatian, Czech, Serbian, Slovakian or Turkish; there was an empty field in which people could fill in other languages, and one deaf man decided to write 'Österreichische Gebärdensprache' (Austrian Sign Language). It was subsequently crossed out by a civil servant (ÖGLB 2004:42):

6 Umgangssprache: deutsch burgenland-kroatisch romanes tschechisch slowakisch
 (auch mehrere Sprachen) ungarisch slowenisch kroatisch serbisch türkisch
 andere Umgangssprache → ÖSTERREICHISCHE GEBÄRDENSPRACHE

In other cases, the way in which the language question was asked influenced the outcome, and since the figures are self-reported they are not always reliable. The 2011 Scottish Census included the question, “Do you use a language other than English at home?” Respondents were given the option to answer, “No, English only”; “Yes, British Sign Language”; and “Yes, other”. 12,533 respondents reported using BSL at home, in a population of 5 million (Scotland’s Census 2011).⁴⁰ This led to confusing statements ranging from, “there are more than 12,000 BSL signers in Scotland” to “there are 12,533 households in which someone speaks BSL”. For comparison, the Australian Census of Population and Housing (2011) asked a similar question, “Does the person speak a language other than English at home?”, to which respondents could then reply that they used Australian Sign Language. The Australian 2011 Census counted 9,721 people using Auslan at home in a population of 22 million.⁴¹ This is a lower number than the Scottish Census, which of course does not make sense. For the 2011 Census in England, Wales and Northern Ireland, a significantly different question was asked. It asked about the main language spoken at home, while the Scottish Census implied a focus on the main language spoken and any second language used at home (Macpherson 2015).

For Northern Ireland, 339 BSL signers were counted, 53 Irish Sign Language and 85 “other”, which is obviously a severe under reporting. Clearly, when using the question applied in the Scottish Census, the number of BSL signers across the UK is far higher: out of a total UK population of 63,181,775, there would be 145,713 applying the Scottish Census question as opposed to 18,254 applying the question asked in the rest of the UK. In 2013, this led the British Deaf Association to calculate that using the Scottish figure of 13,000 people and extrapolating this across the whole of the UK, there are around 156,000 people using BSL at home in the UK, “the most accurate figure yet achieved” (BDA 2013).⁴² In New Zealand, with a population of about 4.5 million, the 2013 Census asked, “In which language(s) could you have a conversation about a lot of everyday things?”, to which 20,235 people replied they could do this in New Zealand Sign Language (New Zealand Statistics 2013). It is not known how many of these people are deaf.

In Finland, by law, everyone has one registered mother tongue and one “preferred communication language” in the Population Information System.

⁴⁰ It is believed this number might be higher, and that some deaf people might not have completed the Census form since the question was asked in English.

⁴¹ In the 2001 Census, ten years earlier, a total of 5,305 people reported that they used “some form of sign language”. The Australian Association of the Deaf questioned these figures, maintaining that there were more than 16,000 deaf Auslan signers (Johnston 2006).

⁴² <http://old-bda.org.uk/News/127>

Since 2008, it has been possible to fill in either FinSL or FinSSL as one's mother tongue (before 2008, only the two official languages, Finnish and Swedish, were included).⁴³ However, in practice, registering a sign language is not yet very common and the number of people with FinSL or FinSSL as a registered mother tongue was only 48 as of 5 January 2009, out of an estimated population of 3,000 deaf signers and 6,000-9,000 hearing signers (Suomen viittomakielten kielipoliittinen ohjelma 2010; Finnish Government 2013). It is not clear why this number remains so low. It could be attributed, as in many countries, to deaf signers' limited knowledge of their linguistic status and rights. It could also be affected by the fact that people are afraid that they will be offered services of a poorer quality (for example, because it is not possible to find interpreters or professionals who know the language), or even no services at all, as has been reported for Sámi in Finland (Finnish Government 2009).

In the 2011 Census in Ireland, Irish Sign Language (ISL) was not included in the language question (Question 15, relating to the usage of languages spoken at home) but was included elsewhere: not in Migration and Diversity (Profile 6), as might have been expected, but in the Bill of Health (Profile 8). For the 2016 Census, the Irish Deaf Society urged both deaf and hearing signers to write Irish Sign Language (and not ISL or just sign language) in answer to Question 15, "Do you speak a language other than English or Irish at home?"⁴⁴

⁴³ Since the authorities only communicate in Finnish or Swedish, signers have to select one of these languages as their "preferred communication language".

⁴⁴ 'Elaine from IDS explains what to do with Q15-Q17 on this year's census': <https://vimeo.com/162667738>

5 DISCUSSION, IMPLICATIONS AND CONCLUSION

In this final part, I will discuss some of the conclusions that can be drawn from the five different articles and the different sections in this Overview. To conclude, I will make some recommendations for future research.

5.1 The politics of sign language planning

5.1.1 The obstruction/watering-down of sign language recognition processes

This research has made clear that, following Spolsky (2004) and Ricento & Hornberger (1996), sign language and sign language policy exist in highly complex contexts in which a lot of non-language variables are at play, and sign language planning must contend with this.

Also, achieving legal status for sign languages is always the result of negotiations between different parties, who have different kinds of power resulting from differences in social, linguistic, cultural and financial capital. This is complicated by the fact that because of the oppression of SLPs and the resulting language and educational attainment gap, the majority of deaf people do not have full information about or access to the democratic decision-making process and its institutions, which are largely conducted in the majority language. This means that often the planning process for the recognition of sign languages is in the hands of a limited group of deaf people (those with professional proficiency in signed and written languages), hearing professionals working with but also often “for” deaf people, and policy makers with no previous knowledge of sign languages or deaf people (see e.g. Articles 3 and 4). This makes the concepts of top-down and bottom-up language policies relative, since deaf people (although a specific group) are involved in the creating and implementing of the policies at different levels.

This can happen through the involvement of deaf NGO's, such as the FAD in Finland or SCoD in Scotland, but also through deaf people's involvement in language councils or boards. Groups and individuals also play an important role in sign language planning and often exert pressure in one way or another, sometimes to such an extent that they become language planning institutions in themselves. The process of drawing up and passing the BSL Act in Scotland clearly indicated how this can impact on negotiations: the "for" charities did not even see the promotion of BSL as their primary goal (sometimes even quite the opposite) but inserted themselves in the process and actually became important stakeholders in deciding what legal status for BSL would mean. They tried to influence the legislation so that it would include "other communication needs".

These are dynamics caused by the deficit frame and the dual category status of SLPs (see Article 5). They mean that sign language legislation and arguments for sign language rights are subject to a very peculiar kind of discussion and often undergo scrutiny that arguments or legislation for spoken minority languages and language rights do not.⁴⁵ For example, the legal status and protection of spoken minority languages might be resisted by majority language speakers out of fear or distrust about what this might mean for their privileged position. Language rights for these groups have also been seen as detrimental to their civic participation and inclusion, and linked to their on-going 'ghettoisation', which is something they have in common with some of the arguments used against sign language rights (e.g. deaf children learning sign language will confine them to the deaf world, etc.). The recognition of a minority language might also lead to concerns among other minority language speakers in the same country that they will be placed in a zero sum game, with competition for resources.

There is, however, a very specific kind of scrutiny that seems to be unique to sign languages and SLPs, and which is an indication of the political and societal contexts in which they operate. For instance, sometimes sign language recognition is seen as being contrary to measures that try to compensate for or cure hearing loss. In the New Zealand parliament during readings of the NZSL Act, some members declared that government support would be better directed towards more medical and technological interventions that would compensate for what they called the limitations caused by deafness, although in the end this did not lead to a watering-down of the Act (McKee 2011). In other instances, sign language legislation is placed against disability or equality legislation.

The United Kingdom and eastern and southern European countries seem to be in a different position regarding these kinds of watering-down practices than, for example, the central and northern European countries. For the UK, this is largely the result of the country's charity system, because the government has transferred major social responsibilities to non-governmental organisations. Instead of a direct relationship of engagement between minority language asso-

⁴⁵ For an example of how this has played out in the context of the parliamentary scrutiny of the British Sign Language (Scotland) Act 2015, see De Meulder (in press).

ciations and the government, such as occurs for Gaelic and Welsh and often occurs in the northern European countries, SLPs in the UK have traditionally been represented by charities for deaf people, which are led mostly by hearing individuals (Ladd 2003). For the southern European countries, this partly seems to have to do with the presence of parent associations that adhere to an oralist ideology, which disrupts the recognition process. In both southern and eastern European countries, it also seems to be linked to the stronger presence of oralist ideologies than in northern Europe. I will briefly illustrate this with examples.

In March 2003, BSL was said to be officially recognised in the UK, after years of lobbying and political marches. In the end, what it amounted to was that the UK Department of Work and Pensions⁴⁶ simply issued a statement to the effect that BSL was a language in its own right, and allocated £1.5 million to “encourage” BSL (Turner 2003). For the deaf activists who had led the campaigning, this announcement was and still is seen as a hijacking by hearing-led deaf charities; the only so-called needs that were being met were those of hearing service providers (Gulliver 2003; Ladd et al. 2003; Batterbury 2012). Indeed, most of the money was invested in interpreter training (provided by those hearing service providers), while only 10 percent of the funding went to deaf-led organisations (Batterbury 2010), distributed over a handful of minor projects which were never really followed up. In 2013, MP Malcolm Bruce proposed the Communication Support (Deafness) Bill 2013-2014 in the Westminster parliament, the goal of which was to establish a body to assess the provision of communication support for deaf people and to make recommendations. However, it failed to complete its passage through parliament before the end of the session.⁴⁷ The bill was illustrative of how signers’ dual category status can negatively influence sign language recognition legislation, by drawing attention away from linguistic and cultural demands and diverting it to accessibility and communication issues. Colombia, the Czech Republic, Spain,⁴⁸ Poland and Hungary have all passed legislation regulating not only the national sign language(s) but also those “other communication needs” (e.g. lip-reading, hearing aids, subtitling, sign-supported-speech etc.).

In other countries, the political sphere is very sensitive to pressure from groups that defend the medical view of deafness (and sign language). Increasingly and unfortunately, these turn out to be parent associations of the (hearing) parents of deaf children. In several European countries, these parent organisations, which before were one organisation, have split up into a signing and an oral branch, or only have an oral branch left, with more or less financial, social

⁴⁶ The Federation of Deaf People (FDP), the leading organisation behind the recognition campaign and the marches, had always demanded that the statement come from the Home Office. The UK government however, rerouted the submission to the Disability Resource Commission (Gulliver 2003; Ladd 2003).

⁴⁷ <http://services.parliament.uk/bills/2013-14/communicationsupportdeafness.html>

⁴⁸ Interestingly, while the Spanish law adopts an accessibility view, the Catalan law adopts a linguistic and cultural view. At least in part this might have to do with the absence of oralist lobbies during the drafting period, but it also derives from the long tradition of language planning for a minority language in Catalonia (Quer 2012). Catalonia is also, just like Scotland, a region with nationalist aspirations.

and cultural capital. In some countries, these parent organisations do not exert (any) influence on the legislative process for sign language recognition. The Finnish parent organisation for children with a CI, LapCI,⁴⁹ for example, was not involved in the negotiations for a Sign Language Act. In other countries, however, they have been influential. The lobbying of the Italian parent association FIADDA,⁵⁰ supporting a strict oralist approach for deaf children, is one of the main reasons why Italy is one of the few remaining countries in the EU where sign language has not been granted legal status. FIADDA considered the recognition of LIS an "illogical initiative, a backward-looking choice" (Geraci 2012:498) and was the reason why the bill proposed in 2011 incorporated a change in the name of the language from *lingua dei segni italiana* (Italian Sign Language) to *linguaggio o tecnica comunicativa mimico-gestuale* (lit. mimed-gestural language or communication technique).⁵¹ In November 2014 a bill was introduced⁵² that was designed not only to recognise LIS but also to support, protect, and disseminate "all communication tools, aids and methodologies that provide actions for prevention and treatment, integration and autonomy, respecting the choices of individuals and families: new-born screening, early prosthetic fitting, bilingualism, oral method, recognition and promotion of LIS and tactile LIS" (ENS 2014). Article 3 ("Prevention of deafness and means of mitigating, correcting and/ or removing hearing deficiency") promotes "early diagnostic intervention, habilitation and rehabilitation for all children born deaf or becoming deaf, for the purpose of the necessary prosthetic and speech therapy" (my translation). This bill is a blend of medical, disability, and accessibility approaches, in which the specific culturo-linguistic identity and demands of LIS signers are wholly diluted; the campaign for their cultural and linguistic rights has been side-lined by legislation aimed at accessibility and communication issues and even at mitigating their "disability" (see also Article 3). Similarly, in Spain, the law recognising LSE adopts an accessibility view, incorporating recognition for "other communication methods", which has in part been caused by the involvement of the oralist parent organisation FIAPAS (p.c. Josep Quer, 20 September 2012).

5.1.2 The politics of linguistic rights for deaf children

This Overview and the five articles have repeatedly emphasised the importance of linguistic rights for deaf children, more specifically the right to acquire sign language from birth and the right to education in sign language. They have also explored how sign language legislation could address this. Maybe not surprisingly, given the history of SLPs and the contemporary societal and political atmosphere described in the background section of this Overview, these are among the most contested rights and unfortunately still (or again?) the topic of heated de-

⁴⁹ The Finnish word for "child" is *lapsi*.

⁵⁰ Famiglie Italiane Associate per la Difesa dei Diritti degli Audiolesi.

⁵¹ Translation by Quer and de Quadros 2015.

⁵² "Provisions for the removal of barriers of communication, for the recognition of LIS, tactile LIS and for the promotion of social inclusion of the deaf and deaf blind."

bate, in which the slogan that “what it means to be deaf has changed” is often heard. I will again provide a few examples here.

In April 2016 the Alexander Graham Bell Association for the Deaf and Hard of Hearing, a powerful oralist NGO in the USA, responded to an article in the Washington Post highlighting deaf model, Dancing with the Stars contestant and political activist Nyle DiMarco’s promotion of deaf children’s access to American Sign Language and their on-going language deprivation (Sugar 2016). They declared that while they recognised ASL “as a communication option for deaf children”, it was only “one such option and its use is declining”. The majority of families choose a “listening and spoken language outcome” they said, and according to them, DiMarco’s statements “perpetuate the misconception that deaf children cannot listen and speak well”. Repeating the often used slogan that “what it means to be deaf has changed”, they asserted that the number of deaf children “who have a need for ASL has decreased dramatically”. The most damaging error they spread was perhaps that families who want to raise their child in spoken language would achieve their best outcomes through full immersion in the spoken language because, among other things, “the window for a deaf child to acquire listening and spoken language is much shorter than the window in which ASL can be acquired” (all quoted from Sugar 2016). This claim is not supported by any research, and is remarkably similar to one made by another organisation in a different country.

In Flanders, the only official parent organisation for parents of deaf children, VLOK-CI (Vlaamse Ouders van Kinderen met een Cochleaire Implant), recognised by the Flemish government as a representative organisation, is actively *not* requesting sign bilingual education. According to VLOK-CI, their members (mostly hearing parents) are not demanding sign bilingual education because their children know only very little or no VGT (VLOK-CI 2013:2). They see children “who are solely dependent on VGT” as an ever smaller group and see their own children as a new generation with different needs and demands. For them, the acquisition of sign language is something that should take place outside school, in people’s free time, something that needs to be offered by the deaf community themselves and something, they say, that deaf children will go in search of. For them, Dutch remains the one and only language of education.

These ideologies of “what it means to be deaf has changed” and “deaf children don’t need sign language any more” have been institutionalised by well-known academics and institutions and have had a profound impact on language planning efforts. Knoors & Marschark (2012), for example, observe that more deaf children than ever before (and more than either of them had imagined almost 20 years ago) have the opportunity to acquire spoken language due to universal new-born hearing screening and cochlear implantation, but at the same time there are continuing difficulties in offering them rich sign language input in early life. They also say they have “strong inclinations” that deaf children with hearing parents in bilingual settings are less proficient in sign language than they had expected or hoped when they started researching and writing about bilingual education for deaf children, in the early 1990s. This is

why, they argue, we should revise language planning and policy in deaf education, which implies “a reconsideration of the place that sign language holds in the raising and education of deaf children” (p. 1). Indeed, they continue, for the large group of deaf children who receive CIs early (over 90% of deaf children), parents are “not likely” to choose a bilingual upbringing and education, and for them, a bilingual upbringing and education with sign language as the first language seems no longer either realistic or essential. Bilingual education only seems preferable for deaf students in secondary and post-secondary education and for deaf children whose parents wish it because they have not received CIs or because their CIs limit the amount and quality of spoken language the children can acquire.

“Differentiation still is controversial, especially to some who hold the opinion that even in this era, all deaf children should be brought up and educated bilingually from an early age. For us, this does no longer seem realistic, and for an increasingly larger group of deaf children no longer strictly essential” (Knoors & Marschark 2012:11).

For this large group of children, Knoors and Marschark observe rather feebly, they can “imagine” sign language as a “recommended second language”, as a school subject in regular education. This is a weak assurance, because when sign language is not positively stimulated and nobody in their environment is able to use it, deaf children are unlikely to see any benefit in learning it, even as a second language. They go on to say that, given the lack of evidence against the use of sign-supported speech (except for the finding that those who do not use it well do not use it well) they see no pedagogical, linguistic or audiological reason to advise parents against it; they even recommend teaching parents the basic grammar of sign language to make a combination of speech and sign easier. They also say that many deaf students today, both with and without cochlear implants, appear to be quite comfortable using two languages together.

While understandable from a pragmatic and emotional point of view (*some* visual communication is better than none at all), this viewpoint is inexplicable from a linguistic standpoint, and again reduces sign language to a mere tool. It is certainly true that sign language is (too) difficult for many hearing parents to learn well enough for them to act immediately or even in the short-term as fully-fledged language role models for their children. The authors suggest that this may be one reason why children do not get any benefit from bilingual education (although interestingly, they mention that we do not know whether this is the reason or not, or if it is the insufficient signing level of hearing teachers, or even a lack of appropriate language instruction methods). However, in my opinion the authors make this claim before we have explored all possibilities for parents to learn sign language. In many countries, for example, hearing parents need to pay for sign language courses, they do not get paid leave from work to do them, and most courses are not suited to their specific needs as parents. In Finland, many hearing parents attend courses secretly, against the advice of medical professionals (see Article 4).

What is also missing from Knoors & Marschark's account is the role of deaf adults, and alternative ways of offering sign language environments. Knoors and Marschark rely almost exclusively on the role (and the interests?) of parents. Not once do they mention the role deaf adults can play in early intervention services, in the counselling of parents, in day care, in pre-school. They can partly take over parents' responsibilities as language models. For this to happen though, deaf adults need to be involved in every stage of the process, from the very start, and at every level of the system. It also means that hearing parents have to recognise they are not the best language models at this stage in their lives, and be willing to share some of the educational responsibilities with deaf adults. While this may be a leap of faith for some parents, it is certainly less damaging to the children than the slower and more invisible harm done by sticking to spoken language as the first language and the home language, with its demonstrated communication breakdowns, and also less confusing for both parents and children than mixing up two languages.

We also need to look at alternative ways of offering sign language environments. Knoors and Marschark rely heavily on schools, but bilingualism preferably starts before school. We need to look more at how day care, pre-school, camps or weekends for deaf children can act as a rich and early sign language environment. Other language minorities have set up language nests, i.e. immersion programmes (at preschool) where all children and teachers speak only the minority language in order to provide the children with rich language surroundings; examples of these include the *Te Kōhanga Reo* programme (King 2001; Spolsky 2003; May 2005b), the Sámi (Latomaa & Nuolijärvi 2005), or the *Pūnana Leo* programme in Hawaii.

For many of the authors and activists involved in this discourse of "what it means to be deaf has changed", sign language for the majority of deaf children only seems to have value for the auditory perception of speech, for an improved spoken language vocabulary, as a bridge language to use before and just after the child is given the implant, as a support language when there is too much background noise or when, for some reason, the CI temporarily fails to work. In their view, sign language becomes merely a somewhat necessary tool for the acquisition and/or support of spoken language, not a linguistic and cultural asset in itself.

The social media have proved to be a powerful tool with which to resist these developments. The hashtag #whyisign has gained considerable traction over the last few months and has its own Facebook page and website,⁵³ "dedicated to all the families and individuals who have learned ASL to communicate with their deaf family member, or deaf people in the community".⁵⁴ In it, a wide variety of people, mostly but not only from the USA, share, in sign language, why they sign. It is a simple message but it is celebratory and powerful.

⁵³ <http://www.whyisign.com/>

⁵⁴ https://www.facebook.com/Whyisign-515038975329512/info/?tab=page_info

5.2 Mixed rationales for language rights

Another important point of discussion concerns the arguments used to justify linguistic rights, and legislation for the protection and promotion of sign languages. Indeed, with the changing sociolinguistic situation of signers and the politics with which linguistic rights for children are surrounded, these arguments will become increasingly important, and it is useful to evaluate their strength.

5.2.1 The dependency argument

Legislation on the recognition of sign languages often recognises a sign language or the right to use it in certain settings on the basis of a dependency or deficit argument. This depends upon various supporting arguments, used separately or together: (1) the argument that sign language is the only language in which deaf people can express themselves fully; (2) the argument that it is their first language or mother tongue; and (3) the argument that it is the only language that is 100% accessible to deaf people. Skutnabb-Kangas & Aikio-Puoskari (2003), for example, argue that because sign language is the only language deaf people can express themselves fully in, they (even more than other language minorities) can claim language rights.

Throughout the debate on the Scottish BSL Bill, for example, legislation for BSL was justified by members of the Scottish parliament (MSPs) on the grounds that BSL was the only language deaf people have (for more on this see De Meulder *in press*). Mark Griffin, MSP:

“If you feel, as I do, that it is right and proper that BSL, which is the language of a significant proportion of people in Scotland and is the only method of communication that they use, in that they have no opportunity to learn spoken English, should be given priority, we have to put in the resources to match that” (Scottish Parliament 2014:8-9).

It was emphasised that “unlike people who speak other minority languages, many deaf sign language users cannot learn to speak English, as they cannot hear the language” (Scottish Parliament 2015:7). Writing in a period before the passage of the BSL Act, Dunbar (2006) argues that little if any legislative support for other linguistic minorities (than Gaelic speakers) in the UK (e.g. for deaf signers and speakers of community languages) is difficult to justify because in many cases those minorities have an insufficient command of English. “Some, such as the hearing impaired, will by definition be permanently dependent on communicative skills in sign languages” (p. 198).

There are several potential problems with this dependency argument. Firstly, it perceives deaf people as functional monolingual in sign language, a view not borne out by reality. Deaf signers live in and among majority cultures and languages, and use these languages on a daily basis with various degrees of proficiency, from native or near-native to basic. Secondly, it makes deaf people’s claim for language rights dependent on their ability to express themselves

fully (though one wonders if anyone can do that) in other languages, or to acquire them. Once this is the case, their claim for language rights risks becoming redundant. This is a situation already seen in the case of many deaf children (most of them with a CI) who are subject to monolingual ideologies and do not acquire sign language at home or at school (Humphries et al. 2012). Thirdly, it overlooks the fact that for some deaf people, the majority language might be the language they can express themselves more fully in than sign language, which is the case for an increasing number of deaf L2 learners, and that there are deaf people who are bilingual in both languages and able to express themselves fully in both.

