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Petra Granholm

The Åland Islands Peace Institute

**Legal and Institutional Framework Analysis:
North Sámi and Kven**

eldia

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Research consortium ELDIA c/o Prof. Dr. Anneli Sarhima
Northern European and Baltic Languages and Cultures (SNEB)
Johannes Gutenberg-Universität Mainz
Jakob-Welder-Weg 18 (Philosophicum)
D-55099 Mainz, Germany
Contact: eldia-project@uni-mainz.de

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Foreword

The **Legal and Institutional Framework Analyses** represent the collected knowledge of the ELDIA-project in the field of law, politics and policies and of their institutional representations with regard to the languages studied in this research project. Each report examines one or two languages in their wider national and international context. The **core scientific questions** in the present law and policy studies are: What role is played by law in the use or non-use of different languages in different domains? What role is played by law in promoting or inhibiting language diversity as such? Finally, which factors related to legal and institutional matters influence language use, language maintenance and language diversity? Each study consists of three main parts: a) The **overall legislative and institutional framework**; b) **Languages and minority policies in practice** (a section which covers the discussions and the implementation, or non-implementation, of constitutional provisions, language legislation, education and media legislation) and c) an identification and analysis of **the legal actors**, i.e. persons, organisations, and public authorities engaged in the development, interpretation and monitoring (judicial and other) of the relevant legal frameworks. The law researchers involved in this part of the research have benefited greatly from the input of and interactions with the broad network of researchers represented in the project, and thus we are now even more convinced that contacts across scientific disciplines is a precondition for a deeper understanding of complex societal processes. The *Legal and Institutional Framework Analyses* shall form part of the background for the development of the comparative and interdisciplinary work that is currently taking place within the ELDIA-project.

As all *Working Papers* published on the project website and within ELDIA, also these studies have been submitted to extensive project internal as well as external review under the supervision of Associate Professor, Jur. Dr., Sia Spiliopoulou Åkermark. The Åland Islands Peace Institute is responsible for this component of the ELDIA project. Any comments can be sent to sia@peace.ax

We wish to thank all those that have kindly contributed to our work with their comments and advice.

Mariehamn in January 2012,

Sia Spiliopoulou Åkermark

The Åland Islands Peace Institute

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1 The overall legislative and institutional framework

The present text analyses the legal and institutional status of North Sami and Kven in the Norwegian legal system. These two languages were chosen as case studies within the ELDIA project.

1.1 The position of languages and minorities in the legal and political context of Norway

Norway, a country with a population of 4,9 million,¹ was founded on an ethnically and culturally diverse territory.² Before the national borders were drawn in the North, the ancestors of present-day Norwegians and Sámi were already present on the territory. The five groups that are recognised as historical minorities today all have a presence on the Norwegian territory for more than a century. Whereas the Sámi are considered indigenous, the Kven, Roma and Forest Finns (*Skog Finns*) are considered to have a history in Norway since the 16th and 17th centuries.³ The Jews who in the Norwegian Constitution of 1814 were denied access to the Kingdom have nevertheless been present in the country from the end of the 19th century.⁴ The Romani (also called Travellers) are thought to have arrived in Norway in the 1860's.⁵

Under international law,⁶ the Sámi are an indigenous people in Norway as recognised and confirmed by Norway's ratification of ILO convention 169 on Indigenous and Tribal peoples on 19.6.1990.⁷ In contrast, the Kven, people of Finnish descent living in Northern Norway, are recognised as a national minority, along with the Jews, the Roma⁸, the Romani people⁹ and the

¹ On 1.1.2011, Norway has 4 920 300 inhabitants, according to Statistics Norway.

² As recognised officially on several occasions, see St.meld. nr. 17 (2004-2005), para.6.1.

³ St.meld.nr.15 (2000-2001), p.6. The Forest Finns represent a migration independent of that of the Kvens. Their ancestors came to Sweden and Norway in the 16th-17th century and settled especially in the border regions of Southern Norway and Western Central Sweden. Their traditional language became extinct by the 20th century, but the last few decades have witnessed a new interest towards their roots; see e.g. the website of the Norwegian Forest Finn Museum, www.skogfinskuseum.no.

⁴ St.meld.nr.15 (2000-2001), p. 36.

⁵ St.meld.nr.15 (2000-2001), p. 35.

⁶ See Chapter 1.11.

⁷ ILO Convention no. 169 on Indigenous and Tribal Peoples, adopted 27.6.1989, entered into force 5.9.1991.

⁸ Also called Gypsies.

⁹ Also called Travellers.

Forest Finns in southern Norway,¹⁰ as confirmed upon ratification of the Council of Europe Framework Convention on the Protection of National Minorities (FCNM).¹¹ At least three varieties of the Sámi language¹² and the national minority languages (Kven, Romani and Romanes) are protected under the European Charter for Regional and Minority Languages (EChRML).¹³

There are no official statistics on how many members of minorities or minority language speakers there are in Norway. A common estimate of the total number of Sámi in the whole of Sápmi¹⁴ is 50,000-80,000.¹⁵ North Sámi is the most widely spoken Sámi language in general.¹⁶ The Sámi Parliament in Finland estimates that 75-90% of the total number of Sámi speakers speak North Sámi.¹⁷ The Sámi Statistics in Norway estimates the total number of Sámi speakers to be 30,000-50,000.¹⁸ Lule Sámi and South Sámi are smaller languages in Norway and in general, with total estimates amounting to 2000 and 500 speakers respectively.¹⁹ The official estimate of persons who refer to themselves as Kven, or persons of Kven/Finnish descent, is 10,000-15,000, out of which 2,000-8,000 are believed to speak the Kven language.²⁰ Some Kven activists have argued that the number of Kven speakers is largely overestimated (see Chapter 2.8). Although the area for both Sámi and Kven languages has traditionally been defined as the North of Norway, i.e. Nordland, Troms and Finnmark counties for the Sámi, and Eastern Finnmark for the Kven, today many speakers also live in other parts of the country, such as in Oslo.²¹ The traditional language of the Forest Finns is considered to be lost, just like the Eastern/Skolt and Pite Sámi language in

¹⁰ ACFC/SR(2001)001, para. 1.1.

¹¹ Framework Convention for the Protection of National Minorities, adopted 1.2.1995, entered into force 1.2.1998.

¹² Also spelled in English: Sami, Saami, Saamic, Samic. The exonyms Lappish and Lappic are also used but considered as having negative connotation.

¹³ European Charter for Regional and Minority Languages, adopted 5.11.1992, entered into force 1.3.1998.

¹⁴ Sápmi is the Sámi name for the traditional area where Sámi people live and have lived, spanning the four countries of Finland, Norway, Russia and Sweden.

¹⁵ Nordic Sámi Institute, 29.1.2008.

¹⁶ As Sámi is also spoken in Sweden, Finland and Russia.

¹⁷ Sámediggi/Saamelaiskäräjät, 16.3.2010.

¹⁸ Nordic Sami Institute, 9.3.2005.

¹⁹ Ibid.

²⁰ Maliniemi, n.d. As shall be evident in the following analysis, the debate about the relations and connections between Kven and Finnish identity/identities are a major topic of development and discussion today within the group itself. In the present paper I often use the form 'Kven/Finnish' to capture this openness and debate.

²¹ The Nordic Sámi Institute points out that all statements on how many speakers of Sámi live where remain speculations, since there are no reliable statistics. Nordic Sámi Institute, 21.6.2006. The same must be said for the Kven estimations.

Norway, although revitalisation projects are underway for the last two.²² Hebrew and Yiddish are spoken or understood by some Jews in Norway,²³ but these languages do not enjoy any legal protection. Romanes, the language of the Roma, and Romani, the language of the Romani/Travellers, are each estimated to be spoken by a couple of hundred persons²⁴ but do not enjoy any explicit legal protection, despite the EChRML.

Today, the debate about North Sámi and Kven language rights takes form primarily as a revitalisation debate. This is because the Sámi and the Kven were subject to a century of Norwegian assimilation policy from around 1850.²⁵ This policy systematically oppressed the cultures of minorities. The Norwegian Parliament (*Stortinget*) adopted a minority policy called Norwegianisation (*fornorskningspolitikk*), which started with the areas of school and language but soon came to encompass all fields of society,²⁶ including the Sale of Land Act of 1902²⁷ which made the acquisition of land in Finnmark dependent on the command of the Norwegian language.²⁸ As stated by the historian Henry Minde, the Norwegianisation measures were gradually broadened,²⁹ making the school and education the main Norwegianisation scene with an instruction issued by the Directors of Troms diocese in 1880 to teachers in ‘transitional districts’³⁰. According to this instruction, all Sámi and Kven children should speak, read and write Norwegian³¹ and the Sámi and Kven languages were only to be used when explaining to the children what was not understandable to them in Norwegian.³² Smaller changes to these instructions were made in the so-called *Wexelsenplakaten* from 1898, which was only abolished around 1960, with the introduction of the system of nine years of schooling.³³ The changes in school policies started

²² Ministry of Government Reform, Administration and Church Affairs, 2011, pp.29-30.

²³ St.meld.nr. 15 (2000-2001), p.6.

²⁴ ECRML (2001) 6, paras. 12-13.

²⁵ See Skogvang, 2009, p. 29.

²⁶ Niemi, 2006, pp.407-408.

²⁷ Lov om Afhændelse af Statens Jord og Grund i Finmarkens Amts Landdistrikt, Nr 7, 22.5.1902.

²⁸ Such conditions were that only Norwegian-speakers were allowed to buy land. However, Section 2 of the Act itself merely stipulated that conditions could be set up for such acquisition, such as being “against the public interests” while the actual Norwegian language condition was implemented in practice. See Ot.prp.nr.20 (1901-1902), p.11 and NOU 2001: 34, para.1.9.2.

²⁹ Minde, 2005, p.13.

³⁰ I.e. areas which had become ethnically mixed with a substantial element of ethnic Norwegians and other Norwegian speakers. Minde, 2005, p.9.

³¹ Instrux. Lærerne i de lappiske og kvenske Overgangsdistrikter i Tromsø Stift, 1880, section 2, para.1.

³² Instrux. Lærerne i de lappiske og kvenske Overgangsdistrikter i Tromsø Stift, 1880, section 3.

³³ Niemi, 2006, p.417.

slowly after World War II, when the Sámi Committee was established under the Ministry of Church and Education in 1956. The Committee delivered its report, which gave a decisive blow to the assimilation policies, in 1959.³⁴

Despite the Norwegianisation measures and an immigrant-language status in Norway up until the inter-war years,³⁵ the Kven language did not die out completely in Northern Norway thanks to settlement patterns and the Laestadian religious revival movement.³⁶ The North Sámi core areas, such as Kautokeino and Karasjok, were to a large degree isolated, a fact that contributed to the survival of the Sámi language. Other factors were the Sámi mission, which was the movement to spread Christianity among the Sámi, and the Evangelic-Lutheran church, which enabled religious service to be held in the Sámi language without Norwegianisation policy interventions, due to the Lutheran idea that everyone should have the right to worship in their mother tongue. In the coastal areas, where there was no reindeer herding, it was more difficult to keep North Sámi alive, and therefore many so called Sea or Coastal Sámi (*sjøsamer*) today do not speak North Sámi although it was their language historically.³⁷

Especially during the last couple of decades, it can be argued that a three-tier minority policy hierarchy has crystallized out of the domestic developments and the conventions ratified.³⁸ This is seen most clearly from the administration of related matters. The Sámi policy is at the top of the hierarchy as a policy towards an indigenous people followed by the policy towards the national minorities and finally by the immigrant policy towards persons born in another country. Today in Norway most attention is paid to the immigrant policy because of its high politicization. All political parties are working on new, stricter policies in line with the most recent shifts in the European multiculturalism following 9/11 and the financial crisis.³⁹

³⁴ Committee for Sámi Issues appointed by the Ministry of Church and Education, (Komiteen til å utrede samespørsmål), Oslo, 13.8.1959. See also Skogvang, 2009, p.206.

³⁵ Niemi, 2006, p.413.

³⁶ ACFC, 2001, para 1.6.2.1.

³⁷ Niemi, 14.2.2011.

³⁸ As mentioned by several observers, among them Einar Niemi, professor of history at the University of Tromsø, in interview 14.2.2011.

³⁹ Einar Niemi is of the opinion that it can be disputed whether the second place of the hierarchy is taken by the national minorities' or the immigrants' policy.

As to the hierarchy of languages in Norway, one has to distinguish between a *de facto* and a *de jure* hierarchy. Bokmål, one of the two official forms of Norwegian, enjoys *de facto* the highest language status because it is the most widely spoken language. However, *de jure*, Sámi enjoys the highest protection since it is presently the only language protected by the Constitution.⁴⁰ The two official forms of Norwegian, *Bokmål* and *Nynorsk*, are protected under the Language Use Act (*målbrukslova*)⁴¹, while the Sámi varieties are protected under the Sámi Act (*Sameloven*, see Chapter 1.9). Of the minority languages Sámi enjoys the highest protection as the language of an indigenous people, and within this the North Sámi language enjoys the highest status *de facto*, because it is the Sámi language spoken by most persons, and also *de jure*, because the Sámi Act⁴² provides for administrative areas which until 2006 included only municipalities where North Sámi is spoken. Within the Sámi language administrative areas, the rights of Sámi speakers are guaranteed by the third chapter of the Sámi Act.⁴³ With the inclusion of the municipalities of Tysfjord, where Lule Sámi is spoken, and Snåsa, where South Sámi is spoken, measures are undertaken also for these varieties. The Sámi Parliament, which since 1987 is the elected body with competence to exercise Sámi autonomy in accordance with the second chapter of the Sámi Act, has a specific expert Board for Sámi language issues, namely the Sámi Parliament Language Board.

Kven/Finnish does not enjoy the same legal protection as the Sámi language varieties but is mentioned in the Place Names Act⁴⁴ and the Education Act.⁴⁵ Sign Language is also explicitly mentioned in the Education Act,⁴⁶ whereas “other linguistic minorities” are categorised as one group in the same Act.⁴⁷

⁴⁰ The Norwegian Constitution of 1814, art.110a, as revised 27.5.1988.

⁴¹ Act on Language Use (Lov 11. april 1980 nr. 5 om målbruk i offentlig teneste, *Målbrukslova*).

⁴² Sámi Act (Lov 12. juni 1987 nr. 56 om Sametinget og andre samiske rettsforhold, *Samelova*).

⁴³ Sámi Act, ch.3 section 1, para.1 defines the administrative area in a flexible way so as to be those municipalities to be included in the Sámi administrative area following a regulation issued by the King. Such a regulation was issued in 2005: Regulation no. 657, 16.6.2005, to the Sámi Act (Forskrift til *Sameloven* (lov 12. juni 1987 nr. 56) om forvaltningsområdet for samisk språk).

⁴⁴ Act on Place Names (Lov 18. mai 1990 nr. 11 om stadnamn, *Stadnamnlova*).

⁴⁵ Education Act (Lov 17.7.1998 nr 61 om grunnskolen og den vidaregåande opplæringa, *opplæringslova*), ch.2, section 7.

⁴⁶ Education Act, ch.2, section 6.

⁴⁷ Education Act, ch.2, section 8.

1.2 Language as an area regulated by law

In Norway, language is seen as an area to be regulated by law in the sense that linguistic rights such as the right to use certain languages before authorities and to receive education in certain languages are laid down by law. There is no prohibition on the use of any language in private contexts. As of 2011, there is no general language act defining the status of Norwegian or any of the minority languages.

The three main acts concerning language are the Language Use Act from 1980, the third chapter of the Sámi Act from 1987 and the Place Names Act from 1990.⁴⁸

A Government white paper, “Language and Meaning – A Comprehensive Norwegian Language Policy” (*Mål og mening - ein heilskapleg norsk språkpolitikk*),⁴⁹ was put forward to the Norwegian Parliament in 2008. This is the largest language initiative to the Norwegian Parliament ever, and even though it is mainly a reaction against the increased use of English in more and more domains in society, it also takes the situation of minority languages into account. In 2009, the Norwegian Parliament took a decision to support the document in general.⁵⁰ A new Norwegian language act might thus be drafted, which would confirm Norwegian as the main and national language, and include stipulations about other languages in Norway. The Ministry of Culture will have the overarching responsibility for the language policy (see Chapter 2.1.2 and 3.5). As of May 2011, the Ministry informs that the work with the language-related matters is about to start, but it is too early to say whether this work will actually include a language act proposition or not.⁵¹

1.3 Language diversity and multilingualism

As of 2011, there is no legal act stating that language diversity, or multilingualism, is a goal of the legal system. However, since Bokmål and Nynorsk are guaranteed equality in the Language Use Act, and Norwegian and Sámi are equal languages according to the Sámi Act, language diversity is

⁴⁸ A complete reference list of legislation is found in the bibliography of the present report.

⁴⁹ St.meld. nr. 35 (2007-2008), hereinafter “The Language white paper.”

⁵⁰ Ministry of Culture, press release 28.4.2009.

⁵¹ Engen, 2.5.2011. There seem, however, to be diverging views concerning the timeframe for such work. The Left Party, for instance, points out that it was stated in April 2010, that the Ministry was *hoping* to begin this work in *the near future*. Pettersen, 26.4.2011. [own emphasis].

a reality in the Norwegian society. Two layers of language diversity in Norway should be noted here – on the one hand, the long tradition of dealing with two written forms of Norwegian in administrative and educational matters, and on the other hand, the diversity of minority languages in Norway, which is not as deeply rooted in the legal system as the diversity within the Norwegian language. The political discussion concerning languages in Norway, sparked by the developments in the neighbouring countries, such as the adoption of a Language Act in Sweden in 2009, is, however, moving towards a clearer legal formulation of language diversity in Norway. Language diversity is indeed already a stated goal of the political system, because of the language white paper mentioned above, which is the Government's outline of the Norwegian language policy. In the white paper, it is stated that linguistic diversity on a societal level is an important language policy perspective.⁵² The language white paper also states that the primary goal for the Norwegian language policy builds upon the recognition that Norwegian is divided into two written languages. These are formally equal, despite very different starting points in reality,⁵³ see discussion in Chapter 4.4.

Furthermore, in the Plan of Action to Promote Equality and Prevent Ethnic Discrimination (2009–2012) there is a stated goal for the Public Services sector saying that the public services must be adapted to the diversity of the population.⁵⁴ However, this goal seems to be more related to solving problems with translation and interpretation between various languages and Norwegian in order to prevent discrimination, rather than to increase language diversity as a goal in itself.

Language diversity and multilingualism is reflected in the Education Act of 1998 and its subsequent legislation. The clearest examples of the individual right to more than one language (i.e. Norwegian and the mother tongue, or Norwegian and a second or third language) are the stipulations about the individual choice of Norwegian language form (Bokmål or Nynorsk) in education, the right to education in Sámi within and outside the Sámi administrative areas, the right to Kven/Finnish as a second language and the rights to have instruction in languages other than Norwegian if needed.

⁵² St.meld. nr. 35 (2007-2008), p.14.

⁵³ Ibid.

⁵⁴ Ministry of Children and Equality et al, 2009, p.32.

The Ministry of Education and Research states in the white paper “Language builds bridges” 2007-2008 (*Språk bygger broer*) that more than 90% of the Norwegian pupils have either Bokmål or Nynorsk as their mother tongue. Despite this, the Ministry acknowledges the importance of reflecting Norway’s multilingualism in learning. All in all, there are 14 different language curricula in the Norwegian school system, which include Norwegian, Sámi, Finnish/Kven, Sign language, mother tongue for minority language speakers, English and other foreign languages.⁵⁵ A recent reform of the primary and secondary school system is called “The Knowledge Promotion (*Kunnskapsløftet*)”. Within the framework of this reform, curricula that include knowledge goals reflecting the importance given to language diversity have been developed. These curricula have the legal status of a regulation and are the basis for education in all schools⁵⁶ in accordance with the Education Act ch.2 section 3. For instance, under the subject “Language and Culture”, after the 4th year the educational goals are that the pupil shall be able to:

- Discuss a selection of songs, rules, poems, stories and adventures from earlier and present times in Bokmål, Nynorsk and in translation from Sámi and other cultures
- Express thoughts about languages, persons and actions in texts from the daily life and fiction from different times and cultures
- Describe similarities and differences between selections of spoken language varieties in Norway
- Describe language and language use, word classes and their functions
- Vary the construction of sentences.⁵⁷

Similar, but more advanced goals are set up for “Language and Culture” after the 7th and 10th year.

Another recent white paper called Diversity and Coping (*Mangfold og mestring*) contains suggestions for an ambitious strategy to take advantage of multilingualism.⁵⁸ This might well be seen as a constructive effort to turn language policy in favour of diversity and multilingualism. The

⁵⁵ St.meld. nr. 23 (2007-2008), para. 2.3.

⁵⁶ This includes primary and lower secondary education in public schools and training establishments if nothing else is stipulated. It also applies to private primary and secondary schools, which do not receive state grants in accordance with the Private Education Act (No.84 4.7.2003), and private home education in primary and secondary school, in accordance with the Education Act ch.1, section 2.

⁵⁷ The Norwegian Directorate for Education and Training, n.d.

⁵⁸ Ministry of Education and Research, NOU 2010:7.

white paper committee, which was composed of experts and practitioners within education and administration, was set up by the Government to study the educational possibilities for children, youth and adults with minority language background.⁵⁹ The committee calls for an attitude change in society, looking at multilingualism as a value for the individual and for the Norwegian society as an asset on the global market. It suggests early efforts, long-term second language learning, meeting the competence needs in the educational sector and a follow-up of the many laws and regulations issued in recent years. Although it is an important step towards a policy where multilingualism for the individual and language diversity in society is valued, the focus is on immigrant languages -- Sámi and Kven are not discussed in much detail.

In general, there are many initiatives in the language policy and law sphere. Yet, the directions and outcomes of these initiatives remain unclear.

1.4 The languages studied by the ELDIA project in Norway

The North Sámi and Kven language are covered by the diversity perspective, both on societal and individual level. For instance, visible marks of societal multilingualism are found in Porsanger municipality in Finnmark County and Storfjord municipality in Northern Troms County, where road signs in accordance with the possibility granted by the Place Names Act are in three languages: Sámi, Norwegian and Kven.⁶⁰

North Sámi

The principal Sámi language in Norway is the North Sámi language, and it can therefore be said that the equality between the Norwegian and Sámi language is developed in relation to North Sámi on a legal, political as well as educational level. *De facto*, stipulations benefit primarily, but not exclusively, North Sámi. With the extension of the Sámi administrative area, however, Lule and South Sámi protection is better taken into account. The present Minister for Sámi Affairs, Rigmor Aasrud, wants to make North, Lule and South Sámi languages visible as equal to each other and to preserve and promote the diversity in the Sámi culture and community life.⁶¹

⁵⁹ NOU 2010:7, para. 2.

⁶⁰ Niemi, 2009, p.93.

⁶¹ Minister Rigmor Aasrud in foreword to the evaluation for the Plan of Action for Sámi languages, 2011, pp.8-9.

Kven

Kven has a weaker position than North Sámi, but stands out as stronger than other minority languages because of the Education Act stipulations granting a right to learning Finnish as a second language in school for persons of Kven/Finnish origin, and due to an explicit reference to Kven places names in the Place Names Act.

1.5 Political and legal tradition in dealing with minorities and languages

It can be said that Norway has a tradition of dealing with linguistic diversity in that Norway has two official forms of Norwegian: Bokmål ('book language', a largely Danish-based variety) and Nynorsk ('New Norwegian'). These two official forms are equal and official languages of the country according to the Language Use Act. The equal status has its roots in the 19th century nationalistic movement: the idea was that the Norwegian language should not be Danish but rather based on authentic Norwegian grammar and lexicon, as collected by Ivar Aasen in different parts of the country between 1842 and 1846. This language variety was formally equalized with Danish in a Parliament decision of 1885,⁶² under the name *Landsmål*. Around 1929, the name was changed to Nynorsk.⁶³ Today Bokmål is more widely used than Nynorsk, 85-90% of the population use Bokmål as their written language in all parts of the country, and in most areas of community life. Nynorsk is mainly used in the Vestlandet County, which is its core area. In school, pupils learn both forms as main or secondary forms of their written language.⁶⁴

For the last couple of decades, the official status of the Sámi language has evolved, starting in the early 1980's with the Sámi Cultural Committee, and strengthened by language stipulations of the Sámi Act and constitutional protection. Sámi languages are equal to Norwegian as official languages according to the Sámi Act. This may contribute to a facilitation of the recognition and the process concerning preservation and revitalisation of other minority languages as well.

⁶² The so called Equality Decision, "jamstillingsvedtaket" of 12.5.1885, Stortingstidende pp. 737-745, 750-761.

⁶³ Already in 1928 the term "Nynorsk" was used in Royal Decree: Bes.u.målforma f.utlysning av embete og tenestepostar, 14.12.1928. In 1929, a proposal (Ot. prp. nr. 23 1929) of a *Parliament Act on Language Use in State Services* (Lov om målbruk i statstenesta, unofficial translation by author) was made, which included a name change from "Landsmål" to "Nynorsk" and "Riksmål" to "Bokmål". The Act was adopted 6.6.1930.

