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Legal Consciousness and Language Rights
- Passing on Finnish Minority Language to Future
Generations in Sweden

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Abstract

When law is ambiguously articulated or various legal norms and obligations are working simultaneously, it creates a puzzling situation to individuals that are expected to follow or live under the unclear law. To study these instances, one must depart from the analysis of formal legal texts and legal institutions into the everyday experiences and perceptions of individual citizens. The aim of this study is precisely this – to capture the diversity of individual understandings on law and legality in the field of educational language rights to national minorities. The focus is on the Swedish Finnish minority and Finnish preschool education in Malmö. This particular case is selected as the municipality of Malmö in south of Sweden has recently joined the so-called Finnish administrative area, making the Finnish language an official minority language with special rights under the Swedish *Act on National Minorities and National Minority Languages* (SFS 2009:724). The study is conducted by collecting six narratives on the lived experiences of individuals in Malmö. The narratives are gathered from two diverging perspectives; from parents of children who have the right to Finnish education in preschool in Malmö, and from municipal officials in charge of implementing this right into the local education system. Through the theoretical lens of Ewick and Silbey's (1998) legal consciousness, this study aims at showing how the right to language education is socially constructed in a reciprocal process, where individual interpretations and perceptions on law and legality have a central role in determining the outcome of the law's translation into societal practices.

Keywords:

European linguistic diversity; National minority language; Sweden; Access to justice; Right to mother tongue education; Legal consciousness

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List of abbreviations

| | |
|-------------|----------------------------------------------------------------|
| The Charter | Charter of Fundamental Rights of the European Union |
| CoE | Council of Europe |
| ECRML | European Charter for Regional or Minority Languages |
| ELR | Educational language right |
| EU | European Union |
| FCNM | Framework Convention for the Protection of National Minorities |
| LHR | Linguistic human right |
| LMR | Linguistic minority right |
| MLE | Minority language education |
| MTI | Mother tongue instruction |
| NML | National minority language |
| TEU | Treaty on European Union |

1. Introduction

Most Western states have throughout history been multiethnic hosting various minority cultures and languages (Kymlicka 1995). Nevertheless, this plurality has often been ignored in linguistic policies, and replaced with a model of a culturally homogenous nation-state (Hylland Eriksen 1991). What this has meant to cultural and linguistic minorities has been their physical segregation, economic and political discrimination, forced assimilation by adopting the dominant language, religion and customs, or even physical elimination (Hylland Eriksen 1991; Kymlicka 1995). Attempts have been made to protect cultural and linguistic minorities by drafting various international treaties, albeit their influence has remained marginal (Kymlicka 1995; Skutnabb-Kangas 2017; Tawhida 2011). According to estimates, nearly half of the world's languages have disappeared during the past 500 years (Nettle and Romaine 2002 in Kymlicka and Patten 2003; May 2012; Skutnabb-Kangas & Philipson 2017), and out of the approximately 6,800 languages spoken in the world today, between 20% to 50% will likely disappear by the end of the 21st century (Krauss 1992; 1995 in May 2006). Language disappearance is happening at a faster speed than ever before placing many of the world's smaller languages endanger. Language decline and language loss often occur in bilingual or multilingual contexts, when majority languages having greater political power, privilege and social prestige replace minority languages (May 2006).

Sweden is a *multiethnic* state hosting various historical and culturally divergent groups (so-called national minorities), and it is a *polyethnic* state as there are numerous ethnicities cohabiting the territory as a result of more recent immigration and refuge.¹ In February 2000 the Swedish parliament (Riksdag) ratified the European Commission's *Framework Convention for the Protection of National Minorities*, together with the *European Charter for Regional or Minority Languages* as a promise to protect the national minorities and to strengthen their

¹ The concepts of a multiethnic and polyethnic state are formulated by Will Kymlicka (1995)

opportunities to use and develop their languages. This conforms to the European aspirations to be “united in diversity”, according to which linguistic diversity and harmonious coexistence of multiple cultures and languages are considered as one of the cornerstones of the European project (European Commission 2016), also included in the *Charter of Fundamental Rights of the European Union* (art 22) and the *Treaty on European Union* (art 3). Consequently, by acknowledging the European values on promoting linguistic diversity, Sweden has recognised five national minority groups and minority languages.² Members of the national minorities are identified to share a specific affinity, have common culture, traditions, religion, and a will to preserve their unique identities that clearly differ from that of the majority.

Finnish language is the largest one out of the five national minority languages in Sweden, and it is also a territorially linked language, which is why the language has been granted an official minority language status in those municipalities that are a part of the Finnish administrative area (*finskt förvaltningsområde*).³ An official status guarantees legal protection to the right to use Finnish language not only in private but also in public contexts, such as in the field of education (Andersson Junkka 2017; Council of Europe 2014). The city of Malmö in south of Sweden is one of the latest municipalities to join the Finnish administrative area in February 2015.⁴ Malmö municipality has consequently been placed under novel obligations to interpret and implement the Swedish *Act on National Minorities and National Minority Languages* (SFS 2009:724), which obliges municipalities of the administrative area to promote Finnish speaking children’s right to learn their mother tongue. According to article 17 of the statute, preschool aged children have the right to attend a preschool class where Finnish language is used fully or partially. As minority language education is seen as a primary method for

² National minority languages in Sweden are Yiddish, Romany Chib, Sami, Finnish and Meänkieli.

³ The administrative area for Finnish language currently includes 75 municipalities and 14 provinces that have given an official status to the minority language.

⁴ Malmö is the third largest city of Sweden with population size of 328 494, and there are 8 643 registered people with Finnish linkage (2,6%) (Statistiska centralbyrån, SCB).

promoting minority languages and passing on minority languages to future generations, the focus of this study will be on the article 17 of the law on national minorities and minority languages, which guarantees preschool education in Finnish language to children of the Swedish Finnish minority.

The law (SFS 2009:724), as derived from European framework conventions, has been left open-ended also at the national level, ergo nowhere specifying how it should be translated into practice at the societal level, or how should the national minority language be visible in preschool activities. It does nevertheless encourage local decision-makers to hear members of the national minority in questions that concern them and to negotiate to the greatest extent with the minority. Hence, the right to Finnish preschool activities is ultimately defined at the municipal level by the municipal officials and members of the Swedish Finnish minority. As a consequence, different municipalities of the administrative have approached the law in differing ways. While in Stockholm the situation with Finnish mother tongue instruction (MTI) seems to be good as there are four municipal preschools and seven preschool classes that offer teaching in Finnish language (Stockholm stad 2017); in the second largest city of Gothenburg the number falls down to three public schools having Finnish preschool classes, and which are limited to those individuals living in the respective area, as well as a two private preschools (*friskolor*) (Göteborgs stad 2017).⁵ During the past decades there has been no Finnish class in Malmö. Therefore, the European objective to protect the European linguistic diversity, followed by the adoption of specific linguistic minority rights in Malmö, have been highly welcomed by the Swedish Finnish minority. This invites me to take a closer look into the perceptions of those concerned, for clarifying the legal understandings and interpretations of individuals in Malmö, as well as to understand the end-result of implementing the law, which is a public Finnish speaking preschool class, supported by an ambulatory pedagog to visit all other preschools in which Finnish speaking children attend.

⁵ In Stockholm, the capital of Sweden, there are 76 601 inhabitants with Finnish background (8,2%) out of the total of 935 619 inhabitants, while in Gothenburg the number is 30 599 inhabitants with Finnish background (5,5%) out of 556 640 inhabitants.

1.1. Defining linguistic minorities and minority languages

Linguistic minorities and minority languages have no generally accepted legal definition at the international or European level. However, according to the *European Charter on Regional and Minority Languages* (ECRML) a minority language is one that has been traditionally used in a state, spoken by a smaller number of people than majority language, and differs from the official state language. The European recommendation seems to favour territorially-based languages, though according to Tawhida, also endangered languages that have no specific territory, such as Romani or Yiddish, are highlighted (2011, p. 149). A general principle is that a minority is something quantitative, numerous smaller than that of a majority; while others consider the “superordinate-subordinate relationship” as most characteristic of minority-majority relations (Bratt Paulston & Heidemann 2006, pp. 293-294). A fifth principle is that a minority language must differ from that of a majority language, and therefore necessitates special protection for its survival.

As the international law gives no objective criteria nor definition to linguistic minorities or minority languages, the decision is fully left onto individual states. States therefore decide what a minority language is within their territory, and whether a language is entitled to legal protection (Tawhida 2011). The Swedish state has followed the international norms by recognising five national minority languages, which are Yiddish, Romany Chib, the Sami, Meänkieli and Finnish. The principles of territoriality and tradition have been emphasised in the Swedish definition, as the latter three languages; Sami, Meänkieli and Finnish; are territorially linked languages, and therefore entitled to more extensive state protection as compared to Yiddish or Romany Chib (Befrits 2007). All national minority languages are nevertheless considered to have existed within the Swedish territory for a prolonged period of time, and are considered as a part of the Swedish national heritage (Befrits 2007; Sandberg 2011, p. 21). The languages are additionally seen to lose ground in Sweden due to language shift to Swedish; for instance, some of the Sami languages are soon facing the threat of complete

extinction. For these reasons, the Swedish state has chosen to recognise these five languages as the national minority language of the state.

1.2. The law on national minorities and minority languages

The legal framework for this study is provided by two European treaties – the *Framework Convention for the Protection of National Minorities* (FCNM) and the *European Charter for Regional or Minority Languages* (ECRML) – as well as the Swedish *Act on National Minorities and National Minority Languages* (SFS 2009:724). The FCNM article 14(1) encourages state-parties to recognise that members of a national minority have the right to learn their minority language, and (2) endeavour to ensure, as far as possible and within the framework of their education systems, adequate opportunities for language activities or MTI. A more extensive provision of linguistic rights is stipulated in article 8a(i) of the ECRML which obliges state-parties simply to “make available” preschool education in the relevant regional or minority languages, or (ii) to “make available a substantial part” of preschool education in the relevant regional or minority languages. Preschool education ought to be provided to those pupils whose families so request and whose number is considered sufficient. The ECRML furthermore notes that if the public authorities have no direct competence in the field of preschool education, they ought to favour and/or encourage the application of the measures referred to above. Similar criteria apply not only to preschool education but at all levels of education; primary, secondary, technical and vocational, university and other higher education, as well as adult and continuing education courses, which are expected to be provided “mainly or wholly” in the regional or minority languages.

In Sweden, international treaties do not form part of national law unless and until they have been incorporated by an act of Parliament. Nevertheless, according to Lundy et al., it is a general principle of Swedish law that legislation is interpreted in light of international obligations (Lundy et al. 2012, p. 94). The Swedish state is a state party to FCNM. It has furthermore signed and ratified the ECRML in 2000 in its entirety, and incorporated parts of the convention into the *Act on National Minorities and National Minority Languages* (SFS 2009:724), in particular the right

to preschool activities in a national minority language. According to article 17 of the Swedish law on national minority languages, a municipality which is a part of the Finnish administrative area is obliged to offer a child, whose parents so request, a place in a preschool class that operates fully or partially in Finnish language.⁶ Both the European and Swedish legislations aim at protecting the European linguistic diversity, but to a varying extent. While the ECRML guarantees language instruction at all stages of education, the Swedish law is limited to preschool activities.

The law on minority languages (SFS 2009:724) is a part of the Swedish administrative law that regulates the operations of administrative agencies, such as the preschool administration (*förskoleförvaltning*) (Herliz 1953; Carlson 2012, p. 181). A modern feature of this law is how it invites different parties to participate in the interpretation of the law (see for instance Carlsson 1995 on Swedish open-ended law). According to article 5 of the statute, municipalities are encouraged to include members of the minority into the decision-making processes, and to give the minority an opportunity to articulate their interests and needs “as far as possible”.⁷ Consequently, when the city of Malmö (from now on Malmö stad) joined the Finnish administrative area on 1st February 2015, it was to include members of the Finnish minority into the processes where decisions were made regarding their right to use and learn their mother tongue. The open-ended approach presumably recognizes the varying needs of different municipalities; hence, the law urges municipalities to research, negotiate and spread information to members of linguistic minorities, and to investigate the actual and future need for national minority language support (Strandberg 2011, pp. 65-66). This ambiguity of the law on Finnish language education invites me to take a closer look into the ways how individual citizens in Malmö perceive the law, and how individuals understand their

⁶ 17 § När en kommun i ett förvaltningsområde erbjuder plats i förskoleverksamhet enligt 2 a kap. 1 och 7 §§ skollagen (1985:1100), ska kommunen erbjuda barn vars vårdnadshavare begär det plats i förskoleverksamhet där hela eller delar av verksamheten bedrivs på finska, meänkieli respektive samiska.

⁷ 5 § Förvaltningsmyndigheter ska ge de nationella minoriteterna möjlighet till inflytande i frågor som berör dem och så långt det är möjligt samråda med representanter för minoriteterna i sådana frågor.

role as active participants in the process of implementing the language rights in preschool activities in Malmö.

1.3. Aim, purpose and research questions

The aim of this case study is to see how individual citizens of Malmö understand and interpret the legal environment which guarantees Finnish preschool activities to children of the Swedish Finnish minority. As the Swedish law's articulation "fully or partially" leaves substantial scope for interpretation at the municipal level, my aim is to map out how individuals interpret their rights and obligations to give and receive Finnish language education in Malmö. This study therefore has two perspectives; one from members of the Swedish Finnish minority in Malmö, and other from municipal authorities working for Malmö stad in the field of linguistic minority rights and preschool education. Not only is the Swedish national law open to various interpretations, as norms and recommendations for granting linguistic rights to national minorities exist at various dimensions, ranging from the international treaties and recommendations to national and local regulations. Discrepancies between various dimensions of law may lead to so-called "global diffusion of legal norms", generating various interpretations and understandings (Larson 2004, p. 737). Hence, considering the national and international ambiguity of the law, we may see whether there is a confusion at the municipal level regarding linguistic rights of the Swedish Finnish minority, by investigating individual perceptions, interpretations and experiences on the right to Finnish preschool activities in Malmö.

The purpose is to enlighten the ways how individuals interpret open-ended law on minority language education, what kind of role the European treaties have in the formation of individuals' understandings on the law, and how these perceptions are used to mobilise and argue for one's views on justice, and how to implement the law on national minority language education. With this sociolegal approach, I seek to create knowledge on the ways how individuals perceive law and legality, and how these understandings, through mobilisation, and in a reciprocal process, can be used to shape and form the surrounding social structures. Despite

the study focuses on Malmö, it might give implications to a broader audience interested on linguistic minority rights.

In order to investigate individual perceptions on the right to Finnish language education in Malmö, and how individuals make use of their perceived rights and obligations, the following research question will be presented:

How do individuals belonging to the Swedish Finnish national minority in Malmö understand their right to mother tongue instruction, and which avenues do they see and use for accessing such rights, and further how is this related to a state perspective of such rights and the utilization of them?

Two diverging perspectives will be used to study the research problem. The main research question will be consequently supported by two sub-questions; one for Swedish Finnish parents of preschool aged children, and one for the municipal officials in charge of linguistic minority rights and preschool education.

The first sub-question:

How do parents belonging to the Swedish Finnish minority in Malmö understand their right to mother tongue education and in what ways do they gain access to this right for their children?