5.2.2 Acknowledging signing communities' multilingualism

It is important that the right to sign language acknowledges signers' multilingualism and the different ways in which they use and identify with several different languages in their everyday lives. Indeed, there are a growing number of deaf people, especially the younger generation, with widely differing language proficiencies. They have writing and, less frequently, speaking competence in the majority language(s) and their own and other sign language(s). This is occurring through technological advances (the CI) and improvements in educational outcomes on the one hand (e.g. sign bilingual education in some countries, and access to regular education) and through increased international mobility on the other, with deaf people having more access to English and other sign languages (Multisign project 2011–2016;⁵⁵ Wang et al. 2014). While for this multilingual group the ability to shift languages might increase the sense of agency and options for participating in society, this is only so when there is no language shift. Indeed, language shift seldom happens voluntarily and choices about language use and shift are not truly free choices, but are heavily influenced by socio-cultural and socio-economic inequalities and oppression (Skutnabb-Kangas 2000; Cowell 2016).

People need to have the opportunity and the desire to use, and continue to use, several languages (signed and written/spoken) in different circumstances, as and when they choose. The increasing multilingualism should not make deaf peoples' claims for language rights redundant. It should also not lead to resisting societal pressures to assimilate and conform and shift languages and identities – closer – towards those of the majority. Some people are denied access to sign languages or have only very little language exposure at all; they end up with minimal linguistic competence in the majority language and their sign language, which positions them as what have been called impaired monolinguals or marginal bilinguals (McKee 2008). Another group are deaf children with a CI, subjected to monolingual ideologies, who might never acquire sign language or, if they do, acquire it only later in life. There are also deaf people with varying degrees of fluency in each language. Adopting a view of sign lan-

⁵⁵ http://www.uclan.ac.uk/research/explore/projects/multilingual_behaviours_sign_language_users.php

guages from a language-as-resource approach (Ruiz 1984), it is necessary to guarantee all these groups the right to acquire and use sign language, regardless of and quite apart from their competence in the majority language. Those rights are not guaranteed by existing legislation which, with a few exceptions, either stops at symbolically recognising sign language as a language in its own right or sticks to an instrumental view, recognising sign language as a means to access services (and then mostly through interpreters).

This can all be linked with the claim, made by Laakso et al. (2016: para. 2), that the legal protection of minority languages “is seldom if ever understood as the protection of multilingualism (citizens’ right to know and use both the minority and the majority language) but as protection of a certain language variety, preferably a defined, codified and acknowledged one”. It is not easy to recognise what this multilingualism means in different contexts for different language communities. First of all, while there is a wealth of literature on multilingualism in (spoken) minority language communities (e.g. Blackledge & Creese 2010; Heller 2011; Kelly-Holmes 2013; Pietikäinen 2010), this research is only just starting for sign language communities, as evidenced by e.g. the Multisign project 2011-2016 carried out by the University of Central Lancashire, and research on translanguaging and repertoires across signed and spoken languages (Kusters, Spotti & Swanwick forthcoming). Secondly, there is the ethnolinguistic assumption on which many minority language policies still operate, namely “the idea that there is a simple one-to-one relationship between a normal, monolingual and monocultural subject’s language use and his or her ethnic identity” (Laakso et al. 2016: para. 1). Laakso et al. (2016) argue that the ethnolinguistic assumption is now experiencing a revival in the emancipatory movements of linguistic minorities, with members of these minorities “ignoring their internal diversity, downplaying the essential role of multilingualism in their everyday life and assuming a monolingual constructed ‘ethnolinguistic identity’” (para. 1). This revival might be being exacerbated by the possible gap between linguists questioning the idea of languages as autonomous entities with clear borders, and minorities emphasising the idea of their language as their ‘real’ language, a symbol and carrier of their ethnic identity.

For SLPs this seems to play out in different ways in different circumstances. When the AG Bell Foundation’s letter about Nyle DiMarco got public attention, deaf people, mostly urban, with a higher education, mostly from Europe and the USA, used Twitter and the hashtag #AGBellLies to demonstrate and promote their multilingualism in several signed and spoken languages, to refute AG Bell’s claims that sign language would limit deaf children’s opportunities or the number of languages they could learn.

“Where are your evidence-based arguments, #AGBell? MA in education, skilled @ 8 languages. #AGBellLies” (Toura-Jensen 2016)

“@AGBellAssoc Am deaf from hearing family, Dutch Sign Language is my L1, have 3 university degrees and know 10 languages. Stop #AGBellLies” (De Geus 2016)

“@AGBellAssoc Finnish Sign Language is my first language. I’m also fluent in British Sign Language, Finnish and English. Stop #AGBellLies” (Robertson 2016)

“@AGBellAssoc I am a filmmaker. South African Sign Language as my first language and I know 9 languages. Stop #AGBellLies” (Jordaan 2016)

This was interesting to see because by promoting the role of multilingualism in their everyday lives, these deaf people were going against the assumption of a monolingually constructed ethnolinguistic identity. It seems that for specific strategic aims this multilingualism can be demonstrated and even promoted, while for other – such as the legal recognition of sign languages – the importance of sign language as the ‘real language’ and the carrier of ethnic identity needs to be emphasised and proficiency in other languages is, to a certain extent, downplayed.

5.3 Language rights as access to interpreters?

My research clearly indicates that the meaning of language rights and the right to access services in a certain language, as expressed through sign language recognition legislation, is in most cases, if not all, understood and implemented as the right to use sign language and access services *through a sign language interpreter*. In reality, there is thus no bilingual service delivery; it is merely service delivery in the majority language, mediated through an interpreter.

In the BSL Act, for example, although it is not explicitly stated, the assumption is that access to services will be guaranteed through the provision of interpreters. Very few professionals can communicate directly in BSL and there is no clear progression pathway for professionals who are able to do so (Macpherson 2015). Regarding the situation in Finland, the Ministry of Justice has declared that “there have to be interpreters so that persons using sign language can communicate with the authorities” and argued that the delivery of services can be implemented through interpretation and translation, despite the explicit demand of the FAD for the provision of at least some services directly in sign language (see Article 4).

It is interesting to analyse why this right to access to services is understood and implemented differently for signers than for other language minorities. Looking at the right to services in one’s own language in Finland and Scotland, for Sami and Gaelic people respectively, this means they have the right to services in Sami/Gaelic by personnel competent in Sami/Gaelic. It is neither understood nor implemented as the right to access to services through a Finnish-Sami or English-Gaelic interpreter. Yet for signers, it is. There might be several reasons for this differing interpretation and implementation:

- The dual category status of deaf signers means that their categorisation in public policy as disabled persons is automatically seen as justifying their right to interpreting services or, conversely, that their right to inter-

- preting services is seen as arising from the nature of their disability (a point also made by Wilson et al. 2012). Obasi (2008) claimed that deaf people are the only language minorities who have traditionally been provided with interpreters on the grounds of personal assistance, and the only language groups who use interpreters who are labelled disabled.
- Ironically, at least in the UK (as argued by Wilson et al. 2012) but arguably in most EU countries, the status of sign language interpreting is more secure than that of other public service interpreting. Wilson et al. (2012) mention two reasons for this differing status. Firstly, the number of deaf people remains largely stable and the demand for services correspondingly constant. Secondly, deaf signers' dual category status means that their right to interpreting services is seen as arising from the nature of their disability. I would reverse the argument: signers' categorisation as disabled persons in public policy is seen as justifying their right to interpreting services or leads to the interpretation of this right to access services as the right to an interpreter. For other language minorities, public service interpreting has historically been seen as a temporary measure until they have acquired the majority language and can manage without an interpreter.
 - The dispersed nature of signers which, as claimed by, for example, the Finnish government, would make it difficult to implement such a right in practice. This is different for the Sami or Gaelic people, for instance, who live in more or less territorially concentrated areas. But even for them, there have been implementation problems.
 - The fact that in Europe (as opposed to the situation in, for example, the U.S.) very few professionals can communicate directly in sign language or have enough proficiency to deliver services without an interpreter. There are also few deaf professionals especially in public services like health care, social care, and in the judiciary and administration.
 - The fact that SLPs' advocacy organisations like the WFD and the EUD very much see (the use of) sign language interpreters as a priority of public policy, which is then taken up by governments.

This sole use of interpreters to provide access is problematic for several reasons. First of all, the provision of sign language interpreters is inadequate almost everywhere, both in terms of the quality of the provision and in terms of the number of potential interpreters per deaf person. In most countries, there is a serious shortage of sign language interpreters (De Wit 2012), although the number of interpreters per country varies widely (e.g. 80 registered interpreters in Scotland as against 750 in Finland, for an equal number of deaf people). Also, in many countries, interpreting services in remote areas are under-developed or even non-existent, which is especially problematic in countries with many rural areas, like Finland and Scotland. It is also worth bearing in mind that questions have been raised about the quality of interpreting provision through remote delivery (Wilson 2007). Thirdly, for specific services such as health care services, it is crucial to

be able to have direct communication with the doctor/counsellor instead of through a third person. Internationally, deaf people have reported fear, mistrust and frustration as their main experiences with health care services (Kyle et al. 2004; Steinberg et al. 2006).

During the scrutiny of the BSL Bill, the hope was expressed that the promotion of BSL in public life and the raising of its profile would lead to a resurgence of the language and a general interest in learning it, which would in turn lead to an increase in the number of interpreters graduating (Mark Griffin MSP, stage 3 debate) (see also De Meulder in press). It is remarkable that no sign language legislation makes mention of the desirability or need for hearing people to learn sign language, and that most legislation presupposes, at best, that there will be interpreters or that they have to be made available (a point also made by Reagan 2010)⁵⁶. While the use of interpreters can bridge language gaps and facilitate communication, it does not really promote the use of the language (Tallroth 2012); it merely relies on a norm-and-accommodation approach (Kymlicka & Patten 2003) for people lacking proficiency in the majority language, while neglecting to recognise the distinct cultural and linguistic identity of signers.

This demand of SLPs to access services directly in sign language could be addressed at the level of both policy and practice, rather than through legislation. Policy and practice should take into account the benefits in the long term of, on the one hand, hearing people learning sign language and, on the other, empowering and enabling deaf SLPs themselves to be educated so they can provide services to their fellow citizens. This means first of all that hearing children should get access to sign language as an optional subject in the national curriculum. Currently, Scotland is working towards providing the opportunity for all school age children to learn BSL through the “1+2 languages” programme.⁵⁷ Secondly, urgent attention must be given to the educational opportunities open to deaf people.

5.4 The importance of cultural protection and group rights

5.4.1 Other legal avenues

This research has shown that the issue of sign language recognition is about much more than sign language, although some sectors of society have a vested interest in reducing it to just that. Murray (2015:381) has argued that the focus on linguistic human rights seems to offer “relatively simple legislative solutions

⁵⁶ However, there are some countries (e.g. France, Germany, Sweden) that have sign language curricula (also) for hearing pupils. In September 2016, results of the De-Sign Bilingual project will be made available online, where more info can be found on these curricula: <https://www.univie.ac.at/designbilingual/index.en.php#Projekthalte>

⁵⁷ <http://www.scottishinsight.ac.uk/Programmes/Programmes20152016/TeachingBSLinSchools.aspx>

to complex problems". Indeed, this focus has proven to be the easiest path to follow and the one most likely to lead to achievement, but SLPs need and want something that goes beyond the mere recognition of sign languages as languages. There should be a continued focus on according the same full range of rights to sign languages and signers as are found for other majority and minority languages and their speakers. This requires policy makers to see beyond a deficit frame (see Article 5).

But also, and importantly, the focus on the language, while immensely valuable, has prevented us from seeing the full legal picture. It has even been a trap in situations where sign language is included in or confused with disability legislation, or merely perceived as a tool to access public services and signers are perceived as service users (see Article 3). It is imperative that SLPs explore other legislative and institutional avenues to bring forward meaningful recognition not only of their languages, but also and equally of their distinct cultures and identities, and protect them against harmful interventions. The rights granted to indigenous peoples could serve as an example for the legal framework SLPs seek (see also Kusters et al. 2015). Ironically, without any protection for the cultures of deaf communities, although the language may end up being safeguarded and prioritised, it may simply vanish as the Deaf culture and community that gave birth to it, host it and preserve it, are annihilated in a medical purge.

The UNESCO Convention against Discrimination in Education (1960) provides for the establishment of separate schools for minorities and recognises the right of minorities to carry on their own educational activities. The UNESCO Convention for the Safeguarding of Intangible Cultural Heritage (2003) stresses the importance of intangible cultural heritage as a mainspring of cultural diversity. The Austrian Deaf Federation (ÖGLB), for example, has managed to safeguard Austrian Sign Language as intangible cultural heritage through the Austrian UNESCO branch, although up till now this recognition has remained primarily symbolic. The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) creates conditions for cultures to flourish, and protects and promotes the diversity of cultural expression, and could maybe provide funding for the promotion of Deaf cultural practices. Two of the six definitions of the UN International Convention on the Prevention and Punishment of the Crime of Genocide (1948) fit today's indigenous and minority assimilationist education (Jokinen 2005b). The UN International Covenant on Civil and Political Rights (1966) and the UN Declaration on the Rights of Persons belonging to National or Ethnic or Religious Minorities (1992) grant linguistic and cultural rights to 'persons belonging to minorities'. On the EU level, there are the Framework Convention for the Protection of National Minorities (CoE, 1995) and the European Charter for Regional or Minority Languages (Council of Europe, 1992) although so far no EU member state has ratified the Charter for any sign language. Grin (2003) mentions that the ECRML drafting did not envisage its being applied to sign languages. However, it has been extensively argued that this is due to misunderstandings,

misinformation and false argumentation about the nature of sign languages on the part of member states and the Council of Europe, when the ECRML was drafted and ratified (Krausneker 2003). Batterbury (2012) argues it is (also) due to the formulation (and rigid interpretation) of Article 2.1. of the ECRML, according to which signatories have agreed to apply the ECRML to “all the regional or minority languages *spoken* within its territory” (CoE 1992, Article 2.1.; italics added) - which excludes sign languages. Remarkably, Grin (2003:60-1) also claims that “it is clear that should a contracting state exclude a language on spurious grounds, such as ‘that is not really a language’, it would be in violation of the Charter. The self-perception of the community that uses a particular form of expression would certainly have to be taken into account”.

Kusters et al. (2015) have argued that to date, SLPs’ communities have not yet sought protections of these kinds and that there are indeed many obstacles to overcome: some states have not yet ratified relevant legislation; no instruments (except for the CRPD) explicitly mention sign languages or SLPs and some even explicitly exclude them (e.g. the European Charter); nation states have to agree that legislation is applicable to them; and there is the tendency among policy makers to classify SLPs’ issues only as disability issues. However, SLPs’ communities must also take some responsibility: most of them are not yet clearly profiling themselves as national linguistic minorities; there is a lack of knowledge of relevant legislation within national deaf associations; their efforts, energies and resources are directed to implementing the CRPD; and, above all, they do not explicitly set out to achieve self-determination or a form of it. Most legislation which *is* sought by SLPs is legislation that simply recognises national sign languages, but even this legislation often lacks any enforceable rights and does not feature demands that it be SLP-run.

5.4.2 A Sign Language Peoples’ Convention?

Ladd (2003) has described SLPs as ‘bricolage groups’, having a collective identity that does not quite fit with any of the known categories (ethnic, cultural, sexual orientation, indigenous) yet has elements of all of them. The commonalities between SLPs and people with disabilities, and the differences between them, are clear, and the disability framework has been the major framework within which to make comparisons of the situation of SLPs. Indeed, with the adoption of the CRPD, they are now also officially included in this framework at UN level, although this remains at best contested. The commonalities with language minorities and especially indigenous peoples have been less thoroughly explored. This is not to say that SLPs and indigenous peoples are similar: there are many differences in their historical and contemporary situation, but the (legal) aspirations of indigenous peoples are quite similar to those of SLPs, more so than those of disabled people. It thus makes sense to look at how these aspirations would translate into a legal framework.

One example of such a legal framework that could serve as an example is the ILO Indigenous and Tribal Peoples Convention (1989), the only internationally binding instrument dealing with the rights of indigenous and tribal peoples.

Not surprisingly, perhaps, it has a poor ratification record. It is based on several principles: non-discrimination, special measures to safeguard persons and their institutions, property, labour, cultures and environment (but nothing should be done against their wishes), recognition and protection of their cultural and other specificities, the cornerstone principle of consultation and participation of indigenous peoples in issues that affect them, and the right to decide priorities for development. Article 27 especially states that educational policies must reflect the special needs and incorporate the histories, knowledge, value systems and the further social, economic and cultural aspirations of indigenous peoples, and includes their right to establish their own educational institutions with appropriate resources.

Another is the UN Declaration on the Rights of Indigenous Peoples (2007), the key issues of which are the right to autonomy and self-government (Art. 3); the right to maintain and strengthen their distinct political, economic, social and cultural characteristics while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the state (Art. 4); the right to be protected from cultural genocide (Art. 7); and the right to revitalise, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures (Art. 14). It also includes crucial educational priorities such as the right of indigenous children to all levels and forms of state education in their own language, and the right to establish and control their own educational systems and institutions in a manner appropriate to their cultural methods of teaching and learning (Art. 5). Indigenous children living outside their communities still have the right to be given access to education in their own culture and language (Art. 5), which has remarkable parallels with the situation of deaf children in mainstream hearing schools.

A Sign Language Peoples' Convention would go beyond the mere demand for language recognition/protection/promotion, and would call for cultural recognition and group rights as well. In the light of the medical and genetic intervention policies that are threatening the very existence of SLPs, such a treaty could very well have an influence on the further existence and health of future SLPs' communities.⁵⁸

⁵⁸ During the past 5 years, I have given several lectures and workshops about my on-going research for the Frontrunners, an international deaf youth leadership training programme in Denmark (<http://frontrunners.dk/>). During one of the last lectures, I introduced this idea about a Sign Language Peoples Convention and gave a workshop on it in which participants had to draw up, in small groups, their own draft convention. They have since taken up this project, producing a draft 'Declaration on the Rights of Sign Language Peoples (DRSLP)' (see <https://www.youtube.com/watch?v=fnSkdsdt2c&feature=youtu.be>). Although at its current stage it is no more than an intellectual exercise, its impact on paradigm shifts and young deaf people's way of thinking cannot be underestimated.

5.5 The vitality of sign languages

All the previous arguments together lead to a final concern that has arisen from this research and with which I want to end the discussion part of this Overview. It is a topic that is still quite new and has received little academic attention: the future vitality of sign languages.

5.5.1 Are sign languages endangered?

It is well known that of the estimated 6,900 living languages in the world today, the vast majority are likely to become extinct by the end of the 21st century (Krauss 1992; Crystal 2000). A living language is “a dynamic system of communication, which is transmitted from generation to generation, changing over time as it adapts to meet new communicative needs” (Brittain & MacKenzie 2016:433) and it is considered endangered when it is likely that it will cease to be used in this manner. According to Brittain & MacKenzie (2016), this includes any living language that is viable but small, endangered or nearly extinct, thus not *indisputably viable* (i.e. with no threat to its long-term survival). These statistics do not, however, take into account the more than 6,900 sign languages in the world (Skutnabb-Kangas 2000), although the majority of the world’s sign languages have several features in common with many endangered spoken languages.

Maintenance-threatening factors for sign languages are a complex combination of demographic, political, economic, social and educational factors, such as the elimination of several major causes of deafness; increasingly interrupted patterns of language transmission within families; the demise of deaf schools and the subsequent loss of entry and meeting places; the combined effect of mainstreaming with the normalisation of cochlear implants and monolingual educational practices in the majority language; the development of genetic intervention technologies; the absence of strong legal protections for sign languages and signing communities; and the limited number of domains where using sign language is not only possible but even necessary. However, signing communities score strongly on one maintenance-supporting factor, namely their collective will to maintain their language as an identity symbol (Laakso et al. 2016), exemplified by, for example, the campaigns for the legal recognition of sign languages. The fact that sign languages are the subject of benign neglect in most current discussions on language endangerment only exacerbates their endangered status (Nonaka 2014).

Until quite recently, the endangered status of sign languages was a sensitive topic of discussion, and it still is the subject of some differing opinions. Turner (2004:no page number) mentioned that when, in 1994, he first suggested that we might be on the brink of rapid decline in the use of sign languages,

“eminent sign linguists shook their heads while Deaf people applauded”.⁵⁹ Turner went on to explain that these sign linguists mostly came from the USA, where the early recognition of the linguistic status of sign languages, early disability legislation, and the teaching of ASL to many thousands of hearing students seemed to have protected ASL relatively well, and private healthcare at that time meant that cochlear implants were very expensive, so the rate of implantation was lower than in Europe and Australia.⁶⁰ This all gave the impression that the immediate endangerment of ASL was not an issue.⁶¹ Another often used argument is the claim that the endangerment of sign languages would never be an issue because deaf people, because of their biological difference, have a need to maintain their minority bilingualism throughout their lives and cannot shift languages or adopt (monolingualism in) the majority language. This linguistic bind led to the view that concerns about the future existence of sign languages were not really justified, or at least were not relevant.

Over 10 years ago Krausneker (2003), not yet knowing the full scale of the impact the cochlear implant would have in the years to come, optimistically wrote:

“[...] the common minority threat of *linguicide* (the process of language death or – murder) is not a relevant factor for Sign Languages and their users. Sign Languages are irreplaceable for Deaf people – because spoken languages are not an option – therefore, in contrast to other minority languages, they are not threatened by linguicide. Even if mistreated and ignored and suppressed Sign Languages will continue to exist, to be needed and used. Threats to them just ‘disturb’ and slow down the general development of Deaf communities and their individual members. Even though the measures aiming at assimilation of Deaf individuals at times have been massive [...] it is undeniable that Deaf people will never switch to one of the spoken languages because they cannot do so. But the certainty that Sign Languages are not – as so many other minority languages – threatened by death should not be used as an argument to dismiss them from the list of languages to be protected and fostered.” (Krausneker 2003:8-9)

Such claims were mostly made before the widespread normalisation of cochlear implants in many countries, a development which has changed the scene considerably, as set out in the background section of this Overview. There was also the implicit assumption that, because the general public holds the view that deaf people are disabled, their use of and need for sign language would not be questioned. This, too, has changed, not least because of the stance deaf communities themselves have taken, increasingly emphasising their status as linguistic and cultural minorities. There were also underlying fears about the policy and financial implications of labelling specific sign languages as endangered.

There is still discussion among scholars about whether sign languages can be described as endangered languages at all, and about the application to sign

⁵⁹ When Trevor Johnston made endangerment predictions for Auslan in 2004, his conclusions got the opposite reaction from deaf communities, and some academic commentators – people were threatened by it (Johnston 2006).

⁶⁰ <http://www.theguardian.com/society/2014/aug/12/europe-leads-on-cochlear-implants>

⁶¹ Personal communication Graham Turner, 12 April 2016.

languages of the concepts developed in the field studying endangerment and the revitalisation of languages. Indeed, concepts like (reversing/resisting), language shift, language obsolescence, language death, language maintenance, language (re)vitalisation, and language extinction have primarily been developed for and applied to the situation of spoken languages, just like the strategies resulting from it.

