

The Situation of the Finland-Swedish Population in the Light of International, Constitutional and Administrative Law

1. Historical survey

In 1809 those parts of Sweden which were bounded in the west by the Aaland Sea, the Gulf of Bothnia and the Torne River and were called Finland had been definitively incorporated with Russia. Even earlier, since the beginning of the 18th century, Russia had occupied parts of these areas at various periods. As a result of the Peace Treaties of Nystad, 1721, and Aabo, 1743, Russia had also formally annexed parts of Finland.

When Tsar Alexander I vested his new Grand Duchy of Finland with autonomous rights and permitted the use of the old Swedish legislation for the time being until a new system of legislation could be created, the result was that Finland retained her Swedish character for a long time to come. In addition to the fact the Swedish Gustavian Constitution remained unchanged and the Swedish *Law Code* of 1734 was still in force in Finland, Swedish remained as the official language of Finland. The Russian element was almost negligible.

If one were to draw a parallel to the divided states of our own times, Germany, Korea and Viet Nam, it would be found that the disparities between the Communist and non-Communist parts of these states would in many respects seem to be greater than those between Sweden and Finland during the greater part of the 19th century.

When Finnish nationalistic sentiments were beginning to assert themselves in Finland, the greatest ambitions were at first to put Finnish language on an equal footing with the Swedish language in matters of legislation, administration and jurisdiction and to ensure for the Finnish-speaking inhabitants of the Grand Duchy the right to use their mother tongue in public affairs and to receive instruction in that language.

These ambitions, behind which the Finnish-speaking part of the population stood united but which were supported also by the greater part of Swedish-speaking people, were eventually successful, in spite of the fact that they were at first opposed by the

Russians on account of being taken as an indication of dangerous, much too democratic tendencies.

A certain amount of equality between the two languages was reached at the end of the 19th century. The attainment of a perfect state of balance was, however, complicated at first, owing to the primitive character of Finnish as a language of culture and to the shortage of Finnish-speaking teachers and officials. At the beginning of the 20th century, when conditions were changing rapidly, Finnish was well on its way to overshadow the Swedish language because of the great numerical preponderance of the Finnish population.

Until the Parliamentary reform of 1906, which introduced the principle of universal and equal suffrage and which gave the two nationalities an influence proportionate to their numbers, the pro-Swedish elements controlled two of the four Estates of the Diet. At that time the idea of Swedish being a minority language and the Swedish-speaking population a linguistic or even a national minority in Finland had not yet gained ground in the public opinion. The period when the Swedish element was absolutely dominating in the public and cultural life of the country was still of such recent date that there had been no time for adopting a minority attitude.

The strong press upon the positions of the Finland-Swedes from the beginning of the 20th century onwards resulted, however, very soon in energetic organizational activities based on language and nationality. It became necessary for the Swedish-speaking people to unite in order to further their mutual interests. Today one can point to a great number of Finland-Swedish organizations which have a clear minority bias, that is to say their chief function is to assert the rights of the Finland-Swedes in a Finland dominated by the Finns.

The most important of these organizations is *Svenska Finlands Folkting* (the Popular Assembly of Swedish Finland), which emerged in 1919, immediately after Finland had gained her independence, with the purpose of examining the opportunities for Finland-Swedish autonomy, and was reanimated during the Second World War to become a permanent institution. The members of the *Folkting* are appointed by means of general elections among the Finland-Swedes and represent their various political attitudes. Its chief duty is to give expression to the Finland-Swedish opinions on various public matters. However, the *Folkting* has not been formally acknowledged as a Finland-Swedish representative body by the State, because its status has never been defined in terms of the law. But the activities of the *Folkting* are nowadays supported by an annual

State grant. On various occasions, for instance in matters of legislative work, the State often consults the *Folketing*, which is also acting as a pressure group. Owing to the semi-private character of the *Folketing*, one cannot maintain that the Finland-Swedes form a corporation with formally acknowledged rights to speak authoritatively for the Finland-Swedes in official matters by means of its elected organs.

Activities on a purely Finland-Swedish basis are rendered difficult by the steadily growing Finnish element in Finland. There has in recent years arisen a tendency towards disintegration of the Finland-Swedish minority attitudes, which were strongest in the 1930's, when energetic Finnish forces were making demands for only one national language in Finland under the banners of the language fight. It should, however, still be appropriate to call the Finland-Swedes a nationality because of their gathering round their language and their special cultural traditions.¹

It is against the background of this short historical sketch that I shall now discuss the situation of the Finland-Swedes in the light of international, constitutional and administrative law.

