



## **Addressee: Member States**

**Paragraph #42 Session #3 (2004)**

### **Full Text**

The Forum recommends that Governments:

- (a) Respect the fundamental rights of indigenous peoples, in particular women and children, and ensure that they are able to exercise these rights in accordance with international human rights standards;
- (b) Include relevant information on the rights of indigenous peoples, in particular indigenous women, in the reports presented to the Committee on the Elimination of All Discrimination against Women and other relevant human rights bodies;
- (c) Create mechanisms to ensure access to legal processes, especially for indigenous women, to enable them to take advantage of available juridical instruments including free legal aid, in cases of violations of their fundamental rights;
- (d) Encourage the appointment of qualified indigenous women to decision-making positions in the areas of administration and public service.

### **Comments**

The Government of Finland reports the following:

- (a) According to section 17,3 of the Constitution, the Sami, an indigenous people, have the right to maintain and develop their own language and culture. Provisions on the right of the Sami to use the Sami language before the authorities are laid down by an Act. According to section 22 of the Constitution authorities are obliged to guarantee the realisation of these rights. Section 6 of the Constitution embodies the protection of the right of children to be treated equally and as individuals and they shall be allowed to influence matters pertaining to

themselves to a degree corresponding to their level of development.

Finland has ratified the Convention on the Rights of the Child and has regularly reported to the Committee on the Rights of the Child. The latest, 3rd report emphasizes the rights of indigenous children. The Committee has not addressed any concerns regarding indigenous children in their conclusions. However, the Committee of Ministers of the Council of Europe has recommended on 20 October 2004 that Finland should continue its efforts to develop education in Sami language above all concerning Inari-Sami and Skolt-Sami (examination of the 2nd report of the interim report of the implementation of the European Charter concerning regional and minority languages). The recommendation has been brought to the attention of the authorities.

(b) Finland regularly includes Sami as indigenous people in their reports to the Committee of the Treaty Bodies.

(c) According to section 21 of the Constitution everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or authority. Provisions concerning the right to be heard, the right to receive a reasoned decision and the right of appeal, as well as the other guarantees of a fair trial and good governance are laid down by an Act. The Legal Aid Act (257/2002) stipulates that legal aid shall be given at the expense of the state to a person who needs expert assistance in a legal matter and who for lack of means cannot self pay the expenses of having the matter dealt with. Legal aid covers the provision of legal advice, the necessary measures and representation before a court of law and another authority, and the waiver of certain expenses of the consideration of the matter as provided in this Act.

According to the State Compensation for Witness Act (666/1972) the following costs can be paid out of public funds: the state can be imposed to pay witnesses appearing in court as well as the complainant's, the complainant's legal representatives and their escorts' compensations for travel or subsistence expenses and financial losses as enacted in the above mentioned Act.

The Sami Language Act (1086/2003) contains provisions on the right of the Sami to use their own language before the courts and other public authorities, as well as on the duty of the authorities to enforce and promote the linguistic rights of the Sami. The goal of this Act is to ensure the right of the Sami to a fair trial and good administration irrespective of language and to secure the linguistic rights of the Sami without them needing specifically to refer to these rights.

(d) The Law of the Equality between Woman and Man (609/1986) promotes equality of sexes and the status of women especially at work. The law obliges the state, municipalities and other public authorities as employers and protects the rights of the employees that stand in a professional relation with these entities, be it as civil servants, employees with comparable status or applicants. In state committees, advisory boards and other congruent institutions as well as municipal organs - with the exception of municipal councils whose members are elected in municipal elections - both women and men have to be represented by at least 40 percent each, if there are no special reasons against this principle. Indigenous women have to be treated equally to other women as stipulated by Constitution.

The Government of Mexico reports the following:

During the period covered by its report, the Commission, through the Bureau for Building the Capacity of Indigenous People (DFCI) and the Office for the Coordination of Special Programmes and Projects, initiated the following projects and activities for promoting indigenous women's human rights:

The project, "Different voices and discordant voices: Indigenous women's perspectives and proposals regarding traditional normative frameworks, gender, practices and customs. The objectives of the project are to initiate activities to promote and foster respect for the human rights of indigenous women as a strategy to strengthen their position and status within their families, communities and organizations, as well as in national institutions and society in order to facilitate the development of equitable relationships that should serve as the basis of a culture of rights. Project activities are directed at training indigenous women with leadership skills and experience to become community advocates for indigenous women's rights. In activities conducted during two work cycles, 25 community advocates for indigenous women's rights were trained from the Nahua, Mixtec, Purepecha, Otomi and Mazahua peoples in the states of Puebla, Veracruz, Guerrero, Michoacan, Mexico, Queretaro, Guanajuato and Hidalgo.

The results were as follows:

Training of an inter-ethnic group of indigenous women as community advocates and defenders of the human rights of indigenous peoples and indigenous women; community assessment of the human rights situation of indigenous women in their municipalities and communities; integration of a view of women's rights into their traditional normative frameworks; and documentation of the main types of violations of the human rights of indigenous women within the family and the community, in particular: structural violence directed at them; gender

discrimination; lack of access to property; lack of access to economic resources; lack of opportunities for participation in decision-making; discrimination in matters of inheritance; dispossession of property and abandonment of children; sexual violence; unequal opportunities for participation in politics and decision-making.

Another project on "Equality in Indigenous Boarding Schools in Yucatan and Sinaloa" was carried out with the objectives of developing a specific methodology and appropriate educational material to deal with the topic of the rights of indigenous children, with particular emphasis on the rights of girls; and promote opportunities for reflection and dialogue among indigenