



FIDH - International Federation for Human Rights

Ihmisoikeusliitto – Finnish League for Human Rights (FLHR)

Submission to the UN Universal Periodic Review

FIDH (International Federation for Human Rights) and its member organisation the Finnish League for Human Rights (hereinafter FLHR) appreciate the opportunity to provide their views to the United Nations Human Rights Council ahead of the Universal Periodic Review (hereinafter UPR) of Finland by the UPR Working Group at its 27th session in April-May 2017. In this submission, FIDH and the FLHR will comment on the implementation of recommendations adopted for Finland during its previous UPR in 2012, and highlight new human rights concerns emerged since the last review.

Our organisations are concerned that, while human rights still enjoy a strong standing within Finnish society – as outlined by Minister Hautala in her Opening statement to the UPR review in 2012 – , they are being increasingly questioned at the political and governmental level. In parallel, there are signals of increasing negligence toward international human rights standards and principles.

1. INSTITUTIONAL MECHANISMS TO PROTECT AND PROMOTE HUMAN RIGHTS

1.1 Institutional framework

The institutional framework has been strengthened through the creation of the National Human Rights Institute in 2012. Moreover, the Government of Finland is currently drafting its second National Action Plan (hereinafter NAP) on human rights.

Worryingly, however, the NAP is not part of PM Juha Sipilä's government's Strategic Programme (2015), which may result in the NAP having limited relevance for those within the administration and at the political level. The Government should give the NAP necessary impetus, including clear support from the Prime Minister, and provide adequate resources for implementation and follow-up. The Ministry of Finance should be closely involved in the implementation; its role cannot be narrowed to participation in to the ministerial network on human rights.. Also, necessary funds should be allocated to enable the implementation of the NAP.

No adequate human rights impact assessment has been carried out in recent legislative procedures related to e.g. asylum seekers' rights, Sami peoples' rights and economic and social rights. Recent legislation has weakened the protection of human rights for these groups.

As reported in the previous UPR review, Finnish authorities used to involve civil society organisations in legislative and political processes. However, in several legislative processes in 2015-16, civil society organisations, including human rights organisations, have not been consulted as widely as before and they have been given a very short timeframe to provide input. Furthermore, their views have had little impact.

We are also concerned about the inconsistency in financial support for human rights organisations. While the government's support to civil society organisations in developing countries is commendable, authorities should support also the work of domestic human rights organisations and create an enabling environment for them. The government intends to cut by 100 % core funding from 2018 onwards for FLHR, the only Finnish NGO looking at human rights in Finland as a whole, which makes sustainable work extremely difficult.

Recommendations:

- The Government should ensure that adequate human rights impact assessment is carried out prior to, during and after any legislative process so as to avoid or, at least, mitigate it; the impact that legislative reforms could have on the most vulnerable should also be assessed;
- Adequate human rights impact assessment of the on-going reform of social and health services, including analysis of potential implications for the enjoyment of human rights for vulnerable groups, should be conducted.
- Civil society organisations must be consulted throughout legislative processes and input must be sought within appropriate timeframes.
- The Government should ensure continuity of funding for so-called 'generalist' human rights organisations which focus on human rights in Finland.

1.2 Human rights education

Reg: Recommendation 90.22. *Introduce human rights education as a mandatory part of teachers' training (Slovenia).*

We welcome the inclusion of human rights in the renewed National Core Curriculum for Basic Education (2014) and Upper Secondary School (2015). We are concerned, however, of the lack of resources within the Educational Board to systematically train and support teachers; the Government needs to ensure that all teachers at all levels of national schooling system have sufficient competence in human rights education.

While emphasizing the autonomy of Finnish universities, institutions providing teacher education should be encouraged to include human rights in their curricula, as recommended by Slovenia during the last review.

We remind the government of its commitments, as enshrined in the United Nations World Programme for Human Rights Education (2005 - ongoing) (GA Res 59/113 (2004)) and the Council of Europe's Charter on Education for Democratic Citizenship and Human Rights Education and its Recommendation (CM/Rec(2010)7). It is the obligation of the government to ensure access to human rights education for all, at all levels of the society.

Recommendations:

- The implementation of human rights objectives of core curricula must be ensured by ensuring that teachers have access to adequate resources, training and support.
- Human rights need to be included as compulsory into teachers' study programmes.

2. NON-DISCRIMINATION

FIDH and the FLRH welcome the adoption of the new, broader Non-Discrimination Act in 2015. However, it is problematic that the Non-Discrimination Ombudsman's supervision mandate excludes discrimination in employment. 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 and policy 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.