The Protection of the Finland-Swedes under International Law

After the Second World War, a system for the protection of minorities under international law was created in many parts of Europe. This system was aimed at providing the national minorities in the new and enlarged states with a limited amount of protection for certain rights in regard to language, culture and religion. In such countries as Poland, Yugoslavia and Roumania, with their numerous nationalities, the minorities were granted the right to maintain schools of their own, which were even subsidized by the State in districts with a considerable minority population, and the right to use their own language in the courts of law.

The League of Nations, which saw to it that the minority treaties were duly observed, also decided on December 15, 1920, that the Baltic States, among which Finland too was counted, were to be accepted as members only on the provision that they pledged themselves to observe a minority protection of at least the same scope as the one laid down in the Polish minority treaty of June 28, 1919,

¹ See: Swen Lindman, *The concept of "Nationality in Swedish-Finnish political thought*, (1964:8), *Annales Academiae Regiae Scientiarum Upsaliensis*, at pp. 8-20.

which was to set the norm for all international minority laws at the time.

This decision was also formally applied in the case of Lithuania, which had to submit a detailed declaration on the protection of its minorities. Estonia and Latvia also had to submit such declarations although not as formal ones as in the case of Lithuania. Finland was admitted into the League on December 16, 1920, without having been requested to deliver any guarantees in advance concerning minority protection. The only reservation that was made on the admission of Finland into the League consisted in the fact that the political status of the Aaland Islands was left undefined for the time being.

Only somewhat later Finland was notified of its obligation to submit a memorandum on the conditions of her minorities and religious communities to the League of Nations. After such an investigation had been made by the Finnish Ministry of the Exterior and brought to the notice of the Council of the League, the Council decided on October 2, 1921, not to demand any guarantees from Finland for the protection of minorities under international law. The national legislation of Finland was considered to be so satisfactory from the point of view of minority interests — of course this held good especially of the position of the Finland-Swedes — that no demands were made for an international guarantee of the observance of certain minimum rights.²

A contributory reason for this remarkable attitude towards Finland, which was thus placed in a more favoured position than the other newly-founded states, was undoubtedly the fact that neither the Finland-Swedish population nor the Swedes were making any demands for protection under international law for the Swedish minority in Finland. At the session of the *Folkting* in 1919, the Finland-Swedes themselves rejected the idea of asking for international protection in their capacity of a national or linguistic minority. On the contrary, they emphasized the equal status of the Swedish language in Finland and rejected the formal classification of the Finland-Swedes as a minority, since it was feared that such a procedure would involve limited possibilities to make their voice heard alongside of the other nationality in matters concerning the whole country. Sweden's ambition to take possession of the Aaland Islands was, it is true, motivated by a desire to preserve the na-

² *La situation juridique et les droits des Minorités en Finlande*. Documents publiés par le Ministère des affaires étrangères, Helsingfors, 1921.

tional character of the Islands, but in practice it was above all dictated by considerations of military strategy.

The Aaland Islands dispute, which was referred to the League of Nations, was finally settled in June 1921. Finland was awarded the sovereignty over the Islands, albeit with some restrictions. One of these restrictions was the prohibition of the fortification of the Islands. The neutralization of the Aaland Islands was subsequently laid down in a multilateral treaty under international law. By way of another restriction Finland was obliged to grant the autonomous Province of Aaland far-reaching guarantees for the preservation of the Swedish language, the culture and the local traditions of the Islands.

Detailed provisions on the guarantees for the preservation of the national character of the Islands were drafted by the representatives of Finland and Sweden with the help of a chairman appointed by the Council of the League of Nations. On June 27, 1921, the treaty was communicated to the Council, which approved it and decided to add it to its earlier decision to the effect that the Aaland Islands were awarded to Finland. Of particular importance in the treaty was the provision that entitled the Council of the League to supervise the observance of the guarantees. The representative body of the Province of Aaland, the *Landsting*, was vested with rights to make complaints through the Finnish Government about incorrect application of the guarantees to the Council of the League, which was also obliged to ask for the advisory opinion of the Permanent Court of International Justice on the interpretation of these decrees.

One part of the Finland-Swedish population, the inhabitants of Aaland, was thus assured protection under international law for its language and culture. This protection was given a very wide compass: the Swedish language was established as the only official language in the Islands and as the sole language of education. The possibilities of non-Aalanders to acquire landed property and their right to engage in business and industry were made dependent upon decisions passed by the Aaland authorities of autonomy.

