



2. Sámi education between law and politics – The Sámi-Norwegian context

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Abstract Applied as an analytical framework, four phases of rights' recognition shed light on the path the Sámi in Norway have taken to increase autonomy and influence policies in the shared spaces of Norwegian politics. Relational self-determination serves as a theoretical entrance and captures the complex interdependence between policies and indigenous rights, concretized to the right to Sámi language education. However, despite a Sámi-educational-rights-based development, Sámi pupils and their families face challenges in terms of Sámi language learning.

Keywords Office of the Auditor General | relational self-determination | rights' recognition | Sámi language education | Sámi Parliament

INTRODUCTION

Education policies mirror and promote core values of justice and human rights a society wants to uphold, with the school as one of the most important societal institutions. In a Sámi context, school matters became a main issue both for the first Sámi organizational efforts in the first half of the 20th century and after World War II, when Sámi organizational efforts gained momentum (Lund, 2003, p. 40). Here I aim to provide a brief overview of the changes in Sámi education policies, by drawing a line from the post-war changes to the contemporary policy on Sámi education, including the current revision of the Education Act on primary education (NOU 2019: 23). While there are common features between the Nordic countries of rights and possibilities of Sámi pupils to learn Sámi language, there are great differences between these countries in terms of resources and accessibility, forms of education and guidelines for education policy (Aikio-Puoskari, 2009, p 225). I concentrate on the right to Sámi language education in Norway.

While my point of departure is the post-war thaw of Norwegian politics towards the Sámi, the history of Sámi opposition to state-sponsored assimilation and appeals to the Norwegian authorities to secure the Sámi languages and culture stretches far back in time. It is not without reason that the Norwegian Truth and Reconciliation Commission, which investigates the Norwegianization of the indigenous Sámi and the national minorities – the Kven, Norwegian Finns and Forest Finns – has emphasized the role of education and schooling in their inquiry of the more than 100 years official state assimilation policy (Norwegian TRC, 2020). An obtained language shift to Norwegian became a measure of the failure or success of this policy (Minde, 2003, p. 122). National efforts of inserting transitional districts, salary increases if successful in showing a language shift, and the changed regulations preventing Sámi from becoming teachers, severely impacted local Sámi communities (Bjørklund, 1985; Lund, 2003; Jensen, 2005). However, this heavy-handed state policy faced local and national Sámi resistance by Sámi pioneers and teachers who mobilized against the cultural hegemony of the majority society (Bjørklund, 1985; Jernsletten, 1986, 1990; Jensen, 2005; Zakariassen, 2011). Formally, the policy adopted in the mid-19th century ended in the late 1950s (Minde, 2005, p. 6). Still, the cultural and socio-cultural consequences continued to manifest themselves (Eidheim, 1969). These consequences assert themselves even today and necessitate a distinction between a comprehension of the Norwegianization policy versus the Norwegianization process (Sámi Church Council, 2017).

The initial post-war change of policy signaled a new approach by the authorities towards Sámi educational issues (Andresen, 2016). It is within the educational sector that institution building targeting Sámi concerns started, for instance, with the Sámi gymnasium classes in Kárášjohka in 1969 and the Council of Sámi Education established in Guovdageaidnu in 1975. As time went by, the Sámi pushed the perception of rights into the public political consciousness by appealing to international law and human rights standards. A general Sámi institutionalization process from the mid-1980s onwards was crested with the establishment of the Sámi Parliament in 1989.

The prerequisite for the development over the last three decades is the autonomous role of the Sámi Parliament, as an independent voice with the ability to shape, create and integrate its own policies into the political system as a whole. Sámi concerns and issues at all levels of the educational pathway are gaining ground and becoming a significant part of concerns, for example, in national curricula and textbook work (see also Olsen, Sollid, & Johansen, 2017). Within the limited fields of curricular work, the Sámi Parliament acts as a political premise supplier, a consultation partner and an administrative authority. As a democratic tool for Sámi

self-determination (Sámi Parliament, 2020a, p. 13), the Sámi Parliament interacts at the national level with the national parliament as the legislator, the Ministry of Education and Research, the Ministry of Local Government and Regional Development and the Directorate of Education and Training, at the regional level with the County Governor and the County Municipalities, and at the local level with the municipalities as school owners.

However, despite strengthened rights within the field of Sámi education, Sámi pupils and their families experience a range of challenges. The Office of the Auditor General (2019, p. 8) has revealed substantial shortcomings in information about Sámi language education, a lack of teaching materials, shortcomings in the organization and accomplishment of Sámi language distance education, scarcity of number of teachers and many and small scattered measures. Also, according to the public expert committee assessing legislation, measures and schemes on the Sámi languages in Norway, the right of Sámi pupils to education in and on Sámi in primary education is not fulfilled (NOU 2016: 18, p. 22; Sámi Parliament, 2020b, p. 1). The report proposes legislative amendments to enhance Sámi language rights.