⁶⁴ Vikør, 9.10.2005.

1.6 Changes over time in legal and political thinking on minorities and languages

From a historical perspective, Niemi identifies a shift over the two last decades in the categorisation of the groups that today count as national minorities.⁶⁵ Even further back, though, there had been changes concerning the Kven: they had been considered immigrants from around 1870 until the inter-war years,⁶⁶ but towards the end of the 1960s they were already described as “descendants of Finnish immigrants”. It was not before the 1990s and the ratification of the minority conventions that the awakening and struggle of the Kven themselves led to national minority status.⁶⁷ However, upon the Norwegian ratification of the FCNM on 17.3.1999, no new legislation was introduced since Norwegian legislation was considered to be in accordance with the convention already.⁶⁸

The Sámi and the Kven were put in the same category at the beginning of the 20th century, because it was believed that they had a common origin. Some academics and state officials were of the opinion that the two groups should be kept apart in minority policy, mainly due to the perception that the Sámi were the first inhabitants of the region.⁶⁹ The minority policies towards the Sámi changed after World War II, when the authorities started showing interest in a school policy for the Sámi, and the Sámi themselves started mobilising, primarily around questions concerning reindeer-herding. The Sámi Committee of 1956 also marked a change in the policy towards the Sámi, for instance in its concrete proposals about education and broadcasting.⁷⁰ Brenna identifies the parliamentary debate on 27.5.1963⁷¹ as the formal farewell to the Norwegianisation policy, 115 years after its formal adoption.⁷² During the whole Norwegianisation period, Sámi continued to have a status of assisting language in school, i.e. the use was restricted

⁶⁵ Niemi, 2006, p.400.

⁶⁶ Niemi, 2006, p.413.

⁶⁷ Niemi, 2009, p.91.

⁶⁸ St.prp. nr. 80 (1997-98).

⁶⁹ Niemi, 2006, p.410.

⁷⁰ Committee for Sámi Issues appointed by the Ministry of Church and Education, 3.8. 1956.

⁷¹ St.meld.nr. 21 'Kulturelle og økonomiske tiltak av særlig interesse for den samisktalende befolkning', debated in Parliament 27.5.1963.

⁷² Brenna, 2005, p.86.

to a means for explaining what was not understandable for the children.⁷³ The same assisting status of Kven was abolished in 1936, because the Kven were regarded as immigrants speaking Finnish whilst the Sámi were seen as an indigenous people.⁷⁴ One of the first steps towards minority language policies came after the labour force immigration of Finnish women to the Northern Norway fisheries industry in the 1960's, when the first provisions on the right to mother tongue education in school were introduced subject to certain conditions.⁷⁵

North Sámi

The right for Sámi children to learn Sámi as a first or second language was laid down by law in 1975,⁷⁶ but it was first in the 1980's that pupils started to take advantage of this possibility.⁷⁷ The post-war change in language policies had, seemingly, slow and varied effects in different parts of the Sámi and Kven-speaking area. For instance, Rasmussen's demographical research on the North Sámi area has shown that from the year 1945 there was almost a complete halt in inter-generational language transmission in Northern Troms, whereas such a stop did not take place in Kautokeino/Guovdageaidnu before 1960. The first modest attempts to restart the transmission of Sámi took place around 2000 in Northern Troms and already in the 1990's in Kautokeino/Guovdageaidnu.⁷⁸

The modern legislative changes concerning the Sámi began with the Alta Case (1979-1982), where the Sámi rights, including language rights, became subject of public debate following the Sámi protests against a hydroelectric power plant project in the Alta-Kautokeino watercourse.⁷⁹ As a consequence of the Alta Case, two Sámi committees were appointed by the Government: the Sámi Rights Committee (*Samerettsutvalget*) and the Sámi Culture Committee (*Samekulturutvalget*) in 1980. Included in the Sámi Culture Committee's first report in 1985 (NOU 1985:14) was an

⁷³ See ch.1.1, in accordance with the instructions for teachers in Sámi and Kven districts, section 3. This can be explained as secondary languages to be used instrumentally and temporarily in order to ensure a gradual full replacement by Norwegian.

⁷⁴ Storaas, 2009-2010, p.126.

⁷⁵ Niemi, 14.2.2011.

⁷⁶ NOU 1985:14, para 4.3.

⁷⁷ Hætta, 2002, p.119.

⁷⁸ Rasmussen, 2007, p.133.

⁷⁹ Skogvang, 2009, p.31 and pp.34-35.

investigation of the status of the Sámi language in Norway, which led to the language provisions in the third chapter of the Sámi Act.⁸⁰

Kven

A minority white paper from 2001 marks the first attempt to a comprehensive minority policy in Norway. The white paper was written as a follow-up of the ratification of the FCNM in 1999 and the Plan of Action for Human Rights 1999-2000, where national minorities were a focus area.⁸¹ This is of relevance to the Kven policy in Norway, but not to Sámi policy, since the latter is dealt with separately, as part of the indigenous policy.

Since the ratification of the EChRML, the denomination of the Kven language has been a matter of discussion, revolving around whether to call it Kven, Norwegian Finnish or just simply Finnish. Speakers on the outskirts of the Kven settlement area, and teachers engaged as Finnish instructors in school, prefer to identify themselves with the Finnish language rather than claiming that Kven is a language on its own. The Government has therefore used the double denomination Kven/Finnish. In a report by Kenneth Hyltenstam and others at the Centre for Research on Bilingualism at the University of Stockholm, the status of Kven as a dialect or language was studied. The Hyltenstam report was conducted for the Norwegian Ministry of Municipal and Regional Affairs and the Ministry for Cultural and Church Affairs in 2003. It was concluded in this report that the social and linguistic conditions today motivate the standpoint that Kven is a language on its own right rather than a dialect of Finnish.⁸² This conclusion led to the Royal Decree of 24 June 2005 in which the status of Kven as language on its own right was laid down.⁸³ The choice of legal instrument was in line with the ratification of the EChRML, which was also done through a Royal Decree.⁸⁴ The new Kven status is reflected in other legislation, for instance in the 2005 change to the Place Names Act, replacing “Finnish” with “Kven” in the purpose section of the Act.⁸⁵

⁸⁰ NOU 1985:14, chapter 8.

⁸¹ St.meld.nr.21 (1999-2000), p.56.

⁸² Hyltenstam et al., 2003, p.67.

⁸³ The Ministry of Culture and Church Affairs, 22.6.2005.

⁸⁴ Royal Decree on the ratification of the European Charter on Regional and Minority Languages of the 5th of November 1992, The Ministry of Foreign Affairs, 1.10.1993, see ch.1.11.

⁸⁵ Place Names Act, section 1.

The discussion among the speakers themselves is not finished, however, and the starting point for the Norwegian Government is now that the language will be protected regardless of what the speakers perceive the status of the language to be and which written form they prefer, i.e. whether they choose to use Finnish orthography or the Kven orthography which is currently under development. Storaas points out that the term "Kven" today is the ethno-politically correct term, which can be intimidating for the people who consider themselves to speak Finnish in Norway.⁸⁶ The recognition of Kven as a language of its own does mean, however, that measures will be taken to lay down a written form of Kven. The lack of a written form for Kven is used as one reason for not raising the status of Kven under the EChRML to level III.⁸⁷ It is further emphasized, however, that this standpoint does not have to mean isolation of one variety from the others (in this case from Meänkieli in Sweden and standard Finnish), it is rather advisable to cooperate around issues of language and education.⁸⁸ The protection of both the Kven and the Finnish languages in Norway is not something that is rejected by the speakers, as is shown by the new Plan of Action by the Association of Norwegian Kven (see Chapter 2.6), in which Kven and/or Finnish is mentioned throughout the text, especially in the context of education. Thus, focus is on both Kven and Finnish, and on freedom of choice. According to Niemi, the Kven-Finnish dichotomy debate is more related to the concept of Kven as a minority of its own and the Kven identity, where accentuated images of the separatist Kven people dreaming of the "Land of the Kven" are included, an image not reflected in the demands of the majority of the Kven. The Association of Norwegian Kven, which is the umbrella organisation for presently ten Kven organisations in the whole of Norway, is working on this dual track, i.e. both for the modern Finnish language out of pragmatic reasons, and for the Kven language out of reasons relating to identity and minority policy.⁸⁹ The University of Tromsø is also working in line with this, when offering both Finnish and Kven as programmes of study since 2006.⁹⁰ Finnish has been offered since 1977, and sociolinguist

⁸⁶ Storaas, 2010, p.131.

⁸⁷ St.meld. nr. 35 (2007-2008), p.225.

⁸⁸ Hyltenstam et al., 2003, p.67.

⁸⁹ As seen, for instance in the Association of Norwegian Kven Plan of Action for the Kven language 2011, see ch. 2.6.

⁹⁰ In autumn 2011, a bachelor and a master's degree in Finnish literature and a master's degree in Finnish language was offered at the University of Tromsø. It is not possible to obtain a degree in Kven studies, but specific courses in the language are offered.

Anna-Riitta Lindgren at the University of Tromsø points out that it is important to remember that Kven did not come to replace Finnish,⁹¹ and both languages should be offered side by side.

1.7 Characteristics of the legal system

Four important aspects relating to the legal system can be considered as problematic in the context of legal system characteristics. The first aspect is competence and responsibility. At state level, the competence for Sámi and national minority matters has been transferred from one ministry to the other, which has raised some concern.⁹² Also the principle of sector competences between ministries may be experienced as if the ministries were “ping-ponging” the minority languages issues between them without anyone actually assuming the main responsibility. Recent large restructurings in the public sector, such as in the field of specialist health services⁹³ and employment and welfare services⁹⁴ have raised concerns about how well Sámi language rights are respected in large administrative units.⁹⁵

The second aspect is weaknesses in the process of implementation. An evaluation of the language rules of the Sámi Act that was made in 2007 noted that despite an impressive amount of work done to implement the law, these efforts seem neither to have been systematic enough, nor followed up in a satisfying way.⁹⁶ It was concluded that both when looking at the use of language within public authorities,⁹⁷ and when evaluating separate provisions of the Sámi Act,⁹⁸ the stumbling block was the lack of Sámi language competence within the authorities.

The systematic approach is also absent when it comes to the legislation surrounding Kven, whether it concerns the actual fulfilment of Norway’s international obligations regarding the language or the actual efficiency of the provisions in place for revitalisation of Kven. See Chapter 2.8 for more on the implementation of the Kven rights.

⁹¹ Lindgren, 2009, p.121.

⁹² See for instance Vuolab and Kalvemo, 21.10.2009.

⁹³ The Northern Norway Regional Health Authority (Helse Nord RHF) is responsible for the public hospitals in northern Norway and was established in 2002.

⁹⁴ The Norwegian Labour and Welfare Service (NAV) was established in 2006.

⁹⁵ Andersen et al, 2007, p.37.

⁹⁶ Andersen and Strömngren, 2007, p.57.

⁹⁷ Andersen and Strömngren, 2007, p.40.

⁹⁸ Andersen and Strömngren, 2007, p.55.

The third characteristic of the Norwegian legal regime concerning languages is flexibility, which can be seen both as positive, but also negative. When adding the Sámi language chapter to the Sámi Act, it was mentioned in the preparatory works that the initial thought was to make the Act easily expandable in pace with legal needs discovered.⁹⁹ This can be seen from the structure of the chapters and provisions, which enables further additions. The same goes for an expansion of the administrative area since 2006. If further municipalities are to be added to the administrative area, no legislative change is needed, because the administrative area is defined in the Regulation 657 of 2005 to the Sámi Act since the inclusion of Tysfjord municipality. The six municipalities originally defined as the administrative area were chosen based on the strength of the Sámi language in these areas, so that further municipalities could join later. This is also the process to date. There is thus a built-in flexibility and room for geographical and substantial expansion of rights in the legal system concerning North Sámi. Whilst this can be seen as positive, reactions from inhabitants in debates preceding municipal inclusion in the Sámi administrative area show that there is much controversy surrounding the perception of the law, e.g. that the inclusion will bring about sudden and drastic changes in society for the benefit of the Sámi at the cost of the Norwegian speaking population, especially in large locations such as Tromsø (see Chapter 2.7), which suggests that the “all-or-nothing” approach for inclusion in the administrative area can, from the perspective of the majority population, be seen as inflexible.

A fourth aspect of the legal system surrounding languages is a “piecemeal” approach, characterised by the lack of a Language Act, constitutional protection for the Sámi language only and the Kven status defined by a Royal Decree, which has uncertain legal implications, if any. Other minority languages, such as Romani and Romanes, are recognised under the EChRML, but what this protection means in domestic legal terms is unclear.

1.8 Languages covered by legislation

Because of its position as the mother tongue of the majority in Norway, Norwegian is to be seen as the “principal” language of Norway. According to a new Language white paper, Norwegian can also be seen as the “national” language of Norway in the sense that it works as a common

⁹⁹ Ot.prp. nr. 33 (1986-1987), p.116.

language within a nation-state, across internal language borders.¹⁰⁰ An "official" language is a formally authorised language. The term "official" does not imply any answers to what function, purpose or use it is authorised for, but it usually implies that the state has more precisely defined obligations and the speakers more precisely defined rights concerning the language. Norwegian and Sámi are both "official" languages of Norway. Sámi is an official language on the basis of the Sámi provision in the Constitution Art. 110a and the further stipulations in the Sámi Act. Norwegian and Sámi are therefore in equal position, but in the case of Sámi the use is defined to an administrative area. The ratification of the European Charter of Regional and Minority Languages (EChRML) for Sámi, Kven, Romani and Romanes means that the latter three also have an "official" status in Norway,¹⁰¹ although the hierarchy of the languages must be sought from the scope of the legislation pertaining to them, in which Sámi falls on a level above the three other, as seen in Chapter 1.1. above.

The Norwegian Sign language can also be said to have a kind of official status in Norway. The Sign Language users' rights are protected under the Education Act – they have a right to education in Sign language both in primary and lower secondary school¹⁰² and in upper secondary school.¹⁰³

All other language minorities, assumingly primarily immigrants, also have rights stemming from the Education Act. Pupils with another mother tongue than Norwegian and Sámi primarily have the right to a special Norwegian education, and secondarily (if necessary) a right to mother tongue education, bilingual education or both. This applies to primary and lower secondary school¹⁰⁴ and upper secondary school¹⁰⁵ alike. Persons who do not understand Norwegian have a right in accordance with the Court of Justice Act¹⁰⁶ section 135 to the use of an interpreter.

¹⁰⁰ St.meld.nr. 35 (2007-2008), p.55.

¹⁰¹ St.meld.nr. 35 (2007-2008), p.56.

¹⁰² Education Act, ch. 2 section 6.

¹⁰³ Education Act, ch.3 section 9.

¹⁰⁴ Education Act, ch. 2 section 8.

¹⁰⁵ Education Act, ch. 3 section 12.

¹⁰⁶ Court of Justice Act (Lov 13.8.1915, nr.5 om domstolene, Domstolsloven).

1.9 Regulations in relation to minorities and languages

1.9.1 Constitutional provisions

North Sámi

In 1988 an article on the Sámi was introduced to the Norwegian Constitution from 1814 upon recommendation of the Sámi Rights Committee.¹⁰⁷ The Constitution 110a stipulates:

It is the responsibility of the authorities of the State to create conditions enabling the Sami people to preserve and develop its language, culture and way of life.¹⁰⁸

This is considered a minimum standard of the Norwegian state obligations towards the Sámi,¹⁰⁹ and all Sámi dialects are included in the word “language” of the article.¹¹⁰ This article falls under the category of “new generation of constitutional provisions”,¹¹¹ together with the right to environment Art. 110b and Art. 110c about human rights. Article 110c is also the most central provision in the Constitution when it comes to non-discrimination on the basis of ethnicity or other grounds,¹¹² as it obliges the State to respect as well as to ensure human rights. This article is implemented in practice through the Human Rights Act of 1999, incorporating four international conventions into the Norwegian body of legislation (see Chapter 1.11) and through the Anti-Discrimination Act of 2005. However, it is worth noting that no specific human rights are enumerated in the Constitution.

Kven

There are no specific constitutional provisions pertaining to the Kven language.

¹⁰⁷ The Sámi Rights Committee, 1984.

¹⁰⁸ In Norwegian: “Det paaligger Statens Myndigheder at lægge Forholdene til Rette for at den samiske Folkegruppe kan sikre og udvikle sit Sprog, sin Kultur og sit Samfundsliv.” The Norwegian Constitution of 1814, art.110a, as revised 27.5.1988.

¹⁰⁹ Skogvang, 2009, p.181.

¹¹⁰ The Sámi Rights Committee, 1984, p.435.

¹¹¹ Skogvang, 2009, p.181.

¹¹² Ot.prp. nr. 33 (2004-2005), para 3.2.1.

1.9.2 Language legislation

The Act on Language Use in Official Services, "Language Use Act" (Lov 11. april 1980 nr. 5 om målbruk i offentleg teneste, Målbrukslova) guarantees the equality of the two official forms of Norwegian in its first section, but is silent on minority languages.

North Sámi

The third chapter on the Sámi language of *Act No. 56 concerning the Sámi Parliament and other Sámi legal matters, "The Sámi Act"* (Lov 12. juni 1987 nr. 56 om Sametinget og andre samiske rettsforhold, samelova) enumerates the rights of Sámi language speakers. The third chapter in the Sámi Act is popularly called "*the language act*" (*språkkloven*), despite it not being a separate legal act.¹¹³ In addition to giving the Sámi language a position equal to that of the Norwegian language,¹¹⁴ the Sámi Act sets up rules for the use of the Sámi language in the whole of Norway in general, and in the administrative areas in particular. These rules are to be seen as minimum requirements for the use of Sámi in public administration.¹¹⁵

The Sámi Act stipulates that old and new laws and regulations of special interest to the whole of, or parts of the Sámi people, shall be translated into Sámi.¹¹⁶ The main rule is that the translation should be made into North Sámi, and only in cases where the set of regulations are particularly directed towards an area with a different form of Sámi it should be translated into the corresponding language.¹¹⁷ Within the administrative area, local public authorities have an obligation to use Sámi when answering inquiries made in Sámi, with the exception of oral inquiries to public servants on duty outside of the office. The same obligation goes for written inquiries to regional public authorities.¹¹⁸ As for municipal administration, the municipal council can decide that Sámi is equated with Norwegian in parts or the whole of the municipal administration.¹¹⁹

¹¹³ Skogvang, 2009, p.208.

¹¹⁴ Sámi Act, ch.1 section 5.

¹¹⁵ St.meld.nr 41 (1996-1997), para. 12.4.

¹¹⁶ Sámi Act, section 3-2, and Skogvang, 2009, p.211. See ch. 2.4.2.

¹¹⁷ Ot.prop.nr 60 (1989-1990), p.46.

¹¹⁸ Sámi Act, ch.3 section 3.

¹¹⁹ Sámi Act, ch. 3 section 9.

The Sámi Act also contains provisions for the judicial system including courts and the police fully or partly in the administrative area, and correctional treatment institutions in Troms and Finnmark in ch.3 section 4. These rights, which concern oral and written inquiries, the language of communication and negotiations, are additional to the language obligations of public authorities in the administrative areas to receive, reply and inform in Sámi. Here, the rights to use the Sámi language and receive a reply are far-reaching, as long as the institution is not situated fully outside the administrative area. There is a corresponding reference to the Sámi Act in the *Courts of Justice Act* (Lov 13.8.1915, nr.5 om domstolene, domstolsloven), 136a. The ch.3 section 4 grants an extended right to use the Sámi language also when this is not necessary due to language and communication problems.¹²⁰ These stipulations have been implemented through the establishment of the Inner Finnmark District Court in whose jurisdiction the administrative area for the Sámi language lies, with the exception of the municipalities of Tysfjord and Snåsa. The National Courts Administration (NCA) is cooperating with the Inner Finnmark District Court to translate information relating to the Judiciary into North Sámi.¹²¹ However, as noted by Ravna, no special measures have been taken to guarantee the use of Sámi in the Land Consolidation Courts system, which is central for the Sámi-speaking reindeer herders.¹²²

Furthermore, there is a right to service in Sámi in the local and regional public health and social institutions of the administration area.¹²³ Also, there is a right to receive individual church service in Sámi in the Norwegian state churches within the administration area.¹²⁴ The preparatory works of the Sámi Act define this right primarily as a right to individual pastoral care, and secondarily as christenings, weddings and communion in the Sámi language.¹²⁵

Regardless of whether a person is Sámi or not, or of where in the country one is situated,¹²⁶ everyone in Norway has the right to learn Sámi.¹²⁷ Further provisions about Sámi language learning is found in the Education Act (see Chapter 1.9.3 below). A public servant in a regional or

¹²⁰ Cf the Committee of Appeal of the Supreme Court, Rt. 1986, p.573, that an individual that master Norwegian cannot demand the use of another language. The Sámi Act ch.3 section 4 goes further.

¹²¹ MIN_LANG/PR (2008) 6, p.27.

¹²² Ravna, 2010, p.205 *et seq.*

¹²³ Sámi Act, ch. 3 section 5.

¹²⁴ Sámi Act, ch.3 section 6.

¹²⁵ Ot.prop.nr 60 (1989-1990), p.48.

¹²⁶ Ot.prop.nr 60 (1989-1990), p. 49.

¹²⁷ Sámi Act, ch.3 section 8.

local body within the administration area has a right to educational leave to learn Sámi when needed.¹²⁸ It has been suggested that an educational leave should primarily be granted to persons who already have some knowledge of the language, and should also be given for education in cultural understanding and knowledge.¹²⁹

A municipal board (*kommunestyret*) may also decide that Sámi should be equal to Norwegian in parts of, or the whole administration.¹³⁰ This stipulation concerns the internal procedures in the municipality, not the communication to and from municipalities.¹³¹ In addition, other public organs and private legal entities may be subject to the same language stipulations as municipal and regional bodies in the administrative area, as far as decisions on behalf of a municipality or the state is concerned.¹³²

There is also a right to complain enshrined in the Sámi Act.¹³³ If Sámi language rights have been violated by a public agency, a complaint can be addressed to its superordinate agency. If a complaint concerns municipal or regional (*fylkeskommunala*) agencies, the County Governor (*fylkesman*) is the appellative body. The right to complain is enjoyed by individuals and Sámi organisations alike.

The Church of Norway Act (Lov 7.6.1996 nr 31 om Den norske kirke, kirkeloven) stipulates in its section 23 that a North Sámi representative shall participate in the administration of the North-Hålogaland diocese, a Lule Sámi representative in the South-Hålogaland diocese, and a South Sámi representative in Nidaros diocese.¹³⁴ Furthermore, the general synod of the Church of Norway shall protect and promote the church life of the Sámi according to section 24 para. 2. In Inner Finnmark, church services in Sámi have continued in spite of political fluctuations over the years.¹³⁵

¹²⁸ Sámi Act, ch.3 section 7. 'Educative leave' is a paid leave of absence from work in order to further educate oneself, in this case in the Sámi language.

¹²⁹ Andersen et al, 2007, p.122.

¹³⁰ Sámi Act, ch.3 section 9.

¹³¹ Cf Ot.prop.nr 60 (1989-1990), p.49.

¹³² Sámi Act, ch.3 section 10 and further Regulation to the Language Stipulations of the Sámi Act (FOR-2003-01-07-13) section 3.

¹³³ Sámi Act, ch.3 section 11.

¹³⁴ The Church of Norway Act, section 23, para.1 e).

¹³⁵ Gaup Eira, 2004, p.113.

Kven

When it comes to public administration, the Kven do not enjoy the same language rights as the Sámi language speakers. There is a right to an interpreter enshrined in the section 135 of the Courts of Justice Act, but this only applies to individuals who do not understand Norwegian, and would therefore benefit Kven language users only marginally, since almost everyone is bilingual.

A central act for the Kven, but also for the Sámi, concerns place names. The purpose of the *Place Names Act* (Lov 18. mai 1990 nr. 11 om stadnamn, stadnamnlova) is to preserve place names as a cultural heritage, give them a practical written form and contribute to knowledge about and active use of the names. The Place Name Act mentions Sámi and Kven place names explicitly and is applicable when state, county or municipal agencies are establishing place names or the written form of place names. The Act is also applicable on public agencies and for school teaching materials.¹³⁶ As examples of this the official bilingual Norwegian-Sámi county names *Troms-Romssa* (since 2006) and *Finnmark-Finnmarkku* (since 2003) can be mentioned. The municipality of Porsanger/Porsángu/Porsanki was the first Norwegian municipality to take a trilingual name into use in 2003.¹³⁷

The Personal Names Act (Lov 7.6.2002 nr 19 om personnavn, navneloven) is of relevance to persons of Kven and Sámi origin alike. According to an explicit wish from the Kven, the Personal Names Act was changed in 2005 so that a person can take back a surname that has existed in the family four generations back.¹³⁸ If the name change was due to the Norwegianisation policy, it is possible to take back a name from even further back.¹³⁹ Flexibility shall be exercised in the requirements for proof that some relatives in a directly ascending line have used the name.¹⁴⁰ These amendments to the Personal Names Act are in line with recommendations from the Sámi Parliament.¹⁴¹

¹³⁶ Place Names Act, section 1.