In no other minority treaty under international law has a minority been given such far-reaching rights and so extensive guarantees for the continuance of the rights. Thus, these rights are protected very effectively also on the national plane by means of a provision to the effect that changes in the guarantees and in the legislation concerning the autonomy of the Aaland Islands can be carried through only with the consent of the *Landsting* of Aaland and, moreover, the procedure prescribed for the enactment of con-

stitutional laws must be observed in the legislative work in Parliament.

As regards the Finland-Swedish population as a whole, it is still true that it lacks protection under international law for its national rights. In this respect, however, it is no longer in a worse position than the other national minorities of Europe, with some very few exceptions. In fact, the minority treaties contracted under international law after the First World War have become invalid because of the great changes in international relations. On founding the United Nations, the member states rejected the idea of reviving a system of minority protection under international law and were content to try to make the states respect human rights in general.

However, the right to a language and culture of one's own was not classed among these rights, because the protection of national minorities was highly disfavoured in many parts of the world.

Under the *Treaty of Peace* with Finland of 1947, Finland is thus obliged only to treat her citizens equally, without distinction of language. But this obligation should be interpreted merely as a prohibition of the discrimination of citizens on account of their language, not as an assurance of their right to cultivate their own language, for instance by means of maintaining minority schools and other educational institutions.

On the initiative of the United Nations and its specialized agencies, various international covenants and conventions have been contracted and submitted to the member states for approval and ratification. So far, however, there is no single convention aimed at creating a minority protection under international law even of the comparatively modest scope of the minority treaties signed after the First World War. The most far-reaching international agreement in this respect is UNESCO's convention against discrimination in education. This convention lays it down that national minorities shall be granted the right to maintain schools of their own, either such schools as enable the pupils to be educated in their mother tongue or else schools that only provide teaching of the mother tongue, while the general language of education is that of the majority.³

The Finland-Swedish population as a whole, then, lacks the protection of international law. To some extent it is also uncertain whether even the inhabitants of the Aaland Islands still enjoy such protection for their national rights. Differing opinions have been

³ Tore Modeen, *The international protection of national minorities in Europe*, (Abo: 1969), at pp. 112 *et seq.*

pronounced on the continuous validity of the *Aaland Islands Treaty* of 1921. It is unanimously agreed that Finland is no longer committed by the Treaty to any international organization, since the League of Nations has been dissolved and the United Nations has not taken over the duty of functioning as guarantor of the Treaty. On the other hand, it is perhaps possible to assert that Finland might still be pledged by the Treaty with regard to Sweden — an interpretation which was asserted by Sweden when the present *Autonomy of Aaland Act* of 1951 was being drafted and which was not disputed, either, by Finland. Moreover, this opinion was expressed in an authoritative investigation published by the United Nations in 1950.⁴

The special constitutional and administrative position of Aaland is passed over in this account. This position is the result of the guarantees for the protection of the Aaland people's language and cultural rights contained in the *Autonomy of Aaland Act*. Aaland is classified as a monolingual Swedish administrative district; all education in Aaland is given in Swedish and only persons having the right of domicile in Aaland may own real estate or pursue trade there.

Protection afforded in the constitution

When Finland, having achieved independence, drew up its constitution in the *Constitution Act* of July 17, 1919, the only ruling on questions of nationality and language had up to then been contained in administrative ordinances. Now, however, both the Finnish-speaking and Swedish-speaking populations demanded that these questions should be decided in the constitution; this should then be complemented by a special *Language Act* and other ordinances concerning nationality.

The most important statute is Article 14 of the *Constitution Act*, which runs:

Finnish and Swedish are the national languages of the Republic.

The rights of Finnish citizens to use their mother tongue, whether Finnish or Swedish, as parties before courts of law and administrative authorities, and to obtain from them documents in such language, shall be guaranteed by law, so as to provide for the rights of the Finnish-speaking and Swedish-speaking populations in accordance with equal principles.

The cultural and economic needs of the Finnish-speaking and the Swedish-speaking populations shall be met by the State in accordance with equal principles.

⁴*Study of the legal validity of the undertakings concerning minorities*, E/CN. 4/367.

This statute is contained in the second section of the *Constitution Act* under the heading of "*The Common Rights and Legal Protection of Finnish Citizens*".

