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# The Legal Recognition of Sign Languages

## Abstract

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

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

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

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

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

#### Five Categories of the Most Common Types of Explicit Legal Recognition

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

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

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

### *Constitutional Recognition*

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

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

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

#### *Recognition by Means of General Language Legislation*

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

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

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

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

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

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

*Recognition by Means of a Sign Language Law or Act*

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

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

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

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

Act CXXXV on Hungarian Sign Language and the use of Hungarian Sign Language (2009) is a special example because, although it explicitly recognizes Hungarian Sign Language, reference is made

throughout the text to both Hungarian Sign Language and “special communication systems.”<sup>6</sup>

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

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

Three Categories of Implicit (Legal) Recognition

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

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

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

## Notes

1. For more on the distinction between implicit and explicit recognition, see De Meulder forthcoming 2015 and Murray (this issue).

2. The time lag between submission and publication of this article inevitably means that some information will no longer be current by the time it appears in print. I welcome any feedback or additional information.

3. This phrase can refer to children, adults, and hearing children of deaf parents (Valgerour Stefánsdóttir, pers. comm., September 16, 2013).

4. This Czech law also recognizes “communication systems based in the Czech language”: finger alphabet, visualization of spoken Czech, written record of speech, Lorm, dactylography, Braille, tactile lipreading, and the Tadoma method.

5. The Spanish law also recognizes lipreading, hearing aids, and subtitling.

6. These are specified in the appendix of this act as tactile sign language, signed Hungarian, fingerspelling, tactile hand-over-hand signs, visualization of Hungarian speech, the writing down of Hungarian speech, the Lorm alphabet, palm writing, Braille writing, tactile form of Braille writing, and the Tadoma vibration method.

7. Scotland might move to category on “recognition by means of a sign language law or act.” see De Meulder (this issue).

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