¹³⁷ Norum, 2005.

¹³⁸ Personal Names Act, ch.4 section 1 para 1.

¹³⁹ Ministry of Justice and the Police, 2002.

¹⁴⁰ Ministry of Justice and the Police, 2002.

¹⁴¹ ACFC/SR/III(2010)009, p.37.

1.9.3 Education legislation

North Sámi

The *Day Care Institutions Act* (Barnehageloven, lov 17.6.2005, nr 64 om barnehager) stipulates that kindergartens shall respect a child's ethnic and cultural background, specifically Sámi children's language and culture.¹⁴² Generally in Norwegian legislation, Sámi children are defined as those with at least one parent who can be registered in the Sámi Parliament electoral roll (referring to the Sámi Act ch.2 section 6), meaning that children who themselves are not in the Sámi Parliament electoral roll can still be covered by the provision. The municipality has the responsibility to make sure that the activities in day care institutions in Sámi districts have their foundation in Sámi language and culture. In other municipalities the conditions for Sámi children's language and cultural development shall be ensured.¹⁴³ The latter stipulation does not mean that there has to be Sámi-speaking staff – what is practically feasible varies from case to case.¹⁴⁴ In order to finance efforts developing Sámi language and culture,¹⁴⁵ the Sámi Parliament administers a funding scheme earmarked specifically for Sami child-care facilities.

The Act relating to primary and secondary education and training, *the Education Act* (Lov 17.7.1998 nr 61 om grunnskolen og den vidaregåande opplæringa, opplæringslova), Chapter 6, deals with Sámi education. Rights to education *in* Sámi language but also instruction *of* the Sámi language fall under this label. Furthermore, Sámi education is also understood to contain education of the majority population about Sámi issues.

The first section of ch. 6 defines a Sámi as a person who can be registered in the Sámi Parliament electoral roll, and his or her children. The Sámi language is defined to encompass three varieties: North Sámi, South Sámi and Lule Sámi. Other Sámi varieties are not mentioned in the enumeration, hence the undertaking seem to exclude Eastern/Skolt Sámi and Pite Sámi. Despite the lack of explicit legal reference, some authors argue that the Norwegian authorities have a special responsibility to preserve also Eastern Sámi and the language and culture in the area of

¹⁴² Day Care Institutions Act, section 2 para. 3.

¹⁴³ Day Care Institutions Act, section 8 para. 3.

¹⁴⁴ Ot.prp.nr.72 (2004-2005), s.111.

¹⁴⁵ For activities such as language tuition for the children, translation and procurement of educational materials.

Neiden.¹⁴⁶ The ch.6 section 1 also defines the Sámi administrative areas as the areas laid down by other legislation.

Within the administrative area, all children, whether Sámi or not, have the right to learn Sámi. Outside of these areas, a group of 10 children can apply to learn Sámi, as long as at least six pupils remain in the group. Thus, the right to learn Sámi is an individual right within the administrative areas and a group right outside of the areas.

The pupils who choose to learn Sámi can choose it as first language, second language or second language II (Sámi language and culture).¹⁴⁷ When Sámi is chosen as first language, the pupil also has to have education in Sámi, which is not the case for the pupils choosing it as second language.¹⁴⁸ In the academic year of 2010/2011, 923 pupils had North Sámi as first language, 532 as second language and 603 as third language instruction in primary and lower secondary school.¹⁴⁹

The municipality has the freedom to decide whether the education in and instruction of Sámi should take place in one or more schools, and it can also make learning Sámi mandatory for primary school pupils.

Because it may be difficult to find teachers of the Sámi language outside of the administrative area, the right can be fulfilled through other means of education,¹⁵⁰ which are specified in the *Regulation to the Education Act* (Forskrift 23.6.2006, nr 724 til opplæringslova) to be distance education, intensive education or special summer camp education (*særlege leirskoleopphald*).¹⁵¹ The form of instruction should be chosen in cooperation with the parents. From the eighth grade onwards it is the pupil's own choice to decide whether or not he or she wants to learn Sámi, in accordance with ch.6 section 2 of the Education Act.

¹⁴⁶ For instance, according to Skogvang, the Eastern Sámi language has even stronger constitutional protection than North Sámi, because of the higher threat against Eastern Sámi and the fact that according to the preparatory works, all Sámi dialects are encompassed by the constitutional provision. Skogvang, 2009, p. 189 and NOU 1984:18, s.435. However, this is a matter of legal interpretation.

¹⁴⁷ St.meld.nr.15 (1995-1996), s.14.

¹⁴⁸ Skogvang, 2009, p.224.

¹⁴⁹ Grunnskolen Informasjonssystem (GSI), Language of instruction, the whole country, 2010/11 preliminary.

¹⁵⁰ Education Act, ch.6 section 2, para. 5.

¹⁵¹ Regulation to the Education Act, ch.7 section 1.

Pupils who learn Sámi as first or second language are, if they so wish, exempted from the obligation to learn a foreign language or further language training,¹⁵² both at the primary and lower secondary school and upper secondary school.¹⁵³ They are also exempted from the written instruction of the second-choice form of Norwegian.¹⁵⁴

Sámi people in further education have the right to learn Sámi, when needed through other forms of education, just like in the case of primary school.¹⁵⁵ This right is independent of whether the person in question has learned Sámi before or not.

The Sámi Parliament decides about the content of Sámi education, which includes knowledge about the Sámi people, language, culture and community life, within the framework set by the Ministry.¹⁵⁶ This content is then set out in the Norwegian Directorate for Education and Training (*Utdanningsdirektoratet*) curriculum reform called “Knowledge Promotion – Sámi” (*Kunnskapsløftet – Samisk*).¹⁵⁷ The Sámi Knowledge Promotion is a parallel curriculum to the Knowledge Promotion curriculum, developed in cooperation between the Sámi Parliament, the Directorate of Education and Training and the Ministry of Education and Research.

The Education Act ch.13 section 1 stipulates the municipalities’ responsibilities as regards the fulfilment of the right to education of and in Sámi for pupils in primary and lower secondary education. For upper secondary education, it is the county (*fylkeskommunen*) that has the responsibility, according to the Act ch.13 section 3. The Ministry is the supervisory authority (*tilsynsmyndighet*)¹⁵⁸ and the appellate body for individual decisions in primary and lower secondary education.¹⁵⁹

There is nothing specific about the Sámi language in the *Act relating to universities and university colleges* (Lov 1.4.2005 nr 15 om universiteter og høyskoler, universitets- og høyskoleloven)

¹⁵² In Norwegian, English or Sámi language after the Regulation to the Education Act section 1-8.

¹⁵³ Regulation to the Education Act, ch.1 section 9 and ch. 1 section 10.

¹⁵⁴ Regulation to the Education Act, ch.1 section 11.

¹⁵⁵ Education Act, ch. 6 section 3.

¹⁵⁶ Education Act, ch. 6 section 4.

¹⁵⁷ The 2006 Knowledge Promotion Reform is the latest reform in the 10-year compulsory school and in upper secondary education and training. See Norwegian Directorate for Education and Training, Knowledge Promotion – Kunnskapsløftet, 11.4.2007.

¹⁵⁸ Education Act, ch.14 section 1.

¹⁵⁹ Education Act, ch. 15 section 2.

However, Sámi primary and lower secondary teacher education shall have Sámi as main teaching language,¹⁶⁰ and have Sámi learning techniques and teaching methods as a basis.¹⁶¹ Today, this teacher education is given at the Sámi University College, but also other institutions are free to offer such education in Sámi. The directions for the subjects have a clear emphasis on Sámi culture and other Sámi students from the Nordic countries are exempted from mandatory Norwegian to ease access to education.¹⁶²

The *Adult Education Act* (Lov 19.6.2009 nr 95 om voksenopplæring, voksenopplæringsloven) provides for Sámi adult education associations. A Sámi adult education association is an association by and with Sámi people,¹⁶³ offering education in the Sámi language.¹⁶⁴ The Sámi adult education associations are further regulated in a regulation. A Sámi adult education association does not need to have activity all over the country, and has lower demands on the hours of education and number of member organisations than regular adult education associations.¹⁶⁵ These associations are entitled to government grants.¹⁶⁶

Kven

There is no explicit provision in Norwegian legislation pertaining to Kven children in kindergartens, but the general stipulation in the Day Care Institutions Act¹⁶⁷ that kindergartens shall respect a child's ethnic and cultural background applies to Kven children as well.

The right to learn Finnish as a second language in the counties of Troms and Finnmark was first introduced in the schools in 1997 through a regulation.¹⁶⁸ When the new Education Act entered into force in 1999, this right was lifted to the level of law. Thus, Kven is not mentioned as a language in the Education Act, but Finnish is. As for Finnish as second language, the Education Act

¹⁶⁰ Regulation on Framework Plan for the Sámi primary and lower secondary teacher education for year 1-7 and 5-10, section 1, para. 4.

¹⁶¹ Regulation on Framework Plan for the Sámi primary and lower secondary teacher education for year 1-7 and 5-10, section 1, para. 5.

¹⁶² Regulation on Framework Plan for the Sámi primary and lower secondary teacher education for year 1-7 and 5-10, section 5, para.2.

¹⁶³ Adult Education Act, section 3, para. 1 b.

¹⁶⁴ Adult Education Act, section 18.

¹⁶⁵ Regulation about Adult Education Associations and Internet Schools, section 5.

¹⁶⁶ Regulation about Adult Education Associations and Internet Schools, section 8.

¹⁶⁷ Section 2, para. 3.

¹⁶⁸ Forskrift av 16. juni 1997 nr. 791. Om læreplanverkene for grunnskolen.

stipulates that there have to be at least three pupils in the counties of Troms and Finnmark expressing a demand for such education. The Kven language is considered part of the curriculum for Finnish as a second language. According to the Primary and Lower Secondary School Information System (GSI), the number of pupils learning Finnish as a second language in the whole country is 748 for the academic year 2010/2011.¹⁶⁹ Kven language instruction is not registered separately in the GSI. However, the County Governor of Finnmark has reported that there were 40 pupils in Porsanger learning Kven in the academic year 2009/2010.¹⁷⁰ In Troms County, no pupils studied Kven at the time.¹⁷¹ From eighth grade onwards, the pupils decide for themselves whether they want Finnish education or not, i.e. their guardians can no longer decide for them.¹⁷² In similarity with Sámi outside of Sámi districts, alternative means of instruction may come into question when the language instruction cannot be given by the staff at the school in question.¹⁷³

Similar to the stipulations in the Regulation to the Education Act about foreign language training, pupils learning Finnish as second language¹⁷⁴ may also be exempted from further language training and instruction in written second-choice form of Norwegian.¹⁷⁵ However, unlike pupils learning Sámi, pupils learning Finnish have to apply specifically for this exemption.¹⁷⁶

There is nothing specific on the Kven language in the *Act relating to Universities and University Colleges* or the *Act on Adult Education*.

Other languages

For pupils with a mother tongue other than Norwegian or Sámi, there is a right to special instruction in Norwegian until they have a sufficient knowledge of Norwegian to follow regular classes. Decision about such instruction is taken after a mapping of the pupil's skills. If necessary, these pupils also have the right to mother tongue instruction, bilingual vocational training or both.

¹⁶⁹ Grunnskolen Informasjonssystem (GSI), Language of instruction, the whole country, 2010/11 preliminary.

¹⁷⁰ Norway, Ministry of Government Administration, Reform and Church Affairs, 1.7.2010, p.39.

¹⁷¹ *Ibid.*

¹⁷² Education Act, ch.2 section7.

¹⁷³ *Ibid.*

¹⁷⁴ Or Norwegian Sign language or receiving special education according to the Education Act ch. 2 section 8.

¹⁷⁵ Regulation to the Education Act, ch. 1 sections 9 to 11.

¹⁷⁶ Regulation to the Education Act, ch. 1 section 9, para. 2.

To receive mother tongue instruction, pupils can be transferred to a school other than they normally attend.¹⁷⁷

1.9.4 Media legislation

North Sámi

The Broadcasting Act (lov 4.12.1992, nr 127 om kringkastning, kringkastningsloven) provides for participation of the president of the Sámi Broadcasting Council in the National Broadcasting Council in ch.7 section 2.

The Sámi Radio is organized under the Norwegian Broadcasting Company (NRK), which is a state-owned public service broadcaster, financed by licence-fees. According to the Norwegian Government, 57% of the Sámi speaking population use one or more of the NRK Sámi Radio services on a daily basis.¹⁷⁸

The requirements as to minority and language diversity content in public service are not regulated on the level of law. However, the NRK Articles of Association, laid down by its statutory General Meeting, contain the obligations the broadcaster has with regards to diversity in Norway – Article 14 specifically obliges the NRK to strengthen the Norwegian and Sámi language, identity and culture.

The NRK shall thus provide daily broadcasts for the Sámi population.¹⁷⁹ Most media content is in North Sámi, but Lule and South Sámi also have permanent broadcastings. According to art 15 para. i), NRK shall also provide regular programmes for children and adolescents in Sámi.

Minorities in general

A large proportion of the article 14 of the NRK Articles of Association shall be implemented through broadcasting programmes for national and linguistic minorities. This provision was added to the NRK statute in 2004 after the Council of Europe Committee of Ministers' recommendations regarding the FCNM that the position of the Kven is not yet satisfactory in the field of electronic

¹⁷⁷ Education Act, ch. 2 section 8.

¹⁷⁸ MIN_LANG/PR (2008) 6, p.31.

¹⁷⁹ NRK Statute 2009, art 14 b).

and print media.¹⁸⁰ As regards diversity, the NRK shall disseminate knowledge of diverse groups and of the diversity of Norwegian society, in order to create arenas for debate and information about Norway as a multicultural society.¹⁸¹

For commercial public service broadcasters (TV 2, Radio Norge and P4) there are programme requirements in the licensing terms. Long-term transmissions must contain programmes for the Sámi community and other minority groups – be it separate programmes for the different communities (TV 2 up until 2009) or daily newscasts in Sámi language (P4,¹⁸² Radio Norge¹⁸³). The Norwegian Media Authority (*Medietilsynet*) is responsible for licensing for local radio and television.¹⁸⁴

There are also two regulations about grants for publications in minority languages, (FOR 2003-10-22 nr 1256: Forskrift om tilskudd til minoritetsspråklige publikasjoner), which is applicable for Kven publications, and for Sámi newspapers (FOR 1997-03-17 nr 248: Forskrift om tilskudd til samiske aviser).

1.9.5 Anti-discrimination legislation

Norway has transformed and incorporated its international obligations with regards to racial discrimination into its *Act on the Prohibition of Discrimination based on Ethnicity, Religion, etc, the Anti-Discrimination Act* (Lov 3.6.2005 nr 33 om forbud mot diskriminering på grunn av etnisitet, religion mv., diskrimineringsloven). Discrimination on the basis of language is forbidden according to section 1 of the Anti-Discrimination Act, which also prohibits discrimination on the following grounds: ethnicity, national origin, descent, colour, religion and view of life.

¹⁸⁰ Resolution ResCMN(2003)6, p.2.

¹⁸¹ NRK statute, art. 14 c). NRK Statute, art 14 d) also stipulates that both official Norwegian language variants are to be used and at least 25 per cent of the content shall be in Nynorsk.

¹⁸² For Radio P4, it is stipulated as a license condition to have at least two news casts in Sámi daily. Conditions for licencing (Konsesjonsvilkår) for P4 Radio 2004-2013, § 3-3 c).

¹⁸³ Radio Norge must have daily newscasts in Sámi. In addition Radio Norge shall cooperate with Sámi institutions to present daily analyses/comments about Sámi conditions in Norwegian. Radio Norge shall integrate a Sámi perspective in its broadcasting generally, and in the news- and contemporaneity in particular. Conditions for licencing (Konsesjonsvilkår) for Kanal4 2004 -2013, § 3-3 g).

¹⁸⁴ MIN_LANG/PR (2008) 6, 2008, p.31.

1.10 Other legal areas of particular importance

According to the Norwegian Nationality Act, in order to acquire Norwegian Citizenship applicants between the ages of 18 and 55 are required to have completed 300 hours of approved Norwegian language training or be able to document adequate knowledge of Norwegian or Sámi.¹⁸⁵ A regulation to the Nationality Act contains further provisions regarding the requirement of completion of Norwegian language training, including exemptions, and regarding the requirement of adequate knowledge of Norwegian or Sámi.¹⁸⁶

The positioning of the Sámi language as equal to Norwegian in the Norwegian Nationality Act is not only of practical importance for persons of Sámi origin from other countries applying for Norwegian citizenship but could also be seen as an underlining of the equality of the Norwegian and the Sámi language in Norway. This provision applies to the whole of the Norwegian territory, i.e. not just to the Sámi administrative area, which makes it one of the few provisions concerning Sámi language in Norwegian legislation that is not restricted to traditional Sámi areas.

1.11 The relation between national and international law in the domestic legal order

Norway is a dualistic country in the sense that special implementation acts are required for international treaties to enter into force on a domestic level. International conventions become binding for Norwegian authorities when the Government (the King in Council) as the authority in foreign affairs ratifies the convention or accedes to the Convention in some other way. The obligations are on the part of the legislative, executive and judicial authorities. According to the principle of presumption, Norwegian law should be interpreted in accordance with international law if not the Norwegian law in the relevant area contains rules that are clearly different from the international obligation. This means that Norwegian law may be superior to international law in

¹⁸⁵ The Norwegian Nationality Act, ch.3, section 7 f), coupled with section 8: The requirement regarding completion of Norwegian language training.

¹⁸⁶ FOR 2006-06-30 nr 756: Forskrift om erverv og tap av norsk statsborgerskap (statsborgerforskriften).

cases where there is a clear dispute.¹⁸⁷ International legal provisions do, however, weigh heavily when determining Norwegian law. When ratifying a human rights convention, an ascertainment of legal harmony between the convention and the existing legal framework will be conducted. This was the case when ratifying the Council of Europe's Framework Convention for the Protection of National Minorities (FCNM). The Norwegian Government concluded in Proposition No. 80 (1997-1998) to the Norwegian Parliament regarding Consent to Ratification of the Council of Europe's Framework Convention of 1 February 1995 for the Protection of National Minorities,¹⁸⁸ that no legislative amendment to Norwegian legislation was necessary because the convention did not entail any new rights in relation to existing Norwegian legislation.¹⁸⁹

Some conventions, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms,¹⁹⁰ the UN Covenant on Civil and Political Rights¹⁹¹ and the UN Covenant of Social, Economic and Cultural Rights¹⁹² forming the Norwegian Human Rights Act (Act of 21 May 1999 No. 30 relating to the strengthening of the status of human rights in Norwegian law) are incorporated as such into Norwegian legislation, in order to avoid the confusion that previously had surrounded the legal status of human rights conventions in Norwegian legislation.¹⁹³ Norway is now moving towards considering each individual convention in relation to Norwegian law, rather than the ascertainment of legal harmony as a rule of practice.¹⁹⁴ This has also been the case for the UN Convention of the Rights of the Child¹⁹⁵ and the UN Convention on the Elimination of All Forms of Discrimination against Women¹⁹⁶, which were both incorporated into the Human Rights Act in 2003 and 2009 respectively. Art. 3 of the Human Rights Act states that in the case of

¹⁸⁷ Ministry of Justice and Police Affairs, NOU 1997:5, para. 1.2.8.

¹⁸⁸ St.prp. nr. 80 (1997-98), Om samtykke til ratifikasjon av Europarådets rammekonvensjon av 1. februar 1995 om beskyttelse av nasjonale minoriteter, para 7.1.

¹⁸⁹ This statement regarding the fulfilment of international obligations in Norwegian domestic law has been questioned in the literature. See Strömngren, 2007.

¹⁹⁰ European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 4.11.1950, in force 3.9.1953.

¹⁹¹ UN Covenant on Civil and Political Rights (ICCPR), adopted 16.12.1966, entered into force 23.3.1976.

¹⁹² UN Covenant of Social, Economic and Cultural Rights, adopted 16.12.1966, entered into force 3.1.1976.

¹⁹³ NOU 2005:8, para. 4.3.

¹⁹⁴ ACFC/SR(2001)001, para 1.4.

¹⁹⁵ UN Convention on the Rights of the Child, 2.9.1990, adopted 20.11.1989, entered into force 2.9.1990.

¹⁹⁶ UN Convention on the Elimination of All Forms of Discrimination against Women, adopted 18.12.1979, entered into force 3.9.1981.

conflict with other legislation, the conventions mentioned in Article 2, i.e. the Conventions mentioned above, shall take precedence.

The UN Convention on Elimination of All Forms of Racial Discrimination¹⁹⁷ has been incorporated into the Act on prohibition of discrimination based on religion, ethnicity etc. (the Anti-Discrimination Act) instead of the Human Rights Act. The Committee on Elimination of Racial Discrimination (CERD) has pointed out that to ensure the primacy of the Convention over domestic legislation in case of conflict; the Convention should be incorporated at a higher level of the legal order.¹⁹⁸ However, Norway has argued that the present position of the Convention in the Anti-Discrimination Act is the most natural way to provide for clarity and coherence of the legal system. The Convention will still take precedence over other Norwegian laws because, as concluded several times by the Norwegian Supreme Court, Norwegian law should be interpreted in accordance with obligations in public international law that are binding upon Norway.¹⁹⁹

The ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries no 169 (ILO 169)²⁰⁰ was ratified by Norway on 19.6.1990. ILO 169 has not been incorporated into Norwegian law as such, but it is a significant legal source because of the Norwegian Constitution Art. 110a stipulating the Norwegian obligations towards the Sami.

Norway ratified the European Charter for Regional or Minority Languages (EChRML) on 10 November 1993. Although the first intention was to include only the Sámi language,²⁰¹ in its first State Periodical Report (SPR) in 1999, Norway listed Sámi and Kven/Finnish as regional or minority languages, and Romanes and Romani as non-territorial languages.²⁰² Upon ratification Norway identified the “Sámi language” as covered by part III of the Charter. However, somewhat confusingly, perceptions differ as to what the “Sámi language” means. The Norwegian authorities have decided to treat the varieties of Sámi as one language in the instrument of ratification.²⁰³ The

¹⁹⁷ UN Convention on Elimination of All Forms of Racial Discrimination, adopted 21.12.1965, entered into force 4.1.1969.

¹⁹⁸ “Higher legal order” being, in CERD’s opinion, the Human Rights Act. CERD/C/NOR/CO/18, para 14.

¹⁹⁹ CERD/C/NOR/19-20, paras 8-9.

²⁰⁰ The ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries no 169, adopted 27.6.1989, in force 5.9.1991.

²⁰¹ As suggested in the Royal Decree of 1.10.1993.

²⁰² Norway, MIN-LANG/PR (99) 5, paras 2 and 4.

²⁰³ Norway, instrument of ratification, Declarations contained in the instrument of ratification, 1993.

Sámi language is a territorial language under the EChRML, and on the territory where Part III is applied only North Sámi is traditionally used. As stated in the first evaluation of the Committee of Experts: Lule and South Sami will consequently be dealt with as Part II languages, hence, they are in this sense on the same level as Kven, Romani and Romanes.²⁰⁴ The Committee of Experts has pointed out that the reference to “the Sámi language” makes the evaluation of the situation for Lule and South Sámi difficult without any further explanation.²⁰⁵ The existence of the Eastern Sámi varieties in Norway (their traditional area belongs for the most part to Russia, partly to Finland) was brought to the attention of the Committee only in Norway’s second SPR. Due to the lack of information on these languages, the Committee repeats that it finds it difficult to comment on the Lule, South and Eastern Sámi situation in its second evaluation from 2003.²⁰⁶

The Nordic Language Convention²⁰⁷ is an agreement within the Nordic cooperation between Denmark, Finland, Iceland, Norway and Sweden on the right of Nordic nationals to use their mother tongue in other Nordic countries. According to its first article, the convention applies both to oral and written contacts with authorities or other public agencies, but not to telephone contact. The convention does not cover any of the minority languages although it to some extent would benefit the Kven speakers, as the step to information and service in Finnish in Norway is shortened. The extent of this advantage is difficult to determine. However, according to a new Declaration on a Nordic Language Policy, the Nordic language policy is based on all Nordic residents having the right, among other things, to preserve and develop their mother tongue and their national minority language.²⁰⁸

The relation between the language rules of the Sámi Act and Norway’s international obligations is thoroughly reviewed by Strömgren in a chapter of the evaluation of the language rules of the Sámi Act of 2007. It is noted that the third chapter of the Sámi Act was based more on needs, demands and practical considerations than on the reference to international law.²⁰⁹

²⁰⁴ EChRML (2001) 6, paras 8-9.

²⁰⁵ EChRML (2001) 6, third chapter, C.

²⁰⁶ EChRML (2003) 2, para 12.

²⁰⁷ The signatories are the five Nordic countries as of 17.6.1981 and the convention took effect on 1.3.1987.

²⁰⁸ Nordic Council of Ministers, Declaration on a Nordic Language Policy, ANP 2007:746, Copenhagen 2007.