Article 116 of the *Swiss Federal Constitution* of 1874: "*Die drei Hauptsprachen der Schweiz, die deutsche, die französische und die italienische, sind die Nationalsprachen des Bundes*" served as a model for the first part of Article 14 containing the statute that both languages are to be considered national languages. The statute means that both languages are considered to have the same domiciliary rights in Finland and that both must be used on important official occasions. Directly connected with this, therefore, is Article 22 of the *Constitution Act* which provides that "laws and ordinances, as well as propositions put to Parliament by the Government together with Parliament's reply, representations and communications to the Government are to be drawn up in both the Finnish and the Swedish languages". Furthermore, the following, together with others, are published in both languages but in separate editions in Finland: Parliamentary committee reports, accounts of Government procedures, the reports of the Councillor of Justice and the Ombudsman, the report of the Parliamentary auditors, the reports of the Parliamentary Commission of the Bank of Finland and the Parliamentary Commission of the National Pensions Institute, the accounts of permission authorised by the state, the annual reports of the Bank of Finland and publications of the Board for Drafting Legislation. In addition there are other official publications such as the Official Gazette of Finland, official statistics, the state balance sheet and others in which both languages are used side by side. However, some state publications appear only in Finnish. Governmental committee reports, for example, are only rarely published in Swedish.

That Article 14 appears in the section dealing with Finnish citizens' common rights is most important for this means that the right to use one's own language in official dealings and to have one's cultural and economic needs satisfied in accordance with equal principles has been put on an equal footing with citizens' other constitutional rights such as freedom of worship, freedom of association and freedom to choose where one lives. The regulations concerning the rights of both populations may also be interpreted as an expression of the legislator's desire to afford both groups collective protection.

State legal authorities have rightly considered Article 14 of the Constitution to be directly connected with the introductory statute contained in Article 5 in the second section of the *Constitution Act*

which states that Finnish citizens are equal in law. Article 14 of *Constitution Act* is an expression of the principle of equality that should exist between citizens of different population groups which the state has recognised as being of equal standing.⁵

The *Constitution Act* makes special mention of the right to use one's own language and to be addressed in that language in a court of law or when dealing with an administrative authority. In this connection reference is made to a special law. Such a law was passed soon after the *Constitution Act*; it was the *Language Act* and the *Knowledge of Languages Required of Civil Servants Act*. Both laws are dated June 1, 1922 with subsequent amendments.

The right of both populations to have their cultural and economic needs satisfied in accordance with equal principles is based only on the second paragraph of Article 14 of the *Constitution Act*. Interpretation of the concept "equal principles" has led in practice to conflicts between the two populations. Certain advocates from the majority have claimed that, for example, state subsidies to Swedish educational institutions should be in the same proportion as that of the minority to the majority. The minority, on the other hand, has claimed that such a principle is wrong since it does not take into account the fact that the costs of setting up and administering such institutions are not in direct proportion to the numbers of people attending the institution. Neither does it take account of Swedish institutions which are already in existence.⁶

The correct interpretation should be that, in those cases where the community supports cultural and economic (as well as social) aspirations within one population group, then the other should also receive support. The size of this support should be such that a similar degree of activity is possible for both in accordance with similar principles. For example, the level of education in Swedish institutions should be the same as that in Finnish institutions. On the other hand, account should of course be taken of the size of both population groups so that the minority cannot demand as many institutions as the majority. In certain areas where the minority is too small to warrant its own institution it should be possible to incorporate the minority into a predominantly Finnish institution.

⁵ S. R. Björkstén, *Nagot om 14 § regeringsformen* (On Article 14 of the Constitution), (Nya Argus: 1932), No. 15. See also R. Erich, *Suomen valtiosäikeus I*, (Constitutional Law in Finland), (Helsinki: 1924) at p. 241.

⁶ See, among others, Ernst Estlander *Aktuell tolkning av 14 regeringsformen*, (A New Interpretation of Article 14 of the Constitution), (Nya Argus: 1938), No. 3.

However, in this case there should be certain guarantees of the minority's right in matters of language.

Connected with Article 14 of the *Constitution Act* is the third paragraph of Article 50 of the *Act*. This lays down that adjustments in the boundaries of administrative areas (provinces, communes) shall be such that the areas are as far as possible monolingual or that minorities speaking the other language are at least as small as possible. It is also laid down — in the second paragraph of Article 51 which deals with provincial autonomy — that the same principle shall be followed.

According to Article 75 a conscript, unless he himself wishes otherwise, shall be, as far as possible, assigned to a unit whose members have the same mother tongue as himself. He shall, furthermore, receive his training in that language.

