

LIST OF ISSUES

**In response to the 7<sup>th</sup> Periodic Report of the Finnish Government on the implementation  
of the International Covenant on Civil and Political Rights**

**Prepared for the 125th session of the Human Rights Committee**

This report by the Finnish League for Human Rights highlights some of the issues that, in our opinion, should be included in the list of issues prior to reporting. We focus especially on issues that were either not covered in the concluding observations on the sixth periodic report from Finland (CCPR/C/FIN/CO/6) or in which there has been no or only partial progress.

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<b>Issue 1:</b>	<b>Discrimination</b>
<b>Art. of ICCPR:</b>	<b>3 &amp; 26</b>
<b>CCPR/C/FIN/CO/6 Para.</b>	<b>8 &amp; 17</b>
<b>QUESTION</b>	<i>What measures will the government take to effectively combat discrimination and ensure access to justice for victims of discrimination?</i>

**EXPLANATORY NOTE:** The new, broader Non-Discrimination Act came into force in 2015. However, it is problematic that the Non-Discrimination Ombudsman's supervision mandate excludes discrimination in employment. Although the Equality Act acknowledges gender identity and gender expression, the demand to promote equality applies only to equality between men and women. The National Non-Discrimination and Equality Tribunal can examine cases of discrimination in employment, but only regarding gender-based discrimination and discrimination based on sexual orientation and gender identity.

The current legislative framework makes it difficult to recognise multiple discrimination. For an individual experiencing discrimination, the asymmetric mandates of the Ombudsman and the Tribunal may be confusing and hinder access to justice. Under the current law, the Non-Discrimination Ombudsman cannot take a case of discrimination to the Tribunal for processing without naming the victim. Tribunal cannot award compensation for victims of discrimination.

Several studies show that minorities and immigrants continue to face discrimination in Finland. For example the recent EU-MIDIS Study found that in Finland 63% of respondents of African descent have experienced racial harassment and 14% had experienced racially motivated violence in the past five years. Studies also show that the level of trust in police is significantly lower amongst minorities than in the population at large. Education at all levels provides insufficient information about minorities and anti-discrimination training of government officials, police, teachers and health care professionals is unsystematic and uncoordinated.

<b>Issue 2:</b>	<b>Sami and FPIC</b>
<b>Art. of ICCPR:</b>	<b>1 &amp; 27</b>
<b>CCPR/C/FIN/CO/6 Para.</b>	<b>16</b>
<b>QUESTION</b>	<i>What measures will the government take to ensure free, prior and informed consent (FPIC) of the Sami in legislative or administrative processes that may affect their rights as indigenous people?</i>
<p><b>EXPLANATORY NOTE:</b> Since the previous monitoring cycle we have witnessed negative developments with regard to self-determination of the Sami. Ratification of the ILO169 convention on indigenous and tribal peoples is still in standstill. Current government also failed in an attempt to develop legislation on the Sami Parliament. At the same time some branches of the government manifestly fail to respect the obligation to obtain free, prior and informed consent of the Sami in legislative and administrative processes that may affect them. In the negotiation between Finland and Norway in 2016-17 on common fishing regulations for the Teno River, the Sami were not only neglected but actively ignored. The Finnish Chancellor of Justice stated in 2017 that the negotiations violated the Finnish Constitution and the Act on Sami Parliament. However, negotiations were not reopened and regulations that have detrimental effect on Sami culture remain in force. As a response to Chancellor of Justice’s resolution, the Finnish Ministry of Justice and Sami Parliament drafted and adopted in cooperation a guideline memorandum on negotiations between public authorities and the Sami Parliament, which is to be commended. The memorandum emphasized the need to engage in genuine negotiations in a timely fashion. However, even after adopting the guideline memorandum, the Sami have not been properly consulted, for example, with regard to the plans to build a railroad across the Sami homeland from Rovaniemi to the Arctic Ocean.</p>	

<b>Issue 3:</b>	<b>Rights of transgender and intersex persons</b>
<b>Art. of ICCPR:</b>	<b>2 &amp; 7</b>
<b>CCPR/C/FIN/CO/6 Para.</b>	-
<b>QUESTION</b>	<i>How will the government ensure that transgender and intersex persons are protected from cruel, inhuman or degrading treatment and from unnecessary medical procedures?</i>
<p><b>EXPLANATORY NOTE:</b> The current procedure to obtain legal gender recognition in Finland is very lengthy, taking up to 2-3 years. Unnecessarily long legal gender recognition process exposes transgender persons to discrimination in situations where they are required to present documents with gender markers not corresponding to their gender identity and expression. The current age limit (18) of legal gender recognition needs to be re-evaluated. Finnish legislation also requires that in order to be legally recognized as belonging to the “opposite gender”, person must be sterilized or for some other reason infertile. Compulsory and medically unnecessary sterilization violates transgender persons’ reproductive rights. The UN Special Rapporteur on torture and other cruel, inhuman and or degrading treatment or punishment has stated that: “[f]orced sterilization is an act of violence, a form of social control, and a violation of the right to be free from torture and other cruel, inhuman, or degrading treatment or punishment” (A/HRC/22/53, para. 48). Another form of unnecessary and non-consensual medical treatment is genital normalizing surgery for intersex children. They are thus exposed to unnecessary medical interventions that violates the child’s right to self-determination, physical-integrity and bodily autonomy.</p>	