Here I distinguish between political and legal rights. Political rights are those the Sámi Parliament executes on behalf of the Sámi in Norway in their efforts to self-determine, increase autonomy, and influence the field of education policy in shared spaces of Norwegian politics. Legal rights are concretized to the individual right to Sámi language education (see also Chapter 6 of the Education Act on Sámi language education and § 3-8 of the Sámi Act). Or as elucidated in NOU 2016: 18 (Chapter 5), the language rights of the Sámi supported by international law, are both of a collective and individual nature.

The concept of relational self-determination serves as a theoretical entrance and captures the complexity of navigating in a compound political landscape of interdependences between policies, interests, and the rights of the Sámi as an Indigenous people in relation to the majority population. Phases of rights development – what I have described as four stages of progress: the ‘negative,’ the ‘positive,’ the procedural and the legal institutional aspects of a rights-based development (see also Broderstad, 2014) – is applied as an analytical framework to explain the path the Sámi in Norway have taken to increase their ability to self-determine, increase autonomy and influence the field of education policy in the shared spaces of Norwegian politics.

The general Sámi political and rights development depends heavily on international legal developments (Falch & Selle, 2018, pp. 23, 201), and highlights the interdependence and the built-in tension between democracy and law, between representative government and juridification understood as *inter alia* law’s expansion and differentiation, that is how ‘law comes to regulate an increasing number

of different activities' (Blichner & Molander, 2008, pp. 38–39). With this backdrop I aim to address the question of how the phases of rights' recognition can shed light on the interaction between law and politics and the continuous challenges of the fulfilment of rights.

Gaining such an insight not only improves our understanding of rights' recognition understood as institutionalization and juridification, in particular within the educational sector, it is also relevant in the broader discussions on Indigenous peoples – state relationships, decentralizing the implementation of rights at regional and local levels, and how these relationships play out in different contexts and sectors.

This work is based on a qualitative textual analysis of secondary data from scholarly work, and the empirical material discussed are policy and legislative documents on education. Central are case documents – both the governmental and those of the Sámi Parliament – on the revision of the Education Act addressing the role and influence of the Sámi Parliament and Sámi pupils' right to Sámi language education, as well as the investigation of the Office of the Auditor General. In line with the current Education Act of 1998, § 6–1, Sámi language is understood as North Sámi, Lule Sámi and South Sámi. The distinction between first and second Sámi language education will be made relevant if the distinction appears in relation to the selected aspects of policies and legislation.

The second part accounts for the concept of relational self-determination and presents the analytical framework of the phases of Sámi rights recognition in Norway. Part three provides a brief overview of post-war changes, drawing a line to the contemporary policy on Sámi language education. Based on the distinction between rights understood as political participation and legal protection in light of the four stages of progress, part four is a review of the Sámi language rights discussion, including the revision of the Education Act, before my conclusion.

A RELATIONAL APPROACH TO SELF-DETERMINATION; A PROCEDURAL APPROACH TO SÁMI RIGHTS' RECOGNITION

I have elsewhere argued for a comprehension of self-determination as relational (Broderstad, 2008, 2014). I maintain the applicability of this concept in relation to the policy field of education because the relations in question 'require a complex framework for assignment of authority, and the aspirations of autonomy involve defining relationships with states' (Kingsbury, 2001, p. 225). Self-determination as relational resonates with the arguments of Borrows (2000) for an understanding of Aboriginal citizenship (in the Canadian context), which includes a perspective of Aboriginal self-determination, and the need to include Aboriginal perspectives

in non-indigenous actions and ideas about governing and citizenship. This perspective, stressing the necessity of extending indigenous perspectives and participation in non-indigenous affairs, manifests itself in relation to the many efforts taken from the Sámi side to include Sámi perspectives in national education policies, legislation and in concrete curricula. As pointed out by Kingsbury (2001) despite enormous variations with regard to aspirations of autonomy regimes, all such regimes presuppose extensive relations between the autonomous institutions and other government institutions of the state and between indigenous peoples and other peoples within or outside the autonomous area. Josefsen (2014) refers to this as a breaking-in approach. Underlining the autonomy of the Sámi Parliament, Sámi concerns are, through policy making, simultaneously incorporated into legislation and decision-making. As will be demonstrated, the modern history of education policies targeting Sámi languages is a history of Sámi rights perspectives gradually being integrated into complex governance relations.

The Sámi rights development has been characterized by the Norwegian Power and Democracy Project (NOU 2003: 19) as an increased juridification, implying a clash of interests between popular elected assemblies of majority rule and a system of law and rights managed by judicial institutions. Broderstad, Oskal and Weigård (2011), however, argue that while juridification in the field of Sámi politics has increased following international law obligations, the scope of the possibility of established political participation further develops democracy as a governing system. As citizens of the state and as indigenous citizens, the Sámi have reshaped connections and relationships. This is due to the salient role of and through the political rights of participation as the core of citizenship, that other rights are identified and recognized. But as Vitikainen (2020) reminds us, these relationships are asymmetric and the shared spaces of interactions can be characterized by unequal relations of power: ‘the history of Indigenous/non-Indigenous relations is a history of domination and power that continues to distort the ways in which relations between the two groups are presently constructed’ (p. 8).