The *Constitution Act* cannot be interpreted in such a way that the Swedish-speaking population in Finland is treated as a national minority since the law puts both populations on an equal footing in all respects. Nevertheless, the statutes of the Constitution mean in practice that the Swedish population is afforded protection as the position of the Finnish population, by reason of its great majority, is in practice ensured in all cases by legislation. Article 14 means, therefore, that the Swedish people enjoy in fact constitutional protection of their language and culture. This protection means that all normal legislation and administrative decrees must follow the principles laid down in the Constitution in this respect. Exceptions can only be legally made in legislative matters if the procedure prescribed for amendments to the Constitution is followed while administrative decrees at variance with the Constitution may not be applied by public authorities.

On the other hand the statutes affording protection to both populations in the Constitution can be amended provided that a legal majority in Parliament gives its consent. Since the number of Swedish members of Parliament is far from being large enough to prevent or even delay a decision to amend the Constitution, the continued protection given by the Constitution to the Swedish-speaking people is dependent on the willingness of the Finnish majority to respect the principle of equality in the question of language and cultural rights.

There is no certain guarantee, however, that legislation accords with the Constitution in this respect as in others so long as the Constitution Committee, which ensures that the statutes of the Constitution are respected when legislation is being drafted in the Parliament, is politically appointed. However, the committee usually

consults and, in its recommendations, follows the advice of legal experts in difficult question of interpretation. What is needed is a special constitutional court with the authority to determine the constitutionality of the laws.

No government up to now has put forward any proposal to amend the above mentioned statutes in the Constitution; this must be regarded as a favourable sign. Parliamentary motions aimed at weakening the Swedish people's position have been raised but so far they have been rejected by Parliament.⁷

In practice the existence of the nationality statutes in the Constitution has not resulted in it being considered necessary for ordinary laws containing deviations from these statutes to follow the procedure prescribed for amending the Constitution. This has been due, above all, to the somewhat elastic contents of the statutes.

Parliament has, similarly, not always observed the principles contained in the nationality statutes of the Constitution either in legislating or in drafting legislation. A Government bill (1945:43) to change provincial boundaries in order to set up a predominantly and, for the most part, monolingual Swedish province in Ostrobothnia was rejected after much discussion. Likewise a proposal to introduce provincial autonomy in such a way that the Swedish population would have been assigned to two autonomous areas set up on the basis of language (*Committee Report* 1963:1) was replaced by a later proposal that the division should not follow linguistic boundaries (*Preliminary Report*, May 14, 1968). In giving state support to different institutions and areas in the country the principle of equality has not always been strictly followed. For instance, the private Swedish university, Abo Akademi, has been treated rather harshly in the matter of state subsidies compared with the private Finnish universities. In several cases the state has taken financial responsibility for the running of Finnish secondary schools in bilingual areas with a Swedish majority before similar steps have been taken for Swedish schools.

Major wrongs have however been avoided since the Swedish People's Party has acted as watchdog for the Swedish population's interests. This political party, of which nationality is the principal

⁷ See, among others, Parliamentary notions Nos. 1 and 2, 1933, together with the recommendations of the Constitution Committee, 1933:5, and 1935:4, as well as detailed advice given by experts; Riksdagen 1933, Handlingar V och Riksdagen 1935, Handlingar V, (Parliament 1933, Official Documents V and Parliament 1935, Official Documents V).

raison d'être, has been represented in almost all governments since the war.⁸

Protection Afforded in Administrative Law

The Swedish-speaking population's interests in administrative law are provided for by several different laws and ordinances. The most important of these is the *Language Act* of June 1, 1922. It should be pointed out, however, that this law makes no distinction in any way between the rights given to Finns and Swedes but treats them equally in all respects. This means that Finnish minorities in a predominantly Swedish administrative district have, in accordance with this law, the same rights as Swedish minorities in predominantly Finnish districts. Bearing in mind that the regulations contained in this law also apply to central governmental authorities and that it is nearly always the Swedish population which is in the minority, this law is of particular importance for Swedes. The statutes contained in the *Language Act* concerning a minority's rights in the matter of language apply, then, to Swedes in their dealings not only with the central government authorities but also with government authorities at the provincial level and with those authorities holding office in administrative districts of comparable size of which the boundaries have not been drawn up so that the Swedes form a majority. As has been pointed out earlier, provincial boundaries have been drawn up so that the Swedish-speaking population is in a minority within the provinces. This is also true of many other administrative districts. An exception to this, however, are the land settlement areas: according to the Council of State decision of August 24, 1965, two predominantly Swedish districts were set up. The *Language Acts* lays down, above all, the language to be used by authorities together with the language to be used in dealings between authorities and citizens.

