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# CEDAW Committee –the 83rd session, consideration of the state report of Finland

# Submission by the Finnish Human Rights Centre (NHRI)

1. This submission is prepared by the Finnish Human Rights Centre/NHRI. The submission can be displayed on the CEDAW Committee’s website.

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| ***The Finnish Human Rights Centre*** (HRC) is an autonomous and independent expert institution whose task is to monitor and promote the implementation of fundamental and human rights in Finland as well as to increase cooperation and exchange of information between various actors in the field. According to its founding legislation, one of the tasks of the HRC is to participate in European and international cooperation related to the promotion and protection of fundamental and human rights. The HRC mainly represents the Finnish NHRI in international and European cooperation.  **The HRC forms the National Human Rights Institution (NHRI), alongside with its pluralistic 39-member Human Rights Delegation and the Parliamentary Ombudsman.**  The National Human Rights Institution in Finland was established by law in 2012. It received **A-status in 2014 and 2019.** |

1. Reference is made to our submission on 4 June 2021. This document is complimentary to that. The headings correspond to those in the Government’s reply.

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# General observations on national action plans

1. The current Government has prepared a variety of action plans. Using violence against women as an example, it seems that many authorities work on similar issues without full coordination.

Despite the improved coordination there is an *Action plan to implement Istanbul Convention (2022-2025)* with 36 action points under the auspices of Ministry of Social Affairs and Health, prepared by The Committee for combating violence against women and domestic violence (NAPE). At the same time, there is an *Action Plan for Combating Violence against Women* (2020-2023) with 32 action points under the Ministry of Justice.

Multiple Action plans create confusion for users. It would be more efficient and better use of resources – both human and financial - to coordinate better and have just one thematic action plan with proper resources for the implementation, monitoring and follow up.

* **Improve coordinated thematic work across administrative sectors and ensure continuation of actions over the four-year election periods.**

# Paragraph 2 – Visibility of the Convention

1. The Convention is not generally well known in the Finnish society. Domestic legislation on equality and non-discrimination, in particular the Equality Act and the Non-Discrimination act, is more familiar. However, their implementation is not clearly linked to CEDAW.
2. The Committee’s general recommendations have not been translated into national or minority languages, nor are they easily available to the public.

* **Improve the knowledge and availability of the Convention, the general comments and specific recommendations by the CEDAW Committee in national languages and minority languages.**

# Paragraph 3 – Pandemic and recovery efforts

1. During the pandemic women bore the brunt of the restrictions and the effects in employment, childcare and as victims of domestic violence. According to a study by the Finnish Institute for Health and Welfare (THL) the most affected were women under the age of 25.
2. The pandemic and restrictions particularly affected jobs predominantly occupied by women, i.e., jobs in health care and education. Challenges in employment (segregation of the work force, gender pay gap and temporary work being more common amongst women) were visible during the pandemic.
3. According to THL, only 12,5 percent of governmental decision making regarding the pandemic included gender impact assessments. There has been a distinct lack of gender perspective and gender impact assessment in the restriction and recovery measures.

* **Include gender impact assessment in all decision making, especially during a crisis, affecting women to a greater degree, and in any related restrictions and recovery measures.**

# Paragraph 6 – Access to justice

1. In 2022 the NHRI published a study on selected national human rights actors. Among others, the study details the complicated structures and asymmetric powers between the non-discrimination and equality actors.
2. The mandates of the Non-Discrimination Ombudsman and Equality Ombudsman both include topics regarding women. The Non-Discrimination Ombudsman oversees the realisation of the Non-Discrimination Act and functions as the National Rapporteur on Trafficking in Human Beings and the National Rapporteur on Violence Against Women. The Equality Ombudsman oversees the realisation of the Act on Equality between Women and Men (Equality Act).
3. Discrimination in employment under Non-Discrimination Act is supervised by occupational safety and health authorities. Discrimination in employment under Equality Act is supervised by Equality Ombudsman.
4. The Non-Discrimination and Equality Tribunal supervises compliance with the Non-Discrimination Act and the Equality Act. It does not have the mandate to handle cases regarding discrimination in employment based on the Non-Discrimination Act but does have the mandate to handle cases regarding discrimination in employment based on the Equality Act. The Tribunal cannot impose compensation. Compensation can only be imposed by a general court of law. A decision by the Tribunal can be appealed to the Administrative Court.
5. The mandates of the Ombudsmen and Tribunal are confusing and complex. The complexity of the structures and different competences can hinder access to justice especially in cases of multiple or intersectional discrimination.
6. The Ombudsmen and Tribunal all have stated for the NHRI study that their resources are insufficient compared to their legislative tasks and their increased workload.