For Hoyer (2013:89), despite the maintenance-threatening factors mentioned above, “it is too radical to declare that a language is endangered only because it is a sign language”; the definitions of vitality and endangerment need to be informed by deaf signers themselves. Schembri (2010) argues that sign languages have always been endangered because of interrupted patterns of transmission and the oppression of sign languages in education.⁶² In the same line, Quer & de Quadros (2015:129) assert that a “sign language is always a minority, threatened language because of historical, cultural and ideological circumstances”. Linked to this, Hoyer (2013) argues that the factor most commonly used to assess vitality and endangerment,⁶³ intergenerational language transmission, is not a central issue for the majority of signers in her research setting, Kosovo. She argues that revitalisation is used in situations where a language is no longer naturally transmitted to the next generation, but that this has never been the case for sign languages. In her view, the fact that the home is the focal point for language transmission is one reason why spoken language endangerment differs from sign language endangerment. This, she continues, affects the focus for the (re)vitalisation process for a sign language, where the main focus is not within the home, and “even if the long-term goal is to promote the linguistic conditions for Deaf children – both within their families and in Deaf education – other steps need to be taken first” (Hoyer 2013:91). The other measure used for assessing vitality and endangerment, concerned with shifts in domains of language use, is not relevant for signers, according to Hoyer (2013), since the risk of language shift into the spoken language of the surrounding community is simply not relevant because of physical limits. Finally, she suggests, sign language “may never have been vital or might never have had a high status in the society, and hence it seems inappropriate to speak about its re-vitalisation” (Hoyer 2013:92).

While I appreciate that Hoyer’s observations might be informed by her research setting – Kosovo⁶⁴ – I believe that contemporary threats are on an entirely different scale and that while sign languages, particularly national sign lan-

⁶² He emphasises, however, that in western countries the demographics of deafness are changing because significantly fewer deaf children are being born. This means that not only are sign languages in western countries endangered, but so too are deaf communities.

⁶³ For example, in the UNESCO’s language endangerment framework (UNESCO Ad Hoc Expert Group on Endangered Languages 2003), in which sign languages are not considered.

⁶⁴ Hoyer (2013) tells us that new generations of deaf children continue to learn Kosovar Sign Language at the latest when they start school, that no foreign sign language threatens the use of Kosovar Sign Language, and that until now cochlear implants for deaf children in Kosovo have been rare.

guages in western countries, are more supported than ever before via legal recognition, they are also more threatened than ever before, even taking into account interrupted patterns of transmission and longstanding oralist educational policies (see Article 5). Indeed, sign languages have increasingly been referred to as endangered languages, likely to become extinct in the near future, before the end of this century. According to a congress resolution adopted by the WFD in 2015, the WFD “recognises sign languages as a part of linguistic diversity, noting with concern that a number of sign languages around the world are faced with endangerment”.

It is interesting that western sign languages are now beginning to be included in the picture, because until very recently, concerns over the endangerment of sign languages were mainly limited to the context of village sign languages (e.g. Zeshan & De Vos 2012) and small territorial sign languages (e.g. Hoyer 2004; see also Article 4 regarding the status of FinSSL), for which the maintenance-supporting and maintenance-endangering factors are different from those for larger, national sign languages. Village sign languages face their own specific threats, such as dispersal of the language community, the lower number of births of deaf children, and changes in marital patterns (Kusters 2015). For small territorial sign languages, the problems are the absence of an influx of new generations of native signers and endangerment by majority (signed and spoken) languages (Hoyer 2004). Recently, concern about the future vitality of sign languages has come to include long established sign languages in mainly western nations, many of which are legally recognised and used by larger communities, like Icelandic Sign Language (Report of the Committee on Icelandic Sign Language, 2015) Danish Sign Language (Niemela 2011), New Zealand Sign Language (McKee & Vale 2014), Australian Sign Language (Johnston 2006) and Sign Language of the Netherlands (EUD 2011). The ‘Cataloguing endangered sign languages’ project has so far catalogued 15 sign languages, and all the national sign languages included in the project are labelled “vulnerable”. The Committee on Iceland Sign Language (2015) labels ÍTM as “severely endangered”. On Bickford’s et al. (2015) adapted EGIDS, McKee & Manning (2015) consider New Zealand Sign Language to be at level 6b, “threatened”: “used for face-to-face communication within all generations but losing users”. There is reason to believe that level 6b can be applied to most western, national sign languages, especially because NZSL is a sign language with a strong legitimisation (an official language) and considerable institutionalisation, which is not the case for most sign languages.

5.5.2 The revitalisation of sign languages

Having established that sign languages, including western sign languages, are indeed endangered, the question is how to act to prevent their becoming extinct. The fact that sign languages are embedded and SLPs live in specific national contexts means that this plays out differently in different parts of the world.

This research has made the case (see Article 5) that sign language recognition legislation should address the vitality of sign languages and that we need

further reflection on the strategies used to ensure this vitality. We need to look at ways in which sign languages can create new generations of users without intergenerational transmission. Romaine (2006:464) refers to King's work from 2001, which makes a distinction between reversing language shift and language revitalisation, "which can be understood as not necessarily attempting to bring the language back to former patterns of familial use, but rather to bring the language forward to new users and uses" (p. 26). This may lead to an increase in the number of users and uses of the language without intergenerational transmission (Romaine 2006). I have argued that one such way could be the growing numbers of hearing (but also deaf) people who learn and use sign language as a second language, although this can be interpreted in two ways, both as a case of language revitalisation and as a case of language endangerment (Article 5). The case for endangerment is that the demographic profile of signers may be dominated by a growing group of L2 learners and an ever diminishing number of L1 signers. Indeed, considering some of the maintenance-threatening factors mentioned above, it is likely that in some countries, among the very youngest age groups, there are more hearing than deaf L1 signers of the national sign language. Likewise, it is probable that in some countries, hearing L2 learners outnumber deaf L1 signers in older age groups. This numerical disparity is also found in some indigenous languages like Sámi and Māori (Sarivaara, Uusiautti, & Määttä 2013; Spolsky 2003), the majority of young speakers of which are L2 learners, so-called "revitalised speakers". There are signs, too, of language change, with deaf and hearing L2 learners who work in professional settings which require sign language (interpreting, deaf education, social services) creating new lexical items in the national sign language and new syntactic structures which may not follow the grammatical rules of that sign language. However, just as with Sámi and Māori, a case can be made that the expanding pool of L2 learners will be able to sustain the existence of sign languages. This would mean a change in usage and variations in sign languages as they become adapted to the needs of different groups of speakers, with probably an increasingly strong influence from the dominant spoken language in each country. Seeing the increasing number of L2 signers as a case of strengthening the vitality of sign languages might be a (very) controversial position for some people; as argued in Article 5, the aim of this is not to see a world where sign languages are used by hearing people only, without any benefit to deaf people. While the popularisation of sign languages can contribute to their vitality, this must, at all times, be paralleled by meaningful language and educational access for deaf children, and attention to the sustainable development of SLPs' communities. Seeing the number of hearing L1 and (hearing and deaf) L2 signers as a case of strengthening sign languages vitality can also be considered too optimistic by some, and rightly so, because experience suggests that only few hearing L1 signers (CODAs⁶⁵) sign with their children, and as such transmit the language to another generation. The pertinent question then is how it is possible to sus-

⁶⁵ Children of Deaf Adults, usually implied to mean hearing children.

tain a 'one generation deep' language without core support for intergenerational transmission.⁶⁶

5.6 Conclusion

The findings listed in this chapter have demonstrated the reality of hybridity vis-à-vis deaf identities, language repertoires (multilingualism), and mixed rationales for language rights. What will remain unresolved is how SLPs in each country will choose to balance the instrumental benefits (resources that reduce everyday language barriers) that seem more readily and widely available through disability policy, as against holding out for rights on the basis of language group membership which promise more fundamental status change and potentially better support for long-term ethnolinguistic vitality.⁶⁷

5.7 Directions for future research

This thesis has implications for various fields of theory, research and practice, and for discussions on the nature of sign language policy and planning, the aspirations of language communities for the recognition of their languages, the meaning of language rights for SLPs, sign language legislation, and the protection, promotion and vitality of sign languages.

Below, I list some directions for future research (in no particular order), which follow from this thesis.

5.7.1 The implementation of sign language recognition legislation in Finland and Scotland

The findings in this thesis regarding Scotland and Finland only refer to the process towards the BSL (Scotland) Act and the Finnish Sign Language Act respectively, and both countries are now entering the implementation phase. In Scotland, a National Advisory Group has been established by the Scottish government, consisting of deaf and deafblind representatives and public bodies. This group will have input into the development of the first National Plan and draft Authority Plans. SCoD has been using social media to inform their deaf members about how the BSL Act can (and cannot) be used. In Finland, challenges for the FAD lie in extending the close rapport with the government to make the Act work, and attempting to exert greater political influence by, for example, establishing a Sign Language Board and by making signers aware of the contents of the Act and their linguistic rights. This becomes all the more relevant in the light

⁶⁶ Thank you to Rachel McKee for this insight.

⁶⁷ Thank you to Rachel McKee for this insight.

of Finland's long-awaited ratification of the CRPD in May 2016. Further research into the implementation phase in each country will be very useful.

5.7.2 A Sign Language Recognition Index?

The second objective of this research was to collect data about existing sign language legislation in order to refine existing typologies as a basis for further research. This leads to at least two clear paths for future research. First of all, the typology developed in this research can be improved and developed further, so as to better reflect the very diverse picture of the recognition of sign languages. Secondly, the typology reflects a purely theoretical approach, classifying each case of recognition according to the kind of legislation involved. The typology does not say anything about the situation on the ground. It has not investigated how this legislation has been implemented, how it changed (or did not change) the daily lives of deaf people in those countries, and how much of this eventual change is the result of this legislation and how much of other, non-legislative factors. Research is thus needed into the link between the legal situation and the actual rights deaf signers can (or cannot) claim. In this respect, it could be useful to develop a worldwide Sign Language Recognition Index, with categories reflecting signing communities' priorities for sign language recognition, and how these are met (or not met) by legislation in each country.

5.7.3 The functioning and politics of sign language boards

The legal protection and promotion of sign languages is increasingly implemented and monitored through the setting up of (statutory) sign language boards, statutory sign language councils or positions earmarked for sign languages within national language councils. These boards and councils allow SLP communities to engage directly with governments on issues that affect sign languages, and to be involved in policy formation to whatever extent such powers are allocated to language bodies in that country. These bodies operate within highly political contexts, they generally consist of both deaf and hearing members with a variety of (educational) backgrounds, and they are confronted with challenges and limitations as set out in Article 5. It would be interesting to explore these in more depth in order to document and, if need be, improve, the successful working of these bodies.

5.7.4 Strengthening the vitality of sign languages

The results of this study can contribute to discussion of the notion of sign language vitality some ideas on how sign language legislation can assist in strengthening this vitality, as well as what is needed apart from legislation to strengthen it. Indeed, given the threats, in the end the real issue for sign languages will not be, or will not primarily be, whether governments recognise them or not, but whether there will be people to use them. Legislation can assist in protecting sign languages but in the long run their fate will not be decided by legal protection, or

by how strong this protection is. Urgent research is needed to explore the factors necessary to secure the maintenance of sign languages. This means not only looking at sign languages themselves (e.g. their documentation, the setting up of corpora, etc.) but also, and primarily, addressing the larger socio-cultural and socio-political contexts in which sign languages and SLPs operate. Indeed, following Spolsky (2004), language maintenance and revitalisation are fundamentally an anthropological, political and economic problem, not a linguistic one, and attempts to address maintenance and revitalisation without addressing their underlying causes will not be successful. It also means helping to generate social (and subsequently economic) capital for sign languages by increasing their use in domains such as education, public services, media, and the internet, as well as encouraging research into signers' language practices, language ideologies and language attitudes and beliefs, which shape the future of sign languages much more than legislation can do.

One of the things that is needed is a systematic investigation of the application of models developed in research on autochthonous language minorities to sign language communities, in order to develop new and alternative frameworks to measure the vitality of sign languages, and enable sign language communities to develop strategies to strengthen the vitality of their sign language(s).

5.7.5 The popularisation, institutionalisation and appropriation of sign languages

Over the past decade there has been a surge in the popularity of sign languages and a rapid increase in interest in learning them (Murray 2015). Approximately 100,000 people are learning ASL at U.S. post-secondary institutions annually (Goldberg et al. 2015), making it the third most commonly taught language at that level. There is thus a growing number of hearing people who are learning and using sign language. Sign languages are also gaining popularity on the cultural, artistic and commercial scene. The Deaf West's ASL/English revival of the musical *Spring Awakening* was a Broadway hit;⁶⁸ deaf artists have risen to prominence;⁶⁹ Burger King's King finally spoke up – in ASL – to celebrate National American Sign Language Day, asking Burger King fans to come up with an official sign for the Whopper sandwich;⁷⁰ and the 2015 and 2016 Euro Vision Song Festivals were viewable in International Sign. Sign languages are also being discovered as a suitable target of research by hearing (mostly non-signing) innovators claiming they can (and need to) solve what they perceive as communication problems between deaf and hearing people by, for example, developing signing

⁶⁸ http://www.nytimes.com/2015/09/28/theater/review-spring-awakening-by-deaf-west-theater-brings-a-new-sensation-to-broadway.html?_r=1

⁶⁹ E.g. Christine Sun Kim:
https://www.ted.com/talks/christine_sun_kim_the_enchanting_music_of_sign_language?language=en

⁷⁰ <http://www.adweek.com/adfreak/burger-kings-king-finally-speaks-signing-american-sign-language-day-170785>

gloves These attempts are not always welcomed by SLPs.⁷¹ Other developments, too, are observed somewhat doubtfully by SLPs, for example the popularity of *Baby Signs*, according to which hearing parents and hearing babies learn signs in order for babies to communicate their needs more efficiently and therefore to reduce stress. Indeed, “no one seems able to scientifically explain why ASL is detrimental to deaf children, but great for the development of hearing babies born to yuppies” (Novic 2016). It has been widely argued, however, that deaf children derive countless benefits from learning sign language (including the development of their spoken language skills), and that an approach that focuses solely on communication in spoken language is at best risky, at worst ultimately very damaging for deaf children’s developmental opportunities (Clark et al. 2014; Humphries et al. 2012, 2014; Mellon et al. 2015).

Sign language communities who have gained some recognition increasingly find themselves in a conundrum: the imperative to promote the use of sign language motivates them to put energy – sometimes linked to opportunity for profit – into the promotion of sign language to hearing people, opening the floodgates to appropriation and alteration of sign languages by non-deaf driven agendas. Moreover, this has caught SLPs in an ironic double bind: while their languages are increasingly being popularised and institutionalized, they find themselves becoming increasingly marginalised and medicalised. “ASL is held up as artistic spectacle, or literally infantilized as the language of babies and primates, but Deaf schools – the cultural centers for the Deaf community – are closed, and native ASL-users are encouraged to seek treatment and abandon sign for spoken language” (Novic 2016).

This tension between promotion of sign language and loss of ownership and authenticity is playing out in many countries, especially where recognition is progressing, and increasingly so as education systems and administrative bodies (e.g. sign language boards) are tasked with ‘action’ that will condone or alter ‘promotion’ priorities.⁷² It would be useful (and necessary) to have research into these developments, i.e., the popularity and appropriation of sign languages, and how this plays out in terms of the institutionalisation of sign languages, and how signing communities respond to this. This means addressing questions of linguistic ownership, linguistic and cultural appropriation, and linguistic prescriptivism and purism.

5.7.6 Multilingualism in signing communities

The study also has implications for the study of multilingualism in the language practices and experiences of signing communities: how this is linked with language rights, and the concern of how to recognise these rights while at the same time avoiding essentialising the sign languages and the signers to which these rights might apply (see also Patrick & Freeland 2004 and May 2005a). This goes

⁷¹ See here for a great take on this: <http://www.theestablishment.co/2016/05/11/deaf-people-dont-need-new-communication-tools-everyone-else-does/>

⁷² Thank you to Rachel McKee for this insight.

back to the claim I made earlier, that it is necessary to recognise signers' rights to a specific sign language while at the same time not essentialising them and acknowledging that they use other (signed and spoken) languages, too; also, that their claim for language rights does not need to become dependent on their ability to master other languages.

It also means examining language change not only in terms of language shift, endangerment and loss, but also through the lens of multilingualism, engaging with and studying practices of translanguaging and (multimodal) language repertoires (e.g. Blackledge & Creese 2010). This, and "an accurate take on what is meant by 'a language' allows us to graduate from the goal of 'language maintenance', with its constant risk of turning minoritized languages into museum pieces, to that of sustainable practices by bilingual speakers that thrive in spatial and functional interrelation with the sustaining linguistic practices of other speakers" (Otheguy, García & Reid 2015).

5.7.7 The importance of basic data

This study has further highlighted that the absence of basic reliable data – for example, the number of deaf and hearing signers in any given country and their level of competence – makes it difficult to discuss sign languages as minority languages and include them in minority language policies and statistics, and general language planning efforts. It is of the utmost importance to have this kind of data available, and more research efforts should be directed towards this aim.

5.8 Summary

Following Johnson (2013a, b), and reflected in the title of this thesis, this thesis has called for a critical understanding not only of language policy as a mechanism of power, but also of the power of language policy and the agency of language policy actors. It has aimed to reach an ethnographic understanding of how language policy actors, in this case sign language communities, create, interpret and appropriate language policies.

In doing so, this thesis has aimed to develop a new strand of critical scholarship around the status of sign languages and signers in general, and to advance debate in the area of sign language policy and planning in particular.

This thesis has explored SLPs' aspirations for the recognition of their sign languages, and how these are translated to specific national contexts, with focus on Scotland and Finland. SLPs' campaigns for the recognition of sign languages seek a differentiated citizenship – a form of group representation rights that will accommodate their particular group's needs and practices. SLPs do not resist inclusion in society, but because hearing-led efforts at what they have called inclusion have historically tended towards assimilation and the loss of SLPs' identities, they aim to achieve this participation without such a loss – an aim

they have in common with other disadvantaged cultural-linguistic minorities. The key issue at stake is that with these campaigns and legislative outcomes, SLPs seek to be able to retain a significant degree of cultural and linguistic self-determination.

This involves three developmental stages: firstly, achieving legal recognition that sign languages are indeed *languages*, which have identity value for signing communities; secondly, achieving legislation which gives instrumental value to sign languages; and thirdly, establishing or protecting educational linguistic and language acquisition rights in the home and education.⁷³

This thesis has identified five categories of recognition legislation, and demonstrates that most legislation achieves only the first stage, above, with some few cases achieving aspects of the second stage. The third stage is as yet very rarely achieved, which is especially problematic given the pressures facing Sign Language Peoples' communities, which come from a complex combination of demographic, political, economic, social and educational factors.

The thesis has further identified both common ground with other linguistic and cultural minorities, and a significant difference: that Sign Language Peoples are also perceived and administered as people with disabilities. As such, they manifest dual category membership. While this should not in theory be problematic, in fact the policies which govern their lives traditionally frame them within only one category – as people with disabilities. This framing has had a negative impact on the recognition of sign languages and signing communities, leading to confusion about the meaning and interpretation of linguistic rights. It has also led governments to treat language planning for sign languages differently from that of spoken languages and to misunderstandings, myths and devaluing ideologies which have then (consciously or unconsciously) been used to deny them legal status. This framing is therefore one of the reasons for the limited outcomes of recognition legislation. The difficulties are further exacerbated by issues surrounding the limited participation of Sign Language Peoples in the political process, which impacts both on the kind of legislation that is achieved, and on the implementation process itself.

The thesis has analysed the highly politicised nature of sign language planning and how this has resulted in the watering down of some recognition processes, especially in relation to discourses around the linguistic rights of deaf children. It has also critically evaluated the arguments and justifications on which language rights for deaf signers are being based. Indeed, the evidence suggests that sign language legislation and the arguments for sign language rights are subject to a very particular set of discourses, which expose them to a degree of scrutiny not experienced by discourses for spoken minority language rights and legislation, which again points to the political and societal contexts in which sign languages and deaf signers operate. Comparison of these discourses

⁷³ The wider context around the establishment and protection of educational and language acquisition rights would be an examination of the ideological and economic drivers of (special) education policy and family language policy but this is beyond the scope of this study and relatively more documented in existing literature e.g. Hult & Compton 2012 and Siegel 2008.

has led me to argue in this thesis that it is essential that the protection and promotion of sign languages includes recognition of the multilingual practices of signing communities.

The thesis has explained the importance of cultural protections and group rights for Sign Language Peoples, and highlighted the need for them to explore other legal and institutional avenues to achieve protection and promotion, not only of their languages but also of their distinct cultural traditions and practices. Without these cultural protections and this promotion, even if sign languages do achieve theoretical protection, they may stop being used by the communities that have originally hosted them.

This has led to the final element of the thesis, which addresses the vitality of sign languages, and explores what factors other than legislation are needed to strengthen this vitality. It concluded that recognition legislation should specifically address the issue of vitality and the factors and strategies needed to ensure it, including ways in which sign languages can create new generations of users without relying solely on intergenerational transmission. In this respect, the increasing number of (mostly) hearing but also deaf learners of sign language as a second language was identified as an issue which not only leads to vitality but also contains a degree of endangerment.

YHTEENVETO (FINNISH SUMMARY)

Tässä väitöskirjassa tutkitaan viittomakielisten pyrkimyksiä viittomakielten lainsäädännölliseen tunnustamiseen keskittyen erityisesti Suomeen ja Skotlantiin. Se nostaa esiin ajankohtaisen tarpeen vahvistaa (käytännössä) ja tutkia tarkoin (teoreettisesti) saavutettujen lakien toimeenpanoa sekä arvioida niitä vaarantamishaasteita ja elinvoimaisuuden ylläpitämistä vasten.

Tämän tutkimuksen teoreettinen viitekehys painottuu kielipolitiikkaan ja -suunnitteluun sekä poliittiseen teoriaan. Tutkimusmetodologia hyödyntää kielipolitiikan etnografian periaatteita ja käyttää kahta perinteistä laadullista tutkimusmenetelmää, haastatteluja ja osallistuvaa havainnointia sekä olemassa olevan tutkimuksen ja dokumenttiaineiston analysointia.

Viittomakielisten kampanjointi viittomakielten tunnustamisen puolesta pyrkii eriytyneeseen kansalaisuuteen (ryhmäedustusoikeuksien muoto), joka voi mukautua niiden yhteisöjen erityistarpeita ja -käytäntöjä vastaavaksi. Tämä tutkimus tunnistaa viisi lainsäädännöllisen tunnustuksen kategoriaa ja osoittaa, että suurin osa lainsäädännöstä jää symboliseksi: kun jokin lainsäädäntö suo välineellisiä oikeuksia viittomakielille, niin lainsäädäntö, joka vakiinnuttaa ja suojelee koulutuksen kielellisiä oikeuksia ja oikeutta oppia viittomakieltä, jäävät niukoiksi. Tämä on erityisen ongelmallista, kun otetaan huomioon demografisten, poliittisten, taloudellisten, sosiaalisten ja koulutuksellisten paineiden monimutkainen yhdistelmä, jonka viittomakielisten yhteisöt joutuvat kohtaamaan.

Tämä tutkimus tunnistaa myös sekä yhteisen pohjan muiden kielellisten ja kulttuuristen vähemmistöjen kanssa että yhden merkittävän eron, sen että viittomakieliset nähdään ja heitä hallinnoidaan myös vammaisina henkilöinä. Tästä johtuen he ilmentävät kahden kategorian jäsenyyttä. Vaikka tämän ei pitäisi teoriassa olla ongelmallista, todellisuudessa toimintatavat, jotka vaikuttavat ratkaisevasti heidän elämäänsä, rajaavat heidät perinteisesti vain yhteen kategoriaan - vammaisiksi henkilöiksi. Tutkimus osoittaa, miten tämä rajaus on vaikuttanut negatiivisesti viittomakielten ja viittomakielisten yhteisöjen tunnustamiseen. Väitöskirja tarkastelee viittomakielisuunnittelun vahvasti poliittista luonnetta erityisesti koskien diskursseja kuurojen lasten kielellisistä oikeuksista. Se myös arvioi kriittisesti sekavia perusteita viittomakielen oikeuksille ja oikeuttamisperusteille, joihin nämä oikeudet perustuvat. Todisteet viittaavat siihen, että viittomakielilainsäädäntö ja argumentit, joita käytetään kielellisten oikeuksien puolesta, joutuvat hyvin erityisten keskustelujen alaiseksi. Se alistaa ne sellaisen tarkastelun alle, jollaista ei ole koettu diskursseissa puhuttujen vähemmistökielten oikeuksiin ja lainsäädäntöön liittyen. Näiden diskurssien vertailu johtaa tämän väitöskirjan tekijän argumentoimaan, että on välttämätöntä, että viittomakielten suojelun ja edistämisen pitää sisältää viittomakielisten yhteisöjen monikielisten käytäntöjen tunnustamisen sekä heidän ryhmäoikeutensa. Johtopäätöksinä on, että lainsäädännöllisen tunnustamisen pitäisi erityisesti keskittyä kysymykseen elinvoimaisuudesta sekä niihin tekijöihin ja strategioihin, joita tarvitaan elinvoimaisuuden varmistamiseksi. Niihin sisältyvät keinot,

joilla viittomakielet voivat luoda uusia käyttäjäskupolvia ilman että ne ovat pelkästään sukupolvien välisen siirtämisen varassa.

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ORIGINAL PAPERS

I

SIGN LANGUAGE RECOGNITION: TENSIONS BETWEEN SPECIFICITY AND UNIVERSALISM IN INTERNATIONAL DEAF DISCOURSES

by

Maartje De Meulder, 2015

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14 | Sign Language Recognition: Tensions between Specificity and Universalism in International Deaf Discourses

Maartje De Meulder

When deaf people from different countries discuss their national sign language(s) being “recognized,” they often assume they have a shared image in their minds of how they can understand the concept, what it could or should entail, and why it is important. This international discourse is linked to a specific sign in International Sign (IS) for RECOGNITION. Similarly, when the World Federation of the Deaf (WFD) urges their members to have their national sign languages “recognized,” a cross-national understanding among their members of what this means is implied, although the practical implementation of this will need to be achieved through national legislation.

Also, the UN Convention on the Rights of Persons with Disabilities (UNCRPD) urges ratifying states to “recognize and promote” the use of sign languages (Article 21e) and “recognize and support” the specific cultural and linguistic identity of deaf people, including sign languages and deaf culture (Article 30.4) (my emphasis). The inclusion of the concept of *recognition* in an international convention such as the UNCRPD again points to the cross-national use of the concept, although its interpretation and implementation is left to the discretion of ratifying states, and again determined by national contexts.

Sign language recognition is one of the major concepts used in international deaf political discourse. However, to date the meaning of the concept has not warranted much critical academic reflection. When it is used, by deaf political organizations and individual deaf people alike, it is implied to mean both the international deaf political demand for recognition (and the internationally oriented aspirations behind this demand) as well as the specific national implementations of this universal idea. This is the very tension between universalism and specificity inherent in the topic of sign language recognition.

To illustrate this, I first use the example of Danish Sign Language, which was recognized on May 13, 2014, while writing this chapter.¹ In this specific case, the recognition meant that a law amendment was passed stipulating that a Danish Sign Language Council would be established as part of the Danish Language Council.² This effectively meant that Danish Sign Language received status as a language in Denmark, on an equal par with Danish.

On the Internet, the pride, relief, and hope of Danish deaf people were tangible that day. The past few years Denmark has lost much of its former appeal among deaf people. It became associated with cochlear implants (ninety-nine percent of deaf children receive one), closure of deaf schools, shrinking numbers of deaf teachers, and auditory-verbal therapy (e.g., Niemelä 2011). Denmark became an illustration of how things can change for the worse. Recognition of Danish Sign Language seemed a far-fetched dream. There were also legal challenges. Because Denmark does not have any language legislation or any statutory documents stating official language policy for any language, including Danish, it was hard for the Danish Deaf Association to find a way to legally recognize Danish Sign Language. Its eventual recognition, although not granting any substantial rights to the language nor its users, was thus an important—although mainly symbolic—step for Denmark.

During the final voting of the law proposal in parliament, which was live streamed, one could see the members of parliament looking up at the public gallery with wonderment. They had not seen this before: a gallery full of people applauding with waving hands, hugging, and congratulating each other. The achievement immediately became part of Danish collective deaf consciousness and history. In the evening, the president of the Danish Deaf Association gave a speech in Copenhagen, which was again live streamed and broadcasted in all the major deaf clubs, where deaf people had gathered to celebrate. The recognition also gained international attention, the news was shared on Facebook and Twitter, and deaf people from other countries congratulated Denmark. People from the Netherlands and Canada hoped those countries would be next, while deaf people in the United States stated that Denmark was doing much better than they were regarding recognition and respect for sign language.

In this chapter I introduce the difference between implicit and explicit recognition, sketch when and how explicit legal recognition became a topic on the deaf political agenda, and explore what the concept means in international deaf discourses and how this foregrounds tensions between universalism and specificity in international deaf discourses. I also ask what opportunities and threats are inherent in formulating recognition of sign languages as a transnational concept.

RESEARCH METHODOLOGY AND POSITIONING THE RESEARCHER

My research explores the questions of what it does and could mean to legally recognize Sign Language Peoples' (SLPs) languages, cultures, and identities

¹<http://deaf.dk/breaking-news-uk-version>

²Language councils are scientific institutions that set out guidelines and give advice on the use of a specific language or languages.

and explores SLPs' aspirations for this recognition and the main barriers encountered when trying to achieve it.

The concept of SLP and the ideas, which it embodies, are beginning to gain acceptance following its emergence in Deaf Studies literature (Batterbury, Ladd, and Gulliver 2007). The concept represents the notion that sign-language-using deaf people are collectivities and need to be recognized as culturo-linguistic minorities requiring legal protection akin to what is granted to other linguistic and cultural minorities. This chapter focuses specifically on sign language recognition and on the rights that deaf people, as sign-language-using collectivities, want to achieve. Therefore, I will use "SLPs" or "SLP" in the remainder of this chapter instead of "deaf people," unless in some cases where the use of SLPs is not appropriate. The SLPs concept also foregrounds relevant similarities between SLPs' aspirations and those of other language and cultural groups, for example, indigenous people. The concept further highlights some differences between SLPs and persons with disabilities (De Meulder 2014) and between SLPs and deaf people who do not use sign language. These differences can be relevant when developing legislation specifically aimed at SLPs, of which sign language recognition legislation is an example.

Prior to my research, I worked as an advocate for the Flemish deaf association for five years and was also very closely involved with the recognition of Flemish Sign Language (VGT). This position, combined with a broad international network and my knowledge of International Sign (IS) and active/passive knowledge of other sign languages, enabled me to witness, participate in, and reflect on the international SLP discourse on sign language recognition.

My research is global in scope because information about legislation and sign language recognition is collected from as many countries as possible, but it specifically focuses on the development of sign language legislation in Finland and Scotland. In March 2015 the Finnish Parliament approved the Sign Language Act and in May 2015, the Scottish Parliament is still discussing the British Sign Language (Scotland) Bill (De Meulder 2015a). I collect data through semi-structured interviews with people involved in the recognition processes (academics, activists, politicians); participant observation; informal conversations at SLPs' (political) conferences, meetings, marches, political activities, and social media; and analysis of official documents, which shape language policy on a macro level (government memoranda, policy statements, and recognition legislation itself).

IMPLICIT AND EXPLICIT RECOGNITION

On the international political timeline as used by the WFD and the European Union of the Deaf (EUD) and in international SLP discourse, Finland is often mentioned as the first country in the world to "officially recognize" its sign language (in this case in its constitution, in 1995). Uganda constitutionally recognized its sign language in the same year but generally receives less attention. Further in 1995, Slovakia passed the "Law on the Sign Language of the Deaf" and Lithuania passed an act proclaiming 1996 as the Year of the Disabled, which led to the

recognition of sign language as the official language of deaf people (Timmermans 2005; Reagan 2010).³

It is interesting that the timeline's "year zero" is 1995. Indeed, some countries mentioned sign language in legislation prior to then. The Swedish government, for example, passed a parliamentary bill on the national budget in 1981. The appendix to this bill mentions that resources will be allocated to make "sign language" a language of instruction (Bagga-Gupta 2010). This indirectly meant that Swedish Sign Language was recognized as a language of instruction and as the first language of deaf people, although it received no legal protection (Hedberg 2014). Another example is the Danish Education Act (1991), which considers Danish Sign Language as the primary language of deaf children and the recommended primary language for their instruction (Timmermans 2005). Before the Danish deaf community celebrated the recognition of Danish Sign Language in May 2014, it thus already was implicitly mentioned in legislation. Similarly, the United Kingdom has several acts referring to sign language or sign language interpreters in general as well as British Sign Language (BSL) in particular (Wheatley and Pabsch 2012): for example, the Police and Criminal Evidence Act (PACE 1984), the Broadcasting Act 1996, the Mental Capacity Act 2005 and the Disability Discrimination Act (DDA 1995 and 2005) all mention BSL. However, BSL as a language in itself or the BSL community as a culturo-linguistic minority are not yet legally recognized (BDA 2014).

This kind of recognition is called "implicit recognition" here, although "indirect recognition" is used too by e.g. Murray (2015). This legislation directly or indirectly refers to sign language or signers: for example it entitles deaf people to the use of interpreting services, accepts the use of sign language in certain judicial situations, or enables its use in the education of deaf children. It can also imply that the law or policy does not directly mention sign language but nevertheless implicitly includes it, such as in judicial situations where it is often stated that the proceedings must be conducted in a language that the acquitted understands. But it does not *explicitly* state that sign language is a language and/or the language of a specific culturo-linguistic community.

The line between implicit and explicit recognition is often blurred and the exact difference between the two is not the main focus of this chapter, nor is it especially relevant. What is important to understand, however, is that SLPs seem to demand *explicit* legal recognition, often in relation to already existing implicit recognition, where the explicit recognition can make implicit recognition work, make it stronger or supplement it. The Danish Education Act (1991) for example, has not been able to avoid that most deaf schools in Denmark closed and most deaf children in Denmark do not receive an education in sign language. The new "recognition law" passed in May 2014 will not avoid this either but is seen by the Danish SLP community as a first step towards a possible reversing of this situation by legally providing that Danish Sign Language is a language and should be recognized as such. The Finnish Deaf Association claimed that the 1995 constitutional recognition

³ In 1991, Lithuania passed the Law on Social Integration of the Disabled, which stated that "sign language is the native language of the deaf" (Timmermans 2005; Reagan 2010; Wheatley and Pabsch 2012).

has not guaranteed linguistic rights into practice, i.e., has not made already existing specific legislation (implicit recognition) work, which is why they successfully campaigned for language legislation (the Sign Language Act mentioned earlier in this chapter) to fill in the missing link between the constitution and special legislation (Suomen viittomakielten kielipoliittinen ohjelma 2010).

EXPLICIT LEGAL RECOGNITION BECOMING A TOPIC ON SLPs' POLITICAL AGENDA

As for any culturo-linguistic minority, the societal position of SLPs has always been intrinsically linked to the societal and legal position of their languages and cultures. SLP communities have thus always strived for a better positioning of their languages, especially from the end of the nineteenth century throughout the first part of the twentieth century onwards, when the educational discourse of "oralism" downplayed sign languages to the level of primitive and backward communication systems (Ladd 2003). It was only in the 1960s and 1970s that sign languages received academic linguistic recognition when modern scientific research (Tervoort 1953; Stokoe 1960) showed that sign languages possessed all the characteristics of languages. These research findings were initially received with mockery and disbelief, both by fellow hearing academics and by SLPs themselves, who had internalized the oralist view of their languages. With time came a shift of consciousness in SLP communities, the acceptance and understanding of the status of their languages, in many cases also the naming of their languages, and with it the desire to secure this status in law. This desire coincided with the growing external and internal identification of SLPs as culturo-linguistic minorities.

It is not exactly clear who put the topic of "sign language recognition" (meaning: explicit legal recognition) on the international "SLP political agenda." Nordic representatives claim the idea is a "Nordic invention." Indeed, many traces and personal influences point back to the Nordic countries and Finland was the first European country to constitutionally recognize its sign language.

The WFD first used the concept of recognition in a resolution passed by the World Congress held in Helsinki in 1987 (WFD 1993). Yerker Andersson from Sweden (but living in the United States since 1955) had been the WFD's president for four years at that time, while Liisa Kauppinen from Finland had been the vice president (in 1987 she became the WFD's general secretary). Andersson initiated a major shift in policy goals, from accessibility issues to recognition of sign languages⁴ and during his term as WFD president (1983–1995) one of the strategic goals of the WFD was working with UNESCO to recognize sign languages as the legitimate languages of deaf people.

Other traces point to the United Kingdom. The British Deaf Association (BDA) Manifesto asked the British government as early as 1982 "to recognize BSL, to reflect this in its legislation, and to acknowledge that the British deaf community is

⁴Personal communication, John Bosco Conama, August 27, 2013.

a linguistic minority of British people.” In 1985, the BDA initiated the establishment of the European Community Regional Secretariat (ECRS, now called European Union of the Deaf, EUD). Its first president was John Young from the United Kingdom and he remained in this position until 1990 when Knud Søndergaard from Denmark took over.

The European campaign for the recognition of sign languages originated in the ECRS meetings, which led to the adoption of the first European Parliament resolution on sign languages in 1988, reiterated in 1998 (Krausneker 2000). Article 2 of the 1988 resolution calls on the European Commission “to make a proposal to the Council concerning official recognition of the sign language used by deaf people in each Member State.” In 1989, the concept of recognition was also used in the Statement on the Recognition of National Sign Languages of the Deaf passed by the Third European Congress on Sign Language Research in 1989 (Reagan 2010). For a more detailed account of the turn towards this linguistic human rights discourse, and the role of the WFD, EUD and national deaf associations, I refer to Murray (2015).

THE MEANING OF “SIGN LANGUAGE RECOGNITION” IN INTERNATIONAL DEAF DISCOURSES

Currently about thirty-one countries (of which the majority are European Union member states) have recognized their sign language(s) in legislation on language status and/or language rights (De Meulder 2015b).

The nature and scope of these recognition laws is very diverse. “Sign language recognition” as used in international SLP discourse is a very vague denominator including many different legal and even nonlegal measures, although there is increasing awareness of the fact that legislation is needed to make recognition work. The United Kingdom, for example, has recognized British Sign Language (BSL) “as a language in its own right” by means of a government declaration in 2003 (followed by Wales and Northern Ireland governments in 2004 and the Scottish government in 2011), but did not give BSL any legal protection (although at the moment of writing this chapter in May 2015, the Scottish Parliament is discussing a bill which might give BSL legal status in Scotland). Therefore, deaf people in the United Kingdom increasingly use the signs *ACKNOWLEDGED* or *ACCEPTED* when talking about BSL recognition, instead of the sign *RECOGNIZED*.

To get an analytical grip on this diversity, it is useful to offer some sort of categorization. In contrast to the recognition of most spoken languages, including minority languages, the recognition of sign languages rarely means that they receive national, official or minority status, or are included in the constitution or language legislation. Because of the dual category/definition of SLPs as both persons with a disability and members of culturo-linguistic minority groups, there is a tendency among policy makers to categorize SLPs’ issues only in disability legislation. Some states (e.g., Venezuela and Ecuador) have recognized their sign languages in sections of their constitutions pertaining to disability. This points to most policy makers’ profound misunderstanding about the nature of SLPs’ languages and cultures but equally to a certain inability of SLPs to communicate their demands in a way that policy makers understand.

FIVE CATEGORIES OF THE MOST COMMON TYPES OF EXPLICIT (LEGAL) RECOGNITION

Based on an analysis of current sign language recognition legislation, the following five categories of the most common types of explicit (legal) recognition can be discussed (for a more detailed discussion of these categories, see De Meulder 2015b).⁵ The differences in types of recognition can be explained by various factors determined by national contexts. Some are linked to legislation itself (e.g., some countries do not have a constitution or language laws), while others are linked to a country's attitudes to linguistic and cultural diversity.

1. Constitutional recognition
2. Recognition by means of general language legislation
3. Recognition by means of a separate sign language law or act
4. Recognition by means of a separate sign language law or act including other means of communication
5. Recognition by means of legislation on the functioning of the national language council

The categories as listed here are not meant as hierarchies. Constitutional recognition, for example, while often presented as the most prestigious form of recognition, does not necessarily grant deaf people more rights than recognition by means of a separate sign language law. It can even be purely symbolic as has been demonstrated for Austria where deaf people lack any linguistic or other rights they can claim on the basis of this recognition (Krausneker 2008; Wilcox, Krausneker, and Armstrong 2012).

Currently, eleven countries worldwide have recognized their national sign languages at constitutional level: Finland (1995), Uganda (1995), South Africa (1996), Portugal (1997), Venezuela (1999), Austria (2005), New Zealand (2006), Ecuador (2008), Kenya (2010), Zimbabwe (2010), and Hungary (2011). In only one of these eleven countries (New Zealand) is the recognized sign language also an official language (in addition to *te reo Māori*), although Smiler and McKee (2007) points out there is still a huge gap between *de facto* and *de jure* recognition of New Zealand Sign Language.

Four countries recognized their sign language within general language legislation: Latvia (1999), Estonia (2007), Sweden (2009), and Iceland (2011). Other countries recognized their sign language through a specific sign language law (examples include Slovakia in 1995, Lithuania in 1995, Uruguay in 2001, Slovenia in 2002, Belgium (Wallonia) in 2003, Brazil in 2006, Cyprus in 2006, Belgium (Flanders) in 2006, Bosnia and Herzegovina in 2009, Macedonia in 2009, and Catalonia (Spain) in 2010), sometimes also recognizing "other means of communication" (examples

⁵ Some states may be missing from this overview due to barriers in accessing valid information about relevant legislation or changes in the situation of a country. Also, the time lag between submission and publication of this chapter will inevitably mean some information is not up to date by the time of publication. I welcome any feedback or additional information.

include Colombia in 1996, Spain in 2007, the Czech Republic in 2008, Hungary in 2009, and Poland in 2011). Norway and Denmark have recognized their national sign languages in legislation on the functioning of the language council in 2009 and 2014 respectively.

There are three other categories where the line between explicit and implicit recognition is not clear. Some states have mentioned their sign languages within other legislation, primarily disability or equality legislation (e.g., Germany in 2002, Mexico in 2005, and Chile in 2010) or educational legislation (e.g., Greece in 2002 and France in 2005). Others only have recognition by declaration or government decision (no legal recognition) (examples include Australia in 1991, Thailand in 1992, England in 2003, Wales in 2004, Northern Ireland in 2004, and Kosovo in 2010). American Sign Language (ASL) in the USA and ASL and Langue des Signes Québécoise (LSQ) in Canada are not yet recognized at the federal level but are mentioned in some state legislation. In Canada, some states have recognized ASL or LSQ in their legislation as a language of instruction. In the United States, several states have recognized ASL as a (foreign) language for educational purposes.⁶ I have not included those three categories in the categories of explicit legal recognition and they are not included in the figure of thirty-one countries listed above.

ASPIRATIONS FOR RECOGNITION

What is it SLPs want to achieve with this recognition? Why do they feel recognition of their languages and cultures is so important? From how it is used in international SLP discourse, “recognition” seems to imply at least four aspirations. I list them here and state very briefly whether and how they are met by recognition legislation:

1. **Acquisition rights and educational linguistic rights:** the right of deaf children (and their parents) to acquire and learn sign language and the right of deaf children to receive an education in sign language. While this is one of the most important aspirations, it is also the one least often guaranteed in legislation (see also Murray 2015 and McKee and Manning 2015). *If* provided, those rights are often accompanied by opt-outs such as when parents demand it (e.g., Hungary) or only apply to those children who “need” it (e.g., Iceland).
2. **Linguistic rights:** SLPs’ right to use sign language to receive information, services, and to communicate with public authorities. In some laws this also entails a positive obligation by states to promote and develop sign language. However, insofar as sign language recognition legislation provides language rights, they are often based on a norm-and-accommodation approach in which the state makes special accommodations for people who lack sufficient

⁶According to Reagan (2011) the recognition of ASL in the United States has largely affected hearing rather than deaf people because it is not concerned with language rights but with acceptance of ASL as a language fulfilling foreign language requirements.

proficiency in the dominant language, through the provision of interpreters in certain settings. While this approach may enable and facilitate communication and protect SLPs from discrimination, it does not give them substantial rights in terms of the recognition of their distinct cultural identities (Kymlicka and Patten 2003) and does not really promote the *use* of the language.

3. **Group rights:** increasingly, it is expected by SLPs that recognition of their languages and cultures also entails recognition of the fact that they are collectivities and as such are entitled to certain group rights to protect and develop their particular cultural characteristics (Emery 2006; Ladd 2007; Kusters et al. 2015). This is different from the second aspiration, which is merely about the right of individual deaf people to use sign language. Collective rights allow a collectivity to control matters relevant to their cultural survival and depend on a form of differential treatment of a group (Sanders 1991; Kymlicka 2002). For SLPs, group rights could entail the right to establish, maintain, and control their own educational institutions; the right to be protected from harmful interventions; the right to maintain and strengthen their distinct linguistic and cultural characteristics; the right to use, develop, and transmit to future generations their histories, languages, epistemologies, etc.; and the right to some sort of self-determination. It seems that the provision of those rights has been absent from most recognition legislation. Some laws, however, seem to have the potential to be used for claiming group rights. The Act on Hungarian Sign Language, for example, in its general provisions, Section 3(2), states: "The community of persons using the Hungarian Sign Language shall have the right to use, develop and preserve the Hungarian Sign Language, as well as to foster, extend and transmit deaf culture."
4. **Symbolical recognition:** the acknowledgment by states that sign languages exist and are valid languages. In some legislation this also entails the recognition that sign language is the first language of deaf people and that deaf people belong to a culturo-linguistic minority group. While symbolical recognition may sound trivial, it is important for historical reasons, as a kind of redress for harms done in the past (and still ongoing).

While these aspirations seem to be internationally oriented, meeting them will be very much determined by national contexts. This brings us to the very tension between specificity and universalism.

TENSIONS BETWEEN SPECIFICITY AND UNIVERSALISM

Because of their collective ethos, SLPs' desire for recognition is a common goal, and every time a sign language is recognized the achievement becomes part of the international collective SLP consciousness and history. This goal is nourished by and inspired at an international level through international conferences, meetings, social media, publications, etc., where sign language recognition is common on

the agenda. At the moment of writing this chapter, the Second International Conference on the Linguistic Rights of the Deaf is taking place in Moscow, with presentations on sign language legislation, advocacy for official recognition of sign languages, and case presentations from different countries, such as Finland and Ukraine.⁷

One could argue that such settings capture “the global vision of a common Deaf political identity predicated on sign language” (Valentine and Skelton 2007, 135). Frustrated by the injustice and barriers experienced in their own countries, SLPs are increasingly developing alternative forms of political commitment and turn to an international human rights framework to address universal questions of linguistic justice and the right to have their sign languages recognized, something that Valentine and Skelton (2007) call “transborder activism.” The WFD’s involvement in the negotiations about the UNCRPD, and national associations of the deaf using this convention in their lobbying efforts, are examples of this (Batterbury 2012; De Meulder 2014).⁸ The international struggle and aspirations for the recognition of sign languages also illustrate this.

The tension between specificity and universalism inherent to the concept of sign language recognition lies with the fact that, while the meaning of sign language recognition is determined and normatively inspired by internationally oriented aspirations and an international discourse, it has to be achieved, implemented, and understood through national legislation. When individual deaf people and deaf political organizations talk about recognition, they seem to refer first of all to the aspirations that guide the international agenda, not to the specifics of national recognition legislation.

Consequently, the risk for confusion and miscommunication is very much present. This risk increases because of the different languages of legislative instruments, different political and legal systems, and the fact that for international comparisons and at international gatherings, English or International Sign is used, which means nuances sometimes get lost in translation. Without enough clarification, we risk speaking past each other when we think we are speaking of the same thing.

Friedner and Kusters (2014) argue that major concepts used in international deaf discourse such as human rights, oppression, and empowerment are northern-situated concepts that engender ideas of deaf universalism and “are often uncritically adopted both as universal analytic concepts and as universal discourses.” To a certain extent, this can be said of the concept of sign language recognition too. Still, this cross-national use and understanding (on a superficial level) of the concept also entails opportunities: it illustrates, inspires, and strengthens the collective ethos of deaf communities and seems to give them hope (even if the recognition is purely symbolical). Every time a sign language is recognized, this is welcomed as a collective feeling of accomplishment and deaf people in different countries cheer for each to have their sign languages recognized.

This collective feeling of accomplishment seems to happen regardless of the effective meaning and status of the recognition. To return to the Danish example,

⁷<http://deaflinguisticconference2014.voginfo.ru/en/>

⁸The UNCRPD brings along with it a host of tensions between national and transnational (see Michael Stein, this volume)

in social media, the message that Danish Sign Language was recognized and pictures of proud Danish deaf people in parliament received more attention than what the recognition effectively meant, how it was embedded in legislation, and how it was achieved. Deaf people like to make or see lists of recognized sign languages to keep score of how many countries have joined the club, although such lists only give a very superficial picture and are quickly outdated.

Deaf communities have the ability to and do support each other across borders to achieve successful recognition. This can make recognition legislation stronger. In the end, however, every country is different and there are limits for lobbying in support of each other. The strength of international collaboration seems to lie first of all in the formulation of collective and universalist aspirations that can fuel localized efforts in specific nations.

CONCLUSION

The international nature of the aspirations inspires another question with which I would like to end this chapter: what would an international convention on SLPs' rights look like? Comparisons could be made here with the Convention Concerning Indigenous and Tribal Peoples (ILO no. 169) and the United Nations Declaration on the Rights of Indigenous Peoples (2007). A SLP convention or declaration on the rights of SLPs would go beyond mere linguistic recognition and entail important aspects of cultural recognition as well, including group rights. The mere focus on sign language recognition, while immensely valuable, has often prevented us from seeing the full (legal) picture of recognition of SLPs. In the light of current medical and genetic intervention policies that are threatening the very existence of SLPs as part of human diversity (Emery and Ladd forthcoming), such a treaty could very well influence the further existence and health of future SLPs' communities.

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II

A BARKING DOG THAT NEVER BITES? THE BRITISH SIGN LANGUAGE (SCOTLAND) BILL

by

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A Barking Dog That Never Bites? The British Sign Language (Scotland) Bill

Abstract

This article describes and analyses the pathway to the British Sign Language (Scotland) Bill and the strategies used to reach it. Data collection has been done by means of interviews with key players, analysis of official documents, and participant observation. The article discusses the bill in relation to the Gaelic Language (Scotland) Act 2005 and posits that, although the bill will raise awareness, it also has significant weaknesses. These include the absence of enforceable rights, the representative imbalance during the negotiation process, the perception of BSL as a tool to access public services, the question who is benefiting from recognition, and most of all the absence of educational linguistic rights and cultural rights.

Note: Acronyms used are as follows:

AoHL Action on Hearing Loss
BDA British Deaf Association
CPGD Cross-Party Group on Deafness
NDCS National Deaf Children's Society
NGBU Nongovernment Bills Unit
SCoD Scottish Council on Deafness

BRITISH SIGN LANGUAGE (BSL), one of Scotland's autochthonous minority languages, is used by 12,533 people¹ (Scottish Census 2011). Scottish BSL signers² are not territorially concentrated

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but live dispersed throughout Scotland. Unlike Gaelic, one of the main spoken, autochthonous, minority languages in Scotland, BSL has no legal status there or in any other part of the UK and is not protected under the European Charter for Regional or Minority Languages.³ The status of BSL in Scotland may change with the introduction of the British Sign Language (Scotland) Bill, which was lodged in the Scottish Parliament on October 29, 2014. The proposed bill aims to promote the use and understanding of BSL principally by means of “BSL plans,” which are to be published by the Scottish ministers and specified public authorities. These plans are to be reviewed and updated at regular intervals and reported on via a performance review.

In some respects this article may seem premature in that the bill was introduced only in October 2014. The main focus here, however, is the pathway to getting the bill proposed. Indeed, we can learn much from these strategies for the development of future sign language legislation, both in the UK and abroad. Data collection has been done through in-depth interviews with people involved in the process (activists, academics, policymakers, staff members of several organizations), analysis of official documents, and participant observation. All of this allowed for the collection of a broad range of views and for data triangulation.

The proposed bill sees legislation for BSL as a language issue. That is not self-evident, given the context in which it was developed, and not self-evident for sign language legislation in general, which is often disability oriented (Reagan 2010; De Meulder forthcoming). But it is a “sterile” bill, which merely perceives BSL as a tool to access public services. It also has significant weaknesses, which result partly from the strategies chosen to achieve it and partly from the general UK and Scotland (language) policy context. These weaknesses are analyzed against the context in which the bill was developed and negotiated. Because the BSL bill is modeled on the Gaelic Language (Scotland) Act 2005,⁴ comparisons with this act and the Gaelic situation are made where applicable.

Linguistic Context and Language Policy in Scotland

Scotland is a part of the United Kingdom. The Scottish Parliament and government have legislative and executive responsibility for a

wide range of “devolved matters” (including health, education, justice, rural affairs, and transportation), while the UK government retains responsibility for “reserved matters” (for example tax, equality legislation, employment, defense, and foreign affairs). Scotland has thirty-two local authorities, who have far-reaching functions, including education and social services.

The UK has no constitutional document or any other piece of legislation that defines any particular language as the UK’s official language, but English is the *de facto* official language.⁵ Although English is the main language of Scotland, too, an estimated 150 other different languages are in use in the country, although many of these have only a few speakers. For the purpose of public policy and to better understand the needs of these languages, the Scottish government often considers them as five main language groups: English, Gaelic, Scots, British Sign Language, and minority/community languages (such as Urdu, Turkish, Arabic, etc., which have been brought to the UK by immigration) (Scottish Government 2007).

Despite changes in the last twenty years, the prevailing linguistic ideology in the UK remains one of monolingualism, in which linguistic diversity still tends to be viewed as a problem that must be overcome rather than a resource that must be fostered (Dunbar 2002). Language planning and legislation tend to be *ad hoc*, reactive, geographically specific, and based on political expedience and pressure. Specifically for BSL, the UK government’s language policy has been described as “cross-cutting and disorganized,” making the “voice” of BSL signers extremely hard to discern (Turner 2003b, 177), and as shaped by disability discourse and inadequate engagement with BSL signers themselves (Turner 2009; Batterbury 2014). Generally speaking, the UK has a relatively weak “rights culture” and a certain reluctance to create legislation based on the concept of legally enforceable rights, which can be used to hold governments accountable (Dunbar 2002, 2009). The tendency is more toward “administrative enabling” or “planning-based” models of language planning and language legislation (Dunbar 2002). The Gaelic Language (Scotland) Act 2005 and the proposed British Sign Language (Scotland) Bill are examples of this.

The Road to the British Sign Language (Scotland) Bill

The Key Players: Setting the Scene

Historically, BSL signers in the UK have been represented by the British Deaf Association (BDA), which was founded in 1890 as a response to oralism.⁶ The BDA has been Deaf-led since 1994, following a century of hearing leadership (Ladd 2003) and is currently the only organization in the UK that can rightly claim to be BSL signers' official representative.⁷ However, as this article demonstrates, it is not routinely recognized as such by the authorities. In actuality, the lead organization behind the BSL bill in Scotland has not been the BDA but the Scottish Council on Deafness (SCoD). Although the BDA has a Scottish branch based in Glasgow, it is generally perceived as focusing more on England and Wales and is less visible in Scotland at present. The SCoD was founded as the Scottish Association for the Deaf in 1927⁸ by missionaries and teachers of the deaf. Rather than join the newly established RNID⁹ (now called Action on Hearing Loss), the founders decided to set up a Scottish organization. At that time each mission in Scotland, which would later become charities for and of deaf people, had one representative in SCoD. Currently SCoD is an umbrella organization with membership consisting of about ninety charities and organizations all over Scotland. As its name and membership indicates, SCoD works not only on BSL issues but also on broader issues relating to deafness. The fact that SCoD, with a diverse membership of deafness organizations has spearheaded the campaign for the bill has greatly influenced the outcome.

However, instead of a direct relationship of engagement between minority language associations and the government, such as occurs with Gaelic and Welsh, BSL signers in the UK have also been represented by charities for deaf people, which are led mostly by hearing individuals (Ladd 2003). These bodies are linked to the charity system of the UK, where the government has transferred major social responsibilities, power, and influence to nongovernmental organizations. However, this does not represent a value-free transfer by the government (Turner 2003b; Ladd 2003). Even though the public perception of charities is very positive, this system has been vehemently criticized

by the wider disability movement because of its medicalization of disability, the types of services and activities it provides, its downplaying of political activity, and its removal from visibility of those whom the charity actually serves in favor of its own representatives (Shakespeare 2006). Indeed, traditional disability charities have held significant power in policy and decision making concerning the lives of people with disabilities, dominated negotiations with governments, and appropriated most of the resources (Swain, French, and Cameron 2003). The most significant charity for deaf people and one of the “Big Five” disability organizations in the UK is Action on Hearing Loss (AoHL), mentioned earlier and founded in 1924 as a result of the medicalized pandeafness movement, which was dominated by the medical-oralist establishment, wealthy individuals, and the nobility (Ladd 2003). Today, AoHL claims to have as its constituency up to nine million people with a hearing loss in the UK (850,000 in Scotland), which allows it to describe itself to the government as a representative organization for BSL signers. Its financial, social, cultural, and linguistic capital also allows it easy and direct access to the government.

Consequently, as highlighted in the disability studies literature (Oliver 1990), a huge disparity exists in government funding to organizations that are *for* rather than *of* people with disabilities. For example, AoHL’s annual turnover is in the region of £100 million, and the organization has more than one thousand staff members.¹⁰ By contrast, disabled people’s organizations have historically been run largely by volunteers and poorly funded (Shakespeare 2006). The BDA’s annual turnover is around £1.5 million (British Deaf Association 2013/2014).

Significantly, in 2011 AoHL merged with Deafness Research UK and now supports a wide range of biomedical research projects such as cures for hearing loss, stem cell technologies, and the identification of genes that cause deafness from birth. Taken together, Deaf communities perceive these as the first steps to legitimizing eugenic policies, which may result in the eradication of the community (Emery and Ladd forthcoming)—and, with it, its language. Thus, seeking legal recognition of BSL is seen as one strategy to prevent that outcome.

BSL "Recognition" in the UK

Officially, BSL was recognized in the UK in March 2003. This came about in the context of a broader international movement to recognize sign languages (Krausneker 2009; Reagan 2010; De Meulder forthcoming) and was the result of years of lobbying and several political marches. In the end, however, the UK Department of Work and Pensions¹¹ simply issued a statement that BSL was a language in its own right and allocated £1.5 million to "encourage" BSL (Turner 2003a). For the Deaf activists who had led the campaigning, this announcement was and still is seen as a situation in which hearing-led deaf charities hijacked the process and the only needs that were being met were those of hearing service providers (Gulliver 2003; Ladd, Gulliver, and Batterbury 2003; Batterbury 2012). Indeed, the majority of the money was invested in interpreter training (provided by those hearing service providers), while only 10 percent of the funding went to Deaf-led organizations (Batterbury 2010).

In 2004 local Welsh and Northern Irish Governments made similar recognition announcements but without direct funding, and in March 2011 the then Scottish minister of public health issued a statement accepting BSL as a language in Scotland: "British Sign Language is a vibrant language which makes a vital difference to the daily lives of many deaf people in Scotland. It is important that we do all we can to support the use of the language." This announcement again merely acknowledged that BSL was a language and, given the source of the statement, firmly located it as a health issue.

The absence of legal protection for BSL was an important rationale for SCoD's proposal of a BSL bill. Also, SCoD stated that, in Scotland, BSL signers are the only group whose first language is not English who must rely on disability discrimination legislation (Equality Act 2010) to secure access to information and services in their own language. The aim was thus to develop language legislation that BSL signers could use to claim their language rights. In this endeavor, SCoD's demand was supported by the "Long and Winding Road" report from the BSL and Linguistic Access Working Group (BSL and Linguistic Access Working Group 2009), which consists of representatives from national deaf organizations and government officials. The group was

established by the Scottish government's Equality Unit as a result of a motion for debate about the legal recognition of BSL in the Scottish Parliament a few years before. The report firmly placed BSL with the other autochthonous languages of Scotland and exposed the government's dissimilar treatment of different languages.

Proposing the Bill

Because BSL does not have a designated cross-party group in the Scottish Parliament (unlike Gaelic and Scots), SCoD proposed the idea for the bill in the Cross-Party Group on Deafness (CPGD) in the Scottish Parliament in 2008. Cross-party groups are convened by a member of the Scottish Parliament (MSP) and provide an opportunity for MSPs of all parties, outside organizations, and members of the public to get together and talk about a cause or subject of particular interest to them. The CPGD, which was established in 2000, aspires to "raise awareness amongst Members of issues affecting the Deaf and hard of hearing community in Scotland."¹² The CPGD membership has changed over the years but currently consists of a range of organizations¹³ working under the "deafness" umbrella, mostly hearing-led charities for deaf people. The two most influential are AoHL and the National Deaf Children's Society (NDCS).

In 2008 SCoD prepared a briefing paper for the CPGD that asked for a BSL act similar to the Gaelic Language Act (Lawson 2012). Cathie Craigie MSP, the convener of the CPGD at that time, was prepared to put forward a members' bill.¹⁴ To start the process, a subgroup of the CPGD, consisting of SCoD, BDA, NDCS, the Scottish Sensory Centre (SSC), and MSP Cathie Craigie and her assistant, was established. The subgroup received legal advice from the Non-Government Bills Unit (NGBU) to consult on the proposed bill, gauge support for it, and allow different stakeholders access to the decision-making process. This system of consultation prevents the Scottish government from being selective about which pressure groups have an opportunity to be consulted before policy is formulated. The evidence from the first and second consultations is presented here, and discussion follows.

The First Consultation

The first proposed bill intended to secure BSL as one of Scotland's official languages, commanding equal respect with English and Gaelic;

achieve better awareness of information needs and services for BSL users; protect the linguistic integrity of the language; and promote the cultural aspects of BSL and the Deaf community as part of Scottish heritage (Craigie 2010).

The first consultation period ran from July 9 to October 29, 2010. Stated objectives of the proposed Private Members' Bill as outlined in the first consultation document were as follows (ibid.):

1. That the Scottish Government adopts BSL as one of Scotland's official languages in law commanding equal respect with English and Gaelic;
2. That a duty be placed on public bodies to translate all information produced in English and community languages into BSL and to ensure that all appropriate front line staff are Deaf aware and have BSL skills;
3. That the number of people able to use BSL is increased by using BSL in pre-school settings and teaching BSL at primary and secondary level for all children, in the same way other languages are taught either as autochthonous languages (Gaelic) or foreign languages (e.g., French). In order to achieve this, the bill should also cover changes to teacher-training courses to increase the opportunities for Deaf people to gain a qualification in teaching and the introduction of BSL as a higher education subject to help increase the number of BSL interpreters;
4. That family members of deaf babies and toddlers in Scotland should have the opportunity to access BSL classes free of charge.

People were invited to respond to four questions in relation to these objectives. The consultation document was translated into BSL, and SCoD took the lead in urging BSL signers to respond to the consultation. In addition, SCoD drew up standard guidelines on how to respond to the consultation questions and invited BSL signers to come to its offices and have their signed responses to the consultation filmed; these were then sent to Craigie.

By the consultation's closing date, October 29, 2010, 488 responses had been received (NGBU 2011a). Inasmuch as most consultation documents traditionally receive between five and forty responses, this number far exceeded expectations (SCoD 2011). The NGBU reviewed each response and in March 2011 issued a detailed report

(NGBU 2011a). According to a summary that was made available on the Scottish Parliament website,¹⁵ 98 percent of responses were in favor of a BSL bill. However, the NGBU flagged several (legal) challenges to the original consultation document (NGBU 2011b), including the following:

- A conflict with reserved matters on legislation related to equality. Equal opportunities listed as reserved matter in L2 of Schedule 5 of the Scotland Act are defined as “the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, *language* or social origin, or other person attributes, including beliefs or opinions, such as religious beliefs or opinions” (emphasis added). There is an exception to the reservation, however, which is the “encouragement” (other than prohibition or regulation) of equal opportunities. It was thus necessary to make sure the provisions as stated in the BSL bill did not go beyond encouragement into prohibition or regulation, as this is a reserved matter.
- Cf. objective 1 of the bill (adopting BSL as one of Scotland’s official languages): there is no Scottish legislation providing for the formal recognition of a language. The NGBU advised using a similar statement to the one in the Gaelic Language (Scotland) Act 2005: that is, a provision that “seeks to secure the status of BSL as an official language in Scotland” rather than providing for it. This statement should then act as a forerunner to the identification of specific action that should be taken by the Scottish ministers and the public authorities to promote the use of BSL.
- The bill’s second objective (access to information and services in BSL) encountered the most severe challenges because its purpose appeared to clash with reserved matters on equality legislation. The NGBU stated that directing public bodies to translate information into BSL seemed to be directly related to the elimination of discrimination on the grounds of disability (and presumably on language grounds, too). It also goes beyond the encouragement of equal opportunities and is thus unlikely to fall within the exception of the reservation. The NGBU also noted the responses from NDCS and AoHL, which expressed reservations regarding

this objective because they maintained that information should be translated *at the request of BSL signers* and should not be imposed on public bodies. The NGBU also raised several questions linked to this objective, among other things the concern as to whether qualified personnel are available in sufficient number to provide such translation on this scale; whether BSL courses are available in sufficient number to train frontline staff; the cost implications of this objective; and whether consensus exists in the Deaf community concerning this objective.

- Concerning the bill's third objective (teaching BSL to all children to increase the number of people able to use it), the NGBU noted the responses from NDCS and AoHL that this should be an option in the curriculum and not a required subject. The NGBU also again advised against making this provision one of prohibiting or regulating but staying within the limits of merely encouraging equal opportunities. In principle, the NGBU stated, providing that it could be argued on educational rather than equal opportunity grounds, it might be possible to have a provision in the statute that essentially *required* BSL to be taught to all pupils or be included as a subject within the language curriculum (under the Curriculum for Excellence) and further require the development of national qualification(s) in BSL. However, the NGBU also listed a number of issues to consider regarding this objective, primarily the need to have enough qualified personnel to teach BSL, the cost implications, and the potential equal opportunity issues it would raise for "non-BSL users in the Deaf community" (no page number).
- Objective 4 raised the same issues with regard to equal opportunities reservations and Social Security reservations (which have similar provisions based on disability) and concerning personnel, number of courses, and cost implications.

The NGBU itself suggested another option, one that would combine aspects of each of the objectives, namely, setting up a structure similar to that for Gaelic (provided under the Gaelic Language Act). According to the NGBU, this option could incorporate Objective 1, and although it would not explicitly require Objectives 2, 3, and 4 to be provided for, it could indirectly have that effect.

The Second Consultation

At the next elections for the Scottish Parliament in May 2011, Cathie Craigie was not reelected. Instead, MSP for Central Scotland Mark Griffin (whose great-grandparents were deaf-blind) took over her seat and decided to take the BSL bill forward. Agreement was reached on following the NGBU's advice to set up a structure similar to that of the Gaelic Language Act: public bodies would develop action plans to increase the accessibility of information for BSL signers and raise awareness of the language, and a board would be set up to advise the government. In addition, the bill would propose that family members of deaf children would have access to BSL classes free of charge.

Because of these changes, the NGBU recommended a second consultation. Again, a subgroup¹⁶ was established under the CPGD to draft a consultation paper; its members started working in the first months of 2012. Although it was decided, as mentioned earlier, that the structure of the Gaelic Language Act would be followed, there was no consensus on the setting up of a BSL board (consisting of a majority of BSL signers) to advise the government. Both NDCS and AoHL were more in favor of charging an appropriate government minister with this responsibility. In the end, however, a question on establishing a BSL board was included in the final draft of the second consultation document. The second consultation period started on July 27, 2012, and ran until November 7, 2012. Responses to the eleven questions were invited. Again, the consultation document was translated into BSL.

The second consultation document stated that the proposed bill would “encourage the use of BSL in Scottish public life and raise awareness of the language among the hearing population” (Griffin 2012). This would be done by:

- Promoting the use of BSL by placing a requirement on the Scottish Ministers to develop a Scottish Government BSL strategic plan
- Promoting the use of BSL by requiring the relevant¹⁷ public authorities to prepare and publish action plans (BSL plans) on the measures they are taking regarding BSL
- Requiring the Scottish Ministers to report to the Scottish Parliament at least twice per parliamentary session on the content of

their strategic plan and the performance of the public authorities in relation to their BSL action plans

- Appointing a designated, or lead, Scottish minister for BSL, to update the Scottish Parliament on the action the Scottish government and the relevant public authorities are taking in relation to BSL. (The document stated that it was hoped that the lead minister would be advised by a board of “BSL and hearing people with an understanding of the language” (Griffin 2012, 9).

A specific paragraph of the second consultation document emphasized “communication for deaf children,” stating that “it is morally wrong that the parents and other family members of deaf children have to pay to learn BSL simply to be able to communicate with the child” (Griffin 2012, 11) and that, although the bill would not directly require individual education authorities to provide free BSL classes, there would be “an expectation that the Scottish government and public authorities will report specifically on the action they are taking to promote free BSL classes for family members to meet the needs of deaf children” (ibid.)

In June 2013 a summary of the consultation responses was published (NGBU 2013). In total, 222 responses were received, of which 49 were from organizations, 172 from individuals (including 39 anonymous responses enclosed with the submission from “Sign and Be Heard”), and one petition with 937 signatures.¹⁸ Sixty-seven of the individual responses contained wording to this effect: “I support the general aim of the proposed bill but would like to see the aims extended to include a better awareness of not only the language among the hearing population but also an awareness of the rich culture and history of the Deaf community in Scotland. I want to see a firm commitment in the bill to include Deaf people as advisors to the Scottish government so that they are at the heart of the bill as it is their language. I want there to be a BSL board like Gaelic speakers have, and I want the board to have a majority of Deaf BSL users on it.”

The summary of the responses revealed “substantial and overall majority support” for the aims of the proposed bill (NGBU 2013, no page number). There was also majority agreement that legislation was indeed required, and the appropriate mechanism to fulfill those goals.

Those supporting the need for new legislation were, according to the consultation summary, “generally of the view that BSL users should be classed as a linguistic minority” and that BSL should be treated as a language and not an additional communication support, thereby requiring clear and distinct legislative powers for its protection and preservation.

A number of respondents provided additional comments in relation to education services. Among other things, they recommended that the proposed bill extend to developing awareness of teacher education and that guidance be given or a new mandate included to raise the levels of BSL proficiency in teachers of deaf children (up to a minimum of BSL level 3). A number of challenges to the bill were identified as well, including “few statistics on the number of BSL users” (which might be an argument for not producing plans), a traditionally slow pace in achieving Gaelic language policy change, public bodies treating the requirement as another layer of bureaucracy and thus providing only minimal implementation, and concerns that qualified teachers of deaf children might be diverted from deaf education to teach BSL as a modern language to hearing children.

Most respondents believed that a designated minister should take the lead on BSL in the Scottish government (instead of placing this responsibility on all of the Scottish ministers) and that, most appropriately, this should be the minister for learning, science, and Scotland’s languages under the cabinet secretary for education and lifelong learning. Respondents were generally supportive of the idea of an advisory board of BSL signers, although the makeup of the membership received mixed views. Also, a minority of respondents still stated that they feared that legislation for BSL would direct attention and funding away from “other communication methods” (e.g., Braille, Moon, symbol systems, pictures, expressive boards, talking mats, and IT) and that the designated minister should also be responsible for these other means of communication.

Introducing the Bill

On October 29, 2014, the British Sign Language (Scotland) Bill was introduced in the Scottish Parliament. It was accompanied by explanatory notes, a financial memorandum, the members’ and the presiding officer’s statement on legislative competence, a policy memorandum,

and a delegated powers memorandum.¹⁹ All the documents have been translated into BSL as well.²⁰ As expected, the structure and content of the bill are similar to those of the Gaelic Language Act, although the BSL bill is much narrower.

Designed to promote the use and understanding of BSL, the bill introduces various measures to achieve this objective. They include the following:

- *BSL national plan:* Each parliamentary session, the Scottish ministers need to prepare a BSL national plan for Scotland, in which they explain their strategy for the promotion and facilitation of the use of BSL. In preparing the plan they must consult those who they consider “are likely to be directly affected by the national plan or otherwise to have an interest in that plan” (1.6.) and in particular are to include (1) persons who use BSL and (2) those who represent users of BSL. The Scottish ministers are also to assign responsibility for the exercise of these functions to a member of the Scottish government or a junior Scottish minister. The first national plan is expected in May 2017.
- *Authority plans:* Each parliamentary session, each listed authority²¹ needs to prepare a BSL plan (or “authority plan”). The public authorities listed “have been carefully selected and represent the public-facing, service-oriented bodies in the key sectors of education, local government, health, justice and policing [law enforcement]. Private and voluntary sectors are not affected” (Policy Memorandum 2014, 4). Stakeholders were also consulted on which bodies should be included in the schedule (question 8 of the second consultation). In connection with the exercise of the authority’s functions, this plan sets out measures for the authority to take in relation to the use of BSL and presents timetables for them. The consultation requirements are similar to those for the national plan, and the goal is for the authorities to achieve consistency between their plan and the national plan. The first authority plans are expected in May 2018.
- *Performance review:* In each subsequent session of Parliament, the Scottish ministers are to prepare and lay before Parliament a performance review that provides an account of measures taken and outcomes achieved and mentions examples of best practices and poor performance. The first performance review is expected in May 2019.

The intention is that, by placing this obligation on the Scottish government and the listed authorities, the profile of BSL will be heightened and its use in the delivery of services increased (Policy Memorandum 2014). There are no statutory sanctions for noncompliance with the legislation: The performance review will act as a basis for Parliament to hold the Scottish ministers to account and for the Scottish ministers to in turn hold the listed authorities responsible for outcomes. The Policy Memorandum (2014, 7) states that “the risk of being ‘named and shamed’ for poor performance should act as a significant incentive for listed authorities.”

Discussion of the Pathway and the Proposed Bill

The bill as it currently stands is a piece of language legislation, and, in that respect, one of the initial wishes for the bill as expressed by SCoD has been granted: If the bill becomes an act, BSL signers in Scotland will be—in principle, at least—entitled to services in BSL on the basis of their being a language group (and not a group of persons with a disability). The duties of the Scottish ministers and the public authorities to produce plans will make BSL more visible as a language and will increase awareness and understanding of it by the hearing majority population.

Also, it has been crucial for Griffin MSP to position the bill so as to strategically exclude other groups. During the consultation process, certain organizations and individuals attempted to influence the legislation to include “other communication needs.” Indeed, the NGBU has expressed concerns about “consensus among the Deaf community” regarding access to information and services in BSL, as well as “equality issues for non-BSL users in the Deaf community” related to the teaching of BSL to all children. This situation is not unique to Scotland or the UK. In countries such as Spain (Quer 2012) and Italy (Geraci 2012), legislation aimed at deaf signers has been challenged by nonsigning deaf people and the organizations representing them (including parent organizations), who perceived the legislation as discriminatory and exclusionary and feared that it would direct attention and funding away from other “communication needs.” Colombia, the Czech Republic, Spain, Poland, and Hungary have all passed legislation that makes regulations not only for the national sign language(s)

but also for those “other means of communication” (e.g., lipreading, hearing aids, subtitling, finger alphabets, visualization of spoken language, written record of speech; De Meulder forthcoming). In Italy, in November 2014 a bill has been introduced²² that is designed not only to recognize Italian Sign Language (LIS) but also to support, protect, and disseminate “all communication tools, aids and methodologies that provide actions for prevention and treatment, integration and autonomy, respecting the choices of individuals and families: newborn screening, early prosthetic fitting, bilingualism, oral method, recognition and promotion of LIS and tactile LIS” (ENS 2014). Article 3 (“Prevention of deafness and means of mitigating, correcting and/or removing hearing deficiency”) promotes “early diagnostic intervention, habilitation and rehabilitation for all children born deaf or becoming deaf, for the purpose of the necessary prosthetic and speech therapy” (my translation). This Italian bill is a blend of medical, disability, and accessibility approaches in which the specific culturo-linguistic identity and demands of LIS signers are wholly diluted. The campaign for their cultural and linguistic rights has been sidelined by legislation aimed at accessibility and communication issues and even at mitigating their “disability.”²³

However, the BSL bill also has significant weaknesses. First of all, it contains no enforceable rights and lacks a strong monitoring mechanism, which comes as no surprise in a UK language policy context with its weak “rights culture” (Dunbar 2002, 2009). It also has no associated budget for implementation (possibly because adding resource implications could hinder the bill’s passage). The cost estimates included in the financial memorandum of the bill take into account only the preparation of the plans, not implementation, and there is no specified additional implementation budget for the public authorities. This is different for Gaelic, for which the Gaelic Language Act Implementation Fund was established to help public authorities make good on their commitments in the Gaelic Language Plans and in support of the National Gaelic Language Plan. Gaelic also has a separate budget for broadcasting and Gaelic-medium education. The lack of enforceable rights and an associated budget make the bill administratively and politically acceptable but also mean that, if the bill is allowed to pass, it will remain merely symbolic. With regard to

the New Zealand Sign Language Act, as an example, this is “raising aspirations but not materially changing the status quo” (McKee 2007, 135). Second, because of the representation issues during the development of the bill and the absence of a well-organized Deaf grassroots movement, one wonders whose recognition this effectively is: that of the people who own the language and identify with it, or that of the service providers who purport to represent them. Furthermore, although the bill has been modeled on the Gaelic Language Act, as mentioned earlier it is only a weak copy of this legislation and much narrower. What will probably be seen as its biggest weakness, however, is that it contains nothing on the duty to deliver and the right to receive education in BSL, as well as on the rights of deaf children to acquire BSL from birth, especially since this was one of the initial rationales for SCoD to propose the bill and one of the most important international aspirations of Deaf communities with regard to sign languages’ recognition (De Meulder forthcoming). I now turn to a brief analysis of these last three weaknesses.

Representative Obstacles

The SCoD chose to discuss the BSL bill in the CPGD and to adopt a pragmatic attitude to enable all of the CPGD’s member organizations to agree on the very idea of a BSL bill in the first place and, after that, on the drafts of the two consultation documents. This practical collaborative attitude seems to be very much valued by the Scottish organizations. However, a number of weaknesses have emerged.

First, the bill allowed the major charities *for* deaf people to be involved in the recognition process and be identified by the Scottish government as the representatives of BSL signers. Thus, the bill was developed within a context where the strongest and best-funded parties were those with an ambiguous relationship with and attitude toward BSL. Moreover, those organizations do not want to disappoint their members by being perceived as too openly supportive of BSL issues—support that, if offered, may be perceived to weaken their single-issue campaigning (e.g., on the resolution of hearing loss). Further, this approach allows for a conflation of a “recognition” agenda, most often seen by service providers as a way of securing policy provision and the “resolution” of deaf access, and the Deaf commu-

nity's own relationship with the language, which it describes in terms of "ownership," a metaphysical connection with the language as its primary identification, the source of its social and mental well-being, and community participation (Gulliver 2003).

In addition, a well-organized Deaf grassroots movement has not mobilized in active support of the bill despite the fact that the responses to the second consultation make it very clear that BSL signers need and want to be involved as advisors to the Scottish government; nonetheless, the BSL bill does not provide for the establishment of a statutory BSL board comparable to the Bòrd na Gàidhlig. The omission of such a body likely has partly to do with the performance of the Bòrd, which has not always set an example of good practice, and growing suspicion in the UK about the role of quasi-autonomous nongovernmental organizations (Dunbar 2002), which are seen as unaccountable, anonymous groups. What is more, it has become clear that the organizations *for* deaf people are not really supportive of the idea of a board on which they would not be able to participate and thus influence. It is also no coincidence that the bill, in the context of the people who need to be consulted when developing the BSL national plan and the authority plans, explicitly mentions "persons who represent users of British Sign Language" next to "persons who use British Sign Language" themselves. In this respect, BSL signers are still perceived as distinctly different from Gaelic language speakers. Although Gaelic has long been a minority language in Scotland (Walsh and McLeod 2008), Gaelic speakers have not been perceived as people with a disability, who are to be pitied and cured and therefore have not been caught in the policy web of social welfare, charity, and disability discourse (Ladd 2003; Turner 2003). Their educational background (and the fact that they are more easily able to learn the majority language) has equipped the leadership for negotiations with the government in relation to their agenda. Oral education has left signing communities in the UK with a legacy they are only now slowly recovering from: high degrees of illiteracy, low self-esteem, low educational achievements, and devaluation of their language and culture (Ladd 2003). This, combined with the perception of deaf signers as having a disability and being "service users," has left them vulnerable to losing control over who is representing them.

Modeling on the Gaelic Language Act

The modeling on the Gaelic Language Act is positive in that it shows that Griffin MSP clearly sees legislation for BSL as a language issue. Still, the BSL bill is much narrower than the Gaelic Language Act, which in itself is weak compared to language legislation in other constituencies such as Catalonia, Canada, or even Wales (McLeod 2006a). Several shortcomings of the Gaelic Language Act are as follows: The phrase “equal respect”²⁴ has no recognized legal meaning; the act creates no enforceable rights and has weak enforcement mechanisms; it says nothing about the content of public bodies’ language plans; the powers of the Gaelic Language Board are weak compared to those of similar agencies or offices in Wales and Ireland; finally, the act does not extend to public bodies throughout the UK and does not address the private sector (McLeod 2006b). All of these concerns are also valid for the BSL bill. Another concern is the administrative model of language planning on which both the Gaelic Language Act and the BSL bill are based. Several issues can be distinguished with respect to this model, which may lead to tokenistic plans or minimalist policies without any real benefit to the BSL community. First of all, the bill merely creates expectations of governments and public authorities with regard to *how* they will do something, not an expectation that they will, in fact, *do* something (Walsh and McLeod 2008; Dunbar 2002, 2009). For the national plan, the support of a broad range of organizations will be needed. A plan supported only by the ministers and BSL signers will have no effect. For the authority plans, the bill fails to prescribe any minimum level of activity beyond the production of a plan (explanatory notes, 8). Given the very urgent situation for BSL signers who face widespread linguistic exclusion in the UK (BDA 2014), the question is whether expectations suffice at this time.

An additional risk is that the public authorities, who already need to make plans for Gaelic, will see the BSL act as just another layer of bureaucracy. The model of language planning also means that power is in the hands of abstract administrative personnel who are not directly accountable to the language community (Dunbar 2009). Another pressing concern is the “monolingual mindset and monolingual ethos,” which is deeply rooted in Scotland’s institutional culture (McLeod 2006b, 12). What confirms the validity of these concerns is that the

Scottish Parliament itself states that many of the specified authorities have been involved in BSL planning for some time already and that, in cases where best practice is already being observed, the bill will merely put existing activity on a statutory footing (explanatory notes, 7–8).

Absence of Educational Linguistic Rights

Education in and about BSL for both deaf and hearing children was one of the key demands of the SCoD at the start of the negotiations for the bill. Remarkably, nothing in the bill addresses either the right to receive or duties to deliver education in BSL or the right of deaf children to acquire BSL from birth and that of their parents to the right kind of guidance. The Gaelic Language (Scotland) Act 2005, although lacking in any legal requirements and obligations in relation to Gaelic education (a very important demand of Gaelic campaigners), at least requires the Bòrd to produce the National Gaelic Education Strategy and authorizes it to develop educational guidance. Furthermore, Gaelic education is already fairly well established in Scotland and has a significant level of parental demand (McLeod 2006b). This is completely different from the situation with regard to BSL. For instance, BSL education is not well established, and most parents of deaf children lack effective and sufficient information on BSL and the value of bilingual education. In theory, the public authorities could play a role in the provision of BSL in schools and in defining the minimum quality of signing for people working with deaf children. But whether this will happen will entirely depend on their goodwill, and goodwill is not an enforceable right. Should the bill be passed as it currently stands, the omission of any educational linguistic rights may come to be regarded as the bill's greatest failing.

Moreover, a lesson learned from Gaelic (McLeod 2006a) and certainly also valid for BSL (and any other sign language) is that excessive emphasis on provisions by public authorities fails to tackle the central problem of the lack of (early) language acquisition or the use of the language in families and the community. One aspect in which sign languages stand out from spoken languages is that their weak position centers above all on the family and the home (Turner 2003b). The bill would do nothing to stop BSL from sliding into linguistic obsolescence, which is the entirely predictable fate of languages that

are not acquired from birth, are not used in education, and have no intergenerational continuity (Fishman 1991).

Conclusion

At the time of this writing, the bill is in Stage 1 of the debates. It has been assigned to the Education and Culture Committee, which is to report to Parliament about the bill's general principles and the financial memorandum. A call for evidence²⁵ has been launched; this is an invitation by the committee for people to offer their views on the general approach of the proposed legislation, the duties of the Scottish ministers, and the BSL authority plans. If Parliament agrees on the general principles, the bill goes to Stage 2, in which MSPs can propose amendments to the bill, which are then discussed.

What is clear so far is that, even though it was BSL signers who initially submitted the proposal, the Scottish government either has not noticed or does not fully understand the existence of a representative imbalance. The field is crowded by the “for” organizations, which undermine BSL signers' organizational power. Up to now, no well-organized Deaf grassroots movement has mobilized to promote the bill although the BSL community made its wishes very clear during the consultation phase. Also, whereas the Gaelic Language Act refers to Gaelic culture (in relation to the Bòrd na Gàidhlig, which is charged with promoting Gaelic culture), the BSL bill contains not a single reference to culture despite responses to the second consultation, which indicated respondents' wish to see the bill extended to include the cultural aspects of BSL and an awareness of the rich culture and history of the Scottish Deaf community, much as has been done with Gaelic. In this respect, the bill is a sterile one that perceives BSL merely as a tool to access public services and BSL signers as “service users” but strips the language of its strong cultural and historical background.

There further seems to be little public consensus and no real societal affirmation that this bill is indeed crucial for Scotland. However, the current relationship between Scotland and the rest of the UK (influenced by the independence referendum of September 2014) is such that Scotland takes great pride and delight in distinguishing itself from the rest of the UK, especially if the distinction paints Scotland as a more just, fair, democratic, and egalitarian society than the UK as

a whole. In this respect, the BSL bill is very timely and will probably be backed by a majority of Scottish MSPs because, without imposing significant financial obligations, it will put Scotland ahead of the rest and flaunt its preference for social justice in the face of those across the border.

Just as with the Gaelic Language Act (McLeod 2006b), the real controversial issues (i.e., the right to receive and the obligation to provide education in BSL, as well as the right of deaf children to acquire BSL from birth in a rich language environment) seem to have been postponed. Also, the absence of any cultural rights means the bill offers no protection from the issues (e.g., genetic interventions and stem cell therapy) that are threatening the continued existence of deaf people, the same issues that some organizations involved in the recognition process are currently funding. The passing of the Human Fertilisation and Embryology Act (2008) in the UK (Bryan and Emery 2014) is only an indication of what is yet to come. Ironically, without protections for culture, although the language may end up being safeguarded and prioritized, it may simply vanish as the Deaf culture and community that birth it and preserve it are annihilated in a medical purge.

The BSL (Scotland) Act—if it is allowed to pass—will certainly be a milestone in the area of sign language rights and policy, but at the same time, because of its reliance on public authorities' goodwill and lack of enforceable rights, it risks becoming “a barking dog that never bites,” that is, making a lot of promises but leading to little action. It appears that a real and meaningful recognition of BSL signers as a culturo-linguistic minority in Scotland is not yet in place. It is hoped that this analysis of the road traveled so far and the obstacles on it can assist in improving this situation not only in Scotland but also the world over.

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Notes

1. This number might not be accurate, however. The census asked, “Do you use a language other than English at home?” One of the possible responses was “BSL.” It counted 12,533 people who use sign language at home in a population of 5 million. For comparison, the Australian Census of Population and Housing (2011) asked a similar question: “Does the person speak a language other than English at home?” to which respondents could then reply that they used Australian Sign Language. The Australian 2011 Census counted 9,721 people using sign language at home in a population of 22 million.

2. The expression “BSL signers” has been chosen here for two reasons: for consistency with expressions such as “English speakers” or “Gaelic speakers” and to distinguish them from deaf people who do not use or identify with BSL (an important distinction in this article). The expression “BSL signers” as used here refers primarily to deaf signers, although it could also include hearing signers whose first or preferred language is BSL (e.g., hearing children of deaf parents).

3. The UK ratified the Charter for Welsh, Scots, Ulster Scots, Scottish Gaelic, Irish Gaelic, Cornish, and Manx.

4. Other sign language legislation has been modeled on legislations/laws for indigenous spoken languages as well. For example, the New Zealand Sign Language Act has been modeled on the Māori Language Act (1987) (McKee 2007, 2011).

5. Welsh is a *de jure* official language but only in Wales, pursuant to the Welsh Language (Wales) Measure 2011.

6. Oralism is the theory, practice, advocacy, and ideology of education for deaf children chiefly or exclusively through lipreading, training in speech production, and training of residual hearing.

7. In 2004, the BDA added the catchphrase “Sign Community” to its name to differentiate itself from deafness-related organizations and to demonstrate that it represents the sign language community. However, in 2011, after consultation with the membership, the catchphrase was dropped and the name changed back to BDA.

8. The name was changed to Scottish Council on Deafness in 1999.

9. Royal National Institute for Deaf People.

10. <http://www.actiononhearingloss.org.uk/about-us/who-we-are.aspx>.

11. The Federation of Deaf People (FDP), the leading organization behind the recognition campaign and the marches, had always demanded that the statement come from the Home Office. The UK government, however, rerouted the submission to the Disability Resource Commission (Gulliver 2003; Ladd 2003).

12. <http://www.scottish.parliament.uk/msps/41820.aspx>.

13. These are the Scottish Council on Deafness (SCoD), the British Deaf Association (BDA), Action on Hearing Loss (AoHL, formerly RNID), the National Deaf Children's Society (NDCS), the Scottish Association of Sign Language Interpreters (SASLI), the Scottish Sensory Centre (SSC), Hearing Link, Deaf Action, Deaf Connections, Deafblind Scotland, Signature (formerly CACPD), the British Association of Teachers of the Deaf (BATOD), Tayside Deaf Hub, the Association of Teachers of Lip-Reading to Adults, the Royal College of Speech and Language Therapists, the University of Edinburgh, Donaldson's School for the Deaf, Sensory Services, and West of Scotland Deaf Children's Society.

14. A members' bill is a public bill introduced by an individual MSP who is not a government minister.

15. <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/17758.aspx>.

16. The subgroup consisted of SCoD, the Scottish Sensory Centre (under the University of Edinburgh), BDA, NDCS, and Griffin MSP.

17. "Relevant public authorities" are those who represent the public-facing, service-oriented bodies in the key sectors of education, local government, health, justice, and law enforcement.

18. The petition was worded as follows:

We, the undersigned, support the general aim of the Proposed BSL Bill (Scotland) because we would like to see the aim extended to include the cultural aspects of BSL and the Deaf Community in a similar way to that of Gaelic. We would also like the aim to be extended to include a better awareness not only of the language among the hearing population, but also an awareness of the rich culture and history of the Deaf Community in Scotland. We would want to see a firm commitment in the Bill to include Deaf people as advisers to the Scottish Government so that they are at the heart of the Bill as it is their language. There should be a BSL Board like Gaelic speakers have and the Board should have a majority of Deaf BSL users on it. The legislation should be designed to promote the use of BSL, secure the status of the language and ensure its long-term future.

19. All of the documents are online at <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/82853.aspx>.

20. <http://www.scottish.parliament.uk/help/82866.aspx>.

21. The bill defines a "listed authority" as any public authority for the time being listed or described in Schedule 2 of the bill. Currently, 117 bodies are affected by the bill, six of which belong to the Scottish administration.

22. "Provisions for the removal of barriers of communication, for the recognition of LIS, tactile LIS and for the promotion of social inclusion of the deaf and deaf blind."

23. A similar bill, focusing on BSL as a communication system, was proposed by MP Malcolm Bruce at Westminster in 2013. However, it failed to complete its passage through Parliament before the end of the session (<http://services.parliament.uk/bills/2013-14/communicationsupportdeafness.html>).

24. The phrase occurs in the following sentence: “An Act of the Scottish Parliament to establish a body having functions exercisable with a view to securing the status of the Gaelic language as an official language of Scotland commanding equal respect to [*sic*] the English language.” The “body” referred to is the Bòrd na Gàidhlig. McLeod (2006a, b) even states that the phrase was chosen precisely to avoid any suggestion that Gaelic would have equal validity or parity of esteem with English or that the act might be perceived as imposing a general duty to institutionalize Gaelic-English bilingualism.