The second sub-question:

How do municipal authorities in Malmö understand and go about giving the right to mother tongue education for children belonging to the Swedish Finnish minority group in Malmö?

The research questions will be answered by using Ewick and Silbey's (1998) concept of *legal consciousness* as a theoretical framework for deepening the analysis and for creating systematic knowledge on the ways that individuals understand the right to minority language education in Malmö, and how this knowledge guides their conduct in everyday life. According to Ewick and Silbey,

law is usually considered as the source of rules and norms for an appropriate behaviour and conduct. Sometimes legislation and the rules stipulated within are nevertheless so ambiguously articulated and diverse that the law appears to us in varied, almost contradictory ways (Ewick & Silbey 1998, p. 17). Therefore, in order to clarify and understand the ways how the right to use Finnish language in preschool in Malmö is present in individuals' everyday lives, we need to collect stories from those concerned. The individual narratives on the subjects' lived experiences will be subsequently analysed, hoping to reveal the legal consciousness of these individuals.

1.4. Disposition

The study began by introducing the field of linguistic minority rights in its global, European and Swedish national contexts (ch1) and introduced the case of Swedish Finnish national minority group's right to Finnish preschool activities in Malmö. The chapter continued by outlining the research aims and purposes to trace individuals' legal consciousness on the ambiguous law on linguistic minority rights, the research questions, as well as this study's relevance to the discipline of sociology of law. The second chapter (ch2) outlines the most influential and pertinent studies that have been conducted in the field of linguistic minority rights, mother tongue education, linguistic policy and access to rights for linguistic minorities. It furthermore describes the particular situation of learning the Finnish national minority language in Sweden, lifting up the research problem, which investigates how individual members of the Finnish minority perceive their novel rights to educate their children in their mother tongue from a micro-perspective, and how has the minority gained access to these rights. The parents' views will be supported by a narrative from Malmö stad, to see how the municipality interprets and realises the linguistic rights of the Finnish minority in their preschool services. The third chapter (ch3) presents the theoretical framework for understanding the role of the law on national minorities and minority languages in individuals' everyday life. Ewick and Silbey's legal consciousness will be the focus in this chapter. Following the law and society tradition, the law here will be understood as

socially constructed. The methodological considerations will be discussed in chapter four (ch4). By using in-depth interviews and narrative analysis, the subjects' accounts on their lived experiences will be studied. Finally, the empirical material and subjects' legal understandings will be analysed in chapter five (ch5), with the help of the theoretical framework of legal consciousness, ending with a discussion on the research findings. Chapter six (ch6) will end the study with a summary and a short discussion on the findings of the overall study ending with suggestions for further research in the field of linguistic minority rights, access to minority language education and legal consciousness.

2. Previous research: Linguistic minority rights and mother tongue education

In this section, I will present the most prominent and influential studies that have been conducted in the field of linguistic minority rights, mother tongue education, linguistic policy and access to justice for linguistic minorities. I will furthermore describe the particular situation of the Finnish national minority language and mother tongue education in Sweden, lifting up the research problem. Special focus shall be given to the changes in the legal environment after the Swedish Government ratified the European Commission's *Framework Convention for the Protection of National Minorities* (FCNM, 1994) and the *European Charter for Regional or Minority Languages* (ECRML, 1992) in 2000, followed by the incorporation of these European treaties into the Swedish national legislation on minority rights (SFS 2009:724) in 2009. I have searched for cues on how these legal changes have been translated into practice.

2.1. The influence of EU and European law on MLE

A general conception is that minority language education (MLE) is vital in protecting minority languages, as various studies suggest (Kymlicka 1995; May 2012; Parkvall 2009; Skutnabb-Kangas 2001, 2017; Tawhida 2011). According to

Tawhida, “Education is a primary method by which minority languages may be promoted and the numbers of users increased (2011, p. 158).” He has studied the impact of the EU on the promotion of MLE within Member States concluding that there is no direct obligation for Member States to provide education in minority languages under EU law. Quite the contrary, EU law prohibits the Union from interfering Member States policies on preserving linguistic diversity within their territories. Tawhida’s position is that there is a distinct lack of rights in supporting minority languages, claiming that the current EU legislation mainly supports integration of linguistic minorities into host societies (Tawhida 2011, p. 159).

Weak protection to linguistic minorities is also provided by European law. According to May, the ECRML (1992) provides a “sliding scale” of educational provisions for national and regional minority languages, ranging from minimal to more generous rights to minority groups (2014, p. 225). Again, the European nation-states hold the power to decide how they wish to interpret and comply with the law. May sees that nation-states have “considerable scope and flexibility” to choose the articles they wish to follow – out of the 68 articles states are required to accede to 35, out of which only 3 must refer to education (2014, p. 225). As with the FCNM (1994), it includes mainly tolerance-based rights and more general recommendations for “promoting” and “preserving” minority cultures, posing no obligations to state-parties for providing MTI to linguistic minorities (May 2014, p. 226). Nevertheless, the European Commission’s rhetoric on multilingualism, the EU’s motto “united in diversity” and its aim to respect and promote the European cultural and linguistic diversity, suggest a change to more extensive protection of linguistic minorities under European and EU law.

2.2. Linguistic minority rights and the modern nation-state

There is a conception that nation-states often neglect linguistic diversity in their linguistic policies, which according to Hylland Eriksen (1991), may constitute a threat to the well-being of linguistic minorities. May (2012) has studied the problem, providing an interdisciplinary analysis on linguistic minority rights in modern nation-states. His work approaches the topic from a range of disciplines,

discussing the latest theoretical and empirical developments. The main argument of May's research is that various conflicts between majority and minority languages are caused by the modern nation-state and its obsession with common language and culture through mass education. What he suggests is a shift towards more pluralist approach that embraces the linguistic and cultural diversity of states (May 2012). Also Skutnabb-Kangas discusses ethnic conflicts between linguistic majorities and minorities, arguing that lack of educational rights to linguistic minorities may lead to conflict and demands for secession (Skutnabb-Kangas 2001, p. 204; 2017). According to Skutnabb-Kangas, educational language rights (ELRs), in particular the right to fully learn one's mother tongue, seem to be the most wanted and important rights for minorities and indigenous people; "Without them, a minority whose children attend school usually cannot reproduce itself as a minority. It cannot integrate but is forced to assimilate (2001, p. 204; 2006, p. 275)." She is against the subtractive language learning where dominant language is learned at the cost of a child's mother tongue, considering this kind of policy as "genocidal" to minority languages and cultures (Skutnabb-Kangas 2000; 2017).

May (2014) has noted that in fear of fostering social and political fragmentation and weakening personal and political autonomy, states restrict the use and manifestation of minority languages, cultures and identities solely to the private domain. This kind of liberal position of non-interference is illustrated by Bullivant (1981),

Certain common institutions essential for the well-being and smooth functioning of the nation-state as *a whole* must be maintained: common language, common political system, common economic market system and so on. Cultural pluralism can operate at the level of the *private*, rather than public, concerns such as use of ethnic [*sic*] language in the home . . . But, the idea that maintaining these aspects of ethnic life and encouraging the maintenance of ethnic groups almost in the sense of ethnic enclaves will assist their ability to cope with the political realities of the nation-state is manifestly absurd (Bullivant 1981 in May 2014, p. 223).

The problem of modern liberal nation-states in balancing between social cohesion and the recognition of cultural and linguistic pluralism, also known as the “pluralist dilemma” as termed by Bullivant (1981), has often been resolved by states by favouring civism and emphasising the assumed interconnectedness between social cohesion and national homogeneity (May 2014, p. 222). Group rights and multiculturalist approach have therefore yet to be given greater formal recognition in many states. Concerns have been raised by Varennes, who argues that single language policy that excludes all other languages can be extremely risky, as it rather promotes division instead of unification; “Instead of integration, an ill-advised and inappropriate state language policy may have the opposite effect and cause a levée de bouclier (Varennes 1996 in May 2014, p. 234).”⁸

How then a liberal approach can be compatible with minority rights is explained by Kymlicka (1995), with an approach where the principle of individual freedom is emphasised. Kymlicka considers that minority rights not only are consistent with individual freedom but in fact promote it (1995, p. 75). His focus is on preserving a so-called societal culture, “A culture which provides its members a meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres (Kymlicka 1995, p. 76).” The culture that he is referring to is often based on a shared language and territory. Kymlicka sees that immigrants no longer should need to assimilate entirely into the norms and customs of the host community, but they should be allowed to keep some aspects of their ethnic heritage, thus, integrating into the dominant culture by combining aspects from their original and the new societal cultures in a way that best suits their individual needs and desires (1995, p. 78). When it comes to learning one’s mother tongue, Kymlicka notes that the immigrant’s language is increasingly lost by the third generation (1995, p. 78). He sees that due to public schooling that is provided only in the dominant language, it changes the child’s mother tongue into the dominant language, even if the minority language was used at home. Kymlicka argues, “It is

⁸ levée de bouclier (*Fr.*) = public outcry, outrage, opposition

very difficult for languages to survive in modern industrialized societies unless they are used in public life . . . any language which is not a public language becomes so marginalized that it is likely to survive only amongst a small élite (1995, p. 78).” Therefore, Kymlicka argues for a societal culture in which individuals have meaningful options encompassing the range of human activities, whether they are from the mainstream society or from their original societal culture (1995, p. 101). By granting specific group-differentiated rights for ethnic groups and national minorities, such as the right to MLE, minorities can be given the sort of “cultural context of choice” where individual autonomy is respected (Kymlicka 1995, p. 101).

2.2.1. Minority language and identity

Skutnabb-Kangas (2001) argues that MTI is one of the most important means for members of a minority to express one’s identity. Most importantly, it provides a way to pass on this identity on to next generations. In her view, linguistic rights ought to be considered as human rights as they allow people to maintain their ethnic identities and difference from the dominant society and its language (Skutnabb-Kangas 2001). She regrets the lack of international obligations on individual states to provide MLE and to promote ethnic identity (Skutnabb-Kangas & Philipson 2017). Her ideas are however questioned by scholars who consider that a person’s (ethnic) identity is not automatically linked to language. Extra and Corter argue that whether parents belonging to a linguistic minority continue to teach their language to their children is “strongly dependent on the degree to which these parents, or the minority group to which they belong, conceive of this language as a core value of cultural identity (2008, p. 4).” Edwards (1994, 2010) and Brutt-Griffler (2002) argue that languages do not define us and should not be considered as an essential or necessary feature in the construction of our identities (May 2012, p. 26). Also May (2012) highlights that according to constructionist conception on ethnicity, identities are considered as hybrid, fluid and malleable. What he does not mean, however, is that languages are unimportant. For many (but not for all) mother tongue indeed is an important and constitutive factor of their identities (May 2012,

p. 27). Connecting language to a person's identity is therefore a complex debate and yet unresolved.

2.3. MTI in Finnish minority language in Sweden

Finnish language has been spoken in the modern Swedish territory for as long as the state has existed as an independent state, nearly a thousand years (Parkvall 2009, p. 58; Fingal 2016). There are various historical reasons for this which are beyond the scope of this study. Swedish and Finnish languages have existed side-by-side, albeit a recent trend has been for Swedish Finns to change their language into Swedish. Up until the 1990s, various Swedish municipalities offered bilingual Swedish-Finnish education to children of Finnish immigrants. This however changed in the beginning of 1990s, after which only a few municipalities offered education in Finnish language (Andersson Junkka 2017; Cabau 2009, p. 6). According to Andersson Junkka (2017), "In 2003 there were only six municipalities offering bilingual education, while in the beginning of the 90s there were nearly 300 bilingual classes." She adds that participation on mother tongue classes has also diminished. According to estimates, Finnish language has not passed on more than one generation, as children of Finnish parents have tended to adopt Swedish as their mother tongue (Parkvall 2009, p. 58). A possible reason for language shift is given by Janulf, whose study indicates that Finnish parents tend to switch to Swedish language at home, if their child's education is fully in Swedish language (Janulf 1998 in Skutnabb-Kangas 2006, p. 278).

Previous studies indicate that there are problems in the provision of minority language instruction in Sweden (Cabau 2009, 2014; Hyltenstam & Ganuza 2012; Lainio 2012; Provincial government in Stockholm 2016; Rohdin 2014; Skutnabb-Kangas & Philipson 2017). According to Cabau, state grants for MTI were abolished in the 1990s, leading to difficulties such as lack of teachers, time restrictions, and bad scheduling or location of classes (2009, p. 5). Also the quality of MTI has been criticised, in particular the teachers' qualifications, satisfactory teaching material and proper guidelines for the production of such materials (Cabau 2009, p. 5). In addition, parents have complained about the lack of information on

their rights to MTI, while municipalities argue that parents have not expressed any wishes for MTI (Lainio 2012, p.87). Furthermore, Rohdin argues that since school principals are the ones to decide who is entitled to MTI, it has led to unequal treatment between different municipalities as the decisions are often made according to varying criteria (Rohdin 2014, p. 8). Also Cabau has noted that children from different municipalities are not receiving equal treatment, as municipal decision-makers possess the power to interpret the national legislation in a way that is most suitable for them (Cabau 2014, p. 10). According to Cabau (2014), “While the process of state legitimation is regarded as an important first step in raising the status of a minority language, it has its limitations as regards its actual use, spread, revival and development (Cabau 2014, p. 2).” These shortcomings have also been noted by the Council of Europe, which has raised concerns about the sufficiency of the current Swedish model (Cabau 2009, p. 5; Swenzén 2017).

Regardless, there seems to be a growing interest on minority language issues in Sweden, which according to Cabau might be due to the recent political, economical and societal changes, but also on the emergence of individualism and the introduction of independent schools (*friskolor*), many of which have adopted a linguistic or ethnic profile (Cabau 2009, p. 2). Cabau argues that while Swedish decision-makers have long been reluctant to legislate language issues, the European conventions have changed the national legal environment more accepting towards minority languages; “In some parts of the country, we can observe linguistic revitalization (2014, p. 11).” Nevertheless, she stresses how various reports indicate non-respect of linguistic rights, particularly the right to learn one’s mother tongue, and more precisely regarding MTI for national minority pupils (Cabau 2014, p. 11). Thus, despite the recent developments in the field of linguistic minority rights, the reality yet seems to be far from a proper institutionalization of minority language education in Sweden.

2.3.1. Articulation of the open-ended law

The articulation and open-endedness of the Swedish *Act on National Minorities and National Minority Languages* (SFS 2009:724) which guarantees children of the Swedish Finnish minority a “fully or partially” Finnish speaking preschool class, has led to confusion and diverging interpretations by individuals at the societal level. Rohdin argues that in most municipalities, the implementation of the right to MTI has been made in the strictest sense of the law. While the ECRML (art 8) obliges states to make preschool education available in the relevant regional or minority languages “wholly or at a substantial part”, the Swedish translation obligates municipalities of the Finnish administrative area to offer preschool education “fully or partially” to Finnish speaking children (Rohdin 2014, p. 12). Rohdin considers that the law allows for a very limited number of classes being held in the minority language. Nevertheless, members of the national minorities have tended not to settle for a minimalistic interpretation of the right. According to Cabau, complaints have been made about the minimalistic interpretation, as well as requests for clarification of the Minority Act (2014, p. 11). She supposes that the ratification of the European conventions on minority rights have sent a “strong signal” to territorial minorities that their linguistic rights ought to be improved, having led to further requests. Indeed, increasing number of demands have been made for preschool and compulsory school education in minority languages, to which the municipalities have tended to reply positively (Cabau 2014, p. 10).