²⁰⁹ Strömgren, 2007: Tillvaratar samelovens språkregler internationella förpliktelser? Chapter 5 in Andersen and Strömgren, 2007, an evaluation of the language rules of the Sámi Act from the Nordic Sámi Institute upon request by the Ministry of Culture and Church Affairs.

1.12 Debate about language rights and "old" and "new" minorities

For the purpose of this report, it is not only relevant to discuss debates about language rights for "old" and "new" minorities, but also the differences in language rights between the indigenous people (Sámi) and the national minorities, including Kven.

The relation between different minorities in Norway was touched upon in a Governmental white paper for a new cultural policy in 1974: "The main concern here is the Sámi, but the matter also concerns the Finnish cultural minority in Finnmark and Troms, migrants and foreign guest workers, the gypsies amongst others".²¹⁰ Included in the mandate of the Sámi Rights Committee that suggested the wording of the constitutional Sámi article was a study of the Sámi vis-à-vis other minority groups in Norway. The Committee was of the opinion that the Sámi status as a minority was stronger than that of other groups, yet all groups in the country, particularly the Kven, should be allowed to contribute to the cultural diversity of the country.²¹¹

The relations between the varieties of the Sámi language are also a matter to take into consideration. North Sámi has the strongest protection in a practical sense, in comparison to the other varieties spoken in Norway. Indeed, it was stated in the report "Power and Democracy" from 2005 that the Sámi language, i.e. *North Sámi*, is protected under the EChRML – showing that it is more or less taken for granted that North Sámi is the language of the Sámi.²¹² This is not the general view in Norway, since the preparatory works to the Sámi article in the constitution 110a say that the term "language" in the article includes all dialects of Sámi in Norway.²¹³

As for debates about language rights for "new" minorities in the country, the Sámi language rights issue has been raised as a negative example of "paving the way" for demands for rights to

²¹⁰ St.meld.nr. 52 (1973-1974), p.28, author's translation.

²¹¹ Samerettsutvalget, 1984:18, p.9.385-386 and p.440.

²¹² "I tillegg er samisk språk (nord-samisk) gitt særskilt vern etter Europarådets minoritetsspråkpakt." The Office of the Prime Minister, Power and Democracy, St.meld.nr 17, 2004-2005, p.113.

²¹³ NOU 1984: 18, p.435.

immigrant languages.²¹⁴ Others have pointed out that immigrant languages seem to be more prioritised in the language rights hierarchy than the traditional minority languages.²¹⁵

2 Language and minority policies in practice

2.1 Parliamentary debates on languages and minorities

2.1.1 With respect to constitutional provisions

Norway is in the peculiar position that the Sámi language is protected by constitution but the Norwegian language is not. This matter has, however, been subject to discussion. A constitutional protection for the Norwegian language was mentioned in the preparatory works for the new Culture Act from 2007, although Norwegian, or language in general, is not mentioned explicitly in the Act.²¹⁶ This issue was also raised by the Language Council in 2005, stating that in 1988 when the protection for the Sámi language was inserted in the Constitution, it was easier to take the position of the Norwegian language for granted than it is today with the increased use of English.²¹⁷ In the language white paper of the Ministry of Culture and Church Affairs, the previous discussions are reiterated.²¹⁸ The two official forms of Norwegian, whose equal status was first laid down in the "the decision on equality" (*jamstillingsvedtaket*) from 1885, are regulated in other legislation such as the Language Use Act (*målbrukslova*). The Ministry of Culture and Church Affairs notes that the fact that Norwegian does not have constitutional protection while Sámi does, is similar to the fact that the Norwegian language is not regulated by law, but Nynorsk and Bokmål, the two versions of Norwegian, are.²¹⁹

The Norwegian Constitution also does not contain any prohibition of, or protection against discrimination. This is, however, another issue that has been discussed several times in the

²¹⁴ The Progress Party member Per Willy Amundsen at a meeting about an eventual inclusion of Tromsø municipality in the Sámi administrative area, 21.2.2011.

²¹⁵ Niemi, 14.2.2011, see chapter 1.1.

²¹⁶ Ot.prp. nr. 50 (2006–2007), p.16.

²¹⁷ Language Council, 2005, pp.44-45.

²¹⁸ St.meld. nr. 35 (2007-2008), pp.33-34.

²¹⁹ St.meld. nr. 35 (2007-2008), p.34.

Parliament.²²⁰ The European Commission against Racism and Intolerance (ECRI) has also recommended the Norwegian authorities to strengthen the constitutional protection against discrimination, including protection against discrimination on the basis of language or ethnicity.²²¹

2.1.2 With respect to language legislation

The already mentioned language white paper sets the goals for a comprehensive language policy for Norway. In its first language debate since 40 years, the Norwegian Parliament decided on 28 April 2009 to support the main principles of the language white paper from 2008. Most importantly, the Norwegian language shall be safeguarded against loss of domains, and the status and use of Norwegian shall be guaranteed in all fields of society within the framework of a comprehensive language policy. This implies that everyone shall have a right to language, to develop and acquire knowledge of the Norwegian language, Bokmål and Nynorsk, and to develop and use their own mother tongue or first language, including Sign language, their own indigenous language or national minority language, and that everyone shall have the opportunity to learn foreign languages.²²²

In the same white paper, an alternative or addition to a constitutional provision on the Norwegian language is also discussed. This proposal consists of a more general language act, similar to the one that entered into force in Sweden in 2009. The discussion here also involves terminology – because of the status of the minority languages in Norway, it might not be right to label Norwegian the “national language” (as is done with Finnish and Swedish in the Finnish Constitution) but rather call it the “principal language” (as is the case in the Swedish Language Act), to mark the existence of other languages. Such an Act would also clarify the status of the other languages on the Norwegian territory.²²³ In the white paper, the question of whether the Sámi varieties should be considered as one or more than one language is discussed. The argument speaking in favour of the latter distinction is that the North Sámi language has a different protection under the EChRML than the Lule and South Sámi languages, and is also reported about separately. Furthermore, the varieties also have their own orthographies. When the Sámi Act

²²⁰ For instance, by the Socialist Left Party of Norway. Arnøy, 30.9.2004.

²²¹ CRI(2009) 4, para. 26.

²²² St.meld. nr. 35 (2007-2008), p.24.

²²³ St.meld. nr. 35 (2007-2008), p.38.

amendment about the Sámi Parliament's responsibilities for protection and promotion of Sámi languages in Norway entered into force 1 January 2003, the Ministry also consciously used the expression "Sámi languages", in plural.²²⁴

The attitude towards the language white paper proposition of a Language Act for Norway was greeted with cautious optimism by the Standing Committee on Family and Cultural Affairs, except for by the members of the Progress Party, who do not want to see language and language use regulated by law but rather by "free choice" as they describe it.²²⁵ The positive but abiding attitude of the Standing Committee was also reflected in the following parliamentary debate.

The parliamentary debate on the 28.4.2009 reflected the language white paper insofar as it focused on the status of Norwegian, and the relationship between Bokmål and Nynorsk. As for minority languages, a Member of Parliament from the Left Party expressed her concern for the Sámi and Kven language in the debate, and was critical towards the Government on this matter.²²⁶ The opposition parties, i.e. the Left Party (V), the Norwegian Christian Democratic Party (KrF) and the Right Party (H) proposed that a Plan of Action for the Kven language be developed but the proposal was rejected.²²⁷

The budget procedures between the Sámi Parliament and the Norwegian Parliament have recently been discussed in connection with the debate about the annual report from Sámi Parliament to the Norwegian Parliament. The Sámi Parliament is of the opinion that the consultation procedures agreement between the state authorities and the Sámi Parliament from 2005, also should cover budget procedures. The Sámi Parliament and the National Association of Norwegian Sámi base this opinion on the fact that it is the Sámi themselves who are supposed to decide what is of special interest for the Sámi and what is not,²²⁸ in accordance with recent discussions in other

²²⁴ St.meld. nr. 35 (2007-2008), p.59. The section concerned is ch. 3 section 12.

²²⁵ Innst. S. nr. 184 (2008-2009), para. 2.2.1.

²²⁶ Lysklætt, Vera (V) [11:02:17].

²²⁷ 71 votes against, 25 votes for. Proposal no. (7-)9, from Trine Skei Grande on behalf of the Right Party, the Norwegian Christian Democratic Part and the Left Party.

²²⁸ Keskitalo, 16.3.2011.

contexts such as the formal status of the Sámi Parliament and greater influence in the budget procedures.²²⁹

2.1.3 With respect to education legislation

There has been no debate with respect to education legislation and language minorities.

2.1.4 With respect to media legislation

There has been no debate with respect to media legislation and language minorities.

2.2 Recent legal initiatives on languages and minorities

North Sámi

The Sámi Rights Committee was appointed again in 2001 under the Ministry of Justice and the Police. The mandate of the Committee was to investigate and report on the legal status of the Sámi population concerning land and water rights and use in traditional Sámi areas from the Troms County and southwards. Partly, the mandate consisted of reporting on historical conditions and the current legal status, and partly of delivering a motivated evaluation of desired amendments in the legal status. The Sámi Rights Committee delivered its proposal for "the new Sámi legislation" (*den nye sameretten*) as an Official Norwegian Report (NOU) 2007:3. Three new acts were proposed, plus amendments to old acts. The first proposed act concerns the mapping and recognition of existing rights to natural resources in the relevant areas (*utkast til lov om kartlegging og anerkjennelse av eksisterende rettigheter til grunn og naturressurser i de tradisjonelle samiske områdene fra og med Troms fylke og sørover, kartleggings- og anerkjennelsesloven*). The second proposal concerns the administrative order for state land in the Nordland and Troms Counties (*utkast til lov om rettsforhold og disponering over grunn og naturressurser på Hålogalandsallmenningens grunn i Nordland og Troms, hålogalandsloven*). The third proposal concerns legislation about procedures and consultations when decisions that may affect the use of water and natural resources in traditional Sámi areas are taken (*utkast til lov om saksbehandling og konsultasjoner ved tiltak som kan få virkning for naturgrunnlaget i tradisjonelle*

²²⁹ See, for instance, Innst.S. nr. 191 (2008-2009) and the report on formalization of the Sámi Parliament status: Ministry of Labour, Sametingets formelle stilling og budsjettprosedyrer, 27.4.2007.

samiske områder, saksbehandlings- og konsultasjonsloven). This can be seen in part as a codification of the consultation procedures in general matters, procedures which already exist between the Sámi Parliament and the Norwegian state authorities. The new proposal aims at ensuring Sámi participation in decision-making procedures in matters that may come to have impact on Sámi right holders and interests. The overarching aim is to ensure that decisions are not taken contrary to the protection of Sámi material culture under public international law.

Although the focus of the report is not on language rights, there is a proposed provision on the Sámi language, ch.4 section 27 of the proposal on mapping and recognition, stating that the third chapter of the Sámi Act stipulates the use of the Sámi language, and that the Sámi Act ch.3 section 4 concerning an extended right to the use of Sámi in the judiciary, also applies to the Mapping Commission²³⁰. It is further proposed that “Sámi language” shall include North, Lule and South Sámi languages.

The political work with the proposals started in February 2011 with a meeting between the Minister of Sámi Affairs and the Sámi Parliament president in Røros.²³¹ The meeting aimed at establishing good cooperation conditions between the Ministry and the Sámi Parliament, before the participatory process starts.

Kven

There is no recent legal initiative pertaining to the Kven language.

2.3 Case law on languages and minorities

2.3.1 With respect to constitutional provisions

There is no case-law on constitutional provisions with respect to the language minorities studied. The existing cases referring to 110a have dealt with other issues than languages, for instance the so-called Selbu Case from the Norwegian Supreme Court concerning reindeer herding rights.²³²

²³⁰ The Mapping Commission (*Kartleggningskommisjonen*) will have the task of mapping the traditional Sámi areas from Troms County and southwards, in accordance with the proposed Mapping and Recognition Act, ch.2 section 4.

²³¹ Ministry of Government Administration, Reform and Church Affairs, 10.2.2011.

²³² Rt 2001 769.

2.3.2 With respect to language legislation

North Sámi

Before the language rights in court were granted through the Sámi Act, there was one specific case where a Sámi speaker demanded communication in judicial procedures in the Sámi language. A teacher, who today is seen as a vindicator for Sámi language rights, had received a criminal sentence from Hålogaland Court of Appeal following Sámi protest actions in Alta in 1981. Because of her profession, she was assumed to master Norwegian, but she insisted on her rights to use Sámi in communication with the court system and refused to accompany her letters with translations into Norwegian. The Court of Appeal did translate the ruling into Sámi as requested, but informed her that there was no legal basis for her claims to communicate in Sámi with courts. The Supreme Court upheld the Court of Appeal decision that her sentence could not be appealed with reference to language circumstances, because the stipulations in the Court of Justice Act²³³ regarding interpretation and translation were meant for persons who did not understand Norwegian. It could not be determined that a real language problem was at hand. The question whether there should be different regulations in place when it comes to Sámi was seen as a matter to be decided by the legislator.²³⁴

However, also after the language provisions of the Sámi Act and the Court of Justice Act came into place, the right to the Sámi language in court matters is not definite, as shown by a case from 1998. The Appeal Committee of the Supreme Court upheld a decision where the Court of Appeal had rejected the demand from an appellant to have a ruling translated into Sámi, his mother tongue. The Appeal Committee did not consider the interlocutory appeal to cover the question about translation into Sámi but did remark upon the lack of legal basis to claim such a translation.²³⁵ The Court in question was the Borgarting Court of Appeal in the south of Norway, which does not have an area of jurisdiction that fully or partly covers the Sámi administrative area, and therefore does not fall under the obligations set out in ch.3 section 4 of the Sámi Act about the extended right to use the Sámi language in the judicial system. This is somewhat curious, however, since a working group evaluating the Sámi language in the court system in 2011

²³³ Court of Justice Act, sections 135-136. The section 136a about the Sámi language was added in 1990.

²³⁴ The Appeal Committee of the Supreme Court of Norway, 2.5.1986, ruling.

²³⁵ The Appeal Committee of the Supreme Court of Norway, 4.11.1998, ruling.

assumed that the duty to protect the Sámi language and culture must apply for all courts in Norway, in particular the ones in the administrative area, but also other courts with jurisdiction over an area with Sámi speaking population.²³⁶ The working group also identified the Borgarting Court of Appeal as one of the courts with a jurisdiction comprising a significant Sámi population.²³⁷

Language aspects have also been raised in child welfare cases. In a case first raised in the Inner Finnmark Court, language played a role insofar as it was referred to as one of the most important criteria when choosing a foster family for a child of Sámi origin. According to the Norwegian Child Welfare Act,²³⁸ which builds on the Convention of the Rights of the Child,²³⁹ consideration should be given to the best interest of the child and the child's right to its culture and language when placed in a foster home. Although not the central issue in the case, the importance of the fact that a child of Sámi origin should be placed in a foster home where he can grow up in a Sámi environment was pointed out.²⁴⁰ The same issue was raised in another case from 2007, where the Hålogaland Court of Appeal made the following statement concerning the competence of the courts vis-à-vis the county authorities in language and culture matters:

The Court of Appeal cannot see that such legal foundations exist for cases where special cultural and language circumstances are at hand, which would grant courts wider competence than usual to try aspects of a case that the County Board has not taken into consideration.²⁴¹

In other words, the Court of Appeal did not consider itself to have a special competence to highlight issues concerning language and culture if not the competent lower authority had already done so.

²³⁶ Selfors et al, 2011, p.21.

²³⁷ Selfors et al, 2011, p.32.

²³⁸ Child Welfare Act, ch. 4 section 14 para. a in combination with ch.4 section 1 (best interest of the child) and ch. 4 section 15 (a child's cultural and language background).

²³⁹ Convention on the Rights of the Child (CRC), adopted 20.11.1989, entered into force 2.9.1990.

²⁴⁰ Hålogaland Court of Appeal, 22.1.2010, ruling.

²⁴¹ "Lagmannsretten kan ikke se at det foreligger rettslig grunnlag for at domstolene, i saker hvor særlige kulturelle og språklige forhold gjør seg gjeldende, har en videre kompetanse enn ellers til å prøve sider ved saken som fylkesnemnda ikke har tatt stilling til." Unofficial translation by the author. Hålogaland Court of Appeal, 20.12.2007, judgement. This judgement was later set aside by the Supreme Court, on procedural grounds because the ruling from the court of first instance was not lawfully appealed by the municipality. The Supreme Court of Norway, A and B v. X Municipality, Rt. 2008 849, 10.6. 2008, Ruling.

Incompatibility with the Sámi language and culture were raised as arguments against the continuation of military service in a case from the Bergen District Court in 1996. A Sámi conscript pointed to the fact that participating in the defence of Norway is not in line with Sámi language, culture and livelihoods. If an armed conflict was to take place in the Polar Cap area, Sámi people would have to fight against other Sámi people across the borders. In 1988, the Kautokeino Military Division was refused the right to use the Sámi language, which the conscript saw as a very serious infraction on the Sámi language. The conscript's request for exemption from military service was rejected as unlawful by the Ministry of Justice in 1994. The Bergen District Court did, however, consider the Sámi culture to be sufficient grounds for exemption of military service for the conscript,²⁴² partly because he had already been sentenced to 25 days of prison in 1992 for refusing military service and thus shown personal conviction sufficient for exemption.²⁴³

In academic literature, there is currently ample information and discussion about the use of Sámi language in court.²⁴⁴

Kven

With regards to the Kven language, no case law has been found.

2.3.3 With respect to education legislation

There are no specific court cases concerning language rights with respect to education legislation.

2.3.4 With respect to media legislation

There are no specific court cases relating to language in media legislation.

²⁴² Bergen District Court, 24.1.1996, judgement.

²⁴³ The Supreme Court of Norway, 28.8.1992, ruling.

²⁴⁴ See, for instance, Ministry of Justice, St.meld. nr. 23 (2000-2001), *Førsteinstansdomstolene i fremtiden*, about the future of the Courts of First Instance; Brenna, 2005: *Samene i rettsystemet*, about the Sámi in the judicial system; Hågvar, 2006: *Den samiske rettsdannelse i indre Finnmark*, about the Sámi legal processes in Inner Finnmark; Ravna, Øyvind, 2009: *The consideration of Sámi language and culture by organizing the courts of justice*; Selfors et al, 2011: *"Den samiske dimensjonen i rettsvesenet"*, report about the Sámi dimension in the judicial system and in court administration.

2.3.5 With respect to non-discrimination legislation

A man of Sámi origin claimed that he was discriminated against on the basis of ethnicity when he was not allowed permission from prison for the purpose of studies. He pointed to the fact that an ethnic Norwegian with a similar sentence was granted such permission. The Norwegian Correctional Services replied that all detainees in Norwegian prisons are treated on an individual basis. The Equality and Anti-discrimination Ombud admitted that the complainant and the ethnic Norwegian were in fact not treated equally, but that the unequal treatment did not amount to a violation of the Discrimination Act section 4 (prohibition of discrimination). For the purpose of language rights, however, the case is interesting because both parties referred to the restriction in the Sámi Act of the right to use the Sámi language in prisons outside of Troms and Finnmark Counties. The Ombud did, however, find this issue to lie outside of her mandate.²⁴⁵

2.4 Practice of administrative organs and other supervisory organs

2.4.1 With respect to constitutional provisions

There is no specific practice of administrative organs with respect to the relevant constitutional provisions.

2.4.2 With respect to language legislation

North Sámi

The three northernmost dioceses of the Lutheran Church of Norway are currently mapping the use of Sámi language in church. The Sámi Church Council has long been working to gather statistics on the use of Sámi in church through the existing church statistics in order to find out how Sámi is used in church services, weddings, christenings and funerals.²⁴⁶

The Sámi Act ch.3 section 2 provides for translation of laws and regulations of particular interest to the Sámi population into the Sámi language. The Ministry of Justice and the Police have made

²⁴⁵ The Equality and Anti-discrimination Ombud, 21.9.2010.

²⁴⁶ Guttorm and Pulk, NRK Sápmi, 13.1.2011.

an evaluation of whether there is an obligation to translate fisheries legislation into Sámi or not, and how far-reaching such an obligation would be. In its principal statement, the Ministry says that for an obligation to translate to exist, it is not necessary that the laws and regulations apply exclusively to the Sámi people. The rule of thumb is rather that the opinion of the Sámi Parliament on whether a translation of the whole or parts of an act is required, and whether Sámi organisations have been active in the consultation process preceding the act or not should matter. In the particular case of fisheries legislation, the Ministry of Justice saw it justifiable to translate at least parts of the fisheries body of legislation.²⁴⁷

Language rights in prison have been commented on by a number of authorities.²⁴⁸ The Ministry of Justice and the Police have made a statement on whether the right of detainees to use the Sámi language according to the Sami Act ch.3 section 4 can be derogated from in order to enable the correctional services to control the communication of the detainees. According to the Execution of Sentences Act (*straffegjennomføringsloven*) section 30 on postal communication, section 31 on visits and section 32 on telephone calls, the Correctional Services have legal basis for demanding the detainees to communicate in a language that the staff understands. The question of which of these two pieces of legislation should take precedence was not touched upon in the preparatory works but was interpreted by the Ministry on the basis of a teleological reasoning. The Correctional Services department was of the opinion that there is too little staff with competence in the Sámi language to be able to ensure security with Sámi speaking detainees. Yet, the Ministry, with reference to Norway's constitutional and international obligations towards the Sámi, cultural policies and the principle of *lex specialis*, deemed that the Sámi Act must be seen as an act of a special character vis-à-vis the general character of the Execution of Sentences Act. The Correctional Services are therefore obliged to introduce other means of ensuring security, for instance the employment of more Sámi speaking personnel.²⁴⁹

The Sámi Act ch.3 section 11 contains a right to complain for the concerned individual, or Sámi organisations, in case an official body is not following the Sámi language rights provisions of third chapter of the Act. In accordance with preparatory work, the rules for the complaint procedure

²⁴⁷ Ministry of Justice and the Police, principal statement/pre-interpretation, 14.11.2003.

²⁴⁸ See also the Parliamentary Ombudsman, sak 2009/59.

²⁴⁹ Ministry of Justice and the Police, principal statement, 26.11.2001.

are the same as in the Language Use Act. For municipalities and counties, it is the County Governor that is the appellate body. However, for the County of Finnmark, no complaints have been sent in as of 2011.²⁵⁰ The rules laid down in the *Administration Act* (forvaltningsloven) Chapter VI about the complaints procedure are referred to when applicable.²⁵¹ For the Place Names Act, there is a right to complain in accordance with section 10.

Kven

As concerns the Personal Names Act, there have been instances where persons have not been allowed to reclaim old names because the documentation requirements have not been considered met. Minority organisations have brought this issue to the Ministry of Government Administration, Reform and Church Affairs, claiming that too strict documentation requirements had been imposed and that documentation from Sweden and Finland had not been accepted. This indicates that the provisions of the Personal Names Act had not been fully implemented at the local level at the time.²⁵² The Parliamentary Ombudsman gave a decision on the legislation pertaining to personal names in 2002.²⁵³ The Ministry of Justice had rejected an application by a Kven to revert to an old Kven surname, which the Ombudsman found to be in violation with the relevant principles of the FCNM. The Personal Names legislation is, as a result of a revision in 2002, now better fulfilling the rights of minorities. Previous to the revision, two persons of Kven origin complained that their application to take up an old Kven surname had been rejected on the grounds that it was not “important” enough for the applicants to start using the name, in accordance with the 1964 Personal Names Act, section 9 para. 6. In the opinion of the Parliamentary Ombudsman, the Department of Justice was not taking into consideration that the name change would be an expression of an ethnic minority identity. At that point the Ministry of Justice rejected the arguments of the Ombudsman, stating that there was no legal basis for them. A year later, the Personal Names Act was made more flexible towards members of minorities wishing to take back old family names.

²⁵⁰ Sara, 14.3.2011.

²⁵¹ NOU 1985:14, p.190.

²⁵² ACFC/SR/III(2010)009, p.37.

²⁵³ The Parliamentary Ombudsman, 2003, pp. 200-202.

2.4.3 With respect to education legislation

The Parliamentary Ombudsman has communicated with the Ministry of Education and research regarding whether or not kindergartens are obliged to use Norwegian as their main language, or, if a kindergarten can choose to operate in a different language. It appears to be unclear whether **the** there is an actual obligation in accordance with the laws and regulations. The Ministry is of the opinion that the long-term practice of having Norwegian as the main language speaks for such an obligation. However, no explicit rules exist supporting this statement and the act, regulations and framework plans for kindergartens will be reviewed.²⁵⁴

The Administration Act section 28 applies in the case of appeal against decisions that concerns the individual on the basis of the Education Act.²⁵⁵

2.4.4 With respect to media legislation

According to the Broadcasting Act,²⁵⁶ there is an obligation for senders other than the Norwegian Broadcasting Corporation (NRK) to apply for permission to conduct broadcasting.