Acknowledging that cooperation between Indigenous peoples and the majority society often does not happen on equal terms makes a relational approach to self-determination as the point of departure even more topical. The legal and political rights of the policy field of Sámi education can be studied as an evolution through stages of progress: the ‘negative,’ the ‘positive,’ the procedural and the legal institutional aspects of rights and political participation (see also Broderstad, 2014), where the latter emphasizes aspects of rights implementation and legal institutionalization. This distinction between the stages, which I apply as an analytical tool, is inspired by the Sámi Rights Committee’s (NOU 2007: 13B,

p. 824) division between international law requirements as protection against discrimination (the negative aspect of rights, Square 1, Table 2.1), implementation of positive measures (the positive aspect of rights, Square 3) and a procedural aspect securing active participation in the decision-making impacting Indigenous peoples (Square 4). Adding to these, through the lens of a fourth stage of legal institutionalization and further juridification (see Blichner and Molander, 2008) (Square 7 and 8), the accomplishments of additional normative standards and legal rights are expected to happen.

While active participation in the first place did not imply recognition of the Sámi as a collective on its own (Square 2), later engagement and consultations have empowered the Indigenous Sámi's involvement and conditions inter alia compliance with the International Labour Organization (ILO) Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries (hereafter ILO 169). However, while the governance of Sámi affairs including education has developed through normative overriding principles and values found in national and international law as well as formal legislative and institutional participatory arrangements (Square 4 and 6), pupils, parents and teachers are still facing an implementation gap where the challenges reported by parents resemble those experienced decades ago. While the normative foundation and institutionalized arrangements of Sámi language education and individual rights to Sámi pupils are endorsed, problem-solving practices of how these rights are realized and implemented remain challenging, which also concerns the role of the Sámi Parliament (Square 8). The development of political and judicial rights of Sámi education policies via the lenses of the above-mentioned analytical phases can be illuminated in Table 2.1.

Table 2.1: A procedural approach to rights' recognition

	'Negative' understanding	'Positive' understanding	Procedural emphasis	Legal institutional emphasis
Legal rights	1 Protection against discrimination	3 New interpretation of international law	5 Revised legislation	7 Enhanced legal institutionalization, juridification
Political rights	2 Participation as individual citizens	4 Incipient Sámi institutionalization	6 Strengthened Indigenous participation	8 Strengthened autonomy

Going from the first to the fourth stage implies a built-in comprehension of the progress of legal and political rights. Whether this is the case in the field of education is an empirical question, which I will return to. But first, a brief empirical overview of education policies is provided.

ELEMENTS OF SÁMI EDUCATION POLICIES: FROM POST-WAR CHANGE TO THE CURRENT STATE OF THE ART

Initial change

The prominent view on the Sámi in the interwar period was that the Sámi were of less value compared to Norwegians, and that Sámi culture was doomed in the meeting with other cultures (Andresen, 2016, p. 406; Minde, 2005). Both views constituted reasons for the official assimilation policy; however, these views were challenged after World War II. The post-war period is also the era of the building of the welfare state. In the period 1945–1961, the Labour Party was continuously in power, aiming for economic growth and increased employment. After the war, the state took on the responsibility of peoples' welfare in the sectors of health, social issues and education. It became a public responsibility to control societal processes which create inequality (Lorentzen, 1998, p. 247). But as pointed out by historian Henry Minde (2005), in general, Sámi culture became associated with poverty and incompatible with development and good standards of living.

Andresen (2016, p. 406) shows how two reports framed the new debate on Sámi political issues. One was the work of the 1948 Coordinating Committee for the School System, which altered the whole education policy. A deputy secretary in the Ministry for Church and Education ensured that Sámi school issues became a part of the committee's work, emphasizing the Sámi language position. The recommendations of the committee did not address minority rights, but the committee stated that the Sámi had lived in the country since ancient times with a rightful claim to education for their children following the same principles that apply to other Norwegian citizens (Andersen, 2016, pp. 415, 418; Lund, 2003, pp. 31–32). Nevertheless, local municipal boards of education in Finnmark received the proposals of the committee with scepticism and rejection, and the resistance was especially strong in Kárašjohka (Jensen, 2005, pp. 187, 188; Lund, 2003, p. 32). The same can be said about the well-known 1959 report of the Sámi Committee, which argued the need for a new policy, and discussed how to secure Sámi culture in Norwegian society (Andresen, 2016; Jensen, 2005, pp. 193–194). The Labour Party in Finnmark and a narrow majority in the school and municipal boards in Kárašjohka harshly criticized the proposals (Jensen, 2005, pp. 191–193; Stordahl, 1996). The Sámi committee report pointed out that the Sámi had lived in the county since ancient times, a foundational fact for rights. In the debate in the Storting (the Norwegian Parliament), the members of parliament argued for respect for these age-old rights. While scholarly work has discussed why the national parliament in 1963 did not adhere to the proposals of these committees, Andresen (2016) shows that during

the debate, the Storting was full of remorse for the earlier policy of assimilation, but the consensus only affected the policies of language and culture.