Recommendation:

- Expand and harmonise the mandates of the Non-Discrimination Ombudsman and the National Non-Discrimination and Equality Tribunal so as to include discrimination in employment, and on all grounds.

2.1 Racism and xenophobia, hate crimes

Reg: Recommendations: 89.17. *Continue to combat racism and discrimination and adopt effective national legislation in this regard (Palestine); Recommendation: 89.18.* *Strengthen efforts to restrict the outbreaks of racism and xenophobia, especially the manifestations of racism on the Internet, as was recommended by CERD (Spain); 89.20.* *Step up its efforts to combat racism and xenophobia and ensure that racially-motivated crimes are promptly detected, investigated and sanctioned (Algeria); 89.22.* *Strengthen mechanisms aimed at combating discrimination, racism and xenophobia, and persevere in the adoption of measures to promote tolerance and respect of foreigners and members of national, racial and ethnic minorities (Chile); 89.23.* *More stringent monitoring mechanisms to address the rise in racist and racially-motivated crimes and xenophobic acts, and ensure effective detection, investigation, prosecution, and punishment (Egypt); 89.39.* *Implement strict measures, including in the area of legislation, to combat hate speech and other manifestations of racism and xenophobia, including on the internet, in line with the obligations under articles 19 and*

20 of ICCPR (Egypt); 90.4. Take effective legal and practical measures to prevent and combat dissemination of racist, xenophobic and Islamophobic propaganda in particular in press and on the Internet (Iran);

During the previous review, the government of Finland received many recommendations concerning racism and xenophobia. The government has launched several projects to prevent hate crimes and tackle racism. While such projects may be innovative, short-term projects are not an adequate response to a concerning situation. Racism and islamophobia need to be recognised and tackled with a long-term commitment and systematic response at the highest political level.

The FLHR, the Non-Discrimination Ombudsman and the National Board for Ethnic Relations organised an event in November 2015 where all parliamentary groups renewed their commitment to the Charter of European Parties for a Non-Racist Society, which most of them had signed in 2003 and 2008. Yet, members of the parties in the government coalition continue to make openly discriminatory comments e.g. in their internet pages, or downplay the existence of racism. The government must follow the Recommendations of the European Commission Against Racism and Intolerance (ECRI) and do more to tackle racism within political parties and to condemn racist and xenophobic speech by public figures.

According to most recent reports, hate crimes have increased. While the increase may positively reflect increased recognition of hate motive in criminal procedures, previous studies show that victims of hate crimes sometimes refrain from referring to the crimes committed against them as hate crimes because of negative previous experiences within the justice system or for lack of information; the police also appears to not always be capable of recognising hate motives behind the crime. Thus, hate motives seem not be duly taken into consideration at all phases of the criminal procedure. Law enforcement authorities and the judiciary should be trained in order to be able to develop a systematic approach to hate crimes.

We welcome the recent initiative of the Finnish Police to organise training in collaboration with the Organisation for Security and Cooperation in Europe (OSCE) on hate crimes. However, training on hate crimes without a broader understanding of human rights is too narrow. Students of the Police Academy already have human rights components in their curricula, but more senior police officers do not necessarily receive any complementary training on human rights as training is voluntary.

Recommendations:

- Ensure that law enforcement officials at all levels receive systematic and mandatory training on human rights, including anti-discrimination and hate crimes; specific training should be provided so as to ensure the development of specialised units with expertise on human rights, anti-discrimination and hate crimes within the Police and other law enforcement bodies;
- The government must ensure that hate crime and speech are adequately and promptly investigated and prosecuted; racist and xenophobic discourse should be addressed by the

authorities The Government should also review existing legislation concerning hate crimes and quickly consider necessary amendments.

2.2 The rights of transgender and intersex persons

Reg. Recommendation: 90.8. *Increase its efforts in the field of discrimination on grounds of sexual orientation and gender identity, inter alia, by review of national legislation and administration*

with a view to eliminate discrimination against LGBTI people with regard to family and parental rights and the right to security and integrity of the person (Iceland);

The Government has yet to enact new, more human rights-based legislation regarding transgender and intersex people' rights.

Recommendation:

- Urgently amend legislation regarding transgender and intersex persons and ensure that this takes the latter's right to private and family life and the right not to be discriminated against fully into account. The sterility requirement must be removed as a precondition for legal gender recognition.