2.4. The gap

Based on earlier research in the field of linguistic minority rights, mother tongue education, linguistic policy and access to rights for linguistic minorities – particularly regarding Finnish minority language in Sweden – it appears that the provision of minority language education has yet to be fully institutionalized in a way that would make it a natural part of the Swedish society and education system. Instead, different political decisions and individual interpretations on the law have influenced the way how minority languages have been made visible in the Swedish

education system. These shortcomings have also been noted by the Provincial government in Stockholm (Länsstyrelsen) and the Sami Parliament (Sametinget) who have conducted an extensive mixed-method research on the child's right to mother tongue education (2016). Problems with interpretation of the law, leading to unequal treatment of minority children in different municipalities have been highlighted (Provincial government in Stockholm 2016, p. 11, 54). Nevertheless, the Swedish Government stresses that prevention of language loss and promotion of cultural plurality is one of the long term goals of the state, acknowledging that language education is one of the most successful means for keeping marginalised languages alive.

Regarding the 21st century legal changes in the field of linguistic minority rights in Europe, followed by the changes in the Swedish national legislation, it invites me to consider how these legal norms and regulations have been translated into practice within the Swedish society. Studies have shown the successes and failures of linguistic policies in Sweden, and criticized the ambiguous articulation of the Swedish law. Previous research has nevertheless largely ignored the ways how individuals interpret and understand these legal norms and regulations, and how individuals may contribute to the ways how laws and policies are realised in practice. As the unequal provision of language education in different municipalities implies, individual interpretations on the law can make a difference in the actual implementation of the law, and as a consequence, providing unequal opportunities for members of a minority to learn their mother tongue. Since this has not been researched before, the aim of this study is to fill the gap by examining individual interpretations and understandings on the *Act on National Minorities and National Minority Languages* (SFS 2009:724) at the municipal level, and to see whether individual perceptions on law, which guarantees children of the Swedish Finnish minority a fully or partially Finnish speaking class, have potential to shape the surrounding society, by influencing local policies to offer minority language education.

3. Theory

In order to examine the ways how individuals belonging to the Swedish Finnish minority in Malmö understand their right to mother tongue instruction, and how members of the minority mobilise to access these rights; as well as how the municipal officials perceive their obligations to provide preschool activities in Finnish language; Ewick and Silbey's (1998) theory of legal consciousness will be used as an analytical framework. The purpose of this theoretical tool is to enlighten the various ways how individuals understand and interpret the Swedish and European law and norms on linguistic minority rights, and how these individual understandings are used to shape the surrounding social structures; more precisely, how the law on national minorities and minority languages is translated into practice in the context of preschool education in Malmö. Habermas's theory of communicative action might alternatively be used to examine the legal structures of the law on national minorities and minority languages in Malmö, by focusing on patterns of communication and participation, and by looking into morality and solidarity behind the reasoning of granting specific linguistic right to children of the Finnish minority. Nevertheless, as this study is concerned about individuals, and how they perceive and utilize ambiguous law, Ewick and Silbey's legal consciousness is considered as a more illuminating approach.

3.1. Legal consciousness

Unlike the traditional institutional understanding of law, which sees law as an autonomous and coherent normative system that is separated from social life, this study uses a more constitutive approach paying attention to the social complexity of the structure of law. Here law is seen as a force that can influence the surrounding social life and is embedded in its social, cultural and normative environment. The following idea stems from Ewick and Silbey's (1998) work on legal consciousness and legality, in which they argue that law incorporates countless, varied and often ambiguous rules, which is why the law often appears to us in "varied and sometimes contradictory ways (Ewick & Silbey 1998, p. 17)." Ewick and Silbey have tried to

capture this variation in peoples' understandings and experiences on law by formulating an empirically based theory based on individual understandings on law and its role in various everyday situations. Their concept of legal consciousness will provide the theoretical framework also for this study, by which the experiences and understandings on law and legality of individual citizens in Malmö will be placed under scrutiny. *Legality* to Ewick and Silbey entails not only aspects of the formal law, such as the Constitution or court decisions, but also the broad spectrum of everyday schemas that constitute our social interactions. It is therefore more accurate in this case to speak broadly about legality and not solely about the law that is more limited to the formal aspects of regulation and control. Ewick and Silbey (1998) divide the concept of legal consciousness into three general orientations for approaching law: Firstly, subjects can be "before the law" meaning that they are awed and convinced about the superiority of the law. Secondly, people can be "with the law" which means that they utilise the law instrumentally whenever it suits their interests. Finally, individuals can be "against the law" when they do not trust its implementation and are cynical about the law's authority. According to Ewick and Silbey, each of these forms of legal consciousness invoke different cultural schemas, justifications, values, and explanations for legal action, at different contexts and by different actors (1998, p. 224). They also stress that different forms of legal consciousness should not be considered as opposing each other, but more as instructive tools to be used in different ways and at different times.

The roots of legal consciousness can be traced in two locations: North-American tradition deriving from Roscoe Pound's (1870-1964) legacy of American Legal Realism, and European orientation stemming from Eugen Ehrlich's (1862-1922) European sociological theory of law. The two jurists, Pound and Ehrlich, were intrigued by the social nature of law and expressed criticism to the formalist legal doctrine (Trevino 2013). While both scholars analysed law sociologically by using social methods and focusing on people's social experiences, they had profound differences. Pound approached law from a state-centred perspective by distinguishing between *law in books*, that is the official rules and procedures, and

law in action, signalling the implementation of these rules and procedures into practice. Ehrlich's interest on the other hand lied within the societal understandings on law. Pound approached law instrumentally, as a tool for resolving conflicts in a society and as a response to society's needs, wants and interests. This led him to consider formalist jurisprudence erroneous due to its mechanical nature – of treating law not as a means for achieving favourable ends, but as a means in itself (Trevino 2013). Ehrlich's goal was to reform the legal education for the purposes of bridging the gap between *living law* and *official law*, and to make decision-making more fair and efficient. The central concept in his legal sociology lies in the concept of *living law*, which designates the diverse normative regulations of everyday life (Cotterrell 2009, p. 82). As Hertogh (2004) suggests, studies on legal consciousness benefit from combining the European and American conceptions so that peoples' understandings on *official law* are combined with individuals' ideas on law and justice. Consequently, ideas from both traditions will be used in this study: The North-American conception that focuses on how people experience *official law* by asking "how do people experience law?"; but also the European approach that reflects people's own ideas of law, asking "what do people experience as 'law'?" (Hertogh 2004; Trevino 2013). After all, while there is an official law guaranteeing linguistic rights to Finnish minority children in preschool "fully or partially", the ambiguity of the open-ended law gives substantial ground to individual interpretation, pointing to the direction of *living law* or *law in action*.

In order to illustrate how law is intertwined with the lives of individual people, and how social actors understand and use law in their daily lives I will inspect the legal consciousness of the subjects in three steps. Firstly, I will trace the individuals' awareness and understanding on law and legal rights, which according to Ewick and Silbey is a process whereby people experience and understand the differing meanings, sources of authority, and cultural practices that are generally considered to be legal (1998, pp. 22). Lageson considers that different perceptions are often reliant on the context, as in the subject's social status, political power, and underlying systems of belief, while interpretations can simultaneously be highly individualized, based on experiential factors like previous contact with the law

(2017, p. 15). In conjunction to this, I will look into the aspects of “ambiguous” or “nonexistent” law, and how social actors attempt to explain or use law that might be difficult to understand or even nonexistent. For instance, Nielsen’s (2000) study on street harassment has investigated individuals’ responses to offensive public speech, which is not regulated in law. Her study finds that the respondents’ discourses vary depending on their race and gender; thus, suggesting that legal consciousness is situated according to the social hierarchies and people’s previous experiences with the law. Secondly, I attempt to explain how understandings on law are translated into action and decisions, also known as “mobilization of law” (Ewick & Silbey 1998; Lageson 2017; Nielsen 2000). This mobilisation framework, according to Lageson (2017), is interested in how people use law instrumentally. Finally, as legal consciousness also refers to how people do *not* think about the law, or how they take certain things for granted (Nielsen 2000); “How particular social groups elect *not* to name, blame or claim (Lageson 2017, p. 16),” I will look into the reasons, why people have chosen not to mobilise. According to Sampson and Jeglum (1998) if people consider that law does not represent their interests and that they have no power to influence the prevailing structures of power, this can lead to a sense of legal cynicism (Sampson & Jeglum 1998, in Lageson 2017). Hence, legal consciousness can be present even in situations where law is seemingly absent or out of reach, which according to Nielsen can have implications for justice, legitimacy and even social change (2000, p. 1059).

4. Methodology

The fourth chapter of this study is dedicated to methodological considerations. I will present the interpretivist research paradigm used in this study, according to which the legal consciousness of individuals on the right to minority language education is socially constructed. I will furthermore describe the research methods for collecting and analysing the empirical data. Nielsen argues that only through in-depth interviewing can we access the legal consciousness of subjects (2000, p.

1061); indeed, this is the method that I also consider to be the most suited for capturing individuals' legal consciousness and its relation to the broader societal structures. During the interviews, individuals' lived experiences will be requested and subsequently analysed by using narrative analysis.

4.1. Ontology and epistemology

In this study I have adopted an interpretivist paradigm for understanding the social world, and the various experiences and perspectives that individuals hold. Gergen argues that by explaining the processes by which people experience, explain and understand the world, we can discover the socially constructed lived realities of the subjects and gain knowledge of the world (Gergen 1985, p. 226). The study takes a bottom-up individualist perspective, highlighting the ways that people construct the rules of social life. The ontological position sees the world as socially constructed – made up of multiple individual realities (following Bergen & Luckmann 1966; Walliman 2011; Davies & Hughes 2014). This sociological conception of scientific knowledge challenges the traditional attempts to establish scientific knowledge through processes of empirical verification, falsification and objectivity (Gergen 1985; Walliman 2011, p. 74). An interpretive paradigm accepts the inherent subjectivity of our social world and is interested in studying the social relationships of individuals embedded in their social and cultural contexts. What is important to note is how social constructivism offers no truth through method (Gergen 1985, p. 272); instead, it is to an extent relativistic. This relativism is precisely what makes social constructivism interesting and useful due to its ability to dispute questions of “reality” and “knowledge”; “what is ‘real’ to a Tibetan monk may not be ‘real’ to an American businessman (Bergen and Luckmann 1966, p. 15).” Obviously this does not mean that anything goes, as there are normative rules in the practice of science (Gergen 1985). The task of sociology of knowledge is to uncover the processes by which certain things are considered as “real” and what passes for “knowledge” in a society (Berger & Luckmann 1966, p. 15).

Method that is considered most suited for capturing the foundations of knowledge in individuals' everyday lives is a qualitative narrative analysis; “a

purely descriptive method, and as such, ‘empirical’ but not ‘scientific’ – as we understand the nature of the empirical sciences (Berger & Luckmann 1966, p. 34).” In spite of certain causal features of this study, the analysis on individuals’ legal consciousness will refrain from such causal hypotheses. As Berger and Luckmann (1966) suggest, common sense contains numerous pre- and quasi-scientific interpretations about everyday reality that are taken for granted – here these interpretations will be analysed. The method has furthermore a hermeneutical dimension, considering that “all human knowledge of the world is linguistically mediated (Gadamer 2006, p. 48).” Approaching the social world and individual lived experiences in the form of a narrative necessitates translating the words of the subjects from one language into another, and from the original meaning into my interpretation of that meaning. Hermeneutical reflection as a philosophical approach furthermore includes self-criticism regarding my understanding and interpretation of the data (Gadamer 2006, p. 51).

The reality of everyday life is shared with others. People usually experience others in a face-to-face situation, which is the prototypical case of social interaction (Berger & Luckmann 1966, p. 43). The characteristics of face-to-face situations are reciprocal, in which participants enter into a negotiation, such as negotiations between members of Finnish minority and municipal officials working for Malmö stad. According to Berger and Luckmann, social reality of everyday life is apprehended in a continuum of typifications, which are progressively anonymous as they are removed from the “here and now” of the face-to-face situation (1966, pp. 47-48). Consequently, social structure is the total sum of these typifications and of the recurrent patterns of interaction established by means of them. As such, social structure is an essential element of the reality of everyday life (Berger & Luckmann 1966, p. 48). Hence, social reality is socially constructed and shaped by the perceptions of individuals by entering a negotiation. What becomes real is thus the production and total sum of individual interpretations and understandings. The law on national minorities and minority languages might similarly become real at the societal level as a collection of individual interpretations and understandings.

4.2. In-depth interviewing as method

For tracing lived experiences of individuals on law and legality, collecting qualitative data seems most appropriate. Unstructured in-depth interviews have therefore been conducted during the Spring of 2017 and directed towards representatives of the Finnish minority as well as municipal officials. According to Hertogh, earlier studies on legal consciousness relied much on surveys and statistics, but these methods were soon considered to be overly narrow and individualistic (2009, p. 225). This made the legal consciousness research move onto new methods from anthropology and qualitative sociology, such as observation and intensive interviewing. In-depth interviews are furthermore ideal for clarifying subjects' understandings and experiences, and to see the world through their eyes (Bryman 2004). Therefore, I began the work of planning interviewees in February 2017. The process began by contacting individuals that had been actively involved in the creation of Finnish speaking preschool services in Malmö, in order to ask about their experiences on Finnish language education in Malmö.

4.2.1. Sample

In order to gain a thorough picture on how individuals interpret, construct and understand the open-ended law and international norms on linguistic minority rights in Malmö, I wanted to gain access to two differing perspectives; that of parents to Finnish speaking preschool aged children and that of municipal officials in charge of preschool activities in Finnish minority language in Malmö. The interviewees were found through snowball sampling method, which entails an initial set of research participants who serve as informants about, not only the research topic, but also about other potential participants (Morgan 2008). After discussing with several persons in Malmö, I was able to identify eight individuals – five Swedish Finnish parents whose children were enjoying the right to Finnish preschool activities in Malmö; and three municipal employees working with minority rights and preschool education. These eight individuals were all considered to have a

“significant” role in the creation of Finnish preschool activities in Malmö. By significant I mean persons that have attended various negotiations arranged by Malmö stad, in which decisions regarding Finnish preschool activities have been made. Very soon I had five parents that were willing to participate my study, and we booked meetings without further delay. I was able to meet with all five parents during March 2017. One of them had a child on a Finnish class, *Lankarulla*, and the other four had children at different schools, but visited by an ambulatory pedagog once a week.

It was slightly harder to get interviews from Malmö stad, as there are only a few people working with minority rights and preschool administration. Luckily one person agreed to participate immediately, and so we scheduled the meeting to take place also during March 2017. One employee declined immediately, and the third first agreed to participate but after a month also withdrew from giving an interview. I was therefore left with one participant representing the municipality.