As Lund (2003, p. 36) points out, the Primary School Act of 1959 introduced the principle of using Sámi as language of instruction, but it was not until 1967 that initial education in and on Sámi became a subject in the schools in Kárašjohka and Guovdageaidnu. Two Sámi schools were established in the South Sámi area, the first one in Aarborte/Hattfjelldal in 1951, and in the other in Snåase/Snåsa in 1968 (NOU 2016: 18, p. 63). During the 1960s the Sámi situation was absent in curricula and a vigorous school centralization policy with the closure of small schools forced Sámi pupils to attend Norwegian-dominated municipal centres was implemented (Lund, 2003, pp. 34–35).

Elements of the education policies from the 1970s to the late 1980s

However, the initial change continued. While the Sámi were still regarded as a Sámi-speaking part of the Norwegian population, they also constituted a cultural and linguistic minority, as pointed out in a 1980 public sub-report on the Sámi in primary school. Sámi languages were regarded as a condition for equivalent education, based on the principle of equality in education. The report mainly focused on the so-called core Sámi areas in inner Finnmark, and the long-term Sámi language situation was regarded as endangered (NOU 1980: 59, as cited in Lajord 2017, pp. 35, 37). In tandem with the Sámi Rights Committee's (SRC) report published in 1984 (NOU 1984: 18), the Sámi Cultural Committee (SCC) followed with their report on Sámi culture and education in 1985 (NOU 1985: 14). Based on the latter mandate of promoting Sámi culture and strengthening the use of the Sámi language, they viewed it as necessary to award the Sámi language and culture the status as important broad educational elements in education.

With the Primary School Act of 1969, parents could, if their children had Sámi as an everyday spoken language, claim Sámi language education. In 1976 this was changed to 'Children in Sámi districts shall be given instruction in Sámi when the parents claim this' (Lund, 2003, p. 36). From 1985 onwards, the schools in Sámi districts became more obliged to use Sámi as a language of instruction, due to an amendment to the Education Act, which stated that children in Sámi districts shall receive instruction in and on Sámi language at the lower primary levels (NOU 2019: 23, p. 77). With the establishment of the Council of Sámi Education in 1975, an expert body for the government was put in place, but with limited authority (Lund, 2003, p. 40). The council was responsible for publishing textbooks in Sámi, first in North Sámi, later also in Lule and South Sámi. Lund (2003, p. 41) points out that the progress for Sámi education in relation to the 1987 national curriculum

happened due to the role of the council. This curriculum, which stated that Sámi ethnic identity related to social and cultural conditions, formed an important condition for learning. The Sámi themselves could influence educational reforms. The Sámi were now regarded as a population with their own societal life (Lund, 2003, p. 60). Also, Lajord (2017, pp. 60–62) accounts for the role of the council, among others, in debates in the early 1990s on the interpretation of § 40 of the Education Act on Sámi language education as a right in certain areas, versus an individual nationwide right.

The 1990 amendment of the Sámi Act with the language provisions established that Sámi and Norwegian languages are equal. The groundwork accomplished through, among others, the work of the SRC and SCC had resulted in a Sámi rights development, described by Oskal (2003, p. 323) in the following way: it became difficult to reject the arguments on normative grounds, they received attention among those in the Norwegian political public that were universally oriented. What happened gained national and international attention, a national and international public served as a third part, and the burden of reason was put on the public authorities. This is also the backdrop of the 1990 Norwegian ratification of ILO 169. Norway became the first country to ratify the convention, the most explicit commitment to Indigenous rights with a prominent impact on Sámi rights and politics in Norway. The debate surrounding ILO 169 has mainly pertained to land rights, and less to language rights. Still, the general obligations following the convention may have influenced Sámi language legislation in the early 1990s (Todal, 2002, p. 69).