* **Include cases of discrimination in employment to the mandates of the Non-Discrimination Ombudsman and the Non-Discrimination and Equality Tribunal on the basis of the Non-Discrimination Act.**
* **Allow the Non-Discrimination and Equality Tribunal to impose compensation and strengthen the Tribunal’s role as an independent and impartial, low cost and low threshold judicial body.**
* **Strengthen the existing institutions and allocate enough resources to enable them to better oversee and advance the realisation of equality and non-discrimination legislation, including tackling multiple, and especially intersectional discrimination.**

# Paragraph 11 – Discriminatory gender stereotypes and harmful practises

**Trans Act**

1. The Act on Legal Recognition of the Gender of Transsexuals (The Trans Act) is currently under reform. The reformed Trans Act is due in Parliament in 2022 after multiple delays.
2. The proposed law removes the requirement of infertility as a condition for legal gender recognition and bases it on a personal explanation on gender rather than a medical statement.
3. The reform only concerns persons over the age of 18.

**Intersex children**

1. No national treatment practice regarding intersex children exists, and treatments that aim at sex “normalising” are still used. There is a risk of medically unnecessary surgeries without child’s consent.
2. The Ministry of Social Welfare and Health has in a memorandum in spring 2022 proposed measures to improve the rights of intersex children. Medically unnecessary treatment should be postponed until the child can give its informed consent. The Ministry proposes research on the practices concerning treatment, guidance and education for health care professionals and more substantial information to intersex children and their parents. The Ministry does not propose legislative changes.

**Female genital mutilation**

1. Based on a citizens' initiative in 2019 regarding the banning of FGM (over 61.000 signatures) the parliament required the Government to issue the necessary legislative proposals on FGM to the parliament during the current election period.
2. The MOJ prepared a proposal and selectively requested observations on draft proposals. Usually, draft proposals are open for everyone to comment, and observations and summaries are easily accessible on the designated participatory website. Not this time.
3. The Government’s proposal is delayed. The reform risks to expire.

* **Reform the Trans Act to enable also persons under the age of 18 to legally change their gender under certain requirements.**
* **Introduce a legal ban on medically unnecessary procedures on intersex children without their free and informed prior consent.**
* **Guarantee equal access to treatment for intersex people by preparing national guidelines for medical professionals.**
* **Ensure that the provisions relating to FGM are clarified, preferably by a separate provision in the Criminal Code.**

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# Paragraph 13 – Gender-based violence against women

**National rapporteur on violence against women**

1. Legislation on national rapporteur on VAW was adopted in 2021. The Non-Discrimination Ombudsman acts as the rapporteur, in addition to her other duties as of 2022.
2. According to the mandate the rapporteur reports and takes initiatives on VAW, provides information and statements, advocates education on the matter, participates in European and international cooperation, monitors the realisation of international human rights obligations and the functionality of national legislation as well as monitors issues of human trafficking, VAW and domestic violence.
3. Rapporteur’s placement within the office of the Non-Discrimination Ombudsman instead of the Equality Ombudsman or the NHRI separates VAW from equality related work and gender specific activities. In practice the Ombudsman has yet another hat and the resources allocated to this task, 200.000 euros annually, cover only one designated person and funds for activities. To note that the Finnish NHRI already – based on its broad human rights mandate – supervises, monitors and reports on the implementation of all international and regional human rights conventions.

**Sexual crimes**

1. Chapter 20 of the Criminal Code of Finland on sexual crimes, has been reformed in July 2022. The new Chapter 20 will be in force 1 January 2023.
2. The legislation introduces the lack of consent as part of the definition of rape and the degree of violence used is no longer the defining factor. The level of penalties for rape is raised to 1 to 6 years in prison.
3. The minimum penalty for sexual abuse has been raised from a fine to four months while the maximum penalty remains four years in prison.