In its annual reports about public broadcasting for the previous years (2005-2009), the Norwegian Media Authority has concluded that NRK's supply for national minorities has not reached a satisfying level, neither in scope nor theme. Therefore, according to the Media Authority, the requirement in the NRK statute for national minority programmes (see chapter 1.9.4) is not fulfilled. However, the evaluation of the scope and content of the NRK regular programmes for children and adolescents in Sámi is positive in 2009,²⁵⁷ and the Media Authority also believes that NRK succeeds in fulfilling the requirement of Art. 14, para. c to transfer knowledge about different groups and about the diversity in the Norwegian community.²⁵⁸

²⁵⁴ The Parliamentary Ombudsman, 2010/1477.

²⁵⁵ Education Act, ch. 15 section 2.

²⁵⁶ Broadcasting Act, ch. 2 section 1.

²⁵⁷ The Norwegian Media Authority, 2009, p.47.

²⁵⁸ The Norwegian Media Authority, 2009, pp.50-53.

The ethnic minority-related content of licensing permissions has been the reason for correspondence between the Media Authority and the TV-sender TV 2. The Media Authority gave TV 2 a warning according to the Broadcasting Act ch.10 section 2 because of the non-fulfilment of its broadcasting permission with regards to the obligation to broadcast programmes or programme items for ethnic minorities. During the year 2005 TV 2 had five programmes and 284 programme items for ethnic minorities, which the Media Authority considered not to be in line with the broadcasting licence. The Media Authority admitted that the limit of how many programmes or program items for ethnic minorities TV 2 should broadcast a year is difficult to define, however, the 2005 broadcastings came short of fulfilling the criteria.²⁵⁹ Secondly, even though the programmes were about ethnic minorities (on the topics of criminality, asylum and integration policy) they were not necessarily programmes *for* the ethnic minorities, i.e. the broadcastings did not have a sufficient thematic width.²⁶⁰ The sanction was withdrawn after TV 2's appeal to the Ministry of Culture and Church Affairs; however, the Ministry concluded that TV2 "was moving in the borderland of what can be considered enough for fulfilment of the TV 2 licensing obligation in section 3-3 no 8 of its licensing permission".²⁶¹

2.5 Practice of international monitoring organs and courts with respect to language and minority issues in Norway

The monitoring organs with relevance for minority languages in Norway are the treaty bodies from the Council of Europe, i.e. the Advisory Committee for the Framework Convention on the Protection of National Minorities (ACFC) and the Committee of Experts of the European Charter for Regional or Minority Languages, upon whose evaluation the Council of Europe Committee of Ministers gives its recommendations for the implementation of both conventions. Furthermore, the Council of Europe Commission against Racism and Intolerance (ECRI) is not a treaty body in the sense of the two previously mentioned, but monitors anti-racism work in the light of the European Convention on Human Rights (ECHR) in the Member States. Under the United Nations (UN) system, the Human Rights Committee (HRC) monitors Norway's implementation of the International Covenant on Civil and Political Rights (ICCPR) and the Committee on the Elimination

²⁵⁹ This vague judgement of the Media Authority may seem arbitrary and therefore constitute a problem.

²⁶⁰ Norwegian Media Authority, letter 07/1197-5/LIVE, 31.10.2007.

²⁶¹ Ministry of Culture and Church Affairs, letter 2007/05750 ME/ME3 HFO:elt, 17.6.2008, p.5.

of Racial Discrimination (CERD) monitors the implementation of the Convention on the Elimination of All Forms of Racial Discrimination. For the Sámi, the International Labour Organisation (ILO) Convention No. 169, which is monitored by the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), is of particular relevance. A further UN institution, namely the UN Special Rapporteur on the Rights of Indigenous Peoples, in his first-ever cross-border report on indigenous issues in the Nordic countries in 2011, addressed language matters as an area of concern. The report is based on a visit to the Sámi Parliaments in Finland, Norway and Sweden in April 2010.

Norway has submitted three reports under the FCNM, the third was submitted in 2010. The ACFC has commented on two of them and the Committee of Ministers has likewise made two recommendations. Norway submitted its fourth periodic report under the EChRML in June 2008.²⁶² The fifth cycle report is due in July 2011. The Committee of Experts for the EChRML evaluated the fourth Norwegian report in 2009. Norway sent in its sixth report to the HRC monitoring ICCPR in 2010. This report has not yet been commented on by the HRC. Norway delivered its 19/20th report to CERD in 2009.

The two most relevant conventions for language protection are the EChRML and the FCNM. There are some main thematic areas concerning both North Sámi and Kven, for which the monitoring organs for these conventions have voiced their concerns, which will be presented in the following section.

Firstly, there has been a concern for the use of North Sámi in the health sector. On the one hand, there is a lack of personnel with a command of North Sámi, and on the other hand, there is also a lack of professional interpreters to fill in the first gap. The EChRML Committee of Experts has directed criticism towards Norway's inability to solve the issue with health care services in North Sámi, an issue which is related to the difficulties in professional interpretation training. The improvement of North Sámi health sector service was included as a recommendation from the Committee of Ministers in 2010.²⁶³ However, this lack was criticised already in the first monitoring cycle of the EChRML in 2001, then with a focus on the lack of special policy concerning the use of

²⁶² MIN-LANG/PR (2008).

²⁶³ RecChL(2010), 10.3.2010.

Sámi within old people's homes or hospitals.²⁶⁴ The Committee repeated this criticism in 2003, noting that when no interpreter is available, "a person who understands Sámi language" is found, which does not mean that the person in question needs to be a professional interpreter. The Committee was of the opinion that Norway has formally fulfilled its obligation with regards to art 10, para. 4, sub-para. a about language use of administrative authorities, but that Norway is not doing enough to implement it in practice and on the ground.²⁶⁵ Despite some Norwegian efforts to increase both the number of Sámi-speaking staff and the number of professional interpreters, such as a Governmental Plan of Action and a quota for Sámi speakers to study medicine, more Sámi-speaking personnel in health and social care facilities, and/or professional interpreters, the health sector is a recurring theme in the demands of the Committee of Experts.²⁶⁶ This is something the ECRI also has commented on, albeit in more general terms when it comes to speakers of languages other than Norwegian, i.e. also immigrant languages.²⁶⁷ The CEACR for ILO 169, usually silent on language issues, has on occasion stated that there is a need for improvement in the communication between the Sámi speakers and the health authorities.²⁶⁸ Although the health and social care sector is perhaps the sector with the most urgent needs for improvement with regard to possibilities of using minority languages, both the EChRML and FCNM Committees have touched upon the use of the Sámi and Kven language in relation to authorities. For instance, in its second resolution on Norway in 2007, the Committee of Ministers (for the FCNM) mentioned the use of minority languages in relations with the administrative authorities as an issue of concern. The Committee of Ministers called for additional efforts in this area, both in legislation and in practice. It mentioned the Kven language explicitly, and recommended additional efforts to promote and support the learning of Kven.²⁶⁹ Also, when the Committee looked specifically at the Kåfjord/Gáivuotna municipality in the county of Troms in 2010, it did commend many of the activities undertaken to counteract the Norwegianisation that was underway at the time of the inclusion of Kåfjord into the Sámi administrative area, but noted that North Sámi does not seem to be used much outside municipal institutions.²⁷⁰ Similarly, the UN Special Rapporteur pointed out

²⁶⁴ EChRML (2001) 6, para. 94.

²⁶⁵ EChRML (2003) 2, para.127.

²⁶⁶ See also EChRML (2007) 3, paras. 174-180.

²⁶⁷ CRI(2004)3, para 50.

²⁶⁸ CEACR, 1995, in para. 30 relating to art. 25.

²⁶⁹ Council of Europe, Committee of Ministers, Resolution CM/ResCMN(2007)11, 20.6.2007, p.2.

²⁷⁰ EChRML (2010) 3, para.138.

that the Sámi language should be strengthened before courts and public authorities, and the access to public services in Sámi languages should continue to be improved.²⁷¹

Secondly, both personal and place names have received attention from monitoring organs. A recurring theme has been the technical barriers to the use of the Sámi characters in official registers, because official registers do not accept Sámi names with diacritics. The Committee of Experts for the EChRML has pushed for improvement in this field since the start of reporting in 2001.²⁷² It has repeated that despite some gradual technical efforts the undertaking under the EChRML art.10, para.5, about family names in the concerned language, the provision is not properly implemented.²⁷³ With regards to place names, the ACFC has previously pointed to problems with the Place Names Act for the minorities, and legislation has subsequently been amended. Most recently, in its second opinion on Norway from 2006, the ACFC recommends that the authorities

take the measures needed to ensure that the national legislation in force as regards topographical indications is properly applied locally, in accordance with the provisions of Article 11, paragraph 3, of the Framework Convention.²⁷⁴

Norway replied to this that Sámi and Kven place names are better protected by the Place Names Act (section 1) amendment that entered into force on 1st of August 2006.²⁷⁵ However, in 2010, the Committee for the EChRML noted that Kven place names are not visible on signs outside Porsanger, and only used in a few maps.²⁷⁶

A third issue relates to the use of (North) Sámi before courts. In its first evaluation in 2001, the Committee of Experts deemed all Norwegian obligations under the article concerning judicial authorities to be formally fulfilled.²⁷⁷ Still, the Committee encouraged the Norwegian authorities to facilitate the exercise of the formal rights in court. This encouragement was due to the fact that, despite the right to use it, the Sámi language is seldom used in court because of the

²⁷¹ Anaya, 2011, para 87.

²⁷² EChRML (2001) 6, para. 79.

²⁷³ Cf. EChRML (2003) 2, paras 129-130 and EChRML (2007) 3, paras. 164-169 and also the recommendations from the Committee of Ministers to the respective reports.

²⁷⁴ ACFC/OP/II(2006)006, Strasbourg 5.10.2006, para 117.

²⁷⁵ ACFC/SR/III(2010)009, pp. 37-38.

²⁷⁶ EChRML (2010) 3, para. 72.

²⁷⁷ Committee of Experts, Evaluation report for Norway, EChRML (2001) 6, paras. 68-72.

complexity and length in time due to lack of legal terminology and of qualified interpreters. Sámi speakers may also refrain from using their native language because of lack of experience in using Sámi in front of court and a fear of being regarded as a "trouble-maker" when asking for proceedings in Sámi.

The fourth issue is related to the status of different languages. The starting point for this issue may to some extent be related to the FCNM and the Sámi people in that the Sámi Parliament has stated that they do not wish to be covered by the FCNM. This is because they rather emphasise their indigenous people status and do not wish to be considered a "national minority" in addition to being indigenous. This is explained to the ACFC in the initial report by Norway.²⁷⁸ Despite this, the ACFC has stated that nothing prevents the Norwegian Sámi from being protected by the FCNM would they, at some point, wish to be protected. Yet, the Sámi are mentioned on occasion in the Norwegian reporting, and the ACFC is commending Norway on the positive measures with regards to the Sámi policy.²⁷⁹ As pointed out by the Norwegian representative to the ACFC, Mr Einar Niemi, this overshadows policies towards the actual, recognised national minorities and in particular the Kven.²⁸⁰ Other experts have pointed to the enormous gap in protection between the Sámi languages and the national minority languages, and that this gap is due to the differences in

²⁷⁸ Norway, initial report under the FCNM, p.4, para. 1.1:

"The Sami people in Norway are also a national minority in the terms of international law. However, the Sámediggi (the Sami Assembly) has declared that it does not consider the Framework Convention to be applicable to the Sami people, since as an indigenous people the Sami have legal and political rights that exceed those covered by the provisions of the convention. In keeping with the wish of the Sámediggi, therefore, the Sami people will not be discussed in this report. Instead, Norway's reports on the implementation of ILO Convention No.169 concerning Indigenous and Tribal Peoples in Independent Countries are appended hereto."

²⁷⁹ The view of the ACFC was expressed in its first opinion on Norway, para. 19:

"...The Advisory Committee understands that the authorities have taken into account the views of the Sami Parliament when formulating their approach. At the same time, the Advisory Committee recalls that the recognition of a group of persons as constituting an indigenous people does not exclude persons belonging to that group from benefiting from the protection afforded by the Framework Convention. Furthermore, the Advisory Committee underlines that the applicability of the Framework Convention does not necessarily mean that the authorities should in their domestic legislation and practice use the term "national minority" to describe the group concerned. Against this background, the Advisory Committee considers that the protection of the Framework Convention remains available to the Sami should persons belonging to this indigenous people wish to rely on the protection provided therein. The Advisory Committee encourages the authorities to continue their dialogue with the Sami Parliament and others concerned on this issue, with a view to ensuring that the Framework Convention and the treaties designed for indigenous peoples are not construed as mutually exclusive regimes and that the Sami can continue to rely on a wide range of international norms..."

ACFC commending Norway's Sami policies, see, for instance, ACFC second opinion on Norway, para. 8.

²⁸⁰ Niemi, 14.2.2011.

definition between indigenous language and national minority languages.²⁸¹ This gap in definition and rights may be linked to the issue of non-cooperation between language groups that the Committee of Experts for the EChRML has also pointed out from the start. The Committee has pointed out that closer cooperation would “improve overall understanding, tolerance and respect vis-à-vis all the regional and minority languages.”²⁸² The Committee continued to recommend such cooperation in the following evaluations,²⁸³ albeit noting that the authorities are trying to encourage such a dialogue, yet cultural differences, and the fact that the Sámi do not wish to be included in national minority dialogues, constitute a barrier to a common dialogue.²⁸⁴

Another related issue is the concern of the Committee of Experts about the different Sámi languages since they do have different statuses under the EChRML. In the Committee’s view, the situation for North Sámi is satisfactory. North Sámi is also the only language in Norway receiving protection under part III of the EChRML. Therefore, the Committee was initially concerned about the fact that North, Lule and South Sámi languages in some instances have been treated as one language, and in some as separate languages, making it difficult for the Committee to assess the factual situation for the last two.²⁸⁵

As for the Kven language specifically, the Committee for the EChRML has focused more on the Kven situation in later evaluations. The first evaluations of the Committee merely mentioned the debate of denomination for Kven/Finnish and called for a stance from the Norwegian authorities in the matter, which came, as previously mentioned, in 2005 through a Royal Decree. Once that matter was settled formally, the Committee went on to comment on specific issues for the Kven language. In 2010, the Committee called for a clarification of the Kven situation in Oslo, allegedly one of the places with most Kven inhabitants, in order to develop an adequate structured policy to support the Kven language there.²⁸⁶ The Committee of Experts recognizes that there is an urgent need for standardisation of the Kven language, and that this work is underway within the framework of the Kven Language Council (*see* Chapter 3.5). In the meantime, Kven education, in

²⁸¹ Evjen, 28.2.2011.

²⁸² EChRML (2001) 6, findings of the Committee of Experts, G.

²⁸³ EChRML (2003) 2, paras. 32-34.

²⁸⁴ Comments by the State Party EChRML (2003) 2.

²⁸⁵ EChRML (2001) 6, findings of the Committee of Experts, para. C and F.

²⁸⁶ EChRML (2010) 3, para.11.

particular for adults, needs to be provided for and the position of Kven in broadcasting and literature needs to be strengthened.²⁸⁷ As for the Norwegian response to earlier monitoring cycles' recommendations about the Kven language, the Committee of Experts notes that despite the establishment of a Kven Language Council and financial support, the Kven language situation on the ground is still precarious. It also notes that in the Knowledge Promotion reform for education, the subject curriculum is developed for Finnish as a second language, and with only a brief reference to Kven.²⁸⁸ Furthermore, there is no structured policy for the protection and promotion of the Kven language.²⁸⁹ For the fifth monitoring cycle, the Committee of Experts recommends taking appropriate measures to improve the use of Kven in broadcasting. There is an urgent need for appropriate radio programmes in Kven, in particular for children and young people who are currently studying Kven at school. The existing 12-minute radio broadcast is primarily in Standard Finnish and not Kven.²⁹⁰ Access for national minorities to media has also been on the ACFC agenda, most recently in 2006 in its second opinion on Norway. The ACFC noted positive developments, in particular the national minority coverage addition to the NRK Articles of Association (see ch.1.9.4), yet there were still shortcomings for the Kven in the audio-visual and press spheres.²⁹¹ The ACFC recommended further efforts to increase access and coverage for national minorities within electronic and print media.²⁹²

ECRI is not a main body of relevance to Sámi language rights but it can be noted that it has addressed the issue of education in Sámi language in that it has encouraged the Norwegian authorities to pursue their dialogue with the Sami Parliament on the issue of granting Sámi pupils an individual right to education in the Sami language throughout the country.²⁹³

The Committee of Experts on the Application of Conventions and Recommendations (CEACR) within the ILO is the main international supervisory organ for the Sámi rights since, according to a request of the Sámi Parliament; they are not treated within the reporting for the FCNM, as have been mentioned above. The comments from the CEACR have not revolved around language rights

²⁸⁷ EChRML (2010) 3, para. 24.

²⁸⁸ EChRML (2010) 3, para. 31.

²⁸⁹ EChRML (2010) 3, para. 33.

²⁹⁰ EChRML (2010) 3, para. 69.

²⁹¹ ACFC/OP/II(2006)006, paras 103-104.

²⁹² ACFC/OP/II(2006)006, paras 105-106.

²⁹³ CRI(2004) 3, para. 57.

in recent years, but more around participatory rights and rights to water and land.²⁹⁴ However, further back in history, language was subject to the Committee's scrutiny. The only comment about language in the communication with CEACR is from 1995,²⁹⁵ where the Committee mentioned Sámi language rights for Sámi prisoners outside the counties of Finnmark and Troms,²⁹⁶ the lack of translation of employee rights into Sámi language,²⁹⁷ and difficulties for Sámi pupils to receive instruction in Sámi language due to the limited number of teachers.²⁹⁸ However, none of the issues were identified as being in clear violation with the provisions of ILO 169.

The UN Special Rapporteur in his report on indigenous peoples in the Nordic countries, pointed not only to historical factors as the root causes of the loss of Sámi language, but also present-day factors, such as the lack of Sámi spoken outside of home.²⁹⁹ Despite the efforts in Norway to revitalise the Sámi language, the UN Rapporteur notes the lack of resources to accommodate everyone who wants to learn Sámi, and calls for further efforts to overcome these issues.³⁰⁰ The Special Rapporteur also addressed the need for culturally appropriate education, and even though he mentioned Norway as the country that has made the most advancement in developing a comprehensive Sámi educational policy, he pointed to the continued shortcomings regarding the lack of Sami teachers, lack of language teaching materials and Sámi teaching aids, in particular in Lule Sámi and South Sámi, and insufficient financial resources to the Sámi parliament to carry out its educational tasks.³⁰¹ Furthermore, the UN Special Rapporteur called for raising public awareness of Sámi language and culture in primary schools and within university curricula for teachers, and a less stereotypical image of the Sámi media.³⁰² Therefore, the Special Rapporteur's recommendation is that the Nordic States and the Sámi parliaments should cooperate to double the efforts to revitalise Sámi languages. The States should provide immediate and adequate

²⁹⁴ See, for instance, the latest observation on Norway by the Committee: CEACR, 2010.

²⁹⁵ CEACR, Individual Direct Request, 1995.

²⁹⁶ CEACR, 1995, in para. 13 relating to art. 12.

²⁹⁷ CEACR, 1995, in para. 26 relating to art. 20.

²⁹⁸ CEACR, 1995, in para. 32 relating to art. 26 and 27.

²⁹⁹ Anaya, 12.1.2011, para 62.

³⁰⁰ Anaya, 12.1.2011, para 63.

³⁰¹ Anaya, 2011, para 67.

³⁰² Anaya, 2011, para 70.

funding for this purpose. The number of Sámi language teachers as well as their capacity should be increased.³⁰³

The UN treaty bodies have been very sparse with explicit criticism with regards to minority language protection for the Sámi and Kven languages throughout the monitoring cycles. On the contrary, this is one of the issues regarded as commendable by the UN bodies. This may be due to two factors, firstly, a different way of working than the Council of Europe bodies, and secondly, the fact that the ICCPR and CERD are not explicitly conventions established to protect minorities or languages in particular.

In previous reports the HRC has mainly commended Norway's work on Sámi cultural institutions and measures undertaken for the Sámi language.³⁰⁴ The main concern for the HRC has been land rights and self-determination for the Sámi, not language rights.³⁰⁵

The efforts undertaken by the Norwegian government to protect the culture, language and way of life of minorities are also welcomed by CERD, in particular the work of the Sámi Parliament.³⁰⁶ The CERD has recommended Norway to gather statistical data on the use of mother tongue, as this is indicative of ethnic differences in the country.³⁰⁷ This is something that ECRI has also recommended, but mainly to help to monitor racial discrimination and patterns of disadvantage among the population of immigrant background.³⁰⁸

Notably, the Committee on the Convention on the Rights of the Child has not explicitly commented on Norway's implementation of language rights for minority children, although the convention does contain provisions directly related to this matter, in particular art. 17 d) about encouraging the mass media to regard the linguistic needs of a child who belongs to a minority group or who is indigenous, and art. 30 about the rights of a child belonging to an ethnic, religious or linguistic minority or indigenous group to his or her own culture, religion, and language.

³⁰³ Anaya, 2011, para 87.

³⁰⁴ CCPR/C/79/Add.27, 1993, paras 6 and 10.

³⁰⁵ CCPR/C/79/Add.112, 1999, paras 16-17.

³⁰⁶ CERD/C/304/Add.40, 1997, para. 5.

³⁰⁷ CERD/C/NOR/CO/18, 2006 para. 13.

³⁰⁸ CRI(2009) 4, para. 136.

2.6 Programmes and action plans on language use and language diversity

North Sámi

There is a substantial amount of work done to implement the legislation on the Sámi language. The most important development is the Government Plan of Action for the Sámi language from May 2009,³⁰⁹ which is to be evaluated and updated every year within the period 2009-2014. It is an ambitious Plan of Action including 66 concrete measures for the development and revitalization of the Sámi languages in Norway. The Plan focuses on measures within three fields called “Learn”, “Use” and “See”. The field “Learn” (measures 1-26) puts a special emphasis on actions at the level of day care institutions and in school, but also includes the education of staff for such institutions and adults in general. The field “Use” (measures 27-59) focuses on strengthening the use of Sámi languages within public institutions and the field “See” (measures 60-66) aims at making Sámi languages visible through media, culture and the use of Sámi place names. The Plan of Action is evaluated and updated annually, most recently in February 2011.³¹⁰ The evaluation casts a positive light on the work in accordance with the goals set out in the Plan of Action. It is said that the Sámi languages stand stronger in the public consciousness than ever before, and the legislation and regulations of language rights have increased their status. Public agencies are working actively with the Sámi languages and within the Sámi administrative areas a significant amount of revitalisation work is done. Despite this, there is still much left to do. Although the Government used NOK 23 million for measures towards the implementation of the Plan of Action for the Sámi languages, more measures and grants are planned for the coming work with the plan. It can be noted, that the authorities are sensitive to the critique of international

³⁰⁹ Ministry of Labour and Social Inclusion, Plan of Action for Sámi languages (Handlingsplan för samiske språk), 2009.

³¹⁰ Ministry of Government Administration, Reform and Church Affairs, February 2011.

monitoring organs, as seen from the strengthened efforts in fields emphasised by, for instance, the Committee of Experts for the EChRML (see Chapter 2.5).³¹¹

As for the provision of grants to Sámi language work, there is a fund (*Samefolkets fond*) established by the Norwegian Parliament in 2000. The Parliament appropriated NOK 75 million as a collective compensation for historic damages done through the Norwegianisation process. The revenue of the fund goes to activities supporting Sámi language and culture.³¹² The Sámi Parliament also distributes language grants outside of this fund, which in 2011 amounted to NOK 59,2 million for core funding to language centres (NOK 5,7 million), project application funding (NOK 7,6 million) and bilingual grants for municipalities within the administrative area (NOK 46 million).³¹³

The Sámi Church Council within the Norwegian Church has developed a draft document for a Strategic Plan for Sámi church life. The draft plan establishes inclusion as a minority policy basis in the Church of Norway's work with Sámi church life.³¹⁴ North Sámi is mentioned specifically in the draft.³¹⁵ Once adopted, the document will be the starting point for a Plan of Action.

In the field of education, there is still a great lack of teaching materials in Sámi, although North Sámi is the language variety used in most materials.³¹⁶ The Sámi Parliament, the Ministry of Education and Research and the Norwegian Directorate for Education and Training have delivered a report on how to more efficiently organise a future production of Sámi teaching materials.³¹⁷ Sámi education is to be improved through renewed recruitment procedures and enhanced completion rates for teacher training in Sámi. Additional incentives for teachers-to-be are planned by the institutions offering these types of teacher education with funding from the Ministry of Education and Research.³¹⁸ In the autumn of 2006, the Knowledge Promotion Reform

³¹¹ These efforts include cooperation with the Sámi University College, the University College in Bodø and the University of Tromsø to develop interpreter education for the Sámi languages, and renewed language efforts for the health and social services sector. Ministry of Government Administration, Reform and Church Affairs, 2011, p.33 and pp.34-35.

³¹² Sámi Parliament, Meld.St.22 (2009-2010).

³¹³ Ministry of Government Administration, Reform and Church Affairs, 2011, p. 13.

³¹⁴ The Sámi Church Council, 2010, p.56.