New era, remaining challenges

The new policy towards the Sámi asserted itself at the beginning of the 1990s due to new framework conditions (Todal, 2002, p. 10). When the government in 1990, based on the work of the Sámi Cultural Committee, presented their bill on the revisions of the Sámi Act, the Education Act for primary school and the Act of the Courts, they founded their proposal on the fundamental view that Sámi and Norwegian languages are and should be equal (Ministry of Church Affairs and Culture, 1990, p. 2). It is also worth mentioning the all-embracing support for statutory language regulations in the hearing process of the cultural committee (Ministry of Church Affairs and Culture, 1990, pp. 12, 13). A Sámi language administrative area (SLAA) of six municipalities was established. At the time of writing, there are currently thirteen municipalities included: eight in the County of Troms and Finnmark (North Sámi), two in Nordland (Lule and South Sámi) and three in Trøndelag (South Sámi). The public expert committee assessing legislation, measures and schemes on the Sámi languages has suggested

dividing the SLAA into Sámi language preservation and Sámi language vitalization municipalities. The first category applies to municipalities where Sámi language is commonly used in most sectors of society, while the second category refers to municipalities in need of vitalization efforts to promote the use of the language (NOU 2016: 18).

Within the administrative area, formal requirements follow from among others the Education Act. All pupils within this area have the right to instruction in and on Sámi languages. Outside this area, only Sámi pupils have the right to instruction in Sámi, but both Sámi and non-Sámi, amounting to a minimum of 10 pupils in a municipality, have the right to primary education in and on Sámi, as long as a minimum of six pupils remain in the group. Sámi pupils in Norway have a right to Sámi language education wherever they live (Opplæringsloven/The Education Act 1998, §6-2; NOU 2019: 23, p. 410). Schools in 92 municipalities (out of 426 in 2018) offered Sámi language education in the school year 2017/2018. Twelve of these also offered education on Sámi languages (Office of the Auditor General, 2019, p. 7). In the 2018/2019 school year, the total number of pupils in primary and secondary school with Sámi language teaching (including first and second language) was 2875. In 2020/2021 the total number in primary and lower secondary education (level 1–10) with Sámi languages was 2522 (Vangnes, 2021, p. 2). The County Governor is responsible for the inspection of the municipalities and county municipalities following the Education Act, including the right to receive instruction in and on Sámi languages. In addition, the County Governor has an important advisory function on Sámi affairs towards the municipalities (NOU 2016: 18, pp. 190, 193).

In his doctoral work, Todal (2002) investigated the vitalization of Sámi languages in Norway during the 1990s by discussing the turn of the Sámi language shift, where language shift is understood as the change of everyday language from Sámi to Norwegian. Todal (2002, p. 68) discussed the connection between efforts on the macro level and the actual language development on the micro level. One insight is that the schools in the 1990s did not manage to work out models of vitalizing language education for Sámi as a second language (Todal, 2002, pp. 215–216), which in 1987 was introduced at primary schools (NOU 2016: 18, p. 115).

In 1993 the Sámi Parliament took over the task of appointing members to the Council of Sámi Education, and in 1998 the parliament gained authority from the Education Act over regulating curricula. The national curricula of 1997 were for the first time given formal status as a legal directive (Gjerpe, 2017). In the preparatory work to the 1997 curricula, the principle of a unitary school system with the same national subject matter was the prevailing one, a view criticized by the Sámi Parliament and the Council of Sámi Education in 1994. The Sámi Parliament

pointed out that if Norway were to comply with ILO 169, this conditioned separate Sámi curricula with authority assigned to the Sámi Parliament to determine them (Lund, 2003, pp. 81–82). The result became a parallel Sámi curriculum which applies to the Sámi language administrative area (Gjerpe, 2017; Johansen, 2017, p. 64). The Sámi Parliament has authority over instruction on Sámi language education in primary and secondary schools. In other subjects, such as history and social studies, the Sámi Parliament can draft curricula, which will be decided on by the ministry (Falch & Selle, 2018, p. 115).

The next national reform took place in 2006 with the Knowledge Promotion Reform (Kunnskapsløftet) comprising governance, structure and content, and included a parallel LK06 and LK06S for the Sámi language administrative area. With this reform, competence aims for pupils' achievements were introduced, including many Sámi competence aims (Johansen, 2017, p. 64). The Knowledge Promotion Reform has been evaluated by Solstad et al. (2009, 2010), with the aim of assessing whether the reform contributes to the ideal of more equality between Sámi and Norwegian primary education. It was not until the curriculum of 1987 that the concept of equality and equal rights applicable to Norwegian schools was included in the authorities' policy documents (Solstad et al., 2009, p. 143). The first part of the evaluation of the Reform assessed how the local school authorities and other actors prepared for the implementation of LK06S (Solstad et al., 2009, p. 41), and points to problems with the implementation and differences in opinion between the Sámi Parliament and the Directorate of Education and Training regarding the relationship between the curricula (Solstad et al., 2009, pp. 53, 147). The second report (Solstad et al., 2010) evaluated the teachers', parents', and pupils' experiences with LK06S; the authors emphasize the contextual conditions of the implementation of the curriculum.