**Violence against women during the pandemic**

1. Unlike Government’s statement, many organisations and authorities have reported an increase in VAW during the pandemic. While VAW increased, the reported cases to the police decreased. The discrepancy between reported violence and *de facto* violence is in and of itself problematic.

**Shelters**

1. In 2021 almost 5 000 clients used the shelters for victims of domestic violence. Of these, 57 % were adults and 43 % children. Of the adults, 91 % were female.
2. According to a study in 2020 by the THL there is a need for shelters for 300-500 clients. There are currently 29 shelters accommodating 211 families or clients.
3. The shelters are not evenly distributed geographically. Distance to the closest shelter greatly varies based on the location of the victim. This also affects the Sámi as there are no shelters in the Sámi homeland.
4. Few shelters are accessible for persons with disabilities, and it is difficult to find out which ones are. In addition, there is only one shelter with an undisclosed location.

**Violence against young women and girls**

1. According to preliminary findings of the upcoming Eurostat GBV-study, women, younger than 35, experienced violence more than other age groups.
2. In March 2022 the Government published a study on domestic violence experienced by persons with disabilities and availability of services. According to the study the perpetrator is almost always a person known to the victim or a person in trust/close position. Girls and women with disabilities, as well as older women, often live at home. Violence in a close relationship at home is easy to hide and difficult to prevent. The various forms of violence are not necessarily recognised. Victims are not always taken seriously.

* **Ensure that a sufficient amount, also accessible, shelters and victim services are available throughout the country and that they are easily identified by victims.**
* **Organise a general awareness campaign on gender-based violence and in specific on the changes in legislation concerning lack of consent as part of definition of rape.**

# Paragraph 15 – Trafficking and exploitation of prostitution

**Residence permits for victims of trafficking**

1. According to the Aliens Act a person may face deportation on the grounds of selling sex unless she/he is recognized as a victim of trafficking by the authorities.
2. Aliens Act Section 52, subsection 1 provides victims of trafficking the possibility to receive a *temporary* residence permit if the presence of the victim is necessary in criminal proceedings as the plaintiff.
3. Very few temporary permits have been granted on this basis. There are challenges in recognizing trafficking victims. If trafficking is not recognized and the crimes are not investigated as trafficking, the victim loses the opportunity to receive a temporary residence permit.
4. According to a study the cases with no active criminal proceedings, or proceedings where the victim’s presence was not needed, affected the decisions negatively. The authorities play a major role in recognising and including the victims in criminal proceedings and assisting in receiving services.
5. The Aliens Act section 52a subsection 2 provides victims of trafficking the possibility to receive a *continuous* residence permit based on being in a *particularly* vulnerable position.
6. According to the said study, assessing the level of vulnerability is challenging. The assessment by the migration authorities has not been uniform. Victims of trafficking have almost never been considered to be in a *particularly* vulnerable position.

**Non-punishment of victims of trafficking**

1. A victim of trafficking who has been compelled to commit a criminal offence may be left unpunished. These victims are often women.
2. Main obstacles to the application of the principle of non-punishment include the lack of experience in applying the principle in practice, problems in identifying victims of trafficking, and the fact that the exploitation underlying the offence does not come up during the proceedings. This is examined recently in a study by the MOJ, with recommendations.

**Forced marriages**

1. Forced marriages are not recognised. Victims of forced marriages are the third biggest client group in the assistance system for victims of trafficking, some 137 in the first half of 2021.
2. In 2021 the MOJ collected views on its memorandum on whether forced marriages should carry a specific statutory punishment. Four options were presented, one being the current legislation allowing for the imposition of punishments only if the arrangement meets the elements of coercion, human trafficking, or its aggravated form. The other options were to include forced marriage as one punishable purpose for trafficking, specify forced marriage under coercion section or enact a separate section on forced marriages.
3. Regrettably, in the memorandum, forced marriages were not deemed gender-based phenomenon and the options were not considered on gender equality basis.
4. The memorandum has not resulted in any further action.
5. The Government proposal to enable annulation of forced marriages was given to Parliament in October 2021. The proposal is still pending.