2.3 Rights of the Finnish Roma

Reg. Recommendation: 90.5. *Carry out more efforts to integrate the Roma minority in society, especially by the allocation of funds for the implementation of the National Plan and the participation of this minority in carrying out this Plan (Spain);*

We welcome the decision of the Government to establish a Second National Plan for Roma minority and call for a plan based on universal human rights.

Recommendation:

- Adopt a Second National Plan for Roma minority with focus on human rights.

2.4 Rights of the Sami indigenous peoples

Reg: Recommendation 89.8. *Ratify promptly the ILO Convention 169 (Nicaragua) / Conclude as soon as possible the process towards the ratification of the ILO Convention (169) on indigenous and tribal peoples in independent countries and carry out the necessary internal normative adjustments to this end (Mexico) / Ratify ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries within the term of office of the current government administration. 89.27.* *Continue efforts in empowering those sections of the society that require special treatment (Nepal);*

Since the previous report, the policies of the government of Finland regarding the Sami people have moved in a problematic direction. Ratifying the ILO Convention 169 failed under

the previous Government, and the current government did not include ratification in its Strategic Program. In other legislation, notably the new (March 2016) Finnish Forest and Park Enterprise Act, the provisions on protecting the rights of the Sami people were removed. In contrast with what is provided for in the Mining Act, under the Forest and Park Enterprise Act the Sami Parliament and the Skolt Sami Village Council do not have an independent right of appeal concerning permits granted on ground that the proposed activities undermine the rights of the Sami as an indigenous people. In both legislative developments and in processes leading to decisions on projects that affect the Sami, authorities have not followed the principles enshrined in Article 19 of the Declaration on the Rights of Indigenous Peoples to seek free, prior and informed consent.

Recommendations:

- The Government should proceed with the ratification of the ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.
- Authorities must ensure free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect the Sami; Sami people must be consulted throughout the process leading to adoption of legislation or other decisions that might affect them.

3. GENDER-BASED VIOLENCE

Reg. recommendations 89.14 [Undertake further measures aimed at protection of women's rights, including prevention of violence (Ukraine)]; 89.15 [Continue its efforts in eliminating discrimination and preventing violence against women and children (Indonesia)]; 89.16 [Take effective legal and practical measures to eliminate all forms of discrimination and violence against women and children, in particular women and children with disabilities, immigrant and refugee women and children, and women and children from ethnic and religious minorities, especially Muslims and Roma (Iran)]; 89.28 Give special attention to the prevention of domestic violence against women and children (Mexico)]; and 89.30 [Prevent re-victimization in cases of intimate partner violence and bring perpetrators to justice (Brazil)].

3.1 Female genital mutilation and honour based violence

Girls with immigrant backgrounds have a heightened risk of experiencing so-called honour based violence (HBV) and being subjected to forced marriage and female genital mutilation (FGM). It is particularly urgent to tackle HBV as many asylum seekers have recently come to Finland from communities where different forms of the phenomenon exist. So far, the government of Finland has done little to prevent HBV. The National Institute for Health and Welfare published training and self-learning material for the authorities in 2012¹; but

¹ Seikula 2012: Viranomaiskoulutus kunniaan liittyvän väkivallan tunnistamiseksi ja ehkäisemiseksi – kouluttajan materiaali.
http://www.thl.fi/attachments/kasvunkumppanit/klvv_kouluttajanmateriaali_301112FINAL.pdf and

unfortunately, this material has barely been used, according to the Ministry for Social Affairs and Health.

The Ministry of Social Affairs and Health published an Action Plan for the Prevention of Circumcision of Girls and Women 2012-2016 (FGM)². However, it has not been properly implemented, notably because of a lack of adequate financial and human resources. The FLHR has worked with certain immigrant communities for 15 years to prevent FGM in Finland. Professionals frequently ask for training on FGM and HBV from FLHR. This fills the gap left by the State, which does not take the matter seriously and does not provide training to practitioners on FGM.

On the positive side, various ministries financed a study on HBV in Finland, FLHR conducted the study, which was published in June 2016, the first wider research on the topic in Finland³. It is too early to assess whether authorities will take up the recommendations of the study.

According to the study, teachers, police, medical professionals and social workers have little knowledge on HBV and lack clear guidelines for helping the victims. It is important that authorities follow the recommendations therein and design adequate guidelines for professionals to provide support for the victims. Finnish authorities and professionals (see above) need thorough education in identifying the risk of FGM and HBV. These must be more systematically taken into consideration as grounds for asylum.

3.2 Forced and early marriages

Forced marriage is not criminalised as such in Finland. In accordance with the Istanbul Convention, which came into effect on 1 August 2015, forced marriages must be criminalised. At the moment, marriage can only be dissolved through divorce. Also, there is no support system available for women in forced marriages, even if they are under-age.