The sample only represents those parents that had been actively involved in the process omitting those who have chosen not to participate in the decision-making and implementation processes. Surely there are more parents who attended the negotiations than the five interviewed, but I have not had the chance to include more than five parents in this study due to space and time limitations. However, as will be discussed in chapter 4.4 on validity, the goal here is not to create objective knowledge and larger generalisations, but to bring forth individual voices for enlightening the diverse ways how law on minority languages is interpreted and understood by those concerned. Regarding Malmö stad’s perspective, unfortunately only one person agreed to give an interview for this study. However, this one person is very well informed and has given a very detailed narrative on his experiences. According to my understanding, no other person from the municipality could have given a greater contribution to this study. I thus strongly believe that both perspectives are adequately portrayed here with the data collected.

The respondents were all white, working-age, and of varied gender, and all lived in Malmö, Sweden. The languages used in the interviews were Finnish with the parents and Swedish with the Malmö stad official.

4.2.2. Collecting, transcribing and coding the data

After contacting the interviewees, I was to negotiate the time and place for the interviews. As the interviewees are all working-age and parents to small children, their spare-time is assumedly limited. Therefore, for making participation in this study as easy and comfortable as possible, the interviews were organised at a time and place of the interviewees preference, as suggested by Edwards and Holland (2013) and Davies and Hughes (2014). Since face-to-face interviews can be carried out in a variety of situations, as long as the place is not too noisy and disturbing for the tape-recording (Walliman 2011, p. 192), I met with the interviewees at cafés, at the interviewees homes and at their work place, depending on their preferences. One interview was also carried-out via telephone, as meeting face-to-face was difficult. According to Herman, the quality of a telephone interview is largely comparable to a face-to-face interview, though people are less likely to give personal details via telephone (Herman 1977 in Crano & Brewer 2002, p. 224). This latter characteristic I noticed also in my work, which is why I have not presented much evidence on the telephone interview.

I consciously abstained from giving much guidance during the discussions with the interviewees, which is why no strict interview schedules were drafted. I wanted to give freedom to the interviewees to speak about their interests and experiences. However, in order to keep some structure on the narrative, I outlined a loose collection of themes, following those of Ewick and Silbey's (1998), that I wished to cover during the sessions. The themes concerned the interviewees' experiences on linguistic minority rights and how the law has affected the participant's everyday lives. The questions that I asked related to their role in the decision-making and implementation processes and how the interviewees had experienced the past events. I also asked about the problems that the interviewees had encountered when dealing with the law, and how they dealt with or have overcome these situations and challenges. Bryman discusses the importance of rambling in unstructured interviewing where the interviewee is allowed to move onto those areas that interest her most, which the researcher may not have

considered beforehand (Bryman 2008, p. 46). Rambling was relevant in this study, since the experiences of each subject are unique, and as many issues that were raised during the interviews, I had no previous knowledge beforehand. Additionally, probing was used to a certain extent in situations where the narrative started to repeat itself or ended. In those instances, I raised questions suggested by Ewick and Silbey (1998), such as if the respondents were troubled by the events, what the respondents did or did not do, and the overall conditions and outcomes.

Since one of the key components of qualitative research is to pass on the voices and perspectives of the subjects of study by using “their own words” (Davies & Hughes 2014, p. 189), the interviews were audio-recorded. Audio-recording has enabled me to return to the discussion also after the interview situation, and to fully capture the direct quotations. Written notes were also made to complement the recording, in which I could make notes on the interview situation that would not be conveyed through tape. After each interview, I transcribed the recording into a Word document. It was important to transcribe the text always the same day, as then I could still remember the discussion in cases where the speech was too silent or inaudible to make fully sense of.

Next I proceeded analysing the transcribed data. I Identified approximately a dozen themes which appeared frequently during the discussions. To these themes I created specific codes. For instance, when people discussed grouping with other people with similar aspirations via Facebook, it was coded [SOCIAL MEDIA], or when dealings with the municipal government and officials or bureaucratic hindrances were articulated, the code was [BUREAUCRACY]. As suggested by Davies and Hughes (2014), I used text highlighting and font colour system in Word to group the different themes in the text. For instance, every time the interviewees mentioned Facebook, I would highlight the text with yellow, or when they discussed the European law, I would highlight it with blue. After coding I tried to establish links between and within the different themes. The five most common themes identified were; grouping via social media, negotiating, bureaucracy, European norms and equality. Finally, the research findings were contrasted with

Ewick and Silbey's (1994) theory on legal consciousness in order to find resemblances or differences, and to bring a new dimension into the analysis.

4.3. Lived experience through narrative analysis

Due to the qualitative nature of my unstructured interview-data, and the adoption of a socially constructed view of the world, the approach for analysing the data must give full account to the oral and written narratives of the interviewees. According to Garfinkel et al., "Social sciences are talking sciences, and achieve in texts, not elsewhere, the observability and practical objectivity of their phenomena (1982 in Czarniawska 2004, p. 131)." Thus, to trace the legal consciousness of the interviewees, I have approached the interview data in the form of a *narrative*. By narrativizing the collected in-depth interview data, Garfinkel et al. suggest that we may be able to portray the words and subjective world-views of the respondents. Ayres (2008) suggests that interviewees often relate experiences in the form of a narrative or a story, as it allows them to select and order past events as they consider logical. The goal of this method is to present the narratives of the interviewees, hoping for them to enlighten the various ways that individuals understand and make sense of the legal right to Finnish preschool education. A narrative approach does not aim at proving anything (Davies and Hughes 2014, p. 195) nor is it necessarily considered as a strict method (Czarniawska 2004); instead, its purpose in this study is to illuminate the legal consciousness of individuals regarding the right to education in Finnish language in Malmö. There is no specific technique for analysing narratives, shifting the focus on to the end result, which according to Czarniawska ought to portray "an interesting recontextualization" of the narrative, interpreted through the knowledge and worldview of the researcher (2004, p. 135).

I have requested the interviewees' reconstruction of past events and lived experiences in order to hear their stories, their subjective realities and experiences on law and legality. Lived experience in qualitative research according to Boylorn (2008) is a "representation and understanding of a researcher or research subject's human experiences, choices, and options and how those factors influence one's perception of knowledge." In this study, lived experience will be used to reveal the

unique experiences of individuals, hoping for them to teach us something about our society and the subjectivity of experience and meaning-making. Not only am I looking for to gain knowledge on the experiences and understandings on legality and the role of law in individuals' lives, but also on the various ways that peoples' legal consciousness directs them to become active users of the law. Lived experience sheds light not only on people's experiences, but also on the ways how people live through and respond to those experiences (Boylorn 2008).

The production of knowledge emerges from a dialogue between myself as the researcher and the interviewees. According to Kvale, interpretation is also meaningful in the creation of knowledge on individuals' lived experience (Kvale 1996 in Czarniawska 2004, p. 59); thus, the way how I understand and interpret the interview narratives inevitably influences the outcome. I must recognize my own subjectivity by reporting about the findings as transparently as possible and by being critical to my own interpretation and bias. Lived experience is therefore not meant for making larger generalizations on the results (Boylorn 2008), nor is it relevant to present hard facts and valid arguments about the world; but instead to portray the ways that people experience and understand the society, which words they choose to describe past events, which factors they find important and how they react to what others do or have done. I will pay special attention to the subtle shades and nuances in the ways that stories are told, as they may provide a window into the legal consciousness of the people indicating how perceptions on law and legality can mobilise individuals to defend their understandings on justice.

4.4. Validity and reliability

Whether unstructured interviews are considered as a legitimate tool for qualitative research has been questioned; hence, the matter deserves some attention. Writers such as Cicourel (1982) have criticised interviews for their lack of *ecological validity*. Ecological validity, which is closely related to external validity, depicts the extent to which research findings can be generalized, and how well the daily lives and attitudes are captured by the method (Bryman 2004; Wegener & Blankenship 2007). Since interviews are sensitive to changes in wording and

interpretation (Bryman 2004, p. 114), I need to pay attention to this when analysing the data. However, the aim of this case study is not to make larger generalisations, but to bring forth individual voices and perceptions of those involved in the implementation of the right to Finnish preschool activities in Malmö. Therefore, as stated earlier, sampling has not been done according to any objective method or criteria, but by finding those individuals that have showed an interest on the topic, and who have been largely involved in the process. Had I included also those individuals who simply enjoy their right to mother tongue education without having been involved in its implementation process, would the knowledge of the participants assumedly been more limited, and therefore less useful for the purposes of this study.

The problem with conducting interviews in the interviewees mother tongues (Finnish and Swedish) has come in the translation part, as I had to interpret and translate the utterances into English. Regarding the direct quotations, I have chosen to use free translation which follows the rules and grammar of English language. According to Birbili (2000), while a literal word-to-word translation might do more justice to what participants have actually said, there is a risk that it reduces the readability of the text complicating the readers' understanding on "what's going on". Therefore, in order to keep the text readable and somewhat elegant, I have considered a free translation to be the most reasonable option. For transparency, the original utterances are situated in footnotes under each direct quotation.

Criticism has also been posed on the extent to which people's own reporting on their behaviour can in fact mirror their actual behaviour and course of events. I acknowledge this criticism and simply conclude that this paper does not intend to trace an objective truth and course of events or experiences, but to create knowledge on the subjects' experiences and viewpoints as they understand them. This inevitably brings subjectivity into the collected data. Furthermore, by allowing the respondents to speak explicitly upon what is important to them rather than to me, Bryman argues that the problem of ecological validity could possibly be reduced (2004, p. 116).

In my work, I have tried to present the collected interview narratives as transparently and truthfully as possible and to respect the original messages of the interviewees. Obviously, I have had no chance to present all the responses of the interviewees in the analysis, but I have had to select those arguments that I have considered as most descriptive and demonstrative on the diverse manifestations on individuals' legal consciousness. This inevitably brings a bias into the analysis from my part; nevertheless, narrative analysis intrinsically gives analytical freedom to the researcher, which is why this kind of bias should be acceptable.

4.5. Delimitations

I have had to consciously exclude a substantial amount of data from this study due to space and time limitations. Firstly, there are five recognized national minority groups in Sweden; yet, I have chosen to focus solely on the Finnish national minority. Reason for this is that the Finnish minority is the only group having an official minority language status in Malmö; thus it is the only linguistic group having the right to preschool education in their mother tongue. Furthermore, my mother tongue being Finnish, it makes it most logical for me to focus on this particular group, as many of the interviewees speak Finnish as their mother tongue. I also felt the need to narrow down the scope to include only the right to (preschool) education, even though other rights are also guaranteed for the Swedish Finnish minority, such as the right to elder care services and to communicate with the municipal officials in Finnish language. Since right to minority language education is considered as one of the backbones in passing on languages to future generations, as argued by various scholars in chapter two, it will be the focus of this study.

Regarding the selection of interviewees, I have had to make further limitations. Considering the length of this study and the amount of time (four months) that I have had for conducting this study, six in-depth interviews are a manageable amount of data to deal with in detail. Additionally, considering the sample, I have not had the chance to interview all parents of the Finnish minority who have children in preschool in Malmö, as discussed in chapter 4.2.1. Only those actively participating in the process have been interviewed. This selection

obviously favours those individuals that are perhaps better informed and aware of the rights of the Swedish Finnish minority under the Swedish law on national minorities and minority languages. Had I included all members of the minority into this study, would I have had to perhaps reconsider the choice of method by changing it into a quantitative approach due to time limitations. The change of method might have moreover necessitated the change of the theoretical approach, as individual legal consciousness is best researched through in-depth interviewing, as suggested by Ewick and Silbey (1998), Nielsen (2000) and Hertogh (2009). The current scope of this study is therefore considered as manageable to conduct within the four-month time limit, and possible to compose individually by respecting the rules of a master's thesis.

4.6. Ethical considerations

Ethical issues have been considered throughout the research project in each part of the process; that is, in the drafting of the research questions, selection of methods and theories, as well as the collection and analysing of data. Interview research is highly vulnerable to ethical problems due to the intimate interaction occurring between the interviewer and interviewee which places the private lives and perceptions of the interviewees visible on the public arena (Nauthner et al. 2002 in Kvale 2007). As Davies and Hughes explain, research participants must be given clear information about the research project; that is, the purpose of the research, what participating in the study entails and how the data will be used (2014, p. 43). An informed consent must be received from the interviewees (Walliman 2011; Davies & Hughes 2014), in which they confirm that they have understood the aims and purposes of their participation and the study. In this study, a verbal consent has been considered as sufficient. For this, I have drafted an information sheet in English to cover the above mentioned aspects, which I have given to each interviewee before the interview (see appendix). Furthermore, I have emphasised that the interviewees are able to withdraw from the study whenever they wish, even after giving the interview, and with no particular reason. I have given the interviewees my contact details in case they have any further questions or

comments. Participation in this study is anonymous and personal information of the interviewees will be kept strictly confidential. In case of possible identification, I have highlighted to all participants that I am not to present information that could cause any harm to them. After all, social science should serve both scientific and human interests (Kvale 2007), and the ultimate purpose of this study is to promote the human welfare.

On preserving the data, the tape-recorded interview data has been stored on my mobile phone, and heard only by myself. The recordings have been disposed after the submission of this thesis in order for them not to get into the hands of anybody else. The transcribed and other written data on the interviews is stored on my computer until the end of 2017, after which it will be disposed. As Walliman notes, “e-mails and file transfers can be open to unauthorized access (2011, p. 257),” which is why the data will be stored only on my computer in a Word file. Therefore, I will be the only person having access to the original data both during and after the research process.

Another point of relevance comes with interpreting the data. As Walliman claims, researchers are often tempted to be selective in the presentation and analysis of data (2011, p. 242). This applies in particular to spoken data as speech is a “messy” form of communication, and by transcribing it, we need to interpret what was said (Walliman 2011, p. 254). In effect, I have done my utmost best not to ignore or reject any evidence that is against my initial and personal beliefs. I have tried to keep an open mind to whatever has been said or written, and to intermediate this information into the study as transparently as possible. The interviewees have been given the chance to review the ready document before its dissemination in order to see whether they are satisfied with it, though none of the interviewees wished to use this opportunity. The presentation and analysis of the interview data is thus done fully according to my personal interpretation of the original data.

5. Research results and analysis

Here I will present and analyse the collected qualitative interview data, in which the individual understandings on the right to mother tongue education and mobilisation around these understandings are clarified. For deepening the analysis, Ewick and Silbey's (1998) theory on legal consciousness will be utilised. The theory is divided into three types of understandings on legality and approaches to law by which people stand "before the law", engage "with the law" or struggle "against the law", as was explained in more detail in chapter 3. We may notice how the forms of consciousness do not neatly correspond to specific actors; instead, "People's legal actions are situationally specific, and individual might, in the context of various interactions or events, express all three forms of consciousness (Ewick & Silbey 1998, p. 50)." With this model, I am hoping to portray the prevailing legal environment on linguistic minority rights through individual experiences and interpretations. The data has been collected from two diverging perspectives; Swedish Finnish parents to preschool aged children, and municipal officials working for Malmö stad. The first set of interviewees, the parents (Eva, Anna, Lukas, Lisa and Tina), are trying to understand the changing legal environment, how their rights under the new legislation on national minority languages have extended, and by which means could they best guarantee good opportunities for their children to utilize the rights and learn their mother tongue.⁹ A supporting view on the matter is provided by a Malmö stad employee (Karl), who has interpreted the changed legislation and the novel obligations for providing language education to children of the Swedish Finnish minority from his own perspective as an employee of Malmö stad. The data is presented by first outlining the perspectives of the parents; how they have tried to access their right to language education for their children by grouping via social media and by negotiating with the municipality on the implementation of the minority law. The parents view is complemented with a narrative from the municipal perspective in which the

⁹ The names of the interviewees are invented by the author for protecting the anonymity of the interviewees

bureaucratic and other practicalities are clarified regarding implementing minority language rights. Finally, the role of the European law is discussed; how individuals understand and interpret the linguistic minority rights as derived from the international law and European conventions, and whether European norms have influenced the implementation process of the language rights in the city of Malmö.