³¹⁵ The Sámi Church Council, 2010, para. 3.4.2., p.44.

³¹⁶ Lone et al, 2008.

³¹⁷ Ministry of Government Administration, Reform and Church Affairs, 2011, p.24.

³¹⁸ Ministry of Children and Equality (2009–2012), p.25.

(*Kunskapsløftet*) was introduced for the 10-year compulsory school and in upper secondary education and training. The Knowledge Promotion includes a Sámi curriculum, where the student can choose Sámi as first (Sámi 1) or second language (Sámi 2 and 3), see chapter 1.3.

On a regional level, the two counties with most North Sámi speakers, Troms-Romssa and Finnmark-Finmárkku, and Nordland County with two municipalities with North Sámi speakers,³¹⁹ have signed cooperation agreements with the Sámi Parliament. These agreements have been developed on a voluntary basis, as an initiative between the parties.³²⁰ Following the agreements, the counties develop Plans of Action for Sámi competence.³²¹ A new plan for the years 2011-2014 will be adopted by the Nordland County Council³²² in June 2011.³²³ Troms-Romssa County has developed its second strategic plan in order to fulfil the language obligations.³²⁴ There is currently no new Plan of Action in Finnmark- Finmárkku to follow the current plan, which is for the years 2007-2010.

A report on the Sámi language within the judiciary, delivered in 2011, suggests a number of measures to be undertaken to improve the Sámi language situation in court proceedings. The priorities are suggested to revolve around measures to improve the knowledge about Sámi culture and legal systems through education and on-the-job training and continued education of judges and court personnel, and recruitment of judges of Sámi origin or with Sámi language competence.³²⁵

With the new Plan of Action to Promote Equality and Prevent Ethnic Discrimination (2009–2012) the Government wishes to intensify the efforts to combat ethnic discrimination of persons from minority backgrounds, including immigrants and their children, Sámi and national minorities. The plan includes 66 new measures for which nine ministries are responsible. Under the goal

³¹⁹ Tjeldsund and Evenes municipalities.

³²⁰ Keskitalo, 12.6.2006.

³²¹ The Sámi parliament and Nordland County 2006, ch. 4.

³²² Fylkesting, the highest political body in the county.

³²³ Andersen, 26.1.2011.

³²⁴ Troms-Romssa County Council, 29.5.2007.

³²⁵ In line with a new competence strategy for the courts, working groups can be established on the topic of Sámi issues. The working group behind the strategy is of the opinion that there are reasons for the state to take more economic responsibility to look into the existence and substance of Sámi customary law, and a forum for the Sámi dimension could be established within the court system to follow-up on aims and measures in the field. Selfors et al, 2011, p.5

“Documentation and Knowledge Development”, the Ministry of Labour and Social Inclusion together with KS (The Norwegian Association of Local and Regional Authorities) and the Sámi Parliament are responsible for an overview on how Sámi policy is dealt with on the local and regional levels.³²⁶

Kven

There is no official Plan of Action for the Kven language,³²⁷ which is one of the main concerns of the Association of Norwegian Kven. In order to direct the attention of the authorities, in particular the Ministry of Culture, to this issue, the Association has drafted their own Plan of Action. This plan contains a wide range of measures in administrative and educational fields, such as an inclusion of the Kven language in Part III of the EChRML, the creation of an administrative area for the Kven language, grant agreements for Kven/Finnish day care institutions and several changes in the Education Act such as ensuring the individual right to learn Kven and/or Finnish.³²⁸

With background in FCNM art. 15 about effective participation of national minorities, the Norwegian grants system for national minorities in Norway is supposed to contribute to activities that promote active participation in society, equal opportunities and the prevention of discrimination. Grants are given as core funding to national minority organisations and as project funding. For 2011, NOK 5,841 million is reserved for national minority grants.³²⁹

As a result of a comment by the ACFC, the Ministry of Labour and Social Inclusion together with the Norwegian Research Council, the University of Tromsø and representatives of the Kven will initiate a survey on the numbers and geographical distribution of the Kven in Norway. This survey is the result of an explicit wish by the Kven organisations. Such a wish is unusual, since other national minorities have been highly sceptical to all types of surveys on ethnicity.³³⁰

³²⁶ Ministry of Children and Equality (2009–2012), p.18.

³²⁷ A proposal for a Kven Plan of Action has been made in Parliament, but was rejected. See chapter 2.1.2.

³²⁸ The Association of Norwegian Kven, Plan of Action for the Kven Language (*Handlingsplan for kvensk språk*), 2011.

³²⁹ National budget ch.1540, post 70. Ministry of Government Administration, Reform and Church Affairs, n.d.

³³⁰ Ministry of Children and Equality (2009–2012), p.18.

As mentioned, Finnish as a second language was first introduced in the school curriculum for Finnmark and Troms in 1997, upon request from the Kven Association.³³¹ The Knowledge Promotion reform includes the curriculum for the subject Finnish as a second language. The curriculum, which spans the first year of primary school until third year of upper secondary school, is partly based on the Common European Framework of Reference of Languages, which means that it is similar to the foreign language curricula. Yet, the curriculum also contains many cultural elements from the Kven culture; it was developed in consultation with teachers of Finnish in Troms and Finnmark.³³² The main areas are language learning, communication, culture, society and literature.³³³

Within the general social studies subject in Norway, all pupils should also learn about the language, culture and way of life of the indigenous people and minorities in Norway.³³⁴ The curricula for the combined subjects history, social studies and geography contain open competence goals, which include knowledge about indigenous peoples, national minorities and ethnic minorities. Local adaptation and methodological freedom is possible, so that in the case of an area with a Kven population, focus can be on the Kven history and distinctive character. The County Governors of Troms and Finnmark inspect and report on the implementation of the curriculum.

2.7 View on language and minority legislation in the wider public discourse and media

North Sámi

The Sámi Act and the Place Names Act are the two pieces of language legislation that gain the most attention in media. Two examples will illustrate this. In December 2010, when a majority of the Tromsø municipality board decided to start evaluating the potential effects of an inclusion in the Sámi administrative area (see Chapter 2.6), an emotional debate was sparked in the northerly

³³¹ Lindgren, 2009, p.118.

³³² MIN_LANG/PR (2008) 6, p. 9.

³³³ The Norwegian Directorate for Education and Training, Curriculum in Finnish as a second language.

³³⁴ Ministry of Education and Research, Social Studies Subject Curriculum, established as a regulation, applicable from 1.8.2010.

media forums. The newspaper *iTromsø*³³⁵ could report a broad range of opinions, from very positive to very negative. The negative opinions seem to revolve around the economic consequences of signs in Sámi language, costs for employees' permissions to educational leave for learning Sámi,³³⁶ and statements that such a decision would imply falsifying historical accounts,³³⁷ whilst historians believe that Tromsø has been inhabited by an ethnically diverse population for thousands of years.³³⁸ A similar dichotomy of opinions is found in another municipality, Alta, whose municipal board also took the decision to start mapping the consequences of an eventual inclusion in the Sámi administrative area. Whilst the proponents point at statistics such as the fact that one fifth of the children learning Sámi in school are found in Alta,³³⁹ the opposition point to the fact that only five per cent of the inhabitants are registered in the Sámi electoral length, and say such a decision would be "an assault on Norwegians".³⁴⁰ The municipality of Røyrvik has also applied for inclusion in the Sámi administrative area, and the municipality of Evenes is currently mapping the consequences of such an inclusion (as of February 2011).³⁴¹

The second example is the Sámi sign for the town of Bodø, in Sámi *Bådådđjo*, which was put in place in February 2011 in accordance with the Place Names Act. The editor-in-chief of the regional newspaper *Avisa Nordland* has repeatedly voiced his concern about the level of debate sparked by the sign, speaking of "Sámi hatred", "the most intense debate we have ever had", and the fact that many of the comments on the paper's webpage have had to be censored.³⁴² Northern Norwegian news papers' online forums were filled with hundreds of comments. A few days after its inauguration, the Sámi road sign was sabotaged and scribbled over.³⁴³

³³⁵ The editor-in-chief of the newspaper *iTromsø* was later subject to much criticism for keeping the anonymous internet forum debate open. This criticism came from people in the communications and journalism branch in Troms, but also from the general public during a seminar on the role of media in the Tromsø-Romssa debate 17.3.2011.

³³⁶ As expressed as main counter argument by the local Progress party politician Jan Blomseth. Thuen, 2.12.2010. The Progress Party stands for a restrictive Sámi policy in general, according to their Sámi Parliament programme 2009-2013.

³³⁷ Fjellheim and Greiner, 8.2.2011.

³³⁸ Anne-Karin Sandmo, Troms County Curator, as cited in Strøm, 8.2.2011.

³³⁹ Silje Karine Muotka, Member of the Sámi Parliament and inhabitant of Alta, to Norske Samers Riksforbund, 10.2.2011.

³⁴⁰ Lars Hapalahti, municipality board member in Alta and board member of the organisation "Ethnic and Democratic Equality"(Etnisk og demokratisk likaverd) to *Altaposten*, 10.2.2011.

³⁴¹ Ministry of Government Administration, Reform and Church Affairs, 2011, p.9.

³⁴² Larsen, Manndal and Pulk, 8.2.2011.

³⁴³ Lysvold and Pulk, 11.2.2011.

Another reaction the Bådåddjo sign has sparked is that Sámi people in more communities become aware of the provisions of the Place Names Act, and road signs are now requested for Ballangen and Majavatn in Nordland County. The Skånland municipality with the locations Hinnøy and Omegn in South Troms have had their Sámi names accepted after 20 years of work by local Sámi organisations, but no signs have been put in place as of February 2011.³⁴⁴ A Sámi Parliament Member from Tysfjord municipality pointed out that it is time for Tysfjord to get its own road sign in Sámi, especially since Tysfjord is within the Sámi administrative area.³⁴⁵ Voices have also been raised in support of, and against, Sámi signs in places in inner Helgeland. The pro-arguments have revolved around the historical Sámi links, and the counter-arguments around the fact that it is more important for the Sámi to settle the conditions for the reindeer herding than than having place names displayed in Sámi.³⁴⁶

Instances of confusion between the Place Names Act and the Sámi Act have also been raised in media. In 2008, a Sámi Parliament member pointed out that the Norwegian Public Roads Administration (*Statens vegvesen*) interprets the Place Names Act wrong. She referred to many examples in Tysfjord, in the South Sámi area and the Marka Sámi area, where the Public Roads Administration apparently interprets the law so that only places within the Sámi administrative area can demand place name signs in Sámi, although the Place Names Act applies to the whole of the country.³⁴⁷

An issue that seems to raise opposition is the provision in the Regulation about writing styles for place names, section 7 para 3,³⁴⁸ which stipulates that within the administrative area for the Sámi languages, the order of place names should be first Sámi, then Norwegian and lastly the Kven place name. This means that when searching in registers for Tromsø, one has to look under “R” for “Romssa” (North Sámi name) instead of T. This matter has sparked reactions in media.³⁴⁹

³⁴⁴ Larsen and Eira, 10.2.2011.

³⁴⁵ Sámi Parliament member Miriam Paulsen to NRK Sápmi, Andersen, 16.2.2011.

³⁴⁶ Vesterbekkmo, 5.2.2011.

³⁴⁷ Member of the Sámi parliament Ann-Mari Thomassen in Pulk and Balto, 3.7.2008.

³⁴⁸ FOR 2007-06-01 nr 592: Forskrift om skrivemåten av stadnamn.

³⁴⁹ Jonas Stein Eilertsen and Øyvind Hilmarsen, from the Right and Left Party respectively in the Tromsø municipal board voiced their concerns on this issue to Nordlys 11.2.2011. The order of Sámi and Norwegian place name has received much attention in media, despite efforts to try to tone it down. The president of the Sámi Parliament has pointed out that the order-discussion takes focus away from the main issue at stake, i.e. making Tromsø bilingual. Furthermore, he has tried to clarify another common misconception: that it is the Norwegian Parliament, and not

However, there are also arguments put forward emphasizing the importance of visualizing Sámi and making Tromsø more Sámi than it is today.³⁵⁰

The Tromsø and Bodø debates sparked reactions from a great number of people. However, Bjørg Evjen, professor at the Centre for Sámi Studies at the University of Tromsø, means that the debate about place names is over-dimensioned. She has reflected on the causes of the heated debate – whether the provocation has its foundation in the fear for Sámi special rights, or the threat of being confronted with a multi-ethnic history.³⁵¹ Ellinor Marita Jåma, member of the Sámi Parliament Council with responsibility for language issues, has also intervened in the debate trying to put the focus on what is actually at stake, i.e. *equal* rights, as opposed to what in media sometimes is portrayed as Sámi *special* rights.³⁵²

Kven

There has not been any recent similar debate on the Kven language and rights. The Kven language is, however, on occasion mentioned within the debate on Sámi language as illustrating another dimension to the Sámi issue.³⁵³ Einar Niemi has followed the debate about Kven issues and the Kven language during a period from the foundation of the Association of Norwegian Kven in 1987 until 2009, which he divides into three phases. During the first phase, 1987 until 1995 when the Council of Europe Minority Conventions came, the debate revolved around categorization and ethnonym and whether Kven or Finnish should be taught in school. During this period, there was a certain tension between the Kven organisation on the one hand, and the Sámi organizations and authorities on the other. The second phase, from 1995 to 2005 when Kven was finally recognized as a language in its own right, is characterised by the Association of Norwegian Kven finding its role as representative for the Kven and by a number of measures from the side of the authorities. In 2005 when Kven became a separate language, the teaching of Kven was supposed to take place within the curriculum for Finnish. In the third phase, from 2005 until winter 2009/2010, the debate reached new levels on the same topics and issues as in earlier phases. Niemi notes a higher

the Sámi Parliament, who has decided the order of places names in the regulation. Sámi Parliament president Egil Olli for NRK Sápmi, Manndal and Utsi, 16.2.2011.

³⁵⁰ Tone Marie Myklevoll, from the Labour Party in the Tromsø municipal board, to Nordlys 11.2.2011.

³⁵¹ Evjen, 13.2.2011.

³⁵² Jåma, 21.2.2011.

³⁵³ Anecdotal evidence.

temperature in the debate, including verbal attacks at a personal rather than a principle level. The characteristics of the third phase are explained by the new status of Kven, but also the Finnmark Act about land rights in Finnmark, which sparked a debate about the justification of minority policies in general, and Kven in particular.³⁵⁴

2.8 Perceived effect of the examined legislation on the languages and language communities studied

North Sámi

According to the Sámi Act ch.3 section 12, the Sámi Parliament should report every four years to the King (the Ministry) about the situation of the Sámi language in Norway. The latest report was made in 2008.³⁵⁵ The reports are supposed to form the basis for future planning and implementation, to evaluate what has worked and what has not worked in the past, and to decide on future directions.³⁵⁶

Outside of the regular reporting and upon request from the Ministry of Culture and Church Affairs, the Nordic Sámi Institute evaluated the language rules of the Sámi Act in 2007 to see how the rules of the third chapter (on language) work in relation to the purpose of the Act. As available data, the Sámi Parliament presented its language use reports from 2000 and 2004. Several other studies also served as background material for the evaluation. In 2000, “Public Services in Two Languages: A study of users in the administrative area where the language regulations of the Sámi Act apply” was conducted upon request from the Ministry of Municipal and Regional Affairs.³⁵⁷ In 2001, a “Mapping and survey of public information services in Sámi”³⁵⁸ was conducted upon request from the Ministry of Municipal and Regional Affairs. In 2005, the

³⁵⁴ Niemi, 2009, pp.95-97.

³⁵⁵ The Sámi Parliament Language Board, Bruken av samiske språk: Undersøkelse 2008.

³⁵⁶ The Sámi parliament report on Sámi language, Samisk er tøft!, 18.3.2004, p.10.

³⁵⁷ Skålnes and Gaski, 2000. The study area consisted of the municipalities of Kåfjord, Kautokeino, Porsanger, Karasjok, Tana and Nesseby, and focus was on the feasibility of bilingualism in practice, how the users perceive it, and how public service is valued.

³⁵⁸ Pettersen and Gaup, 2001. This survey served as a situation analysis of the regulations of the Sámi Act with regards to provision of certain information in the Sámi language – public information about rights and duties and general information.

situation for Sámi users in contact with the Norwegian judicial system, was studied by Brenna in the book “The Sámi in the Judicial System”.³⁵⁹

The main conclusion of the 2007 evaluation is that most public authorities covered by the provisions in the third chapter of the Sámi Act do not fulfil the requirements fully. Thus, the rights of the inhabitants of the administrative area for Sámi language are not ensured to the degree required. The main reason for the non-fulfilment seems to be the shortage of Sámi language competence within the authorities. The language competence varies both between municipalities in the administrative areas and between the authorities within a municipality. On the positive side, a significant amount of innovative work to meet bilingual goals and Sámi language services in municipal, county and state authorities alike could be noted.³⁶⁰ The use of Sámi is more common on the municipal level than on county or state level. Forty per cent of the municipal authorities stated that to written communications in Sámi replies are to be given also in Sámi. For the Sámi institutions themselves, the percentage of institutions answering that half or all employees were competent to reply to questions in Sámi was 95%.³⁶¹ The health sector is the sector where the Sámi speakers wish to use their language the most. The first language survey of the Sámi Parliament showed that half of the health and social care institutions answered that when asked for, services will be provided in Sámi, yet only 11 per cent of the individuals wanting to use Sámi in contact with health authorities actually do so.³⁶²

The Governmental language white paper from 2008 acknowledges the row of measures undertaken within different sectors for the Sámi language during the last decades, which has led to a stronger position for Sámi both in the Norwegian and the Sámi society. The white paper adds that it is unclear, however, whether these measures have led to a stronger position of the Sámi language in the private use of the Sámi language.³⁶³

³⁵⁹ Brenna, 2005.

³⁶⁰ Andersen and Strömngren, 2007, p.40.

³⁶¹ Andersen and Strömngren, 2007, p.38.

³⁶² Andersen and Strömngren, 2007, p.45.

³⁶³ St.meld.nr 35 (2007-2008), p. 223.

In 2011, a report from a Working Group on the topic “The Sámi Dimension in the Judicial System” was published.³⁶⁴ The working group survey showed that the intention of the Constitution section 110a is not entirely fulfilled within the court system. The Norwegian and the Sámi language cannot be said to be equal in judicial proceedings from the individual’s point of view. The report concluded that the knowledge of Sámi language and culture in the Norwegian courts is inadequate.³⁶⁵

The Sámi Act stipulation “the Sami and Norwegian languages have equal status” should, according to Hætta, mean that the formal basis for the Sámi language is more solid than ever before in its history, but he fears that the language shift to Norwegian among the Sámi people may already have come too far. In his view, this change is due not only to the Norwegianisation policies, but also to the Sámis’ own language practice and choices. He gives the use of Sámi in meetings as an example. Many Sámi organizations, bodies and associations often prefer to use Sámi both in meetings and negotiations, in dealing with cases and in correspondence. Yet, if there is but one non-Sámi-speaking person in a gathering, Sámi is often not used.

The leader of the Norwegian Sámi Parliament Language Board and moreover also a representative of the Sámi Parliamentary Council cross-border Language Committee Rolf Olsen is of the opinion that the efforts to preserve the Sámi language are not successful. This is for a variety of reasons; the most important reason being the pressure the Sámi language is exposed to from the majority language but also from the English language. The Sámi children and youth do not have the same possibilities in terms of their language arenas such as TV, film, music and games as the Norwegian children and youth, and therefore they are in an even more precarious situation. Before, it was not unusual to hear Sámi children mix Norwegian, Swedish and Finnish words into their language, but now it is words both from the majority languages and from English.³⁶⁶

It seems as if financial resources would come short of reaching the goals, even though the municipalities in the administrative area receive bilingual grants for the implementation of the Sámi Act. Experience points to the lack of human resources for a successful implementation as

³⁶⁴ Selfors et al, 2011.

³⁶⁵ Selfors, et al, 2011, p.34.

³⁶⁶ Olsen, 18.2.2011.

well.³⁶⁷ Another problem with implementation of the Sámi Act is that there is no institution in Norway today that offer interpreter and translator education, leading to insecurity for Sámi speakers when non-qualified persons take on tasks in public dealings (see Chapter 2.5).³⁶⁸ Similar criticism has been uttered by the Legal Aid Office in Inner Finnmark (*Rettskjelpskontoret*, RIF), which offers legal aid in the Sámi language.³⁶⁹

Heiko F. Marten sums up the position of the Sámi language in Norway in the following way: without doubt, the Sámi language is in a relatively good position; however, it is also clear that the position of the Sámi language could be stronger in almost all areas.³⁷⁰ He sees the fact that the Sámi rights debate is not focused on language rights but on rights to land and water as a sign that as for Sámi language policies, Norway has come a long way.³⁷¹

Kven

As reported by one of the Kven activists, Terje Aronsen, when Kven was recognised as a language on its own in 2005, the Kven were not satisfied with the fact that the Kven language only is recognised under part II of the EChRML, because it means fewer resources for preservation and revitalisation from the state than a recognition under part III would mean.³⁷²

The historian Einar Niemi, also member for Norway to the ACFC, is of the opinion that the implementation process of the Council of Europe minority rights conventions is far too slow. Some financial means for cultural measures are granted, but for instance the work for a Kven museum and the work with the Halti Kven Cultural Centre are without sufficient support.³⁷³

The leader of the Kvenland Association (*Kvenlandsforbundet/Kveenimaayhistys*) and long-time Kven/Finnish activist, Bjørnar Seppola, is also expressing frustration over the legislative development. In his view, minority policy in Norway has led to a redefinition of the Kven minority.

³⁶⁷ Solhaug, 18.2.2011.

³⁶⁸ Olsen, 18.2.2011.

³⁶⁹ Brenna, 2005, pp.112 ff

³⁷⁰ Marten, 2007, p.121.

³⁷¹ Marten, 2007, p. 122. Although the opposite could also be argued: focus is on land and water rights as a choice of priority, not on language rights.

³⁷² Aronsen, Terje/ Aaronin Jussan Tärje, in interview with Bente Imerslund 9.10.2005, The group Aronsen represents still finds the official recognition of Kven as its own language positive, because the recognition gives more opportunities for development.

³⁷³ Niemi, 14.2.2011.

A few decades ago, a Kven was a Norwegian person who used the language Kven/Finnish in their daily life, however, today a Kven is defined by the authorities as a Norwegian descendant of someone who used to speak Kven/Finnish in their daily life, but not as referring to speakers of Kven themselves. “At the same time as the language dies out, the content of the minority is shifted.”³⁷⁴ Seppola is of the opinion that the higher number of Kven speakers referred to does not reflect the real number and the situation of Kven/Finnish in Norway.³⁷⁵

Even though formal rules for education in Kven are in place, there are problems with relatively high drop-out rates. No studies of the underlying reasons for drop-out have been conducted, however, a few practical and formal obstacles can be assumed – for the legal right to education in Kven to exist, there have to be at least three pupils in an instruction group. If in a group of three one drops out, the whole group will automatically cease to operate. There are also problems with finding competent teachers and fitting the Kven education into the timetable.³⁷⁶ The Association of Norwegian Kven has pointed out that a scholarship like the one pupils receive to study Sámi should also be offered Kven pupils as an incentive for taking Kven classes.³⁷⁷ It would also be fair in another sense – many pupils have both Sámi and Kven background, and a scholarship in both languages would make the choice more relevant and interesting.

³⁷⁴ Seppola, 17.2.2011.

³⁷⁵ Seppola, 17.2.2011.

³⁷⁶ Schall, 24.3.2011.

³⁷⁷ Eriksen, 26.2.2011.

3 The legal actors

3.1 Minority and language group actors involved in legal and policy debates

The main actors for the North Sámi and Kven languages are found among minority organisations, individuals working in education and political parties.

North Sámi

The Sámi politicians have been very active using the ILO 169 and the indigenous status it renders the Sámi to as great an extent possible.³⁷⁸ The ILO 169 becomes an important instrument in all matters related to funding and development of culture and language. Whilst the Sámi language indigenous status is often mentioned as a stumbling block for Kven, observers note that the Kven debate in Finnmark does not typically involve Sámi activists who are against the Kven language. The greatest opponents are the Finnish speaking group among the Kven/Finnish group, which does not want to have anything to do with the denotation Kven. This might be because in some circles the term “Kven” is still considered derogatory.³⁷⁹

There are political actors that do not primarily act through party politics and the normal, representative political system. Instead, they work within the voluntary organisations such as the Association for the Norwegian Kven, the National Association of Norwegian Sámi (*Norske Samers Riksforbund*),³⁸⁰ the Norwegian-Finnish Association (*Norsk-Finsk forening*) etc, who per definition work with policies but not with party politics. These organisations are according to their statutes party-politically neutral, even though their members may be members of political parties.³⁸¹

NRK Sámi Radio has, according to the president of the Sámi Parliament Language Board, a responsibility in choosing reporters who can convey the Sámi language well. This may require language tests or courses for reporters, in order to avoid “norsk i samekofta” (Norwegian in Sámi

³⁷⁸ Niemi, 2011.

³⁷⁹ Evjen, 28.2.2011.