25. <http://www.scottish.parliament.uk/parliamentarybusiness/Current-Committees/83906.aspx>.

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III

THE LEGAL RECOGNITION OF SIGN LANGUAGES

by

Maartje De Meulder, 2015

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MAARTJE DE MEULDER

The Legal Recognition of Sign Languages

Abstract

This article provides an analytical overview of the different types of explicit legal recognition of sign languages. Five categories are distinguished: constitutional recognition, recognition by means of general language legislation, recognition by means of a sign language law or act, recognition by means of a sign language law or act including other means of communication, and recognition by legislation on the functioning of the national language council. The article further describes three categories of implicit (legal) recognition.

SIGN LANGUAGES and their users are often ignored in the context of language policy. However, the recognition of sign languages is one of the major concepts addressed in international deaf discourse (De Meulder forthcoming) and is a fairly new area in the field of (critical) language policy and language rights. The different sorts of rights (if any) granted by means of recognition at the national level are illustrative of the ways in which countries accommodate (or neglect to accommodate) linguistic and cultural diversity.

Currently about thirty-one countries (of which the majority are European Union member states) have recognized their sign language(s) in legislation on language status and/or language rights. This is the result of Deaf communities' demand for *explicit* legal recognition of their languages, often in relation to already existing implicit recognition. The difference is that explicit recognition can make implicit recognition work, strengthen it, or supplement it.¹ For the purpose of clarity, "recognition" in this article simply means the according of legal status to sign language in legislation on language status and/or language

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rights. Countries that have only (the operative word here is “only”) mentioned their sign language in educational, disability, equality, or other legislation are not included in these thirty-one countries. The decision to include only legislation related to language status and/or language rights stems from Deaf communities’ own aspirations for explicit legal recognition, which are clearly linked to their recognition as linguistic and cultural minorities and not (only) as persons with disabilities (De Meulder forthcoming).

These recognition laws are very diverse in nature and scope. In contrast to the recognition of most spoken languages, including minority languages, that of sign languages does not always mean they receive national, official, or minority status or that they are included in the constitution or in language legislation. Actually, in most cases such laws do *not* lead to official minority status. Because of the dual-category membership of deaf people as both persons with a disability and members of culturo-linguistic minority groups, policymakers tend to categorize deaf and sign language issues (only) in disability legislation (also see Murray, this issue; Krausneker, this issue). This points not only to their profound misunderstanding of the nature of deaf people’s languages and cultures but also to a certain inability of Deaf communities to communicate their demands in a way that policymakers understand and can work with. Moreover, existing recognition laws focus mainly on *sign language* recognition, whereas cultural recognition is absent from most laws. Although I do not want to underestimate the importance of language recognition in any way, this focus on language alone has often prevented policymakers from seeing the full legal picture of recognition, including Deaf communities’ claims to appreciation of their distinct cultures and identities.

Five Categories of the Most Common Types of Explicit Legal Recognition

To get an analytical grip on this diversity in recognition laws, it is useful to offer some sort of categorization of the different types of legal recognition of sign languages. Based on an analysis of current sign language recognition legislation, five categories of the most common types of explicit legal recognition can be distinguished. These do not constitute a hierarchy; in other words, a certain type of legal

recognition does not necessarily correspond to a particular level of benefits. The differences in types of recognition can be explained by various factors determined by national contexts, including legislative issues (e.g., some countries do not have a constitution or language legislation), a country's attitudes toward linguistic and cultural diversity, already existing implicit recognition legislation, and the Deaf association and other parties involved. Though this list was up to date as of 2014, some countries may be missing from this overview due to barriers to accessing valid information about relevant legislation or changes in the situation of a country.²

1. Constitutional recognition
2. Recognition by means of general language legislation
3. Recognition by means of a sign language law or act
4. Recognition by means of a sign language law or act, including other means of communication
5. Recognition by means of legislation on the functioning of the national language council

Constitutional Recognition

Currently, eleven countries have recognized their national sign languages at the constitutional level. Eight have done so in sections of the constitution on language and/or culture: Uganda (1995, Article XXIV, on cultural objectives), Finland (1995, Section 17, on the right to one's language and culture), South Africa (1996, Article 6, on languages), Austria (2005, Article 8, on languages), New Zealand (2006, New Zealand Sign Language Act), Kenya (2010, Article 7, on the national, official, and other languages, and Article 20[1], recognizing Kenyan Sign Language as an official language of Parliament), Zimbabwe (2010, Article 6, on the officially recognized languages of Zimbabwe), and Hungary (2011, Article H, on language). In only one of these eight countries, New Zealand, is the recognized sign language also an official language (in addition to te reo Māori). However, a huge gap still exists between de facto and de jure recognition of New Zealand Sign Language (McKee 2007). One state (Portugal 1997, Article 74[2], on education) has recognized its sign language in a section of the constitution on education, and two countries (Venezuela 1999, Article 81, on

the rights of persons with disabilities, and Ecuador 2008, Article 47, on persons with disabilities) have recognized theirs in similar sections on disability. Eight countries use the specific name of the sign language in their constitutional reference, whereas four use only the generic term “sign language” (Finland, Uganda, South Africa, and Zimbabwe).

Constitutional recognition is sometimes presented as the most prestigious form of recognition, but it does not necessarily grant deaf people more rights than recognition by means of any of the legal measures described in the following categories. It can even be purely symbolic. In Austria, where constitutional recognition was set forth by the Austrian Deaf Association and the wider disability movement as a requirement to pass federal disability legislation (Wheatley and Pabsch 2012), deaf people lack any linguistic or other rights they can claim on the basis of this recognition (Krausneker 2008; Wilcox, Krausneker, and Armstrong 2012). In Finland, the Finnish Association of the Deaf (FAD) has stated that the 1995 constitutional recognition has not guaranteed the implementation of deaf people’s linguistic rights (Finnish Association of the Deaf and the Research Institute for the Languages of Finland 2010). This is why FAD and the advocacy group of Finland-Swedish deaf people have negotiated with the Finnish government for a Sign Language Act which was passed on 12 March 2015. In New Zealand as well, constitutional recognition has been evaluated as not living up to expectations (Manning and McKee, this issue).

Recognition by Means of General Language Legislation

Four countries recognized their sign language by means of general language legislation that also makes regulations for the national spoken language(s): Latvia (1999, Official Language Law), Estonia (2007, Language Act), Sweden (2009, Language Act), and Iceland (2011, Act on the Status of the Icelandic Language and Icelandic Sign Language). All of these laws use the specific name of the particular sign language. In all four cases, although their laws vary considerably, legislative recognition calls for the state to ensure and promote the development and use of the sign language.

Section 3(3) of the Official Language Law of Latvia declares that the state is to ensure the development and use of Latvian Sign Language for communication with people with impaired hearing.

Chapter I §1 of the Language Act of Estonia, on the status of the Estonian language (part 3), states that “Estonian sign language is an independent language, and signed Estonian is a mode of the Estonian language,” while part 4 asserts that the state is to promote the use and development of the Estonian language, Estonian sign language, and signed Estonian. The right of deaf persons and individuals with a hearing impairment to communicate in Estonian sign language and signed Estonian is to be ensured by providing translation services. In addition, the Language Act of Sweden states that persons who are deaf or hard of hearing or for any other reason require sign language are to be given an opportunity to learn, develop, and use Swedish Sign Language. Moreover, the country is responsible for “protecting and promoting” Swedish Sign Language.

The most comprehensive example of recognition in general language legislation is probably the 2011 act on the status of the Icelandic language and Icelandic Sign Language (ISL). Article 3 confirms that ISL is the first language “of those who rely on it for expressing themselves and communicating with others.³ It is also the first language of their children. The authorities shall nurture and support it.” The same article proclaims the right of “anyone who needs sign language” to have an opportunity to learn and use ISL “at the onset of language acquisition, or from such time as deafness, hearing impairment or deaf-blindness is diagnosed. The same right is afforded to the closest family members of such persons.” This law is one of the very few to explicitly mention the right of deaf children and their families to sign language from a very early stage. However, the use of the word “rely” can be interpreted as stemming from a deficit perspective.

Article 5 states that “the Icelandic state and local governments shall promote the development, study, teaching, and spread of ISL and shall otherwise support culture, schooling, and education for the deaf, the hearing impaired and the deaf-blind.” The act also provided for the establishment of the Icelandic Sign Language Council, which is charged with advising the authorities on all matters related to ISL, as well as promoting the strengthening of ISL and its use in society. Article 9 covers the right to interpretation at the government level, while Article 13 proclaims that “the state and local governments shall ensure that anyone who needs services in ISL is provided with them.

The state and local governments have a responsibility to preserve ISL, develop it, and promote its use.” However, despite the comprehensive content of this act, an earmarked budget for implementation seems to be lacking.

Recognition by Means of a Sign Language Law or Act

Some countries have recognized their sign language through a specific sign language law or act. These include Slovakia (1995, Law on the Sign Language of the Deaf), Uruguay (2001, Law no. 17.378), Brazil (2002, Federal Law 10.436 [Libras Law]), Slovenia (2002, Law on the Use of Slovenian Sign Language), Belgium, Wallonia (2003, Decree on the Recognition of Sign Language), Cyprus (2006, Act on the Recognition of Cyprus Sign Language 66[I]), Belgium, Flanders (2006, Decree on the Recognition of the Flemish Sign Language), Bosnia and Herzegovina (2009, Law on the Use of Sign Language in Bosnia and Herzegovina), Macedonia (2009, Law 105/2009 on the use of sign language), Catalonia (2010, Law 17/2010 on Catalan Sign Language), Finland (2015, Sign Language Act), and Serbia (2015, Law on the Use of Sign Language).

Recognition by Means of a Sign Language Law or Act, including Other Means of Communication

Some countries have recognized their sign language through a specific sign language law or act that also recognizes “other means of communication” or “other communication methods.” In some cases this inclusion is a result of the watering down of legislative proposals, as in Spain (Quer 2012) and Italy (Geraci 2012).

Examples include Colombia (Law 324 of 1996, according to which standards are created for the Deaf population), the Czech Republic (2008, Law 384/2008 on the communication systems of deaf and deafblind people),⁴ Spain (2007, Law 27/2007, [...], by which Spanish sign languages are recognized and the means of support for oral communication of deaf people, people with hearing disability and deafblind people are regulated)⁵ and Poland (2011, Act on Sign Language and Other Means of Communication).

Act CXXV on Hungarian Sign Language and the use of Hungarian Sign Language (2009) is a special example because, although

it explicitly recognizes Hungarian Sign Language, reference is made throughout the text to both Hungarian Sign Language and “special communication systems.”⁶

Recognition by Means of Legislation on the Functioning of the National Language Council

Norway and Denmark have recognized their national sign languages in legislation on the functioning of the language council in 2009 and 2014, respectively.

Three Categories of Implicit (Legal) Recognition

I have not included three other groups in the categories of explicit legal recognition. Thus, the figure of thirty-one countries listed earlier does not include the countries listed here. The first comprises those countries that have mentioned their sign languages only in legislation on disability, equality, or education. Those that have mentioned their sign language only in disability legislation include Lithuania (1991, Law of Social Integration of Disabled People), Germany (2002, Disability Equality Law), Mexico (2005, General Law on Persons with Disabilities), Chile (2010, Law 20422, which establishes rules on equal opportunities and social inclusion of people with disabilities), Japan (2011, Revised Basic Law for Persons with Disabilities), and Russia (2012, Law on the social protection of people with disabilities in the Russian Federation. Countries that have mentioned their sign languages only in educational legislation include Greece (2002, Education Law), France (2005, Education Law), and the Netherlands (e.g., 2007, Law on Higher Education and Scientific Research). (For a more comprehensive overview of such implicit recognition in the European Union, I refer to Wheatley and Pabsch 2012. A broad summary of the topic on an international scale has not yet been done.)

The second category consists of countries that have granted recognition by a declaration or government decision (no explicit legal recognition). Examples include Australia (1991, National Language Policy), Thailand (1992, Government Resolution), UK (2003, Statement by the Department of Work and Pensions), Wales (2004), Northern Ireland (2004, Statement by the Secretary of State), and Scotland (2011, Statement by the Scottish Minister of Public Health).⁷ A comprehensive list of these countries has not yet been done.

The third category comprises the United States and Canada. American Sign Language (ASL) in the United States and ASL and Langue des Signes Québécoise (LSQ) in Canada are not yet recognized at the federal level but are mentioned in some state or provincial legislation. Several Canadian provinces have legislatively recognized ASL or LSQ as a language of instruction. In the United States, forty states have recognized ASL as a language, and a number have recognized it as a (foreign) language for educational purposes (Murray, this issue). It appears that the recognition of ASL in the United States has largely affected hearing more than deaf people because it is not concerned with language rights but with the acceptance of ASL as a language that may be studied to fulfill foreign language requirements (Reagan (2011)).

Notes

1. For more on the distinction between implicit and explicit recognition, see De Meulder forthcoming 2015 and Murray (this issue).
2. The time lag between submission and publication of this article inevitably means that some information will no longer be current by the time it appears in print. I welcome any feedback or additional information.
3. This phrase can refer to children, adults, and hearing children of deaf parents (Valgerour Stefánsdóttir, pers. comm., September 16, 2013).
4. This Czech law also recognizes “communication systems based in the Czech language”: finger alphabet, visualization of spoken Czech, written record of speech, Lorm, dactylography, Braille, tactile lipreading, and the Tadoma method.
5. The Spanish law also recognizes lipreading, hearing aids, and subtitling.
6. These are specified in the appendix of this act as tactile sign language, signed Hungarian, fingerspelling, tactile hand-over-hand signs, visualization of Hungarian speech, the writing down of Hungarian speech, the Lorm alphabet, palm writing, Braille writing, tactile form of Braille writing, and the Tadoma vibration method.
7. Scotland might move to category on “recognition by means of a sign language law or act.” see De Meulder (this issue).

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IV

PROMOTION IN TIMES OF ENDANGERMENT: THE SIGN LANGUAGE ACT IN FINLAND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The recognition of sign languages

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

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

The legal status of Finland's languages

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Finland: A model country regarding sign language rights?

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

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

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

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

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

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

Development of and motives for a Sign Language Act

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

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

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

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

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

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

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

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

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

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

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

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

Provisions of the Sign Language Act

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

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

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

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

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

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

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

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

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

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

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

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

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

Absence of new rights for signers or responsibilities for authorities

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

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

Innovative aspects of the Act

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

Footnote 11 continued
autonomous units as well as independent organisations of public administration such as the Social Insurance Institute and public law associations.

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

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

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

Monitoring of the Act

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

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

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

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

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

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

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

Delivery of services in sign language

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

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

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

Comparison with the Sámi situation

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

Legislative situation

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

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

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

Demographic size of language group and territorial concentration

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

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

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

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

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

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

Status as a ‘people’

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

‘Linguistic bind’

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

¹⁵ <http://www.kotus.fi/kielitieto/kiellet/karjala#Karjalanpuhujatkarjalankielenasema>.

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

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

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

Conclusion: Promotion and endangerment hand in hand?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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V

**BUTTERING THEIR BREAD ON BOTH SIDES?
THE RECOGNITION OF SIGN LANGUAGES AND
THE ASPIRATIONS OF DEAF COMMUNITIES**

by

Maartje De Meulder & Joseph J. Murray, 2016

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**Buttering Their Bread on Both Sides?
The Recognition of Sign Languages and the Aspirations of Deaf Communities**

**Maartje De Meulder
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The position of Sign Language Peoples (SLPs)¹ has always been intrinsically linked to the position of their languages and cultures. Because of their biological difference, SLPs cannot (and often do not want to) conform to monolingual ideologies and shift to the majority spoken language. Sign languages are an important and constitutive factor of their individual and collective identities and SLPs have consistently expressed the wish to hold on to them, even in highly oppressive contexts (Ladd 2003). SLPs' communities and their languages have historically emerged in specific geographical locations around the world, rather than in relation to specific (national) spoken languages. This emergence centred around places where deaf people lived together or gathered frequently, such as at deaf schools, within large multigenerational deaf families, in large cities, and locations with high rates of hereditary deafness².

Just like for any other minority language and group (May 2012), the minority status of sign languages and SLPs is the result of social, political and historical processes linked to wider unequal power relations. Krausneker (2003) refers to sign languages as “minorised minority languages”: they are minority languages in numerical terms and in terms of unequal power relations, but are then minorised by institutions, policies and research which ignore or even explicitly exclude them. Since over 95 % of deaf children are born to hearing (non-signing) parents (Mitchell & Karchmer 2004), sign languages are usually not transmitted within the family. In addition, the widespread practice of cochlear implantation of deaf children leads to the increasingly common phenomenon of health professionals actively advising hearing parents against using sign language with their children (Humphries et al. 2012). Due to this, and to the erosion of historical horizontal transmission settings like deaf schools because of individual mainstreaming of deaf children, sign languages are increasingly characterized by disrupted transmission patterns.

In the past two decades, campaigns to grant sign languages legal status and protection have taken place with the aim of enhancing signers' social mobility and protecting the vitality of sign languages (De Meulder 2015a; Murray 2015). These campaigns have been spurred by the academic (linguistic) recognition of sign languages in the 1960s and 1970s (Stokoe 1960; Tervoort 1953), and by the increasing external and internal identification of SLPs as cultural (Padden & Humphries 1988) and linguistic (Skutnabb-Kangas 2010) minorities, which are entitled to legal protection akin to what is granted to other such minorities. This contemporary focus of deaf advocacy organizations on the recognition of sign languages was not inevitable; other issues demanded immediate attention (e.g. underemployment, basic citizenship rights, lack of access to education). This focus on sign language rights, however, enabled those organisations to pack a number of rights (linguistic, educational, acquisition, human, civil) within a single framework “that *seems* to offer relatively simple legislative solutions to complex problems” related to the recognition of deaf people as cultural-linguistic minorities (Murray 2015:381).

The reality has proven to be different. Studies on the outcomes of sign language

¹ The naming of deaf people, and the names they use to define themselves, have varied over time according to social and political trends. In recent years, the concept of *Sign Language Peoples* and the ideas, which it embodies, has emerged (Batterbury, Ladd & Gulliver 2007). The concept seeks to diminish the power of medicalised perspectives by representing the notion that sign languages-using deaf people are collectivities and need to be recognised as cultural-linguistic minorities requiring legal protection akin to what is granted to other such minorities (Ladd 2003).

² The so-called “shared signing communities” (Kisch 2008) where “village sign languages” emerged.

recognition legislation show that the instrumental rights and social mobility obtained as a result have been limited and that legislation especially lacks educational linguistic rights and language acquisition rights (De Meulder in press; De Meulder 2015c; McKee & Manning 2015; Murray 2015; Reagan 2010). This article will address some of the potential reasons for this situation. In doing so, we join recent scholarship in language planning and policy (Baldauf & Kaplan 2003; Tollefson 2001) which “is increasingly addressing the overtly political and ideological aspects of language policy and planning, along with its often deleterious consequences for minority-language speakers” (May 2003:118). We will discuss two reasons for this situation of limited outcomes: the deficit frame and the issue of political participation of SLPs. Going forward, we will argue that sign language recognition legislation should address the concern of sign languages’ vitality. In particular, we will contend that the increasing number of hearing people, usually adults, learning sign language as a second language can be interpreted in two ways. It can be seen in terms of language endangerment but can also constitute a case for sign languages’ vitality.

Language Planning and Sign Language Recognition

The 21st century has seen “a veritable explosion of different kinds of language planning activities for sign languages around the world”, covering status, corpus, acquisition and attitude planning (Reagan 2010:156). The last two decades have seen a substantial growth in the most visible kind of language planning for sign languages: their legal recognition. The campaign for sign language recognition differs from a long history of sign language planning mostly by hearing linguists (Murray 2015; Nover 2000). Sign languages have historically been (and often still are) viewed through a “language as a problem” perspective (Ruiz 1984), and thus inappropriate in the education of deaf children (de Quadros 2015; Reagan 2011; Ladd 2003), have been treated as needing standardisation (Adam 2015; Eichman 2009), seen as manual codes for spoken languages (Van Herreweghe, De Meulder & Vermeerbergen 2015) and have been the subject of devaluating, audistic³, stereotypical and economic ideologies (Krausneker 2015). By contrast the recognition of sign languages is often seen as deaf-driven because the demand for their legal recognition springs from SLPs themselves (De Meulder 2015a; Murray 2015). Because SLPs have been involved in the creation of sign language recognition legislation, it has been described as an exception to laws which otherwise ascribe deaf people dependent status (Bryan & Emery 2014).

The “language as a problem” approach to sign languages influences the perspective of policy makers and the general public, linking SLPs and their languages to a physical deficiency, not a biological and cultural difference. There are great inter-individual differences as to how SLPs define themselves, but some identify as both members of linguistic minorities and disability groups. We position sign languages and SLPs as having “dual category” status, being seen as both a linguistic minority and a group of people with a disability. As such, it is useful to make a distinction here between implicit and explicit legal recognition. Explicit recognition refers to legislation which recognises sign language as a language in dedicated language laws, perhaps even as an official language (New Zealand) or official minority language (e.g. Scotland). Implicit recognition refers to legislation that implicitly acknowledges sign language via other measures, e.g. forms of “disability access”. An example of implicit recognition is the Americans with Disabilities Act (USA), which provides for interpreting services. Implicit recognition laws recognize sign languages within a disability framework, such as those in Mexico, Chile, Lithuania and elsewhere (De Meulder

³ An audistic ideology sees hearing as essential and perceives hearing ways of understanding the world as superior (Krausneker 2015) and is derived from “audism”, a term coined by Humphries (1977).

2015b). Following De Meulder's (2015b) strict legal definition, which includes both constitutional recognition and recognition in language legislation, it is estimated there are currently 33⁴ countries that have accorded legal status to their sign language(s), of which most are European Union member states.

Desired Outcomes of Sign Language Recognition

SLPs' campaigns for the recognition of sign languages seek a differentiated citizenship, a form of group representation rights accorded to accommodate their particular group's needs and practices. They do not resist their inclusion in society, but because hearing-led efforts at "inclusion" have historically tended towards assimilation and the loss of their identities, they aim to achieve this participation without such a loss; something they have in common with other disadvantaged cultural-linguistic minorities (May 2012). This has also been termed difference-aware equality or substantive equality (Dunbar 2006; Conama 2013) or co-equality (Murray 2007) and requires a renegotiation of the social contract for SLP communities (Emery 2011). However, it should be understood that this campaign does not reflect an "essentialist tendency" often associated with minority language rights movements via a particular deterministic language-identity link and the image of the group as static and impervious to context, time, and change (May 2012; Romaine 2006). The key issue is that SLPs seek to be able to retain a significant degree of cultural and linguistic self-determination. This is not only aimed at their languages but equally, and increasingly, at their further existence. Indeed, because SLPs are also perceived as people with disabilities, the medical and genetic discourse is stigmatizing deaf bodies (Bryan & Emery 2014).

The past two decades have seen SLPs develop strategies to achieve these outcomes by first getting legal confirmation that sign languages are indeed *languages* (Murray 2015). This speaks to the weak status of sign languages and although doubts about quality, status and value are common for any minority language, general doubts that they are, indeed, *languages*, seems to be the fate of sign languages only (Reagan 2011). While all explicit legal recognition measures acknowledge that sign languages are languages, this symbolic recognition in itself is only limitedly useful. It should be seen as a first step towards achieving non-instrumental language rights aimed at ensuring a person's capacity to enjoy a secure linguistic environment in his/her mother tongue and a linguistic group's fair chance of cultural self-reproduction (Rubio-Marín 2003), a point made for sign languages by Erlenkamp et al. (2007).