In international fora Finland opposes early marriages, although in Finland, the Ministry of Justice can grant a person under 18 dispensation to marry; the dispensation should be removed from the legislation.

Recommendations:

Itseopiskelumateriaali.

http://www.thl.fi/attachments/kasvunkumppanit/klvv_koulutettavanmateriaali_30112012FINAL.pdf

² <http://www.julkari.fi/bitstream/handle/10024/111768/URN%3aNBN%3afe201504226370.pdf?sequence=1>

³ Hansen, Sams, Jäppinen & Latvala 2016: Kunniakäsitykset ja väkivalta. Violence and conceptions of honour. (English summary.) https://ihmisoikeusliitto.fi/wp-content/uploads/2016/06/Kunniak%C3%A4sitykset-ja-v%C3%A4kivalta_B5_nettti-002.pdf

- Ensure systematic training on FGM and HBV for professionals working in relevant fields (e.g. health, social services, day care and police) in line with the Istanbul Convention.
- Ensure that FGM and HBV are systematically taken into consideration as grounds for asylum.
- Criminalise forced marriages (as requested under the Istanbul Convention).
- Remove the dispensation to marry for under 18.

4. ECONOMIC AND SOCIAL RIGHTS

Reg. Recommendation: 89.26. Pursue appropriate, efficient policies to eliminate the social exclusion of the most vulnerable groups, in particular mentally disabled children, immigrant and refugee children and children from ethnic minorities at schools (Slovakia);

During the past review period, the government emphasised the importance of economic, social and cultural rights, and highlighted the universality and indivisibility of all human rights. We are concerned of the lack of human rights impact assessment related to on-going austerity measures and cuts to social benefits.

4.1 Level of basic social security

In 2014, the European Committee of Social Rights found the level of several Finnish social security benefits inadequate and not meeting the minimum level defined in the European Social Charter.⁴ Moreover, the National Institute for Health and Welfare (THL) has evaluated that the income level of people relying on basic social security is not sufficient to cover reasonable minimum costs.⁵

After these evaluations, indexes of several social benefits have been cut, and client fees of social and health care services have been raised. Cumulative effects of these changes for persons dependent on basic social security may become dramatic.

The level of basic social security should be raised to the level specified in the European Social Charter. Moreover, the consequences of austerity measures to the human rights of low-income groups should be assessed prior to decision-making.

Recommendations:

⁴ Decision on the merits adopted 9 September 2014, published 11 February 2015, Finnish Society of Social Rights v. Finland, Complaint No. 88/2012.

⁵ THL (2015) Perusturvan riittävyyden arviointiraportti 2011–2015.
http://www.julkari.fi/bitstream/handle/10024/125703/TY%c3%96_2015_001_web_06032015.pdf?sequence=3.

- Implement the recommendations of the European Committee on Social Rights and ensure the right to adequate income.
- Ensure that human rights assessment on the impact of austerity measures is made in early phase of legislative processes
- Ensure that human rights impact assessment is made in the ongoing structural health and social services reform, to prevent a negative impact on the fulfilment of human rights.

4.2 Undocumented migrants' right to health

Reg. Recommendation: 89.10 *Take further legislative and institutional measures for the promotion and protection of human rights including those of the immigrants (Nepal)*

89.25 *Strengthen its measures to protect the rights of foreigners, immigrants, asylum-seekers and the Roma as well as enhance its integration programmes to enforce the principles of equality and non-discrimination, which are enshrined in its Constitution (Namibia)*

The amount of undocumented migrants is likely to grow in Finland due to rejected asylum applications and many asylum seekers becoming undocumented migrants.

There is no legislation securing undocumented migrants' access to health care in Finland. The Health Care Act secures access to emergency health services, but the care is not state-subsidised. In practice, undocumented migrants can be charged a fee up to the real costs of the services, and thus many of them do not have real access to health care. Moreover, services of prenatal clinics and treatment of serious chronic illnesses are not regarded as emergency services.

In practice, the need for health care of undocumented migrants is now addressed mostly by Global Clinic, an NGO-based clinic run by volunteers. Decisions at the local level about providing public health care services for pregnant women and minors have been taken in Helsinki and Turku. Moreover, Helsinki provides emergency services for all undocumented persons with the same fees as to residents.