5.1. Grouping and negotiating

As mentioned in chapter 1, the need for a Finnish class has existed for decades. Eva, who is a Swedish Finn born and raised in Sweden by Finnish parents, has two children of her own. To her, the question of Finnish education has gained relevance again in 2011 when her older child started preschool. Being a second generation Swedish Finn, Eva knows from experience how hard it is to maintain a mother tongue in a country where the dominant language is something else. When she was a child, the Finnish speaking education in comprehensive school was very extensive. Considering that her children are not able to use Finnish language in school to the same extent as she was, and as the father of the children does not speak Finnish, it is very hard to keep her children's Finnish skills alive. After Sweden ratified the law on national minorities and minority languages, Eva has familiarised herself with the law. Her sister in Stockholm has also been supporting and helping her to investigate the legal rights that she holds as a member of a national minority group in Malmö. She started to send emails to Malmö stad on her child's education and at first the responses were, according to Eva, somewhat "odd" saying that the municipality does not support the Finnish language, and perhaps there is not sufficient amount of children using the language in Malmö. Quite soon things however changed,

Then, a Finnish speaking ambulatory pedagog began to give support to seven children who had asked for it, which was like "hooray", somebody is visiting these

children once a week . . . Afterwards more children began to receive language support (Eva).¹⁰

After this change, the number of children getting mother tongue support in Finnish increased. Nevertheless, around 2014 the post of the ambulatory pedagog was completed as the city did not have the opportunity to provide similar assistance to all minority children who spoke languages other than Swedish as their mother tongue. This is also when the municipality informed the parents that support for the Finnish language would continue if the municipality joined the Finnish administrative area through a political decision-making process.

The ambulatory pedagog's post was completed as the municipality was obliged to give support to all mother tongues. Luckily, Malmö joined the administrative area so that we could have the ambulatory pedagog back with the grant. But at first we were not particularly happy about it when the Finnish language was supported equally as much as all other minority languages . . . considering that Swedish Finns are a national minority group whose language ought to be prioritised (Eva).¹¹

Eva's story implies that she expects Finnish language to be entitled to more extensive support from the municipality as compared to other minority languages in Malmö due to the official status of the language.

After the Finnish ambulatory pedagog's post was terminated, the parents discussed the continuation of language education via social media. A Facebook group Malmö's lovely people (Malmöns ihanat ihmiset), which currently has 371 members, was the primary channel of communication for the minority group

¹⁰Sit kävi niin että kiertävä pedagogi alkoi antamaan tukea seitsemälle lapselle, jotka oli anonut sitä tukea. Se oli että 'jihuu', joku käy kerran viikossa antamassa tukea. Sit tuli lisää lapsia tuen piiriin.

¹¹ Tuki vedettiin pois sen perusteella että tukea piti antaa kaikilla äidinkielillä, et huomioidaan jokapäiväisessä toiminnassa eri kieliä. Onneks nyt Malmö on hallintoaluetta, et meillä on mahdollisuus saada kiertävää tukea kun on ne apurahat . . . Ei me oltu erikoisen iloisia kun saatiin kuulla et pedagogin virka poistettiin ja suomalaiset asetettiin samalle viivalle muiden vähemmistöjen kanssa . . . Kun huomioidaan kuitenkin että suomalaiset on kansallinen vähemmistö, joden kielet on tärkeämpiä, niin se on vähän kummallista.

members, as many parents to preschool aged children were members of this group. After a while, Eva felt the need to create a separate Facebook group called Finnish in preschool in Malmö (*Finska i förskolan i Malmö*), so that parents could share ideas and communicate with each other without disturbing everybody else. All of the parents interviewed agreed that Facebook has turned out to be a successful way of communicating and expressing their wishes regarding preschool education. It has additionally been an important channel through which a lot of information has been intermediated.

It has been very important to us parents, because we have not really known each other beforehand, and everybody has so much to do and places to go, and we need to take care of the children . . . it has been a good way to inform others and to make decisions on what exactly do we want (Eva).¹²

Eva considers that the help of the state and municipality are vital in transferring her mother tongue to her children through language education, and she does not believe that she alone could teach her children to become bilingual and capable of reading and writing in Finnish language. Thus, the first thing that she did was to find other members of the minority to see if others shared her concern.

In 2015, when Malmö stad joined the Finnish administrative area, the municipality contacted the parents by asking what kind of language support they would like to have; a bilingual Finnish-Swedish speaking class or an ambulatory pedagog visiting the schools, which they had had earlier.

When Malmö joined the administrative area it was important for the municipality to know what the group wanted. So we discussed in the Facebook group, after which we negotiated with the preschool administration, and concluded that we would kind

¹²Sehän on ollut hyvin tärkeää meille vahemmille, koska mehän ei oikeastaan tunneta toisiamme alun perin, ja kaikilla on niin monta eri menoa kun kokoajan pitää mennä sinne tänne ja hoitaa lapsia, et tuo on ollut tosi hyvä tapa informoida toisia ja sitten kans päättää et mitä me halutaan.

of like to have both . . . a Finnish speaking class as well as an ambulatory pedagog . . . (Eva).¹³

Among the parents, the claims and preferences seem to vary when it comes to the implementation of the law; that is, whether their children should get preschool activities every day on a special Finnish class, or to be visited by a Finnish speaking teacher once a week at their own school. Anna is one of those parents who would like to raise her child fully bilingual,

I want that my child learns the Finnish language properly, so that she is able to write in it . . . to become bilingual. One hour is not enough . . . she should be able to study Finnish language in school as a second language, as we have studied Swedish in Finland . . . or English or French . . . the language should be equal (Anna).¹⁴

Anna raises the concept of equality, as according to her understanding, Finnish language having an official minority status should be taught extensively in school. She mentions the case of Finland where both Finnish and Swedish languages have equal status as the national (official) languages of the state, and therefore are taught in school at all levels.¹⁵ Anna feels that it should be possible for children to choose to study Finnish at least as much as other foreign languages, such as English and French. She therefore considers that language activities one hour per week do not suffice. Nevertheless, she is satisfied with the two hours per week that her child is receiving at the moment.

¹³ Silloin kun Malmön kaupungista tuli hallintoalue niin se oli tärkeätä kaupungille tietää, et mitä ryhmä halus. Niin me käytiin keskustelua Facebookissa ja sitten pidettiin neuvonpito esikouluhallinnon kanssa, ja todettiin et me haluttas niinkun kumpaakin: suomenkielinen osasto ja kiertävä tuki . . .

¹⁴ Haluan että lapsi oppii suomea kunnolla, myös kirjoittamaan . . . on kaksikielinen. et joku tunti viikossa ei auta mihinkään. Pitäis pystyä lukemaan suomea ns. vieraana kielenä, niin kuin me ollaan luettu Ruotsia Suomessa . . .tai englantia tai ranskaa, et sen pitäis olla ihan saman arvoinen kieli.

¹⁵ In Finland, all children study one language as their mother tongue and the other as a second national language, starting at the age of 13.

A differing understanding on minority language rights is expressed by Lisa who finds it uncomfortable to ask any support from the municipality for her child's mother tongue education. Lisa is a mother of two who has moved to Malmö a few years ago from Finland with her Swedish partner. At that time their first child was two years old. The younger child is born in Sweden. Lisa speaks Finnish to her two children but the family uses mainly Swedish at home. Lisa feels that everything that Malmö stad has offered to her children is greatly appreciated,

It was my decision to move to Sweden so it would feel odd to start demanding a lot of things . . . I think that all that has been given to us is a big plus and has made me really happy. Maybe I feel a bit privileged compared to other minorities . . . Finnish language is very important, but it is on my responsibility (to teach it to my children). Parents have the greatest responsibility on their children's linguistic skills . . . I would not want my children to be on a Finnish class as we live in Sweden, so the emphasis should be on the Swedish language (Lisa).¹⁶

Lisa does not refer to the official status given to the Finnish language, and considers the special treatment somewhat confusing. Her view is that her children should learn the Swedish language and culture as their father is Swedish and they live in Sweden. She is furthermore afraid that it might be too much work for her children, if they had to study Finnish more than what they do now, which is one to two hours per week. The reason for this is that the Finnish lessons take place outside of the regular school day, which makes a child's day longer compared to other children in Sweden. Lisa feels that it is very important that her children learn also the Finnish language, but thinks that she can tackle the problem of language learning by participating various leisure time activities for children with other Finnish speakers in Malmö,

¹⁶ Itsepähän olen tänne muuttanut, joten musta tuntuu oudolle olla kauheesti vaatimassa. Mun mielestä kaikki mitä ollaan saatu on iso plussa ja oon tosi iloinen siitä. Et ehkä semmoinen epätasaarvoisuuden tunne verrattuna muihin vähemmistöihin. Suomen kieli tosi tosi tärkeätä, mutta se on mun vastuulla. Vanhemmilla ehdottomasti isoin vastuu lapsen kielitaidoista . . . En haluaisi että lapset olisivat suomenkielisellä luokalla, koska kun täällä asutaan niin pääpaino pitää olla ruotsin kielellä.

All of my friends speak Finnish and since their children are of similar age as mine, we have together organised activities for our children (in Finnish) . . . at one point we had gatherings every week (Lisa).¹⁷

Lisa admits that it has been sometimes stressful to organise different Finnish activities for her children. She is also afraid of what will happen to the children's language learning if they decide to move outside of the city area, as it will be difficult to transport the children into different language activities in town. Right now both of her children have an ambulatory pedagog visiting the schools, as the children are going to schools near to where they live. Lisa is very satisfied with the situation as it is.

Even though Anna would like her child to have more extensive Finnish education, she has not wanted to take her child away from the preschool that she attends as it is located on the other side of the street from where they live and as her child likes the people in her school. Therefore, Anna also has an ambulatory pedagog visiting her child once a week to teach Finnish. The child had this service already before Malmö stad joined the Finnish administrative area, and Anna has been very satisfied with the linguistic support. The problem for Anna was the time when the ambulatory pedagog was replaced with digital tools,

At one point the ambulatory pedagog was replaced with these digital tools; PENPals and iPads, which were for all minority groups. Malmö joined the (Finnish) administrative area and spent the money on these tools. And we felt, or at least I personally was infuriated because it was so stupid . . . to join the administrative area and spend the money on these tools . . . If the personnel cannot understand what a child is saying, then they cannot support the child in learning her language (Anna).¹⁸

¹⁷ Kaikki mun kaverit täällä on suomenkielisiä, niin voidaan käyttää suomea. Ja heillä samanikäisiä lapsia. . . Yhdessä vaiheessa meillä oli joka viikko suomenkielistä toimintaa.

¹⁸ Malmön kaupunki päätti korvata kaikki äidinkielen tuet sähköisillä apuvälineillä; PENPalit ja iPadit; ja se oli kaikille vähemmistöille. Sit kun tuli hallintoalue ja tuli rahaa niin ne päätti ostaa niitä apuvälineitä. Ja siitähän me oltiin sit, tai mä ainakin henkilökohtaisesti olin aivan raivona, koska se oli aivan typerää . . . Jos henkilökunta ei ymmärrä mitä lapsi sanoo, niin ei ne voi tukea lasta kielen oppimisessa.

Anna and other parents felt the need to contact various actors, such as researchers on bilingualism, the Provincial government in Stockholm, the media and even the European Commission, in order to pressure the municipal decision-makers. According to Anna,

It (the law) gives a lot of freedom to municipalities . . . so at one point we became also politically active and stopped their budget proposal to the government . . . because we felt that it was wrong that the money would be spent on digital tools, which do not help a child in developing her language. We contacted the media . . . pressured the municipality in all possible ways. It has been quite hard work, we have gathered facts and expert reports (Anna).¹⁹

Lukas, a father of two, also feels that language learning solely relying on digital tools would not have been very efficient. When I ask, what would then be the best way to interpret the law that obliges communes to offer preschool activities in Finnish language, he concludes,

Basically, it can't be us (parents) who decide . . . whatever we get is a bonus, but from a child's perspective more is better. And if there are options, then there is scientific knowledge showing, what is the best way to support bilingual children . . . As a researcher, I would like to see whether somebody has studied this systematically. What works and what doesn't. As far as I'm aware, there are studies showing that it is vital to be able to use the language with a living person (Lukas).²⁰

¹⁹ Lakihan ei ole mitenkään yksiselitteinen myöskään . . . Et ne voi jättää noudattamasta sitä lakia eikä se johda mihinkään sanktioihin . . . ja jossain kohtaa me aktivoituimme myös poliittisesti, et me pysäytettiin se budjettiesitys kaupungin hallitukseen, koska me oltiin aktiivisesti poliitikkojen kimpussa . . . koska meistä oli niin kun väärin että ne rahat käytettiin teknisiin apuvälineisiin jotka ei auta siinä lapsen kielenkehityksessä. Oltiin yhteydessä lehdistöön . . . Painostettiin kuntaa kaikilla mahdollisilla tavoilla. Et se oli tosi raskasta, ja sellaista venkoilua, sellaista vääntämistä.

²⁰ Sehän ei voi olla periaatteessa me jotka sanoo, mikä on riittävää . . . Et kaikki se mitä on, on plussaa, mutta lasten kannalta enempi parempi. Mut jos on vaihtoehtoja, niin on olemassa tutkimustietoja siitä, mikä toimii kaksikielisten toisen kielen tukemiseen . . . Tutkijana haluaisin tietää, onko joku tutkinut tätä systemaattisesti, et mikä toimii ja mikä ei. Sikäli kun mä olen tietoinen, niin tutkimustuloksetkin viittaa siihen, että kielenkäyttäminen elävän ihmisen kanssa on oleellista kaiken ikäisille.

To Lukas, the law itself does not articulate how MTI ought to be provided, how and whether the law is monitored and if there are any sanctions when it is not followed. Nevertheless, the most important thing to him is that the municipality understands the meaning of linguistic minority rights, and that there is a will to support a child's bilingual education, and to consider the expressed wishes of the users of these rights.

The city of Malmö has approached the law well by using common sense and by achieving consensus through negotiations with us parents (Lukas).²¹

Lukas does not see a need for further law revision as it would not change the way how the law has been implemented locally.

The most important thing is that there is a genuine will from the municipality to support the Swedish Finnish minority so that we need not to be afraid of losing our rights . . . Solely staring at the legal texts has never really worked in the long run . . . when the situation is a municipal government against individual citizens (Lukas).²²

Lukas sees that Malmö stad has had a very positive attitude towards preschool education in Finnish language. One example of this being how the municipal employees organised different cultural activities to children in Finnish in order to compliment the digital tools that were in use before the Finnish class was opened. Also Lisa praised Malmö stad for the initiative to complement the digital tools with an afternoon club, while the parents were waiting for a more permanent solution to offer language support.

²¹ Malmöns kaupunki on ottanut hyvän lähestymistavan lakiin käyttämällä järkeä, sekä yhteisymmärryksessä meidän neuvonpitojen kanssa, soveltaen järkevällä tavalla.