After establishing that sign languages are languages, it is important that legislation can bring about instrumental value for sign languages. These are the instrumental language rights aimed at ensuring that language is not an obstacle to the effective enjoyment of rights with a linguistic dimension. This means e.g. that SLPs can access services in sign language and are not confronted with institutional discrimination because they sign.

Thirdly, and most importantly given the historical and contemporary situation of SLPs are educational linguistic and language acquisition rights in the home and education. Some deaf children with hearing parents acquire sign language early from peers and/or from adults. In many countries however, this opportunity is scarcely available; the medical deafness discourse is still very influential (Humphries et al. 2012, 2015). Only in the minority of cases where a deaf child has at least one signing (usually deaf) parent, can sign language be transmitted at home. Schools for deaf people, which served as the primary sites for peer

⁴ To the previous 31 countries in De Meulder (2015b) were added Scotland (2015) and South Korea (2016).

contact between deaf children and adults, and thus as crucial spaces for both intergenerational and horizontal language transmission, have lost this function due to an exponential increase in deaf children being educated among nonsigning hearing children (McKee 2008). This lack of contact with deaf peers or adults reduces the chance of deaf children acquiring sign language, and has significant consequences for intergenerational and horizontal language transmission and the maintenance of a critical mass of deaf signers. This is a critical third outcome deaf communities have sought via sign language legislation (Manning & McKee 2015; Murray 2015)

Barriers to Successful Sign Language Recognition Legislation

The Deficit Frame

Since the mid-twentieth century, SLPs have emphasised an ontological status as first and foremost that of a language and cultural group, rather than a group of people with disabilities (Padden & Humphries 1988; Ladd 2003; Batterbury et al. 2007). This notion requires a significant ideological adjustment for most hearing lay people and policy makers, for whom "being deaf simply means enduring a form of sensory deprivation, "making recognition of what is *present* for deaf people much harder to achieve than to attract sympathy for what appears to be absent" (Turner 2003a:175).

A significant aspect in which SLPs differ from language minorities and indigenous peoples is that they are also (categorised as) people with disabilities, and are as such members of dual categories. We argue that this dual category membership in itself is not problematic – indeed, it has been used by deaf organizations in their political work toward the recognition of sign languages (Murray 2015). The problem lies in the fact that policies aimed towards SLPs have traditionally envisaged them *only* as persons with disabilities and confusion within the policy domain about SLPs' status is still present. This has significant consequences for the recognition of sign languages. In several countries, sign languages have been granted linguistic status and SLP's linguistic rights by laws that are specific disability laws (e.g. Germany, Russia, Chile). Sometimes, sign language is grouped with "other communication methods" such as lip-reading, sign supported speech, note-taking, cued speech or hearing aids (Hungary, Spain, Poland) (Wheatley & Pabsch 2010, 2012). In other cases, language legislation is blended with disability perspectives. The British Sign Language (Scotland) Act 2015 for example, states that consultation for the language plans implementing the Act⁵ must happen with "persons who represent users of BSL" along with actual BSL signers. Such consultation with nonusers of the language would be inconceivable for other minority languages (De Meulder 2015c). In other cases, an instrumental view is followed where access to sign language is presented as a way to guarantee access to the majority spoken language (NZ Human Rights Commission 2013 in De Bres 2015). McKee (2011) mentions the hybrid rationale of the New Zealand Sign Language (NZSL) Act, which invokes both disability rights and language rights.

The confusion that exists in policy circles has been described by e.g. Emery (2011). While he found that policy makers in the UK recognised sign language and Deaf culture were unique issues, they believed it to be more effective to work within disability discourses, because their colleagues could not grasp the concept of deaf people as a cultural-linguistic group. De Bres (2015) found that the most salient arguments for promoting NZSL among

⁵ The British Sign Language (Scotland) Act is based on the development of so-called national and local "BSL plans", which set out what the Scottish Government and the public authorities listed in the Act plan to do in relation to the promotion of BSL.

representatives of other minority languages groups in New Zealand, were the official status of NZSL and the principle of access associated with disability rights. Attempts by the Finnish Association of the Deaf (FAD) to promote a dual-status framework initially were not understood by Finnish policymakers and Disabled Peoples' Organisations (DPOs). DPOs saw the FAD as "trying to butter their bread on both sides" (Jokinen, personal communication, 3 May 2012, translated from International Sign).

The one-sided treatment of deaf people as disabled has also led to confusion about the meaning and interpretation of linguistic rights for them. In most sign language recognition legislation, what is legally secured is not the right to sign, but the right to have *access* to certain domains like education, health care, social care, *through sign language*. Most commonly this is done through the use of interpreters, sometimes also by deaf people translating information on governmental or other websites into sign language. To compare: Gaelic speakers' right to access services in Gaelic entails access to services where frontline staff is competent in Gaelic; not access to services with an English-Gaelic interpreter. While the use of interpreters can facilitate communication it does not really promote the use of the language (see also Tallroth 2012). Also the provision of interpreters, even if mandated by law, does not satisfy the requirements for institutional support for a sign language, necessary for its continuing vitality (Bickford et al. 2014).

The deficit frame has led governments to treat language planning regarding sign languages differently from that for spoken languages. In 1993 it was suggested to include NGT (Sign Language of the Netherlands) under part III of the European Charter for Regional or Minority Languages. The Dutch Home Secretary, in a statement that put NGT firmly in a deficit model as a 'solution' for disabled people who can't master spoken language, argued that NGT was not more than a substitute for oral communication (Jousma 2009). In a later stage of negotiations, the government demanded a standardised lexicon of NGT, the main argument being that if this did not exist NGT could not be recognised. This demand was highly unusual and had not been a precondition for the recognition of other minority languages in the Netherlands such as Frisian. Schermer (2012:477) even states that it "turned out to be a political means of slowing down the process of legal recognition" of NGT. Indeed, despite standardization the Dutch government still has not yet explicitly recognized NGT.

The deficit frame has also led to misunderstandings, myths and devaluating ideologies about sign languages (Krausneker 2015) which are then (consciously or unconsciously) used to deny them legal status. This has occurred at the European level, with both Ciemen, the former main official source of information on the legal situation of Europe's minority languages, (Krausneker 2003), and the European Charter for Regional and Minority Languages excluding sign languages from their remit (Krausneker 2000).

Sometimes, devaluating and audistic ideologies are combined seeing sign language recognition as contrary to measures which try to compensate for or cure hearing loss. In New Zealand during readings in the House of the NZSL Act, it was stated by some Members that government support would be better directed towards more medical and technological interventions compensating the limitations caused by deafness. This view was rejected by the majority of the MPs as "the Deaf community's aim in advocating for legal recognition was to seek validation, not rehabilitation, of their linguistic identity (McKee 2011:282). In Italy, the

Italian parent association FIADDA⁶ which supports a strict oralist education for deaf children, considered the recognition of Italian Sign Language (LIS) an “illogical initiative, a backward-looking choice” (Geraci 2012:498). This perspective on sign languages goes beyond a dual category frame in that it actively devalues the viability of sign language as a legitimate linguistic option for human beings.

Political participation

Most SLP communities have organizations of different types operating on different levels, from the local to the national and international, with a majority of nations having national associations of deaf people. Those organizations face both context-specific challenges and challenges typical to that of interest groups representing numerically small and historically marginalized groups. Prominent among these are a scarcity of financial and human resources to carry out the organization’s goals.

In the context of sign language legislation, these challenges can be seen in the implementation phase after the passage of sign language recognition legislation. There may be a (wide) disparity between the deaf community’s expectations and the government’s intentions during the drafting of the law (New Zealand, Finland). There may be lack of implementing legislation for constitutional recognition (Finland, Austria), lack of implementation funding and mechanisms and on-going maintenance of rights secured by the law (New Zealand, Iceland, Catalonia, Scotland, Finland, Flanders). Or there may be an initial allocation of funds which did not correspond with the deaf community’s expectations as in the United Kingdom (De Meulder in press; McKee & Manning 2015; Murray 2015; Turner 2003b; Quer 2012). This disjunction between expectations and reality highlight the obstacles of interest group agitation done by volunteers in the modern bureaucratic nation-state, with its complex legislative and post-legislative processes.

As noted above, it seems as if implicit sign language legislation which adopts a dual-category frame has more success in achieving one particular form of instrumental rights for SLPs: access to public services in sign language, usually via an interpreter. These statutes draw upon disability frameworks and, not incidentally, existing governmental consensus for funding disability access. However, other forms of implicit legislation, as well as explicit legislation, usually encounter one variation of the post-legislative problems mentioned above, with recognition being offered by governments without any substantial commitment to financial resources, change in government practices, or greater inclusion of sign language in public life.

There is one exception to this general trend: sign language planning bodies, which include both language advisory boards and positions earmarked for sign language within national language councils. Even here, we can see challenges arise in the implementation phase.

In a number of countries, sign language (advisory) boards have been (Belgium, New Zealand) or will be established (Scotland, Finland). The Flemish Sign Language (VGT) board in Belgium has the task to advise the Flemish government on all matters related to the use of VGT.⁷ They also advise the government on the budget to be spent on projects for the “societal anchoring of VGT”. At least half of the 15 members must be deaf signers and represent the following groups: associations of deaf signers; parents who sign with their children; experts on the education of deaf children in VGT; VGT teachers; experts on interpreting VGT/Dutch; VGT and Deaf Studies researchers and experts on the artistic use of VGT or media.

⁶ Famiglie Italiane Associate per la Difesa dei Diritti degli Audiolesi.

⁷ One author, Maartje De Meulder, is chair of the VGT Board.

The NZSL advisory board, modelled on the VGT advisory board and with an announced allocation of NZD\$6 million over four years, is to lead the promotion and maintenance of NZSL and has an advisory and monitoring function over government agencies.⁸ The funding includes \$1.25 million per year for a NZSL fund to support initiatives that promote and maintain NZSL. As of 2016, the maximum ten members are comprised of six deaf and two hearing members, two members who identify as Māori (deaf and hearing), and one (hearing) representative from DANZ, the national deaf association (McKee & Manning 2015). That the NZSL board reports to the Minister for Disability Issues (McKee & Manning 2015) is again an example of the association with disability issues among policymakers.

The British Sign Language (Scotland) Act (2015) requires all public bodies to consult with BSL signers and “those who represent them”. The Scottish government saw a danger of “consultation fatigue” with the same few organisations and individuals being swamped with requests (Scottish Government 2014). The establishment of a National Advisory Group (NAG) which would advise on the draft National Plan and on draft Authority Plans on a collective basis, was seen as a possible solution for this situation. In December 2015 the Scottish Government announced plans to recruit ten deaf BSL signers to the NAG. Of these ten, two places will be reserved for deafblind BSL signers, and two for young deaf BSL signers. An eleventh place will go to a hearing parent of a deaf child. Nine places will be taken by public bodies who are subject to the new legislation (Deaf Sector Partnership 2015).

In other countries, statutory sign language councils have been established by recognition legislation (Slovenia, Iceland) or sign language has been included under the remit of the national language board or council, which seems to be a Nordic trend (Denmark, Sweden, Norway, Finland). In three countries (Sweden, Norway and Denmark) the language councils have salaried employees who work on sign language issues.

Sign language advisory boards and employees of national sign language councils allow SLP communities to engage directly with governments on issues that affect their sign languages and be involved in policy formation to the extent such powers are allocated to language bodies by that country. These vary widely, with some language bodies concerned more with language documentation, whereas others (Norway, Sweden) have a mandate to conduct language policy and planning activities, strengthening the status of their target languages and monitoring the government’s implementation of language laws (Language Council of Norway 2016; Institute for Language and Folklore 2016). Advisory sign language boards in particular are likely to face challenges that directly affect the implementation of sign language recognition legislation (De Meulder 2012; McKee & Manning 2015). Emancipatory regulations such as quotas are not always sufficient to effectively realise participation, especially if advisory board members are expected to be volunteers (which is the case in most boards). Also, the dominant language within government structures being the majority language can place barriers on maximal participation of some deaf members – who are bilingual but not always familiar with policy jargon. Also because of educational attainment gaps, there might be a gap between the educational level, knowledge and experience of the hearing and some of the deaf members, which can lead to a dominant hearing view. There is also the question of resource constraints, scope of responsibility, capacity for independent influence on policy and the much-needed coordination across government sectors (McKee & Manning 2015).

⁸ <http://www.odi.govt.nz/what-we-do/nzsl/nzsl-board/>

Sign language planning bodies are a visible sign of SLPs participation in language policy and planning activities and a concrete outcome of lobbying efforts for sign language recognition. With the exception of Sweden, provisions for language policy bodies related to sign language have only been established in the past 5 to 8 years, so there has not been an opportunity to gauge the efficacy of these bodies. It seems apart from resource constraints, not the least of which human resources, they also face limitations in the scope of their mission vis-à-vis deaf community expectations related to sign language, most notably with regard to measures which can ensure the continued vitality of the language among deaf children.

Ways Forward: The Vitality of Sign Languages

In the previous sections, we have discussed how legislation on the recognition of sign languages can contribute to their promotion. Another area that generates increasing attention is the one addressed in research on indigenous language minorities (e.g. Fishman 1991; UNESCO Atlas of the World's Languages in Danger 2013), covering notions such as language revitalisation, endangerment and vitality. It is obvious that precisely these topics need to be addressed for sign languages as well since, like spoken indigenous minority languages, they are to be considered 'minorised' languages (Krausneker 2003), which also have not previously been addressed in most discussions on language endangerment (Nonaka 2014). The beginning of research on these topics for sign languages exists, e.g. the 'Cataloguing endangered sign languages' project at UCLAN⁹ and the adaption of the Expanded Graded Intergenerational Disruption Scale (EGIDS) for sign languages by Bickford, Lewis and Simons (2014). However, until now this research has mainly been limited to the context of 'village sign languages' (e.g. Zeshan 2012) and of small territorial sign languages (e.g. Hoyer 2004) for which the push and pull factors are different than for larger, national sign languages¹⁰. Recently, the concern about the future vitality of sign languages has come to include long-established sign languages in mainly Western nations of which many are legally recognised and used by larger communities like Icelandic Sign Language (Report of the Committee on Icelandic Sign Language, 2015) Danish Sign Language (Niemela 2011), New Zealand Sign Language (McKee & Vale 2014), Australian Sign Language (Johnston 2006) and Sign Language of the Netherlands (EUD 2011).

We believe that while sign languages, particularly national sign languages in Western countries, are more supported than ever before via legal recognition, they are also more threatened than ever before, even taking into account interrupted patterns of transmission and longstanding oralist educational policies. The 'Cataloguing endangered sign languages' project has catalogued 15 sign languages so far: all the national sign languages included in the project are labelled "vulnerable". The Committee on Iceland Sign Language (2015) labels ÍTM as "severely endangered". On Bickford's et al. (2014) adapted EGIDS, McKee & Manning (2015) consider New Zealand Sign Language to be at level 6b, "threatened": "used for face-to-face communication within all generations but losing users". There is reason to believe that level 6b can be applied to most Western, national sign languages, especially

9

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

¹⁰ For village sign languages, these are specific factors such as dispersal of the language community, the decreasing birth of deaf children, and changes in marital patterns (Kusters 2015). For small territorial sign languages, these are the absence of influx of new generations of native signers and endangerment by majority (signed and spoken) languages (Hoyer 2004).

because NZSL is a sign language with a strong legitimation (official language) and considerable institutionalization, which is not the case for most sign languages.

While numbers are clearly important to maintain a critical mass of (deaf) signers, what is of most significance in predicting the likelihood of a language's survival is *who* speaks the language, and *why*. This reflects the associated unequal power relationships between minority and majority language communities and the degree to which minority languages are recognized by the state *and* supported by civil society ('legitimation' and 'institutionalization') (May 2012). As noted above, SLPs, because of their biology, cannot (and do not want to) "exit" their linguistic group. Skutnabb-Kangas and Aikio-Puoskari (2003) have argued that this impossibility strengthens SLPs' claim for language rights. But ironically, it is SLPs' ascribed disability status that has allowed them to continue to use sign language, since recognition legislation in most cases does not offer such a guarantee. Although there is an increasing academic and policy recognition of deaf people's cultural-linguistic minority status, the general public accepts deaf people are disabled and therefore does not question their use and need of sign language. The assumption of hearing majority language speakers is that deaf signers would shift to spoken majority language monolingualism if they could.

This toleration of sign language for deaf people is changing in cases of children with cochlear implants (CIs). Educators increasingly question deaf children's "need" for sign language and bilingual education because they now have access to spoken language (Knors & Marschark 2012), which reflects a "language as a problem" approach to sign languages prevalent in the field of deaf education (Reagan 2011). This is also relevant with a growing number of deaf people, especially the younger generation, with widely variable language access. Some live multilingual lives, with (speaking and/or writing) capacity in the majority language(s) and their own and other sign language(s). This is occurring through biomedical technology (the CI) and improvements in educational outcomes on the one hand (e.g. sign bilingual education in some locations, and access to the national curriculum) and through increased international mobility on the other, with deaf people having more access to English and other sign languages (Multisign project 2011-2016¹¹; Wang et al. 2014). Others are denied access to sign languages and may end up with linguistic deprivation in both the majority language and in sign language causing harm to them and to society (Humphries et al. 2012). Furthermore, there are a growing number of deaf children with a CI subject to monolingual ideologies and unable to acquire sign language at home nor at school (Humphries et al. 2012) who may be used to expressing themselves in a spoken language (Punch & Hyde 2011; Wheeler, Archbold & Hardie 2009). However the extent to which spoken language is effectively accessible to them and the degree to which they can and do effectively socialize in majority society is highly variable, as is the success rate of cochlear implants (Humphries et al. 2012). If we adopt a view of sign languages from the "language as a resource" approach (Ruiz 1984), we can see it is necessary to guarantee all those groups the right to acquire and use sign language, apart from their competency in the majority language. It is instructive to look at other minority language legislation here. The Sámi Language Act (Finland) for example, states that an authority must not restrict or refuse to enforce linguistic rights on the grounds that the Sámi also knows some other language. Sign language remains the only language that is 100% accessible for deaf children (also those with a CI) in the language acquisition period and is key to a full socialization and acculturation (see also Kushalnagar et al. 2010). We also need to take into account cognitive benefits to learning

¹¹ http://www.uclan.ac.uk/research/explore/projects/multilingual_behaviours_sign_language_users.php

sign languages which are not found for spoken languages (Hauser and Kartheiser 2014). But such rights are not guaranteed by any existing legislation.

We also need further reflection on the strategies used to ensure the vitality of sign languages. We believe the home should be one of the foci for transmission and thus vitality, and that considerable attention should be directed at hearing parents' access to and opportunities to learn sign language. Other transmission spaces can be sign language nests¹² and settings where signing children are educated together. Alongside this, we need to look at ways in which sign languages can create new generations of users without intergenerational transmission. King (2001:26 in Romaine 2006:464) makes a distinction between reversing language shift and language revitalization, "which can be understood as not necessarily attempting to bring the language back to former patterns of familial use, but rather to bring the language forward to new users and uses". Romaine (2006) states that doing so may lead to an increase in users and uses of the language without intergenerational transmission.

Indeed, one issue that is increasingly coming to the forefront is growing numbers of hearing people who learn and use sign language. Some are L1 learners who have deaf parents or family members. The vast majority of hearing people who use sign language are L2 learners and there has been a rapid expansion of interest in learning sign language over the past decade (Murray 2015). Approximately 100,000 people learn ASL at U.S. postsecondary institutions annually (Goldberg, Looney & Lusin 2015), making it the third most commonly taught language at that level. Set beside the estimated 500,000 to 1 million (Mitchell, Bachleda & Karchmer 2006) deaf people in the United States, it is apparent there is a large group of hearing people for whom ASL is a first or second language.

This expansion of primarily hearing, but also deaf L2 users of sign languages can be interpreted in terms of language endangerment, but it could also be seen as a case of language revitalization. The case for endangerment is that the demographic profile of signers may be dominated by a growing group of L2 learners and an increasingly diminishing number of L1 signers. Indeed, considering early intervention measures combined with monolingual ideologies it is likely that in some countries, among the very youngest age groups, there are more hearing than deaf L1 signers of the national sign language. Likewise in the older age groups, it is likely that in some countries hearing L2 learners outnumber deaf L1 signers. This numerical disparity is also found in some indigenous languages like Sámi and Māori (Sarivaara, Uusiautti, & Määttä 2013; Spolsky 2003), of which the majority of young speakers are L2 learners, so-called "revitalised speakers". There are signs of language change with deaf and hearing L2 learners who work in professional settings which require sign language (interpreting, deaf education, social services) creating new lexical items in the national sign language and new syntactic structures which may not follow the grammatical rules of that sign language.

However, just as with Sámi and Māori, a case can be made that the expanding pool of L2 learners can serve to sustain the existence of sign languages. This would mean a change in usage and variations in sign languages as they become adapted to the needs of different groups of speakers, with likely an increasingly strong influence from the dominant spoken language in each country. This raises issues of linguistic ownership and linguistic prescriptivism among some deaf communities and more research is needed to investigate responses to the popularisation of sign languages and how this plays out in terms of sign languages' institutionalization.

¹² A strategy pursued by e.g. the Finnish Association of the Deaf (Suomen viittomakielten kielipoliittinen ohjelma 2010).

Conclusion

The 21st century has brought forward a unique dynamic for sign languages, with legislative recognition proceeding hand in hand with external factors endangering these languages. In this article, we have discussed two main reasons for the situation of limited outcomes of sign language recognition legislation: the deficit frame and the issue of political participation of SLPs. There is an additional reason, however, which transcends the ones described earlier. As Murray (2015:381) has argued, the focus on sign language rights *seemed* to offer “relatively simple legislative solutions to complex problems”. “Seem” is the imperative word here. Indeed, this focus has proven to be the “easiest” path to follow and achieve, but as we described in the desired outcomes, SLPs need and want something that goes beyond the mere recognition of sign languages as languages. Instead, there should be a continued focus on according the full range of rights to these languages and their signers as are found for other majority and minority languages and their speakers. This requires policymakers to see beyond a deficit frame, perhaps adopting a dual category frame in order to protect existing rights related to access. Achieving this in countries with existing legislation will require a shift from relatively simple recognition legislation to a focus on implementation. We are already seeing this taking place in New Zealand, Finland and Flanders with the deaf community increasingly settling in for long-term engagement with government departments to achieve actionable rights (De Meulder in press; McKee & Manning 2015). For those countries that are still working towards legal recognition, the lesson should be that they should hold out for explicit legislation that addresses their concerns of language vitality.

In this article we have looked at the exigencies of the future, to see how the increasing number of L2 signers in many countries can be seen as a case of strengthening sign languages’ vitality. This might be a controversial position for some and we want to stress that we do not want to see sign languages used by hearing people only, without any benefit to deaf people. The popularisation of sign languages can improve attitudes and raise status, and, in the long term, promote social cohesion and a more inclusive society. This can contribute to sign languages’ vitality if this is paralleled by meaningful language and educational access for deaf children, and attention for the sustainable development of SLPs communities.

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