Solstad et al. (2010, pp. 97–103) distinguish between environmental and contributory conditions, the first referring to language stimulation efforts in the public space and the pupils' local environment. No matter which group of Sámi in question, language and environmental support outside the school to realize a Sámi curriculum is significantly weaker than in similar Norwegian curricula contexts (Solstad et al., 2010, p. 96). Contributory conditions concern the organization of Sámi language teaching (separate language classes, time allocation, parallel teaching, distance teaching), the situation with teachers (lack of teachers, workload, lack of substitutes) and the situation with teaching materials (especially for South Sámi, but also for Sámi as a second language). A common feature is the scarcity of teachers, which impacts on the organization of teaching. Furthermore, the lack of teaching material contributes to an increased workload for the teachers (Solstad et al., 2010, p. 103).

These challenges are addressed in the ongoing work on the new Education Act (NOU 2019: 23). The Sámi Parliament (2021a) refers to the performance audit on education in Sámi, whose report reveals substantial shortcomings in Sámi languages education. The investigation was carried out based on indications that the educational provisions in and on Sámi were inadequate and unequal (Office of the Auditor General, 2019, pp. 7, 8). The goal was to assess the educational provision to Sámi pupils of Sámi languages. The main findings were shortages related to information about Sámi language education, shortcomings like lack of teaching materials, the organization and accomplishment of Sámi language distance education implying inequalities in the educational provision, a continued scarcity in the number of teachers and many and small scattered measures. Vangsnes (2021) has reviewed pupil numbers in primary school, and his research reveals a drop out where every fifth Sámi first-language, every third Sámi second-language and two of three Sámi third-language pupils quit Sámi language education before they finish primary school. Vangsnes (2021, p. 21) calls for more goal-oriented investigations of the causes.

THE POLICY FIELD OF SÁMI EDUCATION THROUGH THE LENSES OF STAGES OF RIGHTS RECOGNITION

In this section I provide a review of how the Sámi language rights discussion has evolved through the analytical phases of rights recognition. What has been sketched out above is a development towards a rights-based education. Simultaneously, as shown by, among others, Todal (2002), Solstad et al. (2010), the Office of the Auditor General (2019) and Vangsnes (2021), there are substantial shortcomings relating to the implementation and the realization of Sámi language education.

Sámi-speaking Norwegians with age-old rights

As we have seen, the normative foundation of policies towards the Sámi in the first post-war period is characterized by the need to recognize the Sámi as equal members of the state, but not recognition as a rights-bearing collective. However, as Andresen (2016, 2017) points out, a certain historical awareness asserted itself. Sámi political organizational work, in particular the Nordic Sámi Council (today's Sámi Council) and scholarly and public committee work contributed to this insight. Andresen (2016) points out that even if there were 'no formal protection of Indigenous peoples at that time, nor was there any international minority law protection, [thus] the statement must be read as an expression of what the committee viewed as right and fair' (p. 418). The awareness of the Sámi being ancient

in the country, with roots far back in time to past centuries, when authorities referred to the Sámi as the original population with age-old rights (see also Niemi, 1997; Hansen & Olsen, 2014; Pedersen, 2008), gave grounds for the initial changes.

The establishment of the Norwegian Sámi Council in 1963, as an advisory body for the authorities, became the first sign of an institutional change. While the language shifts from Sámi to Norwegian in many areas continued, education became, due to the welfare state arrangements like state study loans, accessible to more people including the Sámi. As pointed out by Nymo (2005), for Sámi youth, education became a strategy in the meeting with the Norwegian society. The Sámi were more strongly integrated as individuals than is the case with many other Indigenous peoples, who experienced a system of differential treatment (Stordahl, 1994; Smith, this volume). The Norwegian Sámi Council and the Council of Sámi Education were predecessors of what was to come. The Council of Sámi Education belonged to the first round of state funded Sámi institution building.¹

But the principal view of the Sámi as holders of collective rights, by virtue of being a people on its own, did not assert itself in national policies. In terms of the reading of international law at that time, Article 27² of the Covenant on Civil and Political Rights (ICCPR) from 1966 depicted rights as ‘passive’ or ‘negative’ rights preventing discrimination. When Norway ratified the ICCPR in 1976, their relationship to the Sámi was not raised at all (Minde, 2003, p. 88). As we know, this changed during and after the Alta conflict in the late 1970s and early 1980s.³ The subsequent comprehensive institutionalization as a means to realize collective, political rights became the landmark of the next era.

A people whose rights are protected by international law

The initial legislation on the use of the Sámi language as a teaching language in the late 1960s and early 1970s was first and foremost a means to improve Norwegian language skills (Lund, 2003, p. 36). Still, the Sámi were, in public reports, referred

1 Also in this round were the Sámi Gymnasium classes, Kárašjohka, 1967, the Sámi Museum, Kárašjohka (1972), Nordic Sámi Institute, Guovdageaidnu (1973), and Sámi Radio, Kárašjohka, 1976.

2 Article 27 runs as follows: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own religion, or to use their own language.”