²² Tärkeintä on että kaupungilla on tahto tukea ruotsinsuomalaista vähemmistöä, että meidän ei tarvitse pelätä menettämästä laissa määriteltyjä oikeuksia . . . Et sellainen lakeihin tuijottaminen ei koskaan oikein pitkänpäälle toimi . . . ainakin silloin kun on kaupungin hallintokoneisto vastaan yksittäiset kansalaiset.

The parents unanimously think that the minority law is ambiguous, causing confusion as to what exactly their rights are under the law. This confusion has nevertheless been resolved by Malmö stad by meeting with the parents and allowing them to express their wishes regarding the implementation of the law. As a result, all of the participants of this study agree that the situation in Malmö regarding Finnish preschool is good. The parents are glad that Malmö stad has been able to provide activities more extensively to those who wish by starting a Finnish class *Lankarulla* at Spinneriet's preschool in Mobilia; and to have an ambulatory pedagog visiting once a week the schools of those children who are not able to attend Spinneriet.

The problem that remains is the lack of qualified teachers able to speak both Finnish and Swedish. This shortcoming has also been noted by the Committee of Experts of the ECRML in their sixth report, which criticises the state for not providing opportunities to become a Finnish teacher (Swenzén 2017). Malmö stad has tried recruiting teachers from other Swedish cities and from Finland with no luck. According to the statute comments, a municipality is able to abstain from offering language education in minority language if there are no qualified teachers available (Strandberg 2011, p. 65). The shortage of teachers frustrates many parents,

It is frustrating to hear that there are no qualified teachers, or the municipality doesn't know exactly how many hours of education there should be . . . and as a parent, I cannot really demand anything. It is sometimes quite difficult (Eva).²³

Eva feels that it has been essential to work together with the municipality and to make decisions together, so that they have been able to find a working solution for educating children in Finnish language,

²³ On turhauttavaa kuulla ettei äidinkielen opettajia ole koulutettu eikä osata sanoa kuinka monta tuntia opetusta tulisi olla . . . eikä vanhempana oikein voi vaatia mitään.

After the decision was made to join the administrative area, we had a legal right to get language support. The problem was then, how the right would be formulated. Preschool “fully or partially” can mean anything really . . . I believe that Malmö stad wanted to hear the opinions of all parents, and that they were observing other municipalities, how they have implemented the right. In some municipality a Finnish class was started, but there were no children attending the class, which shows why the initiative must come from the parents (Eva).²⁴

In this chapter, I have demonstrated the ways how the parents understand their rights under the *Act on National Minorities and National Minority Languages* (SFS 2009:724), how they consider that their legal rights have changed after Malmö joined the Finnish administrative area, and how they have mobilised in order to gain access to their perceived rights as stipulated in the law. The interview data shows how those who take a sceptical stance on the law and the right to learn Finnish language in Sweden prefer to abstain from articulating their preferences or to make demands on the municipality. We also see how others use the recognition of Swedish Finns as a national minority group, and granting of an official minority language status to Finnish language in Malmö, for promoting their child’s bilingualism. The law has provided these individuals with a tool to argue for more extensive MTI in preschools, which they are ready to use.

5.1.1. With the law

When individuals resolve disputes, or other contradictions, by seeing the law as a *game*; that is, “a bounded arena in which pre-existing rules can be deployed and new rules invented to serve the widest range of interests and values,” they are considered to be “with the law (Ewick & Silbey 1998, p. 48).” The players of the

²⁴ Sitten kun päätös hallintoalueesta tuli, niin meillä oli laillinen oikeus. Oli vain kyse siitä, että miten se muotoillaan. Et förskola ‘helt eller delvis på finska’, sehän voi näyttää niin erilaiselta . . . Et mä luulen et Malmön kaupunki halus kuulla kaikkien vanhempien mielipiteet, ja katsoivat eri kuntia, et miten ne on tehnyt. Joku kunta oli esim. järjestänyt suomalaisen osaston, mutta ei ollut lapsia joita laittaa sinne. Et se aloite pitää tulla vanhemmilta.

game are those individuals that have knowledge and resources to be used, as well as a special interest on the issue, such as the parents interest to educate their children in their mother tongue. Law is not seen as objective and static, but as a socially constructed phenomenon that is a part of the everyday life of the people, a kind of device for achieving desired ends (Ewick & Silbey 1998, p. 129). Approached from this perspective, law is not objective source of justice, but a contest leading to strategic engagement or disengagement. As people act according to their subjective moral understandings, it may lead to inequality in favour of the interests of those that have the greatest resources and/or knowledge to be used.

An interesting feature of the Swedish administrative law is the need to ‘negotiate’ the implementation of the open-ended law among those concerned, that is, the municipal officials and parents to Finnish speaking preschool aged children. The initial provision of digital tools for language instruction received a lot of criticism from the parents, and they even felt the need to contact outside actors for arguing more extensive language instruction. Malmö stad responded to this critique by offering a Finnish afternoon club to support the digital tools, which took place until a permanent solution was created. This led to the creation of the Finnish class as well as hiring an ambulatory pedagog in order to respond to the needs of different people. According to Ewick and Silbey’s theory, the law has been “played like a game” by both parties. The parents have been grouping and discussing via social media, attending the negotiations arranged by Malmö stad, and contacted various actors, such as researchers, the media, the Provincial government in Stockholm and the European Commission, who might support their position. The municipality has tried to respond to the requests of the parents with the provision of digital tools, supported by an afternoon club, and finally a Finnish speaking class as well as an ambulatory pedagog, which we will learn in more detail in the next chapter. The law has thus been approached as socially constructed, and defined in continuous interaction between different actors. The diverse ways of supporting the Finnish language implies that the best way to reach the desired outcome has not been obvious right from the start, but consensus has been reached by negotiating.

5.2. Bureaucracy and minority language support

How municipal authorities in Malmö understand and go about giving the right to mother tongue education for children of the Finnish minority will be elucidated here by posing the question to a public official working for Malmö stad. When Malmö stad joined the Finnish administrative area, Karl who is working for the municipality was directly informed about the legal changes that would affect the preschool services. The challenge for him was to outline his obligations under the law, and to make sure that the new rights of the Finnish speaking children would conform to the already existing rules that regulate the preschool activities in Malmö. According to Karl, the municipal officials soon noticed that they cannot provide Finnish language activities on their own, but the law necessitates them to first hear all the members of the Finnish minority in Malmö who are affected by the law,

We studied what it means to offer preschool activities ‘fully or partially’, and according to our interpretation on the directive, negotiations with the Finnish parents were a necessity . . . It was very clear that we must negotiate and that we must map out the actual need for Finnish preschool services (Karl).²⁵

Thus, the first goal was to meet with the members of the minority group and to survey the need for preschool activities in Finnish language.

At the same time had mother tongue instruction in all languages changed. Earlier it was the parents’ obligation to request mother tongue instruction, but in 2010 claimed the Swedish Schools Inspectorate that we must ‘stimulate and support’ all the languages.²⁶

²⁵ Vi läste på vad som gällde och det var att erbjuda förskolan helt eller delvis, och det stod väldigt tydligt i direktiven, tolkade vi, att det här skulle ske samråd med den finska gruppen . . . föräldrar. Det var väldigt klart att vi ska ha samråd och vi ska ha tydlig kartläggning, alltså, vad är behovet i allmänhet.

²⁶ I sammanhanget hade hela modersmåls undervisning oavsett vilket språk förändrats. Innan var det så att föräldrarna ansökte om modersmåls undervisning, men i 2010 sa skolinspektionen att så är inte lagen skriven. Det är inte föräldrar som ska be om stöd, men det är ett uppdrag av förskolan att erbjuda stödet, so kallad ”stimulera och stödja”.

When we surveyed the Finnish linguistic support, only 25% of the children were attending the Finnish classes. The Swedish Schools Inspectorate was being very critical and claimed that we violated the curriculum . . . it (linguistic support) must be given on a daily basis and to everyone . . . so how can you fulfil your obligations when you have ten different languages in a single classroom, and the teacher can only speak Swedish? This is when we came up with the digital tools to support minority languages (Karl).²⁷

In Malmö there are 178 different nationalities, and in 2016 31% of Malmö's inhabitants were born outside of Sweden (Malmö stad 2016). For this reason, there are children from various backgrounds and using numerous languages. According to the Swedish School Law (2010:800) children, whose mother tongue is other than Swedish, ought to be supported in preschool both in the Swedish language and in their mother tongue.²⁸ The context of Malmö needs to be noted due to its international character, which may lead to difficulties if one minority group is entitled to special treatment.

At the same time when the municipality was researching the need for Finnish preschool activities, it received requests from some of the parents to restart the ambulatory pedagog who used to visit the children's schools once a week. This request however contradicted the aims of the municipality, according to which it was more legitimate to offer language education to Finnish speaking children by opening up a specific bilingual class where Finnish was used on a daily basis. According to Karl,

²⁷ Och när vi inventerade det, hur många barn som skulle behöva stödet, så var det bara 25% som fick det här stödet, och dom andra 75% gick inget stöd. Och det var vår uppdrag att ge alla, oavsett språket, stöd - Skolinspektionen var väldigt kritisk att vi bryter läroplan. . . den ska ges dagligen och till alla. Så hur kan en uppfylla kravet när en har 10 olika språk i klassen och kan endast den svenska språket?

²⁸ 10 § Förskolan ska medverka till att barn med annat modersmål än svenska får möjlighet att utveckla både det svenska språket och sitt modersmål.

The law does not mention an ambulatory language support, but education must be offered ‘fully or partially’ . . . and we felt that it would be the best for the child to have linguistic support every day of the week, not only one hour per week (Karl).²⁹

Consequently, the municipality began to search for all Finnish parents who had preschool aged children in order to ask for their needs and preferences.

We wanted to contact all of the parents who were entitled to Finnish preschool services, so we could not just offer language support in a blink of an eye to those who were most enthusiastic . . . We began to spread information to libraries, preschools, child health centres, and we found twice as many parents as compared to the group who had had ambulatory pedagog before. And we asked them what they’d like to have; an ambulatory pedagog or a Finnish class. We learned that many would like to have both. The result was therefore that the parents would like to have both (Karl).³⁰

As there was a need for a Finnish class, the municipal officials began to search for preschools that were willing to open up a Finnish class, and to find personnel who could speak both Finnish and Swedish. They also began to inform parents about this future opportunity. The location was considered carefully so that it would be equally close to all children, no matter in which part of the town they were living. Mobilia was found to be in the middle of the town and near good traffic communication. This all happened during Autumn 2015, and in March 2016, one

²⁹ Och när vi blev förvaltnings område, sa finska föräldrar att ”vi vill ju ha tillbaka den ambulerande pedagogen och att det stor ju i lagen.” Vi svarade att lagen specificerar inte att ni ska få ambulerande stöd men att ni ska ha stöd ”helt eller delvis”, och vi tyckte att det är best att ha det då ”helt” för att det är allra bäst för barnen att den får stöd hela dagen, inte en timme i veckan.

³⁰ Men samtidigt vi ville fånga upp behovet helt. Vi hade bara en grupp med 15 föräldrar som sa att vi har ett behov . . . men vi måste ju möta alla. Så vi gick ut och ställde den här frågan till så många som vi kunde. Så det var idén med den här samråd: Inte bara att lyssna på gruppen som ropade högst . . . Så spridde vi information; inventerade till alla bibliotek, förskolor, BVC, för att fånga många i gruppen. Så fick vi lika många till. Vi frågade vad de ville ha: Vill ni ha ambulerande eller en avdelning? Och så fattade vi att många vill ha bägge. Så sammanställningen blev att föräldrarna ville ha både.

year after Malmö joined the Finnish administrative area, the Finnish class 'Lankarulla' opened its doors at Spinneriet's preschool.

After organising the Finnish class, the municipal employees clarified whether they could offer ambulatory pedagog to visit those children whose parents were not able to take them to Lankarulla. As an ambulatory pedagog is an extra cost to the municipality, they contacted the Provincial government in Stockholm. The government agreed to compensate for the extra cost that would occur from hiring an ambulatory pedagog. The pedagog who had worked earlier as an ambulatory pedagog in Malmö was still interested on the post, so she was hired to continue with the task,

So finally we had fulfilled both requests after one year, which made us very satisfied . . . other municipalities were wondering how we did it (Karl).³¹

At the moment, the Finnish class is full, as it should be. Nevertheless, the future of this class seems unclear according to Karl,

We cannot have empty places according to the rules . . . all must be filled . . . That's why the future is unclear, as children may need to wait in a queue. Maybe in the future we need to start another class at Spinneriet so that these two are together. But we don't know the future . . . And there is the lack of qualified pedagogs. We have even tried recruiting from Finland, but nobody was interested. The curriculum says that the person hired must be a preschool teacher. Regarding ambulatory pedagogs, there are two in Malmö, though we received compensation only for one post . . . There are 20 preschools visited by the pedagog at the moment, and there are additional 20 preschools in Malmö, which makes it also a logistical problem (Karl).³²

³¹ Så äntligen hade vi ett koncept färdigt för bägge önskemål efter ett år. Och det var vi rätt så nöjda med . . . och andra kommuner tyckte att hur gjorde vi det.

³² Vi kan inte ha tomma plats enligt regler . . . alla måste vara uppfyllda . . . så därför framtiden är oklart eftersom barnen kan vara tvungna att vänta och sto i kön. Så kanske i framtiden vi måste öppna en annan avdelning i spinneriet så att de är ihop. Men vi vet inte framtiden . . . Och det finns inte så många pedagoger som kan det. Vi har annonserat även i Finland men ingen var intresserad. Läroplanen säger att den måste vara en förskollärare . . . ett krav. För ambulerande, det finns två i Malmö, men vi fick ju pengar för en tjänst . . . Vi hamnade för runt 20 förskolor och det finns 20 andra förskolor, så det är logistisk problem.

The fact that most decisions regarding starting a new preschool (in a minority language) must go through a political process has caused some discord between the parents and the municipality, according to Karl,

It doesn't happen at once . . . fast decisions at the municipal level are made in three months, while parents would like everything to be done by tomorrow (Karl).³³

However, the Swedish Finns have also enjoyed positive discrimination (*Swe.* positive särbehandling), as they could jump the queue for preschool and start at the newly opened Lankarulla, of which Karl has wanted to keep quiet to other parents,

There are these rules for parents to place their child on a queue, and the municipality is obliged to offer a preschool place within four months . . . the law says so . . . But as it was a special class, we did what we call as 'positive discrimination', and so, Finnish speaking children could jump the queue by starting at Lankarulla. This we haven't dared to say out loud (Karl).³⁴

Karl highlights the concept of equality in his speech, as from the municipal perspective, Malmö has dozens of different minority groups and languages that are all considered to be equal. There is therefore equality among the minority languages. After joining the Finnish administrative area, this equality was lost as Finnish language gained a stronger position with extended rights under the new legislation on minority languages. To Karl, this seems somewhat problematic as he expresses his discomfort in giving unequal treatment to one minority group over the others. This perception on equality differs fundamentally to that of some of the parents, who considered that there should be similar opportunities to study Finnish

³³ Så det kan inte gå på en gång. En gång för kommunen är tre månader. Och för föräldrar en gång är imorgon.