* **Ensure that the authorities recognise victims of trafficking in order to prevent deportation of the said victims.**
* **Amend the requirements for residence permits to safeguard the victims’ rights.**
* **Proceed without unnecessary delay to improve legislation on forced marriages.**

# Paragraph 21 – Employment

**Women with foreign background**

1. According to a study people with foreign background experienced career related discrimination almost twice as often as others. The employment rate varies by background country, but the labour market position of women with foreign background is weak despite good education and language skills, and it does not correspond to that of women with a Finnish background even after 15 years in Finland.

**Roma women**

1. A report conducted by THL in 2018 shows that only 31 % of Roma women have finished a degree above the basic education level, which is far less than the education level of the general public. The unemployment rate of Roma women was 24%, when it was only 7,3% of women in the whole population.

**Women with disabilities**

1. According to a study by the NHRI and Finnish Disability Forum in 2019, 51 % of the respondent women had experienced discrimination in working life, while the number of men was 41%. The prevailing norm is that a disabled person is unemployed or retired. A total of 12,4% of respondents were unemployed job seekers and 45,4 % were pensioners according to a study conducted by the MOJ and the Non-discrimination Ombudsman in 2016.

* **Improve the participation of women from disadvantaged groups in the labour market by information campaigns, financial incentives and other temporary measures aimed at employers.**
* **Consider creating an obligation to larger employers to hire a minimum number of persons with disabilities or persons with lowered ability to work or alternatively in other ways contribute financially to the employment of said persons**.

# Paragraph 22 – Health

**Sterilisation of persons with disabilities**

1. The Sterilisation Act allows sterilisation of disabled persons after an application by their legal guardian, without the consent of the disabled persons themselves.

**Contraceptives and period poverty**

1. Free contraception for young persons is available only in 137 municipalities out of the 311 municipalities. This is a cause for inequality that directly affects abortion rates and prevalence of sexually transmitted deceases.

* **Amend the Sterilisation Act to ban sterilisation of disabled persons without their consent.**
* **Make free or inexpensive contraceptives and period products available for young persons equally in all municipalities.**

# Paragraph 23 – Disadvantaged groups of women

1. Discrimination based on ethnic background and skin colour is common. Women belonging to minorities, migrants, women with disabilities and older women, face negative attitudes, discrimination, and ill-treatment for example in housing, education, health care services and employment (see Reply to paragraph 21).
2. The Truth and Reconciliation Commission concerning the Sámi People began its work in late 2021. In 2022 two of the Sámi Parliament appointed commissioners were released from their positions on their own request and the work of the Commission was halted. Time and resources provided for the Commission are insufficient. Both the Sámi Parliament and the Government have expressed their will to continue the work of the Commission, but the Commission has not yet resumed its work.
3. Preparatory work of the Reconciliation Commission point to structural discrimination of Sámi people relating to their right to practise and maintain their language and culture. This is a continuous challenge especially in education and in provision of services. There is also a considerable lack of statistical data on Sámi people in general, on their discrimination and especially on violence against Sámi women.
4. The reform on the Act on Sami Parliament is still pending.
5. Disabled women face problems relating to poverty, the availability of services and obtaining related information, and the inaccessibility of the environment. For example, 51 % of disabled women faced ill-treatment in the workplace, which was 10% higher than disabled men. Disabled women face 2-3 times more violence than men.

* **Provide sufficient financial resources and take concrete measures to implement national policies and action plans regarding disadvantaged groups of women.**
* **Enhance data collection of intersecting forms of discrimination towards disadvantaged groups of women, especially Sámi women, women with disabilities and older women.**

# Paragraph 24 – Climate change and disaster risk reduction

1. The Ministry of Economic Affairs and Employment has prepared a gender impact assessment in relation to the national climate and energy policy. Although a broad gender impact assessment is necessary, all climate policies and law reforms would benefit from a policy-specific gender impact assessment.
2. The existing assessment has been referenced to in other climate policies but this does not address policy-specific challenges. The assessment’s observations are not visible in the measures suggested in the policy. This is a visible trend in climate policies and climate law reforms.

* **Ensure that all climate policies and law reforms related to climate include a gender impact assessment and that the results are reflected in practical climate measures.**

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