³⁸⁰ NSR has defined itself as a political party in a Sámi parliamentary context.

³⁸¹ Niemi, 14.2.2011.

costume).³⁸² Within the groups of Sámi speakers, there are internal antagonist attitudes, depending on who is the opponent: if it is the Norwegian language, all Sámi speakers tend to stand as one, but if it is North Sámi, all other Sámi language speakers stand together for their rights – within the other groups, there is a statement *for* their own language, such as when the Lule Sámi language was recognized in the 70's and a new orthography was created, but also a marking *against* North Sámi. Here, media also plays an important role in creating and visualizing the conflicts between speakers themselves and between speakers and non-speakers (see Chapter 2.7).³⁸³

Kven

Language teachers have been identified as actors for language rights both in the case of North Sámi and Kven.³⁸⁴ A great deal of work is done by individual teachers on a voluntary basis, such as development of teaching materials and grammar, which also seems to be true for Kven actors. Anna-Riitta Lindgren stated in a Kven seminar in Tromsø in 2002 that it is the Kven that have worked the most for minority and linguistic emancipation, for an autonomisation of the Kven language. In other words, those Kven who took the initiative for education of Finnish/Kven as second language in school are the ones that are of the opinion that Kven is a language and not a Finnish dialect.³⁸⁵ Egil Sundelin is of the same opinion – whilst the central authorities, counties and municipalities do not take the new Kven status seriously, the enthusiastic teachers have taken the issue forward.³⁸⁶

The Association of the Norwegian Kven (NKF) was formed in 1987 amid the birth of the Council of Europe Minority Conventions, and became an important voice for the rights of the Kven. The Association was behind a number of demands concerning personal and place names, but also education. To a certain extent, their demands were heard. The protection of Kven under part III of the EChRML is advocated both by the Association of Norwegian Kven and some of its local branches, such as the Alta Kven association. The latter lobbies the political parties in the

³⁸² Olsen, 18.2.2011.

³⁸³ Evjen, 28.2.2011.

³⁸⁴ The Sámi rights specialist Susann Funderud Skogvang mentions the people who teach Sámi language as the greatest activists for better conditions for Sámi language education. Skogvang, 18.1.2011.

³⁸⁵ Lindgren, 2002, p.112.

³⁸⁶ Sundelin, 2010, p.191.

municipalities in Finnmark and Nord-Troms to help them pressure the Norwegian Government on this matter.³⁸⁷

The goal of the Kvenland Association is active bi- or multilingualism in daily life. To reach this goal this Association lobbies for a real effort in terms of guidance for parents who wish to give their children a bilingual upbringing, child care institutions for Kven/Finnish, follow-ups of the measures for children in preschool throughout the education, from primary school to University, summer camps and weekend gatherings for children and measures for adults wishing to learn how to read and write in Kven/Finnish.³⁸⁸

3.2 Other actors

Heiko F. Marten has analysed the mainstream political party platforms with reference to Sámi language rights for the national parliamentary elections of 2005. Seen from a traditional right-left scale, the parties on the right had a more sceptical attitude towards Sámi rights, with the Progress Party on the far right wanting to abolish the Sámi Parliament, and the Right Party being satisfied with the situation as it is. On the far left side, the Socialist Left Party of Norway (SV) stood out as proponents of extended Sámi rights, followed by the Labour Party (Ap) and the Centre Party (Sp), which together with the Left Party (V) and the Norwegian Christian Democratic Party (KrF) took a middle position. The main difference lies between the parties that want to extend Sámi rights (SV, Ap, Sp, AP, V and KrF), the one who is satisfied with the current situation (the Right Party) and the one that is outspokenly against explicit Sámi rights (the Progress Party). In that sense, the struggle for Sámi rights has gained recognition from the majority of the political parties.³⁸⁹

³⁸⁷ Nilima Monsen, 17.2.2011. The Alta association sees the lift as the only means of revitalizing the Kven language, describing the current situation as very difficult since there is no money for education in Kven in kindergarten or schools, or adult education for the ones who lost their language in the Norwegianisation process. When recognising Kven as its own language, however, the Government stated that it is not meaningful to lift the protection of Kven to level III if it is not possible to fulfil the obligations. In addition, evaluating the Kven language for level III protection cannot be done without evaluating the same for the other languages that are also protected under Part II of the Charter.

³⁸⁸ Seppola, 17.2.2009. Since there are not many Kven/Finnish teachers available in Norway, teachers will have to be "imported" from Finland for revitalisation measures.

³⁸⁹ Marten, 2007, pp. 123-125.

The Nordic social democratic system of education for all has been mentioned as an important factor in the revitalization of languages, since the school policy has played a vital role in the development of languages.³⁹⁰

3.3 Channels of participation in language related matters

The most important channel of participation for the Sámi Parliament, in all Sámi matters including language, is the procedure of consultation between the state authorities and the Sámi Parliament. The procedure of consultation is laid down in an agreement in place since 2005, and they are applicable on all material and non-material forms of Sámi culture, such as language.³⁹¹ The procedures include permanent meetings between the president of the Sámi Parliament and the relevant ministers every six months.³⁹²

The Sámi Parliament Language Board can influence the Sámi Parliament, or other institutions such as the Language Council of Norway.³⁹³ As for cross minority-language cooperation, there are contacts between the Sámi Parliament Language Board and the Kven activists in the form of occasional meetings and lectures, but from the Sámi Parliament Language Board's side it is currently difficult to arrange practical cooperation because there are no formal Kven institutions. Cooperation is possible on local level, but not on a central.³⁹⁴ One example is the Storfjord trilingual language centre for Sámi, Kven and Norwegian in Skibotn.

There is also an institutionalised form of meetings between the national minorities, namely the Forum for national minorities where issues of relevance for all national minorities in Norway are discussed, such as shadow reporting to the Council of Europe. However, because of the wide diversity of needs and resources, cooperation is difficult. These meetings take place at least once a year, and more often when it is time to report under the FCNM.³⁹⁵

³⁹⁰ Evjen, 28.2.2011.

³⁹¹ Procedures for consultation between state authorities and the Sámi Parliament, 2005, art.2.

³⁹² Procedures for consultation between state authorities and the Sámi Parliament, 2005, art. 5.

³⁹³ Olsen, 18.2.2011.

³⁹⁴ Olsen, 18.2.2011.

³⁹⁵ Schall, 24.3.2011.

The lack of dialogue with the speakers is also something that the Committee of Experts for the EChRML has pointed out, as this issue came to their knowledge during the on-site visit in February 2009. There is some financial support for language and culture activities but no consultation with the Kven by the authorities.³⁹⁶ There is, however, a regular meeting procedure between the Association of Norwegian Kven and the responsible ministry (initiated by the Ministry of Labour and Inclusion, now the Ministry of Government Administration and Reform) about the state budget every year.³⁹⁷ There are often two meetings: one to set the priorities and one administrative to set the budget. The State Secretary in the Ministry of Government Administration and Reform participates in these meetings, as well as representatives from the Ministry of Culture and the Ministry of Education and Research.³⁹⁸

The State Secretary is of the opinion that the most successful means of realising the rights for the Kven is for the Kven themselves to actively use the Council of Europe conventions and recommendations. As noted above, the State Secretary himself is also a channel of participation, as he has been in continuous dialogue with relevant organisations and authorities in Troms and Finnmark.³⁹⁹

3.4 Use of channels of participation in practice

North Sámi

In the Sámi case, theoretically, the chain of participation starts at the individual Sámi speaker or the Sámi Parliament Language Board. Both speakers and the Board try to influence the Sámi Parliament politicians, who in turn are supposed to influence the politicians at state level, for instance through the procedures of consultation agreed upon (see chapter 3.3). From a language policy perspective, the Sámi Parliament politicians have done little to improve the situation, rather concentrating on issues about land and water rights, a fact that has led the Language Board to criticize the Sámi Parliament for the tame debate in language issues. When criticized, the Sámi

³⁹⁶ EChRML (2010) 3, para. 43.

³⁹⁷ Valle, 2010, p.199.

³⁹⁸ Schall, 24.3.2011.

³⁹⁹ Valle, 2010, p.200.

Parliament responded that there is no capacity to press for such issues.⁴⁰⁰ The Language Board and the Language Committee of the Sámi Parliamentary Council are furthermore limited in the respect that the trustees are unpaid, and expected to conduct the work for the Sámi languages in their spare-time.⁴⁰¹

Oftentimes, the Sámi Parliament is used as a buffer zone for demands to authorities with regards to the Sámi language, because then the authority in question does not have to act itself. This is not in accordance with the law, and one example given is the interference of the Sámi Parliament in the issue whether to include Tromsø municipality in the Sámi administrative area or not (see chapter 2.7), which is not a decision for the Sámi Parliament. “The Sámi Parliament is used as a sleeping pillow by the authorities, at least when it comes to language obligations.”⁴⁰²

When the individual Sámi speaker, who is often a Sámi teacher, does not receive attention for his or her demands in the Sámi Parliament, media is often used to voice concerns, such as lack of teaching materials and difficulties in fulfilling the provisions of the Education Act. These media actions are mainly directed towards the Sámi Parliament, in a quest for increased funding.⁴⁰³

Kven

Because of the lack of formalised channels for minority participation in language matters for any minorities except for the Sámi, some Kven activists try to contact persons in decision-making positions directly. Such an approach seems to be accompanied with much frustration. One example of this is the leader of the Kvenland Association, also former leader of the Association for Norwegian Kven, who states that he has contacted all prime ministers and ministers of education in Norway during recent years, including presidents in Finland, in an effort to lift the situation for Kven/Finnish in Norway to a higher political level. In his view, these meetings ended without any success.⁴⁰⁴

⁴⁰⁰ Olsen, 18.2.2011.

⁴⁰¹ Olsen, 18.2.2011.

⁴⁰² “Sametinget er benyttet som en sovepute av myndighetene, i vart fall når den gæler språklige forpliktelser”, Olsen, 18.2.2011.

⁴⁰³ Solhaug, 18.2.2011.

⁴⁰⁴ Seppola, 17.2.2011.

The Association for Norwegian Kven has, however, made many demands out of which some have been met. In the white paper on minority policy in Norway, these demands are enumerated as being: ratification of the Council of Europe minority conventions with regards to the Kven, financial support to Kven organisations, Kven language and cultural centres, a Kven language council and a Kven education council, financial support to newspapers, radio and TV, Kven literature, film and theatre, more education in day-care centres and schools, education of Kven teachers and support for development of Kven teaching material. The Association has also worked to enable Kven with Norwegianised names to be able to take their original Kven names back and also that the word "Finnish" in the Place Names Act would be exchanged for "Kven", two demands which also have been met. It can therefore be said that the Association has used the momentum with the minority conventions' ratification, and that they have been successful in their demands at least to some degree. "Momentum" has been mentioned by the Association as an important factor, such as positioning your demands before another state report under the CoE minority conventions is due to be written. After reporting, there is a tendency for people in the ministries to "lean back."⁴⁰⁵

The Ministry of Local Government and Regional Development, when drawing up the lines for minority policies in 2000, stated that the most democratic channel that exists is for the authorities to have a dialogue with the minority organisations, while keeping in mind that there might be different forms of organisation and that different organisations for the same minority might not share the same view.⁴⁰⁶ Different opinions within a minority are a crucial point which seems to be difficult to deal with in practice from the side of the authorities.

The current State Secretary with responsibility for Sámi issues and national minorities is an important resource person, since he has a personal background in both the Sámi and the Kven cultures, and a professional background in the county administration of Northern Norway. Informal contacts with key persons in the state and regional administrations are considered highly

⁴⁰⁵ Schall, 28.3.2011.

⁴⁰⁶ Ministry of Local Government and Regional Development, 2000, p.50.

important for a wider understanding of Sámi issues in Norwegian society and decision making processes.⁴⁰⁷

3.5 Institutions responsible for minority and language policies

On the 1st of January 2010 the coordinating responsibility for the state policy towards the Sámi indigenous people and the national minorities was moved from the Ministry of Labour and Inclusion to the Ministry of Government Administration, Reform and Church Affairs (FAD). However, each ministry also has a sector responsibility regarding issues pertaining to these groups. The Ministry of Culture and Church Affairs had a general responsibility for culture and within this a particular responsibility pertaining to the ECMRL, which was transferred to the Ministry of Labour and Social Inclusion in June 2009. However, the EChRML responsibility now also lies within the FAD from 1st of January 2010.⁴⁰⁸ The Ministry of Culture and Church Affairs has the overriding responsibility for language policy, including for the Sámi language, the languages of national minorities and other minority language groups in Norway. Here it should be noted that, in theory, even though the Ministry is the actor in Sámi related matters including language at a state level, there is a strong obligation for the authorities to consult the Sámi Parliament in all material and immaterial forms of Sámi culture. The procedures for consultation between the central authorities and the Sámi Parliament were signed in 2005 (see third chapter.3).⁴⁰⁹

According to the definitions in the Sámi Act, ch.3 section 1, the Counties of Troms-Romssa, Finnmark-Finnmárkkku and the administrative area municipalities for North Sámi in accordance with the regulation⁴¹⁰ to the Sámi Act (Karasjok, Kautokeino, Nesseby, Porsanger, Tana, Kåfjord and Lavangen), and certain institutions like Tromsø University are also responsible for the North Sámi language.

These regular policy actors can be said to be based on party-politics at a four-tier level: municipalities, counties, the State and the Sámi Parliament. The Sámi Parliament can be seen as

⁴⁰⁷ Anecdotal evidence.

⁴⁰⁸ St.meld.nr 35 (2007-2008), p. 215.

⁴⁰⁹ Procedures for consultation between state authorities and the Sámi Parliament (Prosedyrer for konsultasjoner mellom statlige myndigheter og Sametinget), Oslo, 11.5.2005. See also Chapter 2.2.

⁴¹⁰ Regulation to the Sámi Act, 2005-06-17 No. 657, section 1. Tysfjord and Snåsa are not primarily North Sámi municipalities.

the only ethno-political institution in Norway, since there is an Act regulating the Sámi Parliament and its composition is based on election. The politicians on municipal level work with museums and language centres, such as the Kven Museum and the Halti Kven Cultural Centre. The county politics are important in the sense that matters such as the upper secondary school and cultural heritage protection are decided on this level. At the state level the Government is supposed to execute the decisions by the Norwegian Parliament and implement the ratified conventions. Within the Government, the main responsibility lays with the State Secretary for Sámi and national minority matters and for Sámi matters also the Minister for Sámi affairs within the FAD.

North Sámi

The main institutionalised actor for the Sámi language is the Sámi Parliament, whose overarching goal is to make visible and strengthen the use of the Sámi language. Through the distribution of funds and work in collaboration with Sámi language institutions, the Sámi Parliament has the possibility to influence the use of Sámi language to a great extent. A concrete example of the active role of the Sámi Parliament in Sámi language policy has been the access of external bodies to the Sámi Parliament electoral roll. The name of the electoral roll was changed from *samemantall* ('Sámi list') to *samevalgmantall* ('Sámi electoral list') to show that the electoral roll cannot represent a register or reliable statistics over Sámi language speakers. Stipulations on the administration of the Sámi electoral roll are found in the Sámi Act ch.2 section 6 and regulation 1480/2008 section 12 and 81, in which the permission to access the Sámi Parliament electoral roll for research purposes can be granted, upon decision by the Sámi Parliament, and only when reasons significant to the community are at hand.

The Sámi Parliament's extended tools for Sámi language rights are the Sámi Parliament Language Board (*Sametingets språkstyre*) and the Sámi Parliamentary Council Language Committee.⁴¹¹ The Language Board is the language body of the Sámi Parliament. On an inter-Nordic level, the Sámi Language Committee under the Sámi Parliamentary Council is responsible for the recognition of Sámi terminology. The Sámi Parliamentary Council is evaluating the possibilities for establishing a Nordic language centre during 2011.⁴¹² The Nordic Sámi Institute (NSI) works with the Sámi

⁴¹¹ Olsen and Solhaug, 18.2.2011.

⁴¹² Sámi Parliament, annual report 2010, p.20.

language on a Nordic level since 1974. It is a research unit for social science, linguistics, and jurisprudence, part of the Nordic Council of Ministers' organisation. The institute is affiliated with the Sámi University College.⁴¹³ The Sámi Place Names consultant service is organised under the Sámi Parliament in accordance with the Place Names Act section 11.

Institutions at different levels also cooperate to promote the Sámi language. For instance, a project for the development of North Sámi legal terminology was conducted as a joint effort by the Ministry of Justice, the Ministry of Municipal and Regional Affairs, the Sámi Parliament, Finnmark County and Tana Municipality. Tana municipality has also had a two-year project called "Sámi legal language" (*Samiskt lovspråk*).⁴¹⁴

The national responsibility for teacher training in Sámi and through the medium of Sámi language is situated with the Sami University College (*Sámi allaskuvla*) in Kautokeino, where North Sámi is taught at undergraduate level since 1989. The Sámi University College is exempted from the national framework for teacher training, thus, the University College has authority when it comes to structure and content of the teacher training.⁴¹⁵ The University College also has influence over the development of the Sámi kindergartens because they also offer special education to pre-school teachers educated at an ordinary Norwegian university college, and special courses for assistants in Sámi pre-schools. The main higher education offered in Sámi language is in North Sámi. At the University of Tromsø Sámi can be studied at master's and Ph.D. levels, in particular within the framework of the Centre for Sámi Studies since 1990.

The Research Council of Norway, through its role as an advisory body on research strategy issues and as a research funding agency, sets the objectives for Norwegian research policy.⁴¹⁶ The Norwegian Research Council has research projects for the Sámi language, whereas the Kven language is to a large extent neglected. The Association of Norwegian Kven has long been demanding an own research plan for Kven. The last information on this matter is that there is a

⁴¹³ Gaup Eira, 2004, p.125.

⁴¹⁴ St.meld.nr 35 (2007-2008), p. 220.

⁴¹⁵ However, the regulation with the relevant stipulations that entered into force 1.3. 2010 (FOR 2010-03-01 nr 296: Forskrift om rammeplan for de samiske grunnskolelærerutdanningene for 1.-7. trinn og 5.-10. trinn) was disputed by the Sámi University College on several points. See. Sámi University College, Hvordan blir den nye samiske lærerutdanninga? <http://skuvla.info/ramme/index-n.htm>, cited 1.2.2011.

⁴¹⁶ The Research Council of Norway, 2011.

research plan for all national minorities being developed.⁴¹⁷ When it comes to the Sámi languages, the Research Council has been very open to letting small languages in.⁴¹⁸

Kven

The Norwegian Centre for Kven Language and Culture (*Kvæntunet – Norsk senter for kvænsk språk og kultur*) in Børseiv in Porsanger municipality in Finnmark was established in 2005 as responsible for standardising the Kven language. It was later reorganised as the Kven institute (*Kainun institutti - Kvensk institutt*).⁴¹⁹ The institute is a foundation fully funded by the Ministry of Culture. The grant for 2010 is NOK 4,678,000 to cover development, documentation and the promotion of knowledge and information on the Kven language and culture. Furthermore, the Kven Language Council (*Kvensk språkråd*) was established in Alta in 2007.⁴²⁰ The Language Council consists of five members elected by the Board of the Kven Institute, and three deputy members of linguistic expertise and insight into different Kven dialects. Its main task is to draw up the fundamental guidelines for establishing a common Kven written language.⁴²¹ Another organ is the Kven Language Assembly (*Kielitinka/Kvensk Språkning*), i.e. a body established in 2008 which is responsible for issues of language policy and decides in principally important language issues. Its members are appointed by the Kven institute.⁴²² The Kven Place Names Service is another important body for Kven language and culture.⁴²³ The Place Names consultant gives guidance about the writing style of place names in accordance with the Place Names Act, section 11.

The University of Tromsø is offering a Kven study programme. This gives the University of Tromsø a great responsibility as for Norway's international obligations,⁴²⁴ being the only university in Norway with expertise for both Kven and Finnish, except for some Kven education at the University College in Alta. Higher education in Kven poses many challenges, since the teachers have to develop all teaching materials themselves. Currently, all universities in Norway are asked to look over their subjects' portfolio to eliminate all small subjects. At the University of Tromsø,

⁴¹⁷ Niemi, 14.2.2011.

⁴¹⁸ Evjen, 28.2.2011.

⁴¹⁹ Kainun institutti -Kvensk institutt, n.d.

⁴²⁰ St.meld.nr 35 (2007-2008), p. 226.

⁴²¹ ACFC/SR/III(2010)009, p.13.

⁴²² Skjelnes-Mattila, Kven institute.

⁴²³ Sundelin, 2010, p.191.

⁴²⁴ Association of Norwegian Kven, 27.1.2011.

there was much discussion about eliminating the Kven subject, highlighting an ignorance of the EChRML also at the level of higher education.

3.6 The role of the kin-state or country of origin in language maintenance

North Sámi

The other Nordic countries with a Sámi-speaking population are an influence when it comes to legislation in general. For instance, the Language white paper referred frequently to language legislation in the neighbouring countries. Furthermore, the cooperation in the Sámi Language Committee under the Sámi Parliamentary Council is one example of concrete cooperation with neighbouring states, although they cannot be called kin-states or countries of origin in the true sense of the word. There are also initiatives for cooperation in Sámi language education in primary and lower secondary school and day care institutions.⁴²⁵ During 2011 a report evaluating the possibilities for a Nordic Sámi Language Centre will be finalized, a project that has received EU-funding in all three Nordic states with Sámi population. The project leader in this phase is the Sámi Parliament in Finland.⁴²⁶

Kven

Finland as a sort of "country of origin" also plays a role for the Kven language. For instance, it can be seen as an advantage for Kven that there is an established orthography, namely the Finnish,⁴²⁷ at the same time as it is a disadvantage – it is easier to simply write in Finnish than in Kven. There seems to be little true interest for Kven matters from the Finnish side, however. A Kven activist mentions access to media such as Finnish radio and television as one example. The Finnish state broadcasting company YLE (*Yleisradio*) has not been accommodating the interests of the Kven and Finnish-speakers in Northern Norway, even though an expansion of the reception area has been

⁴²⁵ Ministry of Government Administration, Reform and Church Affairs, 2011, p.23.

⁴²⁶ Sámi Parliament, annual report 2010, p.22.

⁴²⁷ St.meld.nr 35 (2007-2008), p. 225.

requested.⁴²⁸ The historian Teemu Ryymin notes that the former Finnish president Urho Kekkonen showed an interest in the Kven population in Norway because it served his own Finnish nationalist agenda.⁴²⁹ At the inauguration of the Kven/immigrant monument in Vadsø 1977 Kekkonen used the ethnonym “Kven” in his speech, something that might have contributed to the reintroduction of the term.

For the Kven language, the development for Meänkieli in Sweden has played perhaps a more important role than Finland. The recognition of Meänkieli as a language of its own is seen as a precedent for the recognition of Kven as a language of its own. The Norwegian Ministry of Culture and Church Affairs engaged the same Swedish researcher that researched the status of Meänkieli, Kenneth Hyltenstam, at the Centre for Research on Bilingualism at the University of Stockholm, to determine the status of Kven. In the Hyltenstam report, Meänkieli is frequently referred to, including in a discussion about the relation between Meänkieli and Kven as separate or similar. However, the conclusion is that the varieties Kven and Meänkieli have developed as languages separate from each other and separate from standard Finnish, but the same arguments that lead to the conclusion that Meänkieli is a language in its own right applies to Kven too. Hyltenstam also suggests that the standardisation and modernisation process for Meänkieli could be a model for Kven.⁴³⁰ The development of Meänkieli and Kven languages have been compared before, for instance during the seminar “Kvensk historie, språk og kultur” (Kven history, language and culture) in Tromsø in 2002.⁴³¹ The current stance of the Norwegian Government, as expressed in its third report to under the FCNM in 2010, is to engage in a dialogue with the relevant minority organisations to reach a conclusion concerning which designation(s) they wish the central government to use.⁴³²

A concrete example of the inspiration the Kven speakers have found in Meänkieli is when in 1985 the teacher Terje Aronsen started teaching the local Kven dialect in Børselv, Porsanger instead of standard Finnish, which has been a subject offered on a pilot project temporary basis in the

⁴²⁸ Seppola, 17.2.2011.

⁴²⁹ Ryymin, 2009, p.109 *et seq.*

⁴³⁰ Hyltenstam et al, 2003, p.31.

⁴³¹ See, for instance, Lindgren, 2002.

⁴³² ACFC/SR/III(2010)009, p.17.

Norwegian primary and lower secondary schools since 1978. Aronsen taught Kven inspired by the language teaching of Meänkieli in Tornedalen, Sweden, and found that it motivated the pupils better.⁴³³

4 Concluding remarks

4.1 Regulation of the languages and language communities in the legal and institutional system

In Norway, there are a considerable number of legislative acts which regulate language or the use of language in one way or the other. Yet, there is as of 2011 no general Language Act in place, despite a governmental white paper pointing in that direction. From the following enumeration of relevant acts and regulations, it can, however, be seen that there is more regulation for the use of North Sámi than for the Kven language. In most cases where “Sámi” is used as an umbrella term for the three main varieties of the Sámi language in Norway, the provisions are directed towards the North Sámi language, being the principal Sámi language in Norway. The term “Kven” as referring to the language can only be found on the level of law in the Place Names Act.