³⁴ Det finns sådana tillämpnings regler för föräldrar att ställa sina barn i en kö, och kommunen är skyldig inom fyra månader att erbjuda en plats. Det är lagen som säger det . . . Men eftersom den blev en speciell avdelning så gjorde vi vad som kallas "positiv särbehandling", och så finsktalande barn som ville till Lankarulla fick förbi alla dom andra. Det har vi inte vågat säga högt.

language in Sweden as there are for Swedish language in Finland, or for English or French languages in Sweden, which are taught to a larger extent.³⁵ This view was exemplified in more detail in the previous chapter.

Despite of the challenges, the work of Karl and his colleagues has been particularly effective and prompt. A democratic approach to the interpretation and implementation of the law, by which the municipality has included the minority group representatives into the decision-making process, has shown to be a successful way of dealing with linguistic minority rights, as each party seems to be satisfied with the outcome.

5.2.1. Against the law

While the municipality has approached the open-ended law on linguistic minority rights as socially constructed, being so to speak “with the law”, as discussed in chapter 5.1.1., some aspects of the law seem to make both the municipal officials and parents slightly ‘against the law’. Karl expresses the difficulty in regards favouring some minorities more than others, or some individual members of the minority over the others. There seems to be a worry that by giving more rights to one minority, it might upset the other minorities in Malmö, or by hearing only a handful of people, other members of the minority would get offended. Furthermore, Karl acknowledges that it is the best interest of the child to receive mother tongue support as fast as possible; however, he is not able to bend the rules according to which the decisions must be made. Time, thus, seems to be a significant factor causing frustration particularly among the parents, but also for that reason on the municipal officials. As illustrated in chapter 5.1., some parents were irritated by the amount of time that accessing their rights under the legislation takes, while others were annoyed about the time that it takes for the municipal officials to research, negotiate and make the needed decisions regarding Finnish preschool activities. According to Anna,

³⁵ Swedish language is studied in Finland optionally either as a first or second language, and there are educational opportunities at all levels of education, from preschool to university.

It was really burdensome; twisting and turning. We attended all these negotiations. We had our own meetings . . . It took a lot of time (Anna).³⁶

As Karl noted, decisions at the municipal level take several months to complete, while the parents who would like to have everything done at a much faster pace. Additionally, Karl admits that it has been difficult sometimes to balance between the expressed wishes of the parents and the rules of the state, but he has done his best. According to Ewick and Silbey, when individuals are against the law, they recognise the gap between the law and the life. In the gap, individuals recognise the power of the law, but it is not necessarily considered as something special and beautiful (Ewick & Silbey 1998, p. 172). The law can be thus also seen as a nuisance, causing trouble in the existing system. When new regulations emerge, they may contradict with the old regulations and norms, making it hard for individuals to adjust to the new situation and legal environment.

The parents sometimes utter their dissatisfaction to the law due to its ambiguity and weak promises that it makes, as portrayed in chapter 5.1. According to Ewick and Silbey (1998), resistance to the law can manifest itself in three ways: 1. People position themselves as being up against someone or something, such as here the parents see themselves as being up against the majority group and dominant language of the state. For instance, Lisa who wants her children to become bilingual in both Swedish and Finnish languages, is to a certain extent against the law on minority rights, as she feels that in Sweden it is not reasonable to ask for education in Finnish language, as it was “her decision” to move to Sweden. She is nevertheless very happy about the language support, but sees it perhaps as more of a goodwill of the municipality. The second feature of resistance signals the individuals consciousness of opportunity, autonomy and sense of power (Ewick & Silbey 1998, p. 183). Because the law is seen as powerful but ineffective, the parents have taken the law into their own hands. This has mainly been done by grouping and articulating their interests together, to be more powerful as a group, which was

³⁶ Se oli tosi raskasta; sellaista venkoilua, sellaista vääntämistä. Et käytiin kaikissa niissä neuvonpidoissa. Pidettiin omia kokouksia . . . se vei tosi paljon aikaa.

discussed in chapter 5.1. Some have even wanted to contact outside actors such as researchers, the media and other actors at the national and European levels, in order to increase the pressure on the local officials and decision-makers. The final aspect of resistance is the sense that power has produced unfair constraints and opportunities. A right to minority language education is generally seen positively, albeit from the municipal perspective it positions different minority groups to unequal standing by favouring one language over the others. Perhaps there is a fear that the general public does not recognise the differing set of rights granted to national minority languages and other minority languages, placing them on an unequal footing.

5.3. European and international norms

As the Swedish law on national minorities and minority languages stems from the European conventions, it is relevant to see how individuals understand the transcendence of international norms and the supranational authority of the European Commission. Similarly, we can detect whether the European law has played a role in the interpretation and understanding of linguistic rights in Malmö by different actors. During the interviews, it has become clear that the parents are aware of the fact that the Swedish law on minority rights is derived from the European conventions; nevertheless, they have not been acquainted with the European or international law more thoroughly. The parents mention the European Commission when criticising the Swedish national law, particularly regarding primary school and the higher stages of education to which linguistic minority rights do not apply in Sweden.

Anna feels that the current law on minority languages in Sweden does not generally respect the objectives of the European Commission,

Sweden has received a warning probably eight times in a row as it has agreed to offer education at all stages, yet only preschool is stipulated in the law (Anna).³⁷

Her critique is directed to the national law which omits minority language education in school. In other words, the right to Finnish language education, as stipulated in the law on national minorities and minority languages, only covers preschool activities. Therefore, there are no schools in Malmö that offer bilingual education in Finnish language at primary, secondary or higher level.

Also Eva feels that it is not sufficient to get language support solely in preschool,

I feel that there is a new battle starting soon regarding primary school education . . . It is extremely important to have laws regulating also primary school education, and it is strange that there are laws regarding preschool education but it does not continue any further (Eva).³⁸

Despite the law on minority languages omits the time in school, the Swedish School Law (2010:800) obliges communes to offer education in a child's mother tongue when it is other than Swedish. Karl from Malmö stad confirms that national minorities and other minorities receive almost equal treatment regarding MTI in school,

According to the School Law, all children are entitled to mother tongue support in school. That is, to be able to speak with somebody . . . and it has existed for several years. The difference between national minority languages and other languages is the requirement of minimum five pupils, but otherwise are Finnish children not supported more than Swahili children . . . Everybody receives equal treatment there.

³⁷ Ruotsi on saanut huomautuksen kahdeksan vuotta peräjälkeen, kun on sitoutunut tarjoamaan opetusta kaikilla asteilla ja vain päiväkotit on taattu laissa.

³⁸ Tuntuu että nyt on alkamassa uusi taistelu tässä koulun puolella . . . Olisi hirveen tärkeitä saada lakeja myös koskien kouluopetusta ja on kummallista että on lait esikoulua koskien, mutta oikeus suomenkieleen ei jatku kun lapsi menee kouluun.

I am not aware of whether the legislation will be revised in the future regarding the Finnish minority language . . . we will just need to wait and see (Karl).³⁹

Eva's older child is already attending school, and the mother tongue support her child gets is 40 minutes per week. Eva thinks that there ought to be at least twice as much education in school. She is not aware of the reason, why mother tongue education in school is this marginal. She explains to have received a note from the school saying that 40 minutes is sufficient as there are only two pupils on the class, making the time more efficient. Eva doubts this logic, as she believes that a child should hear and use the language as much as possible.

The legal texts are so blurry with their fancy sentences; yet, they do not really promise anything . . . Sometimes I feel like the municipality interprets the law in a way that best promotes the interests of the municipality, and sometimes they do as little as possible . . . If there is a wish by the state to recognise the minority groups and languages, and to promote and revive the minority languages, then it still feels that the responsibility to teach the languages is left for the parents (Eva).⁴⁰

The national and local interpretation on the European law is also questioned by Anna,

I have Googled some interviews . . . minority languages should be studied properly, at least three hours per week . . . Sure, it could be even more, and the European Commission had their own recommendations that I just can't remember (Anna).⁴¹

³⁹ Skollagen är väldigt tydlig att alla barn har rätt att få sitt modersmåls stöd i skolan. Och där pratar vi mer om att då ska du få tala språket med någon . . . och det har funnits i flera år. Skillnaden mellan minoritetsspråk och en annan språk är kravet för minst 5 elever. men sen får inte ett finsk barn så mycket mer än ett swahili barn. Alla ska få samma där . . . jag vet inte om lagstifningen kommer att skriva nåt mer kring det . . . Har inte så stor kännedom om framtiden, men förväntar vad revisionen kommer att säga.

⁴⁰ Lakitekstit on vähän tällaisia, et on kirjoitettu hienot lauseet jotka ei kuvaile 100 prosenttisesti sitä mikä oikeus on . . . välillä tuntuu että kunta lukee lait niin mikä on kunnalle paras ja välillä on fiilis että tehdään vähin mahdollinen . . . Jos kerta halutaan että vähemmistöt on maassa ja että kieliä käytetään ja elvytetään, niin tuntuu kuitenkin siltä että vastuu on ryhmän sisällä. Et vanhempien pitää ite opettaa sitä kieltä.

⁴¹ Oon Googlannut haastatteluja, et kieltä pitäisi opiskella kunnolla, ainakin 3h viikossa . . .

She expresses her discontent on the current legislation on national minorities and minority languages in Sweden, as it guarantees education in a national minority language only in preschool leaving out the time when the child is in school,

The fact that language education in school is not included into the law is very stupid and only depicts how the entire legislation is just a draft . . . you do something halfway and just leave it there . . . I guess that these (minority rights) are easy targets to save money. There have been discussions with other parents that we'd start working on this once our children are going to school. I haven't done much research on this yet, but I have a feeling that the law is not on our side on this . . . that we only have the right to preschool education (Anna).⁴²

Also Lukas ponders about the current legislation, and how the municipalities are going to go about with it. To him, the Swedish law is inadequate as it guarantees MTI for Finnish language only in preschool,

Children learn to write mainly in school, which makes it interesting to see how much they actually teach Finnish language and literature in school . . . This, I'd say, is the great gap in the Swedish minority legislation. There is mother tongue support in preschool and elder care services, but the school is left outside. This is probably something that we'd start lobbying next: How to keep alive the Finnish language in school-aged children. It is something that is going to be hard for the parents to do alone, as once children are in the age when they start writing on their own, and if all their friends are Swedish speaking, it will be hard to maintain the Finnish language. But this is a broader question, not only a municipal decision, as school education is

Toki vois olla enemmänkin, ja Eurooppaneuvostollahan on omat suosituksensa joita en enää muista.

⁴² Se että koulua ei ole lailla säädetty on tosi typerää ja kuvaa että tämä koko juttu on raakile. Koska sä teet jotakin puoleen väliin asti, ja sit sä jätät sen silleen... Et kai se on et kun rahaa ei välttämättä kaupungilla ole, niin nää on helppoja säästökohteita. Ollaan muiden kanssa juteltu, et sit kun tulee ajankohtaiseksi niin aletaan työstämään asiaa. Just tässähän vähemmistölaki ei taida antaa meille mitään kättä pidempää. Just tältä osin en ole vielä asiaa tutkinut, et tämä on ”mutu” et ne on jotenkin erottanut sen koulun ja esikoulun.

under a different legislation . . . the minority law poses no obligations regarding school education (Lukas).⁴³

Lukas is willing to continue pressuring the state and municipality in extending the amount of MTI for Finnish minority children, as he thinks that parents alone cannot guarantee a child's bilingualism. Also Eva is willing to start discussions with the people in charge of Finnish language education in school in order to guarantee the language learning of her children,

I have spent so much time in this preschool matter for my younger child that I have had no time . . . But I am willing to work on language education also in school and this discussion is only beginning . . . We have even thought about changing the name of the Facebook group into Finnish in preschool and school in Malmö, but I am not that far yet . . . Because all children continue from preschool to school, and these things are important to us parents. But I'll start by discussing with the head of the language centre, and by contacting other parents. I can't say much more because it all depends on what they say at language centre and what does the law give us . . . so there's several question marks. But the first step has been taken (Eva).⁴⁴

⁴³ Se on mielenkiintoista, et miten paljon opetetaan suomen kieltä ja kirjallisuutta koulussa. Se on itseasiassa mun mielestä tässä ruotsin vähemmistölainsäädännössä suurin aukko. Et se äidinkielen tuki on olemassa varhaiskasvatuksessa ja vanhustenhoidossa, mut koulu jää tavallaan aukoksi siihen. Se on ehkä sellainen mitä me seuraavaksi ruettaisi lobbaamaan, et miten kouluikäisille saadaan suomen kieltä pidettyä elävänä. Et se on jotain mitä vanhempien on siinä vaiheessa vaikeaa tehdä, kun lapset alkaa olla siinä iässä et ne itse alkaa kirjoittaa ja niillä on kavereita ja jos kaikki on ruotsinkielistä, niin se on aika vaikeaa ylläpitää suomen kieltä. Se on sitten laajempi kysymys, ei vain kunnan, kun kouluopetusta koskee eri lainsäädäntö. Et vähemmistölaki ei sinänsä velvoita tukeen koulussa.

⁴⁴ Olen valmis tekemään töitä kouluopintojen suhteen ja se keskustelu on vasta alussa . . . On myös harkittu, että muutettaisi FB ryhmän nimi Finska I förskola och skola, mutta en ole päässyt vielä niin pitkälle . . . Koska kaikki lapsethan menevät esikoulusta kouluun ja koska nämä asiat on tärkeitä vanhemmille. Alan keskustella språkcentralenin (kielikeskus) johtajan kanssa, ja sitten kaikkien muiden vanhempien kanssa. En osaa vielä enempää sanoa, kun kaikki riippuu siitä mitä språkcentralen sanoo, ja koska ei tiedetä et, mitä se lainsäädäntö antaa. Et siinä on monta kysymysmerkkiä, mut ensimmäinen askel on otettu kuitenkin.

In this chapter, individuals' experience on the European law and norms have been outlined. When discussing the European law, the first thing that the interviewees often mentioned was the provision of LMR at all levels of education, while the Swedish national law on minority languages only guarantees MTI in preschool. While the parents are criticising the Swedish law in being insufficient and irrational, Malmö stad official has a rather neutral stance to it. The extended right to learn Finnish language thus only covers the time when a child is in preschool, and by the time a child starts primary school, are all minority languages more or less equal.

5.3.1. Before the law

While individuals “with” or “against the law” have largely self-interested goals to make matters less complicated and more beneficial to themselves, people acting ‘before the law’ see the law as an objective and impartial entity, referring to some greater public good or general set of interests that the law represents. According to Ewick and Silbey, “It is this unsituated externality that endows legality (and particular legal decision makers) with the impartiality that constitutes its authority for many people (1998, p. 84).” All of the interviewees seem to accept the European objective to protect the European linguistic diversity by granting linguistic rights to minorities. According to Karl from Malmö stad,

Our main task is to revive the Finnish language so that it would not disappear
. . . National minority languages are meant to be passed on to next generations
. . . Make them live on in Sweden (Karl).⁴⁵

The parents seem to have also internalised the European ambition by referring to the ECRML which grants MTI at all levels of education. In their view, the promises

⁴⁵ Att främja språket, det är ända huvud uppgiften . . . Att vi ska revitalisera finskan är ju hela grejen . . . Att språket skulle inte dö. Minoritetspråk bygger ju på att vi ska få finskan till nästa generationer . . . att det ska leva i Sverige.

of the ECRML seem rational representing justice, but also out of reach from the everyday lives on the interviewees. Ewick and Silbey explain that people often “believe in the appropriateness and justness provided through formal legal procedures,” while also doubting the fairness of their practical realisation (1996, p. 47). The European law is seen as authoritative, rational and higher in hierarchy – in a way objective and impartial from the social world and the everyday lives of individuals. Yet, the European norms and regulations have not fully reached the national sphere, since only preschool education is stipulated in law. Karl contemplates whether the law will change in the future with respect to Finnish language education in primary and secondary education; “We just have to wait and see (Karl).”