The Ministry of Social Affairs and Health in 2014 prepared a bill on undocumented migrants' access to health services but the bill did not pass parliamentary scrutiny. The Finnish state does not take responsibility for securing undocumented migrants' right to health; this is a violation of their fundamental right to have access to the highest possible standard of health as recognised by the Universal Declaration of Human Rights, the International Covenant on Economic, social and cultural rights and the European Social Charter.

4.3 Violations of labour rights and labour exploitation

Reg: recommendations 89.10. *[Take further legislative and institutional measures for the promotion and protection of human rights including those of the immigrants (Nepal)]; 89.33 [Ensure that women who are victims of trafficking are recognized as such and provided with protection and assistance (Slovenia) (UK)]; 89.34 [Implement existing procedures upholding internationally recognized standards in combating trafficking in persons and conduct*

necessary training for law enforcement to properly identify and protect victims of trafficking (USA)] and 90.19. [Carry out independent investigations regarding the cases of violations of labour rights in the country, including in the area of forced labour and equal pay between women and men (Uzbekistan)]

The FLHR has conducted research in co-operation with the European Agency for Fundamental Rights (FRA) about severe forms of labour exploitation of migrant workers in Finland.⁶ The research proves that victims of human trafficking or similar crimes are not always provided with adequate protection and assistance. Not all victims of severe labour exploitation have access to the national assistance system for victims of trafficking. Especially, if the type of crime changes during judicial proceedings to something other than human trafficking, the victim can be removed from the assistance system.

The Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) has noted that the definition of human trafficking and certain crimes similar to human trafficking, such as extortionate work discrimination, should be further clarified in national legislation. The FLHR considers that all victims of trafficking and similar crimes should primarily be treated as victims of crime and thus be entitled to adequate level of support and assistance. It is also important that they are systematically provided access to residence permits. Currently, victims of severe forms of labour exploitation are rarely identified by the authorities, and may be unwilling to come forward as they fear retaliation by the offender and loss of residence status or income. One worker group completely lacking labour rights are seasonal migrant workers, mainly Thai and Ukrainian, who pick berries for Finnish companies in forests. There is a urgent need for the Government to ensure these workers their labour rights.

Out of 25,000 of working-age persons with intellectual disabilities, only 400-500 are wage earners. More than 2000 take part in so-called community employment in ordinary places of employment, eg. companies. The work is not based on an employment contract but regarded as a social service. Hence, the persons lack regular labour rights. In practice, the workers are paid a "daily allowance" of approximately 5 to 8 euros per day. The current situation amounts to labour exploitation.

Recommendation:

- Review legislation on trafficking in human beings and related crimes. Ensure better access to assistance and residence permits for all victims of such crimes.

5. BUSINESS AND HUMAN RIGHTS

⁶ Sams, A. and Sorjanen, A-M. *Severe forms of Labour Exploitation: Supporting victims of severe forms of labour exploitation in having access to justice in EU Member States*, Finland (2014). Available for download at: http://fra.europa.eu/sites/default/files/fra_uploads/severe-labour-exploitation-country_fi.pdf

Reg. Recommendation: 90.16. *Provide a framework for prohibiting use of child labour by the Finnish companies engaged with businesses abroad and multinational companies headquartered in Finland (The Netherlands).*

The previous Government of Finland prepared a National Action Plan on Business and Human Rights, based on the UN Guiding Principles on Business and Human Rights. However, under the Government the implementation of the NAP has not moved forward as planned. In addition, several concrete commitments that were included in the NAP's covering note such as emphasising social responsibility in the amendment of the Public Procurement Act, and developing of an accountability mechanism for dealing with human rights violations committed by State-owned companies have not been followed through.

Recommendations:

- Ensure that labour rights of persons with intellectual disabilities are protected when they engage in community employment or any other employment.
- Establish employment contracts and labour rights for seasonal, migrant workers including forest berry pickers.
- Fully implement the Government of Finland National Action Plan on business and human rights, including the concrete commitments included in the NAP's covering note.

September 2016

Submitting organisations:

FIDH - FIDH is an international human rights NGO federating 184 organizations from close to 120 countries. Since 1922, FIDH has been defending all civil, political, economic, social and cultural rights as set out in the Universal Declaration for Human Rights. FIDH's headquarters are in Paris and the organization has offices in Abidjan, Bamako, Brussels, Conakry, Geneva, The Hague, New-York, Pretoria and Tunis.

FLHR - The Finnish League for Human Rights (FLHR) is a religiously and politically independent human rights organisation. Our principal objective is to monitor the human rights situation in Finland. The FLHR was founded in 1979 and pursues the work of the League for Human Rights, established in 1935. It is FIDH's member organisation in Finland.

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