<b>Issue 4:</b>	<b>Gender-based violence</b>
<b>Art. of ICCPR:</b>	<b>3, 7 &amp; 26</b>
<b>CCPR/C/FIN/CO/6 Para.</b>	<b>7</b>
<b>QUESTION</b>	<i>What national measures will be taken to tackle violence against women and to secure sufficient resources for this?</i>
<p><b>EXPLANATORY NOTE:</b> Finland has often received recommendations from international monitoring bodies (e.g. CEDAW, UPR) to strengthen its measures to tackle violence against women. At the end of 2016, the government established a coordinating body, the Committee for Combating Violence Against Women and Domestic Violence as part of implementation of the Council of Europe’s Istanbul Convention. It, however, lacks independent resources and an independent mandate to act. Thus, robust national structures to eradicate violence against women are still lacking. On a positive note, a new national action plan to prevent female genital mutilation (FGM) has been drafted by the National Institute for Health and Welfare and it will be published in the early 2019. However, there are not specific resources for its implementation, which raises concerns about its efficiency in reality.</p> <p>In the Finnish Criminal Code rape continues to be categorized according to the degree of physical violence used or threatened by the perpetrator. The definition of rape should be revised so that it is based on the lack of consent rather than the degree of violence.</p>	

<b>Issue 5:</b>	<b>Asylum seekers’ access to justice and right to family life</b>
<b>Art. of ICCPR:</b>	<b>2, 14, 23 &amp; 24</b>
<b>CCPR/C/FIN/CO/6 Para.</b>	-
<b>QUESTION</b>	<i>How will the government ensure asylum seekers’ access to justice and right to family life?</i>
<p><b>EXPLANATORY NOTE:</b> Changes to the Finnish Aliens Act in 2016 and accompanying changes to administrative and judicial procedures have had detrimental effects on the status of asylum seekers. Time for appeal was cut from 30 days to 21 days before Administrative Courts and to 14 days before the Supreme Administrative Court. The standard time for appeal in all other processes is 30 days and there is no justification for restricting access to justice for one particularly vulnerable group. At the same time legal aid for asylum seekers was limited. Free legal aid is provided during asylum hearings only if the applicant is a child who has arrived unaccompanied or if there are other special, weighty reasons for legal counsel’s presence. Right to choose legal counsel is mainly limited to public legal aid. Fees paid to legal advisers are not proportional to the workload and therefore most lawyers do not take asylum cases or do not spend enough time to ensure proper legal aid for the client. Recent study on legal aid for asylum seekers found current legal aid resources to be insufficient in both quality and quantity to guarantee access to justice for asylum seekers. In addition to insufficient legal aid, applying for and getting asylum has been made more difficult through administrative decisions. For example, country of origin information (COI) for countries from which asylum seekers come to Finland were changed without or with disputed objective grounds.</p> <p>Since the previous monitoring round, family reunification has been made more difficult. In 2016 the income requirement, for example, for a family of four was increased to 2 600 €/ month which is close to median income in Finland. Finnish NGOs have revealed several cases in which family reunification was denied by an arbitrary administrative decision.</p>	

<b>Issue 6:</b>	<b>Forced marriage</b>
<b>Art. of ICCPR:</b>	<b>23</b>
<b>CCPR/C/FIN/CO/6 Para.</b>	-
<b>QUESTION</b>	<i>What measures will be taken to prevent so called honor based violence and to criminalize forced marriage?</i>
<p><b>EXPLANATORY NOTE:</b> Finland does not have national structures or guidelines to tackle so called honor based violence and forced marriages. The work to prevent honor based violence and forced marriage, as well as helping the victims, lies heavily on the civil society. Forced marriage is not criminalized in Finland, nor is it possible to void forced marriage, although both acts are required in the Istanbul Convention (articles 37 &amp; 32), which Finland ratified in 2015. Other sections in the penal code, such as the section on trafficking in human beings, are not functional enough for tackling forced marriages, which is also noted in the memo commissioned by Ministry of Justice in 2017.</p>	

<b>Issue 7:</b>	<b>Military service</b>
<b>Art. of ICCPR:</b>	<b>18 &amp; 26</b>
<b>CCPR/C/FIN/CO/6 Para.</b>	<b>14</b>
<b>QUESTION</b>	<i>What measures will the government take to protect freedom of conscience and religion and to promote equality in legislation regarding military service?</i>
<p><b>EXPLANATORY NOTE:</b> Since the previous monitoring cycle, Finnish Court of Appeal found that preferential treatment accorded to Jehovah's Witness is unconstitutional since other conscientious objectors are placed in disadvantageous position without an objective justification. At the moment a draft law that would remove the preferential treatment of Jehovah's Witness is under consideration in the Parliament. This change would promote equality but might violate freedom of conscience and religion.</p> <p>All male citizen of Finland are obliged to do either military service or non-military service. Service is voluntary for women. The Finnish government should explain how these gendered legal obligations are in line with the article 26 of the ICCPR.</p>	

<b>Issue 8:</b>	<b>Knowledge of human rights</b>
<b>Art. of ICCPR:</b>	<b>2</b>
<b>CCPR/C/FIN/CO/6 Para.</b>	<b>5 &amp; 18</b>
<b>QUESTION</b>	<i>What measures does the State party intend to take to improve the recognition of ICCPR in the courts and among the general public?</i>
<p><b>EXPLANATORY NOTE:</b> Person whose rights have been violated might not be able to seek remedy if knowledge of civil and political rights, and mechanisms for their protection are insufficient. ICCPR and individual complaints mechanism provided by The Optional Protocol are not well known among rights-holders in Finland. The awareness raising about ICCPR is also a matter of resources. For example, the resources of The Human Rights Centre are not adequate at the moment. Moreover, we are also concerned about the inconsistency in financial support for non-governmental organizations that focus on human rights in Finland. The new core curricula for various levels of education reflect the principles of human rights education. However, human rights training for teachers remains unsystematic and uncoordinated.</p>	