3 During the 1970s and the beginning of the 1980s, a conflict culminated over the building of the hydro-electric power station on the Alta River in Finnmark, the northernmost county in Norway. Demonstrations, civil disobedience, and hunger strikes resulted in a national and international spotlight on Norway’s dealings with its Indigenous people. This became the turning point, the start of a new Sámi political development.

to as a cultural and linguistic minority, and Sámi languages regarded as a condition for equivalent education based on the principle of equality in education. It was mainly areas in inner Finnmark which were focused on.

The aforementioned work of Sámi Rights and the Sámi Cultural Committees established in 1980 in the wake of the Alta conflict started the processes of Sámi institutionalization, which made headway in the late 1980s. The Sámi Rights Committee argued for a new reading of minority rights and state responsibility based on Article 27. International law, as a barrier on what states can do towards the Sámi, and the state's duty to actively contribute towards developing Sámi culture and embracing the material aspects of a minority culture, was emphasized. The committee based their proposal for a constitutional provision on the responsibility of the state to secure Sámi language, culture and society life on this interpretation of Article 27 (NOU 1984: 18, pp. 438, 441). This reading was followed by the Norwegian Parliament (see NOU 2007: 13, A, pp. 205, 211). Maintaining that the significance of language as one of the most important aspects of a culture, the work of the Cultural Committee (NOU 1985: 14) laid the foundation for the Sámi language provisions of the Sámi Act and the revisions of the Education Act. According to the committee, 'the Sámi themselves must be entrusted to lay down guidelines and long-term objectives for their own future' (NOU 1985: 14, p. 198). This acknowledgement paved the way for new Sámi institution building with the Sámi Parliament as the foremost expression of the collective political rights of the Sámi people of Norway.

New legislation: Compliance with international law

The inclusion of Sámi language provisions in the Sámi Act in 1990 implied a new era for Sámi languages with an overriding Sámi status planning, where status planning means to affect the use of a language at different societal domains (Todal, 2015, p. 203).

Following domestic legislation, every Sámi child wherever they live in Norway has the legal right to Sámi language education. Not only were the individual legal rights to Sámi language education strengthened, but the institutionalization of the collective, political rights of the Sámi first and foremost through the Sámi Parliament implied a new era of public attention, state responsibility and governance. The Norwegian ratification of ILO 169 formally recognized the collective rights of the Sámi as an Indigenous people. Part six of ILO 169 contains the education articles addressing issues of state responsibility to develop and implement: education programmes and services in cooperation with the people concerned; a progressive transfer of responsibility for the conduct of these programmes; the

rights of Indigenous peoples to establish their own educational institutions; the right to be taught to read and write in their own Indigenous language; and educational measures among all sections of the national community.

In 1993 Norway endorsed the European Charter for Regional and Minority Languages of 1992, which entered into force in 1998. Every third year, the state reports on the situation for their minority languages.⁴ The incorporation of the UN Convention on the Rights of the Child into the Human Rights Act in 2003, has also strengthened the individual right of Sámi children to, among other things, receive Sámi language education (Sámi Parliament, 2012, p. 12). Article 30 of the Convention which parallels Article 27 of ICCPR reads as follows:

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language. (Convention on the Rights of the Child, article 30)

With its incorporation into domestic law, the convention has precedence over internal legislation, and the right of the Sámi child is strengthened irrespective of location within or outside the SLAA or whether they attend a Sámi or mainstream school.

The collective rights of the Sámi as an Indigenous people and their right to self-determination and to establish and control their own education institutions are furthermore anchored in the United Nations (UN) Declaration on the Rights of Indigenous Peoples (UNDRIP). The introduction of the Sámi curricula reflects the ambitions of the Sámi Parliament to self-govern, and illustrates the continuous efforts of the Sámi Parliament to manifest itself as a Sámi authority within the field of education. Still, while progress can be identified as indicated in the procedural approach to rights' recognition, challenges pertaining to the fulfilment of individual and collective Sámi language rights assert themselves.

Do strengthened consultation rights close the implementation gap?

The field of Sámi language rights and policy reveals the salient role of interaction between law and politics, and is characterized by complex governance relations. The state has committed itself to the protection of Sámi language rights, and,

4 In Norway these are defined as North Sámi, South Sámi, Lule Sámi, Kven, Romani and Rom.

through the system of the Sámi Parliament, the Sámi as a collective is enabled to participate in the implementation and realization of these rights. Concrete outcomes and results, or lack thereof, reveal challenges in the implementation of Sámi language rights. These rights are those of Sámi children – their contemporaneous right to Sámi language education connected to their daily life.