Most notably, there is the Constitution section 110a, guaranteeing the conditions for the Sámi language and culture. Seen from a 2011 perspective, with the increase of English in more and more domains of the Norwegian society, it is odd that the Sámi language is mentioned in the Constitution when Norwegian is not. Kven does not enjoy constitutional protection, but is recognized as a language of its own in a Royal Decree from 2005.

The Act on Language Use from 1980 regulates the equal status of the two official forms of Norwegian, Bokmål and Nynorsk, but is silent on the use of other languages. The Sámi language has its own so-called “language act”, namely the third chapter of 1990 in the Sámi Act from 1987. This chapter regulates the use of Sámi and the rights of the speakers within the Sámi administrative area, which is defined in ch.3 section 1 as the municipalities that according to Regulation 657 of 17.6.2005 are included, to date seven North Sámi municipalities, one South

⁴³³ Lindgren, 2009, p.117.

Sámi and one Lule Sámi municipality. This act regulates translations of central acts, regulations and formularies into the Sámi language, the right to receive a reply in Sámi in contact with public authorities in the administrative area, the right to Sámi in court, with the police and in prison, the health sector and in church, and a right to educational leave to learn Sámi for employees at municipal or regional authorities in the administrative area. For the implementation of the provisions for the Sámi administrative area, the municipalities receive grants for bilingualism from the state, distributed by the Sámi Parliament. As for education in and of other languages than Norwegian, the Education Act that entered into force in 1998 renders a greater understanding for the situation of minority language speakers. For the Sámi language education, which also has protection in the Sámi Act, this meant an own chapter (6) in the Act, defining the right to learn Sámi as an individual right within the administrative area and a group right outside of the area. North Sámi is explicitly mentioned as one of the Sámi language varieties covered by the rights. Outside of the administrative area, the Regulation 724 of 23.6.2006 stipulates that the right to learn Sámi can be realised through other means of education than classroom studies (distance education, intensive education or summer camp education). Whilst the Sámi language had been allowed in schools as assisting language all through the Norwegianisation years, and introduced at the break with the Norwegianisation policy as first or second language subject in school, the Kven language (at that time regarded as Finnish) had been definitely abolished from the school arena in 1936, and not reintroduced before 1997, then through a regulation. The Education Act now provides for Finnish education for at a minimum three pupils with Kven/Finnish background in the counties of Troms and Finnmark. This is implemented through the so called Knowledge Promotion curriculum, within the subject Finnish as a second language. Kven language is considered part of the programme for Finnish as a second language. The Sámi language and culture subjects have their own curriculum, "Knowledge Promotion-Sámi", which is developed in corporation with the Sámi Parliament.

In accordance with the Day Care Institutions Act, kindergartens shall respect a child's ethnic and cultural background, including Sámi children's language and culture. For Sámi kindergartens, the municipality has the responsibility to make sure the activities build on Sámi language and culture. In other kindergartens with Sámi children, the Sámi child's cultural and language development

shall be ensured. There is a funding scheme earmarked specifically for Sami child-care facilities since the mid-1980's, administered by the Sámi Parliament.

The Place Names Act of 1990 was amended in 2005 so to include in its purpose section the guarantee of the fulfilment of Norway's international obligations when it comes to Sámi and Kven Place Names. This is a development that derives from the comments of the Council of Europe's Expert Committees. The Place Names Act concerns Sámi and Kven place names and is applicable when state, county or municipal agencies are establishing place names or the written form of place names. The Act is also applicable on public agencies and for school teaching materials.

As for personal names, the Act from 2002 has also been amended in 2005 in accordance with an explicit wish from the Kven. Now, a person can take back a surname that has existed in the family four generations back and if the name change was due to the Norwegianisation policy, it is possible to take back a name from even further generations back. Flexibility shall be exercised in the requirements for proof that some relatives in a directly ascending line have used the name.

The Norwegian Broadcasting Act provides for participation of the president of the Sámi Broadcasting Council in the National Broadcasting Council, but does not contain more explicit provisions on minority languages in media. However, the Articles of Association of the Norwegian Broadcasting Corporation contains undertakings towards national and linguistic minorities and the Sámi. This provision in the Articles of Association was added after the Council of Europe Committee of Ministers' note regarding the FCNM that the position of the Kven was not yet satisfactory in the field of electronic and print media. Furthermore, for commercial public service broadcasters there are programme requirements in the licensing terms concerning the Sámi and other minorities. There are also two regulations about grants for publications in minority languages.

Discrimination on the basis of language is forbidden according to section 1 of the Anti-Discrimination Act of 2005, which also prohibits discrimination on the grounds of ethnicity, national origin, descent, colour, religion and conception of life.

Domain	North Sámi	Kven
Day Care	+	-
School	+	+
Public Administration	+/-	-
Media	-/+	-/+
Visibility	+	+
Cultural spheres	+	-/+
Private sphere	?	?

Table 1. Role of law in use of North Sámi and Kven language in different domains in society.

Plus (+) indicates that legal and institutional factors influence the use of language in a positive way, while minus (-) indicates that there are no legal and institutional factors that support the use of language in the particular domain. “Private sphere” is here used to signify language use within the family and with friends in non-professional and non-official settings.

For learning both languages, the school plays an important role through the stipulations in the Education Act. Day care facilities are equally important. Here the legislation in form of the Day Care Institutions Act is less concrete, yet implementation factors such as financial means and special kindergartens for Sámi children indicate a positive impact on the use of the North Sámi language while the Kven language seem to fall behind.

In the Sámi administrative area, the Sámi Act has made it possible to use North Sámi when dealing with public authorities, although this opportunity is not always taken by the speakers for a variety of reasons. There is no law providing for the use of Kven in contact with authorities. The situation for media in and for North Sámi is relatively seen as good, more because of legislation on grants for Sámi language media than because of any provision in the Broadcasting Act. The NRK Articles of Association and licensing conditions play a role for both Sámi and Kven, but financial support is more important.

As for visibility, the Place Names Act has improved, and has potential to improve the situation for both North Sámi and Kven place names and road signs further. There is a basis in law for increased visibility for both the North Sámi and Kven languages.

Cultural meeting places are not directly regulated by law, but may be the result of legal regulation and are a side effect of enhanced self-awareness, legislation on the right to one's language – to learn it and to use it.

It is not possible to force someone who does not want to speak their language through legislation, and therefore the strictly private sphere remains unclear.

4.2 Attitudes towards the legal and institutional regulation of the languages and language communities

The attitudes towards the legal and institutional regulations of languages, and in particular minority languages, are found in different kinds of media forums, with an emphasis on newspapers' internet forums. Regular letters to the editors in newspapers and public meetings and seminars also contribute to the debate.

The Sámi Act and the Place Names Act are the two pieces of language legislation that gather the most attention in media. For instance, the Tromsø municipality board decision of December 2010 to start evaluating an inclusion of Tromsø in the Sámi administrative area sparked a heated debate in the northerly media forums. Tromsø and Sámi people were discussed in media and public meetings during the winter of 2011 from a wide range of perspectives, including political, historical, media and language perspectives. The main tracks of the debate were the issues about what the majority wants, which place name should be first on signs, which group that came first to what is today the town of Tromsø, and where the taxpayers' money should go. A striking absence of reference to rights of the Sámi people, indigenous people or minorities in accordance to international law was noted. From the opponents to the Tromsø inclusion in the Sámi administrative area, the political argumentation was mainly threefold. Firstly, the arguments

focused on “ethnic equality”, i.e. the Sámi should not have “special differentiated rights” (*særrettigheter*) in relation to the majority population, secondly, there is “no need” for Sámi rights in places like Tromsø because there are only few Sámi and the Sámi that do live in Tromsø do not speak/read/write Sámi anyway while they do speak Norwegian perfectly, and lastly, it will cost too much of the taxpayers’ money in an already tight financial situation. The proponent side then replied that the issue does not concern special rights but equal rights, in this case to one’s culture and mother tongue, and that the “need” is based on the threatened situation of the Sámi language, and then the proponents also pointed to the financial fact that Tromsø already offers Sámi language teaching and the inclusion would be a chance to more easily cover the costs with the help of the grant for bilingualism the municipality of Tromsø will receive from the state.

The second example springs from the Place Names Act and concerns the languages for place names on road signs. A few weeks after its inauguration, the Sámi sign for the town of Bodø, *Bådåddjo*, was scribbled over amid a heated debate. Northern Norwegian news papers’ online forums were filled with hundreds of comments, some of which were censored by the editors.

The heated debates have, however, raised the awareness about the contents of the Sámi Act and the Place Names Act, which in turn has led to more requests for road signs in Sámi languages. It can also be noted that the media attention Sámi issues have received through the debate has been welcomed.⁴³⁴

From interviews made for the purpose of the present report it can be concluded that Sámi speakers do see an effect of the introduction of legislation on the Sámi language. From a general perspective, Sámi has become more visible, and therefore more accepted as a language by the general public, and also by the Sámi speakers themselves.⁴³⁵ Whilst Sámi was a language used in the private sphere before, there is now a right to use the language in contact with the authorities if desired. A practical aspect of the Sámi language becoming recognised in other Nordic countries

⁴³⁴ The sectional leader Mona Solbakk at the University of Tromsø communications department, in the panel debate “The Role of Media in the Troms- Romssa debate” 17.3.2011.

⁴³⁵ Olsen, 18.2.2011.

is that it facilitates the situation for Sámi moving across borders in their contact with authorities.⁴³⁶

As for the Kven language, it is at present not as visible in media or public debates as the Sámi language. However, the historian Einar Niemi has followed and mapped the public debate concerning Kven from the foundation of the Association of Norwegian Kvens in 1987 until 2009, a period which he divides into three phases. During the first phase, 1987 until 1995 when the Council of Europe Minority Conventions came, the debate evolved about categorization and ethnonym and whether Kven or Finnish should be taught in school. The second phase, from 1995 to 2005, when Kven was finally recognized as its own language in Norway, is signified by the Association of Norwegian Kven finding its role as representative for the Kven and by a number of measures from the side of the authorities. The third phase, from 2005 until winter 2009/2010, the debate reached new levels on the same topics and issues as in earlier phases. Niemi notes a higher temperature in the debate, including personal pounces. The characteristics of the third phase are explained by the new status of Kven, but also the Finnmark Act about land rights in Finnmark County, which sparked a debate about justification of minority policies in general, and Kven in particular.⁴³⁷

Attitudes from the side of the authorities do show concern for Sámi issues, whilst Kven issues are less debated. There seem to be little tolerance from the side of the authorities for disagreements within the language speakers' group. This becomes clear, for instance, concerning the disagreement within the Kven/Finnish group about whether to call the language Finnish or Kven, which is used as an excuse for non-action from the governmental side. Kven speakers repeatedly try to raise their voice lobbying for an improvement of the Kven status in concrete terms, such as recognition of Kven as a part III language under the EChRML. The status under the EChRML has become something of a "symbol of injustice" for many Kven activists in relation to North Sámi.

Declarations of the Sámi Parliament about solidarity with the Kven leave Kven activists wondering about the substance of such statements, whilst observers note that the inactivity of the Sámi

⁴³⁶ Solhaug, 18.2.2011.

⁴³⁷ Niemi, 2009, pp.95-97.

Parliament in Kven matters is due to that it should work for the Sámi language and has little capacity to do anything else beyond that.

4.3 The position of language diversity in the legal and political system

The Language Council in Norway concluded in 2005 in the report about Norwegian as a national language in the age of globalisation that a comprehensive Norwegian language policy is lacking. This was followed by two language white papers from different ministries, one focusing on individual multilingualism from the Ministry of Education (2007-2008) and one from the Ministry of Culture and Church Affairs on a more comprehensive language strategy in 2008. These can be considered steps towards an eventual comprehensive Language Act and perhaps also an inclusion of the Norwegian language in the Constitution, since Norway currently is in the curious situation that the Sámi language enjoys constitutional protection when the Norwegian language does not.

The experience in dealing with two written forms of Norwegian, i.e. Bokmål and Nynorsk, a situation that in legislation is expressed in the Language Use Act from 1980 means that the Norwegian legal system is not unfamiliar to dealing with language diversity. On a general level, the current focus in the language debate is the takeover by the English language of more and more domains in society. Possible ways of consolidating the Norwegian language position are therefore discussed in the above mentioned documents.

The Place Names Act fulfils an important symbolic role in that it enables visibility of language diversity through road signs and place names, for instance in the municipality of Porsanger/Porsáŋgu/Porsanki that has been trilingual since 2003. These road signs have been the topic of much debate and even sabotage in places. The effect on the language communities has, however, been an increased awareness of the law and a desire to have further signs in Sámi and Kven.

The school is also becoming an arena for language diversity through the stipulations in the Education Act and its implementation through the Knowledge Promotion and Knowledge Promotion Sámi curricula. There are now 14 different language curricula in the Norwegian schools.

In late 2010, another report emphasizing the importance and value of the development of individual multilingualism was published by a working group under the Ministry of Education and Research.

4.4 The overall quality of the legal system in language matters

For now, the Norwegian language and the minority languages in Norway are regulated on a more or less *ad hoc* basis in a number of different acts and regulations, as mentioned above. Many of the stumble blocks in the legal system are due to confusion of terminology. There are at least three such confusions of terminology as will be presented here.

The first terminological confusion is the one of official status of languages. What does it mean that a language is official in Norway? The popular perception is that “Norwegian and Sámi are the two official languages of Norway.”⁴³⁸ The reason seems to be that Sámi has protection in the Constitution (however, as mentioned, Norwegian has not!) and the fact that the Sámi Act provides for the equality between the Norwegian and Sámi languages. But what does it mean that the Norwegian and Sámi languages are equal? This stems from the Sámi Act, ch.1 section 5, stating that Sámi and Norwegian are languages of equal value (*likeverdige*), and that they shall be equalised (*likestilte*) in accordance with the provisions set out in the Sámi Act third chapter. This provision shall be interpreted in the light of a very similar provision in the Language Use Act about the status of Bokmål and Nynorsk,⁴³⁹ where the principle of equal value is to be interpreted so that both language forms shall be tolerated (*tolas*) and the principle of equality, (here: *jamstillingsprinsippet*) shall be interpreted so that both language forms shall be used.⁴⁴⁰ Yet, as stated in the preparatory works, the equality between Norwegian and Sámi does not go as far as the equality between Bokmål and Nynorsk, both in a geographical sense and as far as the right and obligation to use Sámi goes. The Sámi Act third chapter only provides for some kind of equality

⁴³⁸ Andersen et al, 2007, p.136.

⁴³⁹ Since the Sámi Act ch. 1 section 5 was drafted according to the Language Use Act section 1. Cf. NOU 1985:14, p.191.

⁴⁴⁰ As stated in the Commentary to the Language Use Act. See Gramstad, 1983 in Gyldendal Rettsdata, Lov om målbruk i offentlig teneste, section 1.

within the Sámi administrative area, which in practice, is not fulfilled even within this area.⁴⁴¹ The strongest legal consequence of this equality seems to be that one has the right to study Sámi as first language in school.⁴⁴² An observer to the Norwegian Language Council report of 2005 has pointed out that in Norway, the word “equality” is such a solid word of honour that it might be considered redundant to precise what exactly it means, or state the reasons why equality is the desired state of affairs.⁴⁴³ As noted in the language white paper from 2007-2008, the term “official language” becomes something diffuse because of the different de jure and de facto status of languages marked as “official”.⁴⁴⁴

A further objection to the plain statement that “Norwegian and Sámi are the official languages of Norway” is the fact that all languages with some kind of reference in law could be considered official to some degree, which would include also Kven as official. This is, however, rejected within the EChRML context. Woehrling, who has written the critical commentary to EChRML, states that a language is not official merely because it has a legal status, i.e. legal provisions relating to its use.⁴⁴⁵ For a language to be official, it must have an official function in the workings of public bodies, on a state-level. This leads us to a related confusion in the EChRML context. The EChRML, in its article 1, excludes official languages of the State from protection under the Charter, which, if interpreted broadly, would lead to the paradoxical situation of the unlawfulness of Sámi protection under the EChRML. Woehrling, however, says that it is not enough for a language to be official in regions or parts of the state; it must be on a state-wide level. This fact, together with article 3 of the EChRML, allowing for an application of the Charter on an official language that is less widely used, clarifies the situation for Sámi language protection, and in particular North Sámi protection, under the EChRML.

A second confusion, however, is the issue of whether one should speak of one Sámi language or “the Sámi languages.” This is of little relevance to North Sámi, since North Sámi, both in practice

⁴⁴¹ As evaluated by Andersen and Strømgren, 2007, p. 136. Andersen et al do, however, think that the perception of Norwegian and Sámi as languages of equal value (*likeverdige*) is general.

⁴⁴² St.meld.nr.23 (2007-2008), para. 5.1.

⁴⁴³ Dyvik, 5.11.2005.

⁴⁴⁴ Ministry of Culture and Church Affairs, 2007-2008, p.56.

⁴⁴⁵ Woehrling, 2005, p.61.

but also in accordance with preparatory works,⁴⁴⁶ is the principal Sámi language in Norway. There are benefits in speaking of the “Sámi language” for the sake of Sámi language rights on a national and perhaps also international level, but there is a risk for the rights of smaller Sámi language speakers to not have their particular rights emphasised. Again, in the EChRML context, it is only North Sámi that is considered a level III language, but the fact that Lule and South Sámi (and to some extent also Pite and Eastern/Skolt Sámi) are included in the umbrella term “the Sámi language” might give a false picture of the actual protection of the other Sámi language varieties. In that sense, North Sámi is in a much better position than the other varieties.

The third confusion is between “Finnish” and “Kven”. In a similar way to the Sámi languages situation, the development of the Kven language might be prevented by the use of the term “Finnish” in legislation and also because Finnish is what the pupils prefer learning in school, as seen from GSI statistics and County Governor statements. On the one hand, it is stated in the White Paper on the Norwegian national minorities’ policy that “Kven” is an umbrella term also encompassing people seeing themselves as Finnish descendants or descendants of Finnish immigrants.⁴⁴⁷ On the other hand, the language Kven is taught within the curriculum for Finnish as a second language in school. Kven was officially recognised as its own language separate from Finnish in a Royal Decree of 2005. A Royal Decree in Norway has the legal force equal to a regulation. The Association of Norwegian Kven calls for protection of both Kven and Finnish in their Plan of Action, published in 2011. Yet, the discussion is not finalised among the Kven/Finnish speakers, the Government still uses the Kven/Finnish double denomination, except in the Place Names Act. The disagreement among the speakers is used as an excuse for inaction from the side of the authorities. The possibility of giving separate protection to Kven language and Finnish language in Norway, in line with the Meänkieli and Sweden Finnish examples in Sweden is rarely discussed.

⁴⁴⁶ Ot.prp.nr. 60 (1989-90), p.45. The provisions for the Sámi language within the administrative area should be understood to encompass North Sámi. Since then, however, the administrative area has expanded to include also South and Lule Sámi areas.

⁴⁴⁷ Ministry of Local Government and Regional Development, 2001-2002, para. 5.2.2.1.

In sum, there is little flexibility and understanding for differences of opinion among a minority in the legal system. The legal system also lacks institutional solutions for potential diversity of opinions from the side of the minorities.

In judicial practice, there are no specific cases based solely on language rights. A legendary case originating in the Sámi protest actions in Alta in 1981 marks the starting point for Sámi language rights in court. A sentenced Sámi teacher insisted on her rights to use Sámi in communication with the court system and refused to accompany her letters with translation into Norwegian. The Court of Appeal did translate the ruling into Sámi as requested by her, but informed her that there was no legal basis for her claims to communicate in Sámi with courts.⁴⁴⁸ Today, the Sámi Act does provide for Sámi language rights in court and there is a specific court of first instance, the Inner Finnmark Court, especially designed to handle cases in a Sámi environment. Still, the use of language in court has received criticism from international monitoring bodies due to the incomplete implementation of rights, i.e. lack of interpreters and lack of Sámi cultural understanding from the side of the judges.

Ch.3 section 11 of the Sámi Act also includes a right to complain about the use of the Sámi languages within municipal and regional bodies. The appellate body is the County Governor. However, this seems to be a complaints mechanism that is not used by the Sámi speakers.

Norway has received criticism from international monitoring organs within the Council of Europe and UN systems. Criticism is generally directed to the implementation of legislation, rather than absence of legislation. This is particularly true for issues such as the use of North Sámi in the health and social care sector, the use of Sámi before courts, technical difficulties with Sámi names because of diacritics, personal and place names for Sámi and Kven, teaching materials and the different status of different Sámi languages, as well as the on-going Kven/Finnish discussion. The Norwegian authorities have proven sensitive to criticism and generally make efforts to meet the recommendations of treaty bodies and monitoring bodies.

⁴⁴⁸ The Appeal Committee of the Supreme Court of Norway, 2.5.1986, ruling.

4.4.1 North Sámi in Norway

It is true, both for the Sámi Act and the Education Act, that the language rights are stronger territorially. Yet, it has been laid down that the Sámi people are an indigenous people on the whole territory of Norway, for instance in the Selbu Case,⁴⁴⁹ and the highest number of Sámi people de facto live in Oslo. It can therefore be said, that the language provisions in the Sámi Act are insufficiently adjusted to varying Sámi and population realities in different municipalities in Norway, offering little or no flexibility. This has led to attitudes becoming polarised and presumed to be against Sámi rights and pro-Sámi rights. The Sámi Act and its regulations are built up in a way where the “good becomes the advocate of the evil”.⁴⁵⁰ Indeed, the authors of the evaluation of the language provisions in the Sámi Act from 2007 suggest a further categorisation of the language provision area, making it easier to include also areas with few Sámi speakers, or separate entities, such as language centres, in the administrative area.⁴⁵¹

4.4.2 Kven in Norway

The formal status of the Kven language is unclear as a result of the above mentioned terminological confusions, but has strongholds in the Place Names Act, and indirectly also at least the Education Act and the Personal Names Act. The Royal Decree of 2005 granting Kven the status of a language is an important decision.

Despite this, there are signals from the speakers’ communities that the present legal body covering the Kven language is not sufficient for revitalisation of the language. Stronger measures for the language in a variety of fields are called for, in particular in kindergartens.

⁴⁴⁹ Supreme Court of Norway, Rt 2001 769.

⁴⁵⁰ As expressed by a Sámi rights proponent in discussion about the Tromsø inclusion in the Sámi administrative area, referring to the provision in the Regulation to the Sámi Act stipulating that the Sámi place name should stand first on signs.

⁴⁵¹ Andersen et al, 2007, pp.117-119.

In summary

	North Sámi	Kven
Status	Indigenous language	National minority language
EChRML	Part III	Part II
Constitutional protection	Section 110 a	-
Legislation defining status	Sámi Act	Royal Decree 2005
Practical implementation	Administrative area	Place Names Act, Education Act
National body	Sámi Parliament Language Board	Kven Institute Language bodies
Kin-state, - languages	Nordic Sámi language cooperation	Meänkieli, Finnish

Table 2. Characteristics of the legal and institutional system for North Sámi and Kven languages in Norway.

The legal and institutional factors that influence the use of the North Sámi and Kven languages in Norway are to a great extent dependent on the categorisations in the Norwegian system, that are mainly derived from international law and demands from the Sámi people themselves. The Sámi protests against the constructions of the Alta dam at the end of the 1970's led to an awakening of the Sámi people, where rights and indigenous status played an important role. This became an issue in relation to ICCPR article 27, and the Sámi made clear that they are an indigenous people and not a minority. This also resulted in the ratification of ILO 169, further underlining the indigenous status of the Sámi, whilst the Kven became a national minority with the ratification of the FCNM in 1999. The applicable international law led to different implementations for the Sámi and the Kven language rights. Other categorisations, such as what is an official language and what is not, also play a role for implementation, which in turn plays a role for the use of language. The recognition of language in law has a symbolic value for the speakers, which enhances the confidence to use the language. Although the legislation is in place for many institutions in particular in the Sámi administrative area, the competence and attitudes within administrative institutions, and also of staff in schools, are of great importance. Often, human resources are

simply not sufficient to fulfil language rights or the technical equipment and teaching material does not exist. According to anecdotal evidence, the attitude “but all Sámi/Kven speak Norwegian anyway” seems to prevail. Also the minority institutions themselves play a great role, such as the Sámi Parliament, both in which language it uses and what issues are on the political agenda, where language issues have sometimes been downplayed by a greater focus on land and water rights.

The most evident difference between North Sámi and Kven, is that in most cases, the legislation enabling action to revitalize North Sámi is in place, whereas for the Kven language, it is not. This is most clearly illustrated by the ambitious governmental action plan for the Sámi languages, revised and evaluated every year, whilst the Kven themselves put together an action plan of their own that the authorities have not recognised so far.

The motivation amongst potential speakers is also important. The use of a minority language should not come with disadvantages, for instance by misinterpretations in court or bullying in schools. Scholarships available for Sámi students (but not for Kven) are important incentives enhancing language use.

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