Finland is divided in such a way that all communes — the basic administrative and judicial unit — are classified either as monolingual Finnish or Swedish or as bilingual. This classification is based on a census, carried out every tenth year, in which the inhabitants have to give their "first" language. A commune is considered to be bilingual if at least ten per cent of the inhabitants belong to the other linguistic group. If the size of the minority is on the decrease, the commune can be declared monolingual only

⁸ See, the *Act Concerning the Provision of Land for Refugees from Karelia, War Veterans, etc.*, and its application in the Swedish-speaking areas of Finland, Riksdagen 1946, Handlingar V, (Parliament 1946, Official Documents V).

when the minority has fallen below eight per cent. However, if the minority is greater than 5,000 the commune remains bilingual regardless of whether the percentage is less than eight.

The language classification of larger administrative districts such as provinces or court circuits is decided on the basis of the classification of the communes contained within them. The district, then, in its dealings with communes contained within it, is regarded as having the same language as the commune in question. If all the communes within the district are monolingual, then it follows that the district is also monolingual.⁹

According to the *Language Act* citizens shall in their dealings with public authorities use the language of the district in monolingual districts and, in bilingual districts, they may use either language. This means that, for example, a Swede in Tampere/Tammerfors, which is a monolingual Finnish commune, must use Finnish in his relations with communal and, except for the case mentioned below, authorities while a Swede living in Turku/Abo, which is a bilingual commune, has the right to use his own language in his relations with the city, the administration of the Province of Turku and Pori/Abo and Björneborg and the authorities of other administrative or judicial districts of which Turku/Abo forms a part.

This regulation, however, gives a person the right to use his own language when dealing with *state* authorities (but not with communal or other public authorities). But if this language is not the official language of the district, the authorities must, in the case of a written document, have a certified translation made. The citizen must then bear the translation costs.

A citizen, then, always has the right, when dealing with state authorities, to use his own language, Swedish or Finnish, in a case of his own or a case in which he is being heard. Likewise, corporate bodies have the right to use their official language and teaching institutions their language of instruction.

In matters where the state's attorney, public prosecutor or other official in the course of his duty conducts a suit, he must use the respondent's language if, in accordance with the regulations governing the languages required of civil servants, he is obliged to know the language. When necessary, an interpreter must be used in verbal dealings in law courts or with police authorities.

Official notices, announcements and communications in a bilingual district must be posted in both languages. In a monolingual

⁹ See, Council of State's decision of December 28, 1962, concerning the language classification of administrative districts and autonomous areas from 1963-72.

administrative district the authorities must draw up documents in the language of the district. In the case of bilingual districts documents have to be drawn up in the language of the party concerned or, if there are several parties speaking different languages and they are unable to agree on the language to be used, the majority language of the district. These rules, however, do not apply to a commune where the minority is less than one third. In such a district the authorities may use the majority language of the district unless the party particularly requests that his own language be used.

In the armed forces and the state railways the regulations differ somewhat to the disadvantage of the minority. According to the *Knowledge of Languages Required of Civil Servants Act*, of June 1, 1922, the holder of an office for which a university degree is required must be fully competent in the language of a monolingual district and also be able to understand the other language of the country. If he is a judge he must, furthermore, be able to speak the other language passably. If the administrative district is bilingual, he must be fully competent in the majority language and be able to use the other language in both the spoken and written form.

The central state authorities are governed by the same regulations as those for a bilingual district in which Finnish is the majority language. This means that civil servants in ministries and other central state departments must be fully competent in Finnish and have satisfactory knowledge, both oral and written, of Swedish.

To determine a civil servant's knowledge of language there are special examination boards and examiners (*Ordinance* of December, 29, 1922). Also contained in the *Language Act* are regulations concerning the internal official language to be used by public authorities. In monolingual districts this is the language of the district and in bilingual districts the language of the majority. However, in dealing with a matter for which the documents are to be delivered to an outside party, the authority is required to use the language of the documents also internally.

The member of an official department in a bilingual district *e.g.* a central state department, has the right to use Swedish or Finnish, whichever he finds more suitable, in dealings within the department and also in his written comments intended to be entered in official records.