The obstacles pointed out by Solstad et al. (2010) and raised by the Office of the Auditor General (2019) obstruct Sámi children from enjoying their individual rights to Sámi language education. These challenges relate to environmental (e.g. access to Sámi language environments) and contributory conditions (e.g. information about Sámi language education, lack of teaching materials, scarcity of teachers). Rasmussen and Nolan (2011, pp. 51–52) also mention the lack of sufficient support from local community and schools as obstacles for raising children as Sámi-speaking. The Sámi Parliament's March plenary 2021 (Sámi Parliament, 2021a, p. 7) raises several of the issues pertaining to individual and collective language rights like access to strong models of Sámi language education, including access to language-speaking environments in the case of distance education, extensively used in the South Sámi areas (Solstad et al., 2010). Although it is beyond the scope of this chapter to discuss the need for statistical data on Sámi language education, it is important to note this need in order to inform evidence-based policy-making and provide an adequate empirical basis for monitoring the enjoyment of these rights (Norwegian National Human Rights Institution, 2020).

The principal view of the Sámi Parliament is that the right to education in and on Sámi must be an individual right, not limited by geography or the number of pupils desiring education. In their supplementary report to the UN Committee on the Rights of the Child, the Sámi Parliament is dissatisfied that

the rights of the Sámi children are still not always respected. This may be due to national statutory provisions that do not appear to be in compliance with international conventions, or to the practices of government authorities that derogate from national and international law. (Sámi Parliament, 2017, p. 5)

Addressed as a critique of the Education Act, the parliament states: 'The right to a Sámi school is not an individual right for the pupils, but is limited, based on geography and the number of pupils who want such an offer' (Sámi Parliament, 2017, p. 13). The Committee on the Rights of the Child follows up and recommends that the state party 'Enforce the right of all Sámi children of school age to Sámi-language education and ensure that the new Education Act significantly strengthens their rights, regardless of their residency status' (UN, 2018, p. 11). The individual right to education in and on Sámi also underscores the role and

responsibility of the municipalities as school owners. Thus, in an effort to better display this responsibility, the Sámi Parliament argues that instruction in and on Sámi should be integrated in the entire Education Act, not separated in a single chapter. The law's expansion becomes a necessary means to secure equal rights on an individual basis.

The rights' development sketched out here illustrates the scope for the possibility of political participation and for the further development of democracy as a system of government (see also Broderstad et al., 2011, p. 310). The political right of consultation gained strength and implied a significant change as the Sámi Parliament in 2005, through the consultation procedures, achieved a new formal position towards the state. Political participation in decision-making processes were formalized (Falch and Selle, 2018, p. 119), and implied extensive cooperation between the Sámi Parliament and the Norwegian authorities (Meld. St. 31 (2018–2019); Sámi Parliament, 2019). In their 2020 annual report, the Sámi Parliament lists 10 completed consultation agreements with the directorate and Ministry of Knowledge (Sámi Parliament, 2021b). In 2021 the right to consultation became statutory, also obligating municipalities and county municipalities to consult, for example, in matters of education and schooling (Ministry of Local Government and Modernisation, 2021).

Thus, the complexity of educational governance does not fade. On the contrary, the current extensive cooperation with other authorities including municipalities, educational institutions and civil society actors calls for continuous endeavours towards fulfilling Sámi children's rights to language education and an enhanced autonomy through the Sámi Parliament.

CONCLUSION

By applying the four analytical phases of rights recognition as an analytical tool, I illuminate state commitments to the protection of Sámi language rights and also state policies supporting Sámi language development. Through the system of the Sámi Parliament, the Sámi as a collective are enabled to participate in the implementation and realization of these rights.

Today, policies and structures within the field of education contribute to the promotion of Sámi culture:

Throughout our history, dramatic changes within the school system have taken place, the school has changed from being a tool for the missionaries, to later becoming a tool of assimilation to today as an arena of Sámi language development and promotion of culture. (Sámi Parliament, 2012, p. 6)

Simultaneously there are continuous challenges of fulfilling these rights, as the reported shortcomings reveal. Much remains to be done at the stage of legal institutionalization.

Comprehending these challenges, the implications of the Norwegianization policy and continuous unequal power relations cannot be underestimated. Faced with these realities, and in order to secure the rights of Sámi children to Sámi language education, a continued focus on individual and collective rights is called for. Domestic and international law protect Sámi languages. The rights in question are the result of comprehensive societal processes of deliberation. These are democratically legitimized rights (Broderstad et al., 2011, p. 305). But the fulfilment of these obligations is far from definite.

The field of education and Sámi language policy presuppose extensive relations between the Sámi Parliament as an autonomous institution and other government institutions of the state. While cooperation and interconnectedness can be characterized by unequal power relations, the processes have resulted in common learning and, most importantly, continuous efforts to improve the situation of Sámi language education. In general terms, the Sámi Parliament has extended political influence into complex governance relations, which the field of education clearly illustrates.

While the phases of rights recognition contain a built-in comprehension of progress of legal and political rights, concrete realities reveal setbacks and continuous challenges. Acknowledging that there are unequal terms of cooperation between the Indigenous Sámi and the majority society calls for further juridification and political autonomy for the Sámi Parliament.

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