Eva is frustrated on the ‘fancy sentences of legal texts’, which however are not fulfilled at the local decision-making processes. She feels sometimes powerless before the law – law that seems distant from her everyday life – and Eva cannot see how the European norms or the Swedish national law could really help her in gaining access to what she considers as justice – to educate her children in her mother tongue. To Lukas, the Swedish state is seen as liable to follow the European norms in a ‘rational’ way – not by creating their own interpretations on the legal texts that do not produce the desired ends and goals of the European Commission,

I’m not particularly worried about our kids, but it’s a matter of principal . . . Especially considering the minority law, that it’d be followed in a rational way (Lukas).⁴⁶

In his view, the state ought to collect scientific proof to outline the best way to guarantee the objectives of the law; that is, to pass on the Finnish language to future generations. He does not believe that parents alone could sufficiently teach children how to read and write properly in Finnish language, thus he considers school to be the key actor here. There seems to be a clear hierarchical setting according to

⁴⁶ En mä varsinaisesti meidän lapsista ole huolissaan, mut se on periaatekysymys . . . Varsinkin kun on se vähemmistöläinsäädäntö, et sitä noudatettais järkevällä tavalla.

Anna's understanding on legality, by which the Swedish legislators are beneath the European Commission. When Anna explains in chapter 5.1. that the parents have contacted the European Commission complaining about the inadequacy of the Swedish law in providing preschool MTI in Finnish language, she seems to be aware that the European Commission's provision on LMR is more generous as compared to the Swedish state's, and that the European officials have the power to influence and put pressure on the national legislators and officials. The European law and objectives however seem distant from the everyday life of the people,

. . . it doesn't happen you know easily by asking politely that this is what I'd like to have for my child. . . It has been quite hard work (Anna).⁴⁷

Hence, Anna believes in the authority of the European bodies and law, while also recognising that the national law and local realisation of the law might not correspond to the European norms. The limited scope of the Swedish law to protect national minority languages is one manifestation of this gap between the European and national regulations.

5.4. Discussion

Only one year after Malmö stad joined the Finnish administrative area, the municipality started a bilingual Finnish-Swedish preschool class in the middle of the city. Additionally, an ambulatory pedagog was hired to visit those children unable to attend the class. As a consequence, all the interviewees express their satisfaction on the current situation in Malmö regarding minority language education in preschool. How this result was accomplished, has not been a simple task. The open-ended law has left substantial scope for interpretation for the municipal decision-makers, which according to the law on national minorities and minority languages needs to be resolved in communication with members of the

⁴⁷ Ei tuu sillai et pyydetään nästisti et hei, mä haluaisin tällaista näin, et tää on se paras juttu meidän lapsille . . . Et se oli tosi raskasta, ja sellaista venkoilua, sellaista vääntämistä.

Finnish minority. This has necessitated interest articulation and mobilisation from the parents of Finnish speaking children, while the municipal authorities have had the duty to organise negotiations and conduct research on the current need for preschool services in the minority language in question, as well as had to balance between the differing demands, requests and rules that regulate the field of preschool education and MTI in Malmö.

In this sociolegal study on individuals' legal consciousness on the right to minority language education in preschool, I have discussed with six active participants in the creation process of a Finnish speaking preschool class in Malmö. Each party possess their unique understanding on justice and how the law should be realised in practice. According to Skutnabb-Kangas, linguistic diversity does not usually lead to conflict, but language can work as great mobilising factor in situations where a language minority feels itself threatened; "In a democratic society the achievement of principles and practices which meet human rights standards is an ongoing struggle between competing interests (2017, p. 2)." Furthermore, since the preservation of national minority languages in Sweden stems from the European conventions, the interplay of the diverging norms at different levels of legislation has caused further discrepancies in the legal understanding of individuals in Malmö.

The concept of legal consciousness has been popular ever since the emergence of law and society research (Silbey 2005, p. 324). According to Silbey (2005), sociolegal studies using the concept of legal consciousness indicate how organizations, social networks and local cultures have shaped the uses and consequences of law. A distinct feature of the law that regulates Finnish preschool activities in Malmö is its open-endedness – it solely provides a framework within which the municipal officials are expected to work within. While earlier studies on legal consciousness have focused on more distinct legislation and the ineffectiveness of law, identifying a gap between the law in books and law in action (Pound 1910, Sarat 1985 in Silbey 2005, p. 324), this study has had a greater focus on the diverse ways that people interpret, understand and use the ambiguous law. What we have seen here is a gap between the European law and Swedish national

law, as well as a gap between the diverse ways how individuals' understand the law. It seems that each subject of this study have their very unique way of decoding the rights under the minority law, and opinions on how they should be implemented for producing justice. These interpretations have subsequently been used to shape the surrounding social structures.

Equality before the law is one of the foundations of legal liberalism (Rawls 1971 in Silbey 2005, p. 325) and it also emphasised in the Swedish administrative law (Carlson 2012). However, it seems unclear how to define equality before the law, when there are various regulations at play simultaneously as well as various understandings of equality. Malmö stad has approached equality from the perspective of all minority groups, emphasising equality among them. This is for instance exemplified when discussing education in school, as the Swedish minority law does not apply to school education. In school, all minority children are said have equal treatment and similar amount of language education. Some parents accept this setting, though others are being more critical to the Swedish law, as they do not understand the promise to preserve Swedish national minority languages, when it is put into effect solely in preschool and forgotten when a child starts primary school. Hence, equality before the law has different meanings to different people. Some use the concept of equality to diminish the gap between majority and minority language learning and use in school. Others emphasise equality between minority languages in Sweden. Equal treatment with other minorities poses further complications as some languages are more prominent than others; for instance, English and French languages are taught substantially more than Swahili or Igbo. It seems to be uncertain to which language group the Finnish language is equal to and consequently, how to guarantee similar treatment and equality before the law.

In Hertogh's (2009) study on non-discrimination, it was found that people's conception on *legal equality* was not identical to that of the Equal Treatment Commission's; instead, people had their "own idea of equality" that affected their attitude towards non-discrimination law. The situation here somewhat corresponds as the openness and ambiguity of the law that obliges municipalities to offer preschool activities in minority language "fully or partially", seems to paint

different pictures on the assumed legal obligations and rights under the law. Broadly speaking, the parents would like to guarantee their children's bilingualism by making sure that the education they receive is "sufficient". In their view, the municipality should provide language activates in a best possible way. The municipality, on the other hand, has a more practical approach where the law is inspected more literally, as in what exactly are their obligations under the law. As Hertogh (2009) found in his study, the individual understandings of ordinary people and public officials on equality and justice may contradict, as people tend to formulate their own ideas on right and wrong, equality and justice. In order to interweave this gap in comprehension, there seems to be a need to clarify the status of a national minority language.

Malmö stad has taken a so-called "middle way" approach to interpret the law, by launching a bilingual class to Finnish speaking children, supported by an ambulatory pedagog – a solution that seems to satisfy all parties. We may not however see the end-result as some kind of a permanent solution to all similar situations, or even a long term solution in Malmö. The open-endedness of the law necessitates ongoing communication and negotiations among those concerned. Possible reasons for this kind of legal approach are outlined by Carlsson (1995) in his work on communication processes behind Swedish open-ended law. Firstly, it can bring information into the system; secondly, it can be a therapeutic experience to many to be able to articulate their interests on decisions concerning them; and finally, it can stimulate the process of democratization and reflexive learning (Carlsson 1995, p. 483). Therefore, despite of the confusion and critique expressed by the interviewees on the ambiguity of the law, this open-endedness of the law on linguistic minority rights in Sweden may serve a purpose as it necessitates communication and institutionalizes the collective learning process, as Carlsson claims (1995, p. 501).

6. Conclusion

In this study, I have adopted a bottom-up approach for studying how individuals belonging to the Swedish Finnish national minority in Malmö understand their right to mother tongue instruction; which avenues do they see and use for accessing such rights; and finally, how is this related to a state perspective of such rights and the utilization of them. Firstly, individuals of the Swedish Finnish minority hold diverse understandings on their right to Finnish language education in preschool environment, and thus cannot be generalised. While some consider it as a goodwill of the municipality to offer Finnish language education in Sweden, where the majority language is Swedish, others interpret the granting of an official status to Finnish minority language as promoting bilingualism of Swedish Finnish children. The Swedish *Act on National Minorities and National Minority Languages* (SFS 2009:724) is nevertheless unanimously considered as ambiguous and insufficient in guaranteeing a child's access to mother tongue education, in particular regarding higher stages of education.⁴⁸ The parents have pursued to make available preschool education by grouping and negotiating with other parents and public officials working for Malmö stad. They have furthermore contacted various external actors in order to strengthen their arguments for more comprehensive language education in preschool.

The parent's perspective has been complemented with a narrative from the municipal side, in which the question, how is this related to a state perspective of such rights and the utilization of them? has been answered. According to Karl, public officials at Malmö stad have interpreted the law's main objective as to promote a child's bilingualism, which is why the municipality has favoured the starting of a Finnish speaking preschool class, where the minority language is used on a daily basis. An emphasis is also given to the article 5 of the law (SFS 2009:724), which encourages municipalities to include members of the minority

⁴⁸ Swedish Government is planning to revise the law on national minority language education, and has given Lennart Rohdin the task to write adjustment suggestions. Rohdin's proposals to the Government for law revision will be published during the Summer of 2017 (Talltorp & Bah Kuhnke 2016).

into the decision-making processes, and to give the minority an opportunity to articulate their interests and needs. While participating in various negotiations was considered as important, albeit somewhat exhaustive, by some of the active parents, Malmö stad's objective has been to reach consensus among the different parties, and thus hear the needs and opinions of all Swedish Finnish parents, having preschool aged children in Malmö. Despite the Finnish class, Lankarulla, has been warmly welcomed by all parents, and is currently full, most of the interviewees preferred an ambulatory pedagog to visit their child at their own preschool, out of practical reasons. Ergo, there is a demand for different options for MTI.

This study has approached the legal environment and implementation-process of the law on national minority languages as socially constructed, depicting the ways how open-ended law is dependent on social actors' interpretations and understandings on their rights and obligations. Each individual appears to have a unique understanding on law and legality, and how the law on minority languages ought to be realised in practise. Ewick and Silbey's theory on legal consciousness has been used for enlightening the individual legal consciousness. It has shown how peoples' approaches to law and legality are changeable – while sometimes law is seen as something magnificent, promoting justice in society, other times individuals are strongly critical positioning themselves against the law, in particular when the law does not correspond to their understanding on justice. Due to the open-endedness of the Swedish law on linguistic minority rights, it has necessitated the municipality to negotiate with the users of the minority language, and to find consensus among the participants. As a result, individuals have sometimes played the law like a game, promoting their own preferences and goals. The outcome of the process has nevertheless been a general satisfaction and acceptance on the cooperatively achieved solution, indicating how enabling various actors to articulate their interests by negotiating with the municipality, have created a more homogenous understanding on justice and perception on how linguistic minority rights ought to be realised in practice.

This study participates in the quest on preserving the European linguistic diversity by granting educational language rights to Swedish Finnish national

minority group. According to those interviewed, it is important to pass on the Finnish minority language to the next generations. As various studies indicate (Kymlicka 1995; May 2014; Skutnabb-Kangas 2000, 2001, 2017), education is one of the cornerstones for guaranteeing a child's language learning and bilingualism. The study furthermore answers to Cabau's (2009) remark on the "new trends" in the Swedish linguistic policy, which according to her favour dominant English language or national Swedish language in education: As at least in Malmö, we may detect an approach which accepts the cultural and linguistic diversity in education, and by which minority groups' needs are heard and languages promoted.

The findings of this research contribute to the knowledge-production in the field of sociolegal studies interested on legal consciousness and individuals' understandings on legality and law in their everyday lives. The results imply that when law is left open-ended and individuals allowed to participate in the interpretation of the law, it creates a general acceptance on the mutually negotiated method of realising the law in practice. This study furthermore gives evidence on law's socially constructed nature; how individuals hold diverse perceptions on law and legality, and how the law's manifestation in society is influenced by active individuals. Only the Swedish Finnish minority has been under scrutiny in this case study, which is why the results are not generalizable; nevertheless, it can provide implications to other national minority groups in Sweden, in Europe or in the world, on accessing their linguistic rights under international treaties and national law. As I have not had the chance to look into the factors that determine ones positioning to the law, it could serve as a useful starting point for further research. For instance, Nielsen's (2000) study finds that the factors that influence people's legal consciousness are causally dependent on their past experiences and social status. A possible point of interest could therefore be to raise these social aspects as possible determinants on individual's positioning to the law on national minorities and minority languages in Sweden or in other countries where national minorities exist.

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Appendix



Welcome letter to the interview participants

Dear participant,

Thank you for your participation in this study that I am conducting as a part of my master's degree in sociology of law at Lund University. I would like to provide you with some further information about my project, as well as what your involvement would entail as a participant in this study.

Finnish language has enjoyed an official minority language status in Malmö since February 2015, when the municipality joined the Finnish administrative area. By this, Malmö stad has granted extended rights for using the Finnish language in public places, such as in preschool. The aim of my study is to see, how the right to national minority language and mother tongue education is perceived and understood in Malmö, Sweden.

I will look into the individual perspectives of the minority language users, that is, the parents to children belonging to the Finnish minority; as well as from the viewpoint of the key personnel working for Malmö municipality in the field of national minority languages and education.

The case of Malmö is selected on the basis of its successful establishment of a Finnish speaking preschool class, and its relatively generous interpretation of the right to use Finnish language in preschool. Malmö municipality can thus be considered as a positive example in promoting linguistic minority rights in Sweden and in Europe.

On a larger scale, the study seeks to contribute to the quest of preserving the European cultural heritage and linguistic diversity.

Participation in this study involves approximately a one-hour interview at a location of your preference. You will always have the choice to decline from answering to any of the questions posed. You will also have the right to withdraw from participating in this study at any point of time, even during and after the interview, without any excuse or particular reason. I will only use the information that you approve for me to use in the study. All other comments or remarks you provide will be considered and treated as confidential. The study will be anonymous.

With your permission, the interview will be tape recorded. However, you will have the opportunity to decline from this. Recording the interview will allow me to return to the interview situation later on, and guarantee that nothing relevant or important will be missed or forgotten.

Both, the recorded and written information will be anonymous and kept strictly private. Only I will have access to this data. After writing down the information retrieved from the interviews, I will give you a chance to read through the text. If there is something that you would like to change in your statement, you'll have the opportunity to request that.

If you have any further questions about this study or the interview, please contact me at 076 **** * or via e-post veera.saisa.580@student.lu.se.

Thank you very much for reading this letter and thank you for your participation!

Sincerely,

Veera Säisä

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