The *Language Act* and the *Knowledge of Languages Required of Civil Servants Act* were amended in 1935 in a way detrimental

for the minority. The requirement demanding that authorities be bilingual was curtailed.¹⁰

A Finnish citizen's rights in matters of language, then, are to a certain degree dependent on where he is resident. In principle, however, he always has the right, in written correspondence with a state authority, to use his own language if he is prepared to bear the costs of translation.

In practice it is very seldom that the inhabitant of a monolingual district addresses himself to an authority in a language other than that of the district, in which case translation would be necessary. The internal language used by state authorities also tends to be Finnish exclusively. On account of civil servants' imperfect knowledge of Swedish in spite of language examinations together with the fact that numerous Swedes in Finland speak Finnish well there is an increasing tendency for the Swedish-speaking population to use the language of the majority not only in its oral but also to some extent in its written dealings with the authorities. This is true even when the *Language Act* gives them the right to use their own language. This is especially true of corporate bodies, e.g. limited companies in which Swedish shareholders are in the majority.

Another important piece of language legislation concerns education. Right up to the middle of the nineteenth century the only real secondary schools in Finland were monolingual Swedish ones and it took even longer before education in Finnish at university level began. As a result Swedish education in Finland has old traditions. By tradition the state maintains a large number of Swedish secondary schools; in addition to these there are many private secondary schools organized on the same lines as the state ones and subsidized by the state in accordance with the rules applying to Finnish private secondary schools. Primary education is organised at commune level but is state subsidized; it therefore follows the language situation existing in the commune. At present a school must, as a rule, be set up as soon as the number of children speaking the language of the minority reaches eighteen; this also applies in principle to monolingual communes.

A complete reform of education in Finland is at present under preparation; the first stage of this means that the commune will be responsible for the first eight years of education. This reform

¹⁰ See, *Government Bill*, (1934:32); the recommendation of the Constitution Committee concerning the proposition deviated from the Government's suggestion in a way, detrimental for the minority and had a decisive effect on the contents of the Act.

posed at first a serious threat to the position of the Swedish language in Finland. It was proposed (government Bill 1967:44) that English should be the only language (in addition to the mother tongue) taught in Finnish-speaking schools for the first eight years. The law in its final form, however, passed on July 26, 1968 and coming into force on August 1, 1970, provides that Swedish should be retained in the curriculum in Finnish schools together with English, albeit with fewer teaching hours. In Swedish schools both English and Finnish will be taught in the same way.

The state university in Helsinki/Helsingfors is bilingual. All subjects are taught in Finnish, but there are a number of Swedish teaching posts and some supplementary courses are given also in Swedish. Students naturally have the right to use their own language in examinations, essays and other tests. The Finnish Institute of Technology just outside Helsinki/Helsingfors is organised on much the same lines.

University language legislation was finally arrived at as a compromise solution after considerable dispute since strong forces in the 1930's demanded the complete Fennicisation of the University of Helsinki/Helsingfors.¹¹ Even at the new Finnish-speaking state universities of Oulu/Uleåborg and Jyväskylä, Swedish-speaking students have the right to do examinations and tests in their own language. Mention should also be made of Abo Akademi — the monolingual Swedish private university in Finland with five faculties but not a school of law or a medical school — to the schools of economics, two of which are Swedish, to the Swedish School of Social Sciences which prepares minor administrative officials principally for the needs of the communes but gives courses for librarians and journalists and to many other teaching institutions using Swedish as their language of instruction.

There is also a large number of Swedish trade schools, usually maintained by the communes, special Swedish schools for the physically and mentally handicapped and other teaching establishments in Finland. In addition there is a number of bilingual schools with parallel classes in Swedish and Finnish or with a limited amount of teaching given in Swedish.

The central administration of schools is the responsibility of the National Board of Schools. Since 1920 the Board has had a special

¹¹ See, *Government Bill*, (1937:36), and the recommendation of the Constitution Committee, (1937:3). The recommendation deviated from the Government's proposition in a way which was detrimental for the minority. The proposals contained in the recommendation were passed as law.

Swedish department which supervises the Swedish secondary schools, primary schools and other types of schools. The present ordinance concerning this department is given on May 6, 1969. There are also school supervising officials on the provincial level of which a certain number functions as special supervisors of the Swedish schools.

The division of the church into dioceses is similarly based on an ordinance. In this division are contained provisions for a separate Swedish diocese (Borga stift), established in 1923, of the Finnish Evangelical Lutheran Church. This diocese includes all the Swedish and predominantly Swedish parishes in Finland.

The bishop and the other diocese officials are paid by the state. The parishes are autonomous local administrative units of the church with the right to levy taxes. They have been constituted to a large degree on the basis of language so that certain bilingual areas, *e.g.* large towns, fall within both Swedish and Finnish parishes.

A Swedish-speaking brigade, in which Swedes do their military service, has been set up by an administrative decree. However, in accordance with the *Constitution Act*, Article 75, the language of command in the armed forces is always Finnish.¹²

Hospitals, the care of old people and other kind of social work are the responsibility of the communes in Finland. Those institutions providing care for the sick, the old, invalids, etc. are usually not constituted according to language but follow automatically the linguistic character of the commune.

In accordance with the law concerning university hospitals certain wards of the Central University Hospital of Helsinki/Helsingfors are reserved for Swedish university teaching purposes. These wards come under the authority of a separate board which, in addition to teachers from the faculty of medicine of the university who teach in Swedish, also has representatives from the Swedish and bilingual communes contributing to the hospital's running costs. These wards, which are not concentrated to one hospital but are scattered, are predominantly Swedish in character.

Private institution, *e.g.* old people's homes, set up on a language basis can usually count on support from public funds.

The rights of the Swedish-speaking population in Finland enjoy the same protection as other public rights provided for by legislation. Appeals can be lodged against administrative documents con-

¹² Administrative ordinances are issued and repealed by the President of the Republic in the Council of State. However, Parliament has, in many cases, to consider matters which are formally decided by ordinances when approving the budget.

taining errors of form, *e.g.* when the regulation of the *Language Act* have not been observed in drawing up documents, and can be repealed. The highest court of appeal in such cases is the Supreme Administrative Court.

Officials breaking the language regulations are guilty of a breach of duty. This can result in their being punished; they may be disciplined or, if the breach is a serious one, they may be indicted in a public court of law and, if found guilty, sentenced in accordance with the provisions of the law.

It is the duty of the Councillor of Justice and the Ombudsman of Parliament to see that the laws and administrative ordinances are observed in this respect just as in others.

A study of the proceedings of the supreme courts together with the reports of the Councillor of Justice and the Ombudsman shows, however, that there are very few cases, particularly in recent years, concerning observation of the language regulations. This may be interpreted as indicating either that they have been correctly observed so that no complaints have been warranted or that the Swedish-speaking minority in particular is not disposed to assert its linguistic rights at law or by filling a complaint.¹³

Conclusion

In general it seems that the practical application of language and other legislation concerning questions of nationality has not met with any insuperable difficulties. Nor has it, as has sometimes been claimed by the majority, proved to be a heavy burden for the community. Not justified is thus the demand, which has sometimes been put forward, that the rights granted to the minority should be circumscribed for financial reasons. On the contrary it should be taken for granted that, in a modern welfare state such as Finland strives to be, public funds are reserved for the security and well-being of citizens. In this respect linguistic and cultural rights ought not to be less favoured than, for example, religious or social rights. The security afforded citizens by the law is closely allied with a minority's demands to use their own language when dealing with public authorities and with the publication of legislation and other decrees in the language of the minority. An absolute

¹³ The law of Finland with regard to matters of language and nationality has attracted only a small amount of scholastic attention. Nevertheless, valuable contributions on this matter have been made by R.A. Wrede, R. Hermanson, Ernst Estlander, R. Erich, Ernst von Born and S.R. Björkstén.

condition for the continuing existence of the minority, furthermore, is that education at all levels is available to the minority in its own language and that it follows the cultural traditions of the minority.¹⁴

Swedes in Finland can, because of their relatively large numbers and because of their position as contacts between Finland and the other Nordic countries, where Finnish is not known, vindicate the retention of their linguistic and cultural rights. A notable cultural contribution through the medium of the Swedish language has been and still is being made in Finland; this is of value to the whole country and, moreover, to Sweden and the whole of the Nordic cultural heritage.¹⁵

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¹⁴ Viz. V. Merikoski, *The Realization of the Equality of the National Languages in Finland. Democracy in Finland*, (Helsinki: 1960), at p. 92.

¹⁵ Bibliography: In addition to those works already mentioned up-to-date treatment of the Swedish position in Finland may be found in the following foreign language publications: Martin Klövekorn, *Die Sprachliche Struktur Finnlands, 1880-1950*, (Helsinki: 1960); *The Finnish Legal System*, J. Uotila ed., (Helsinki: 1966); Jan-Magnus Jansson, *Language Legislation*, at pp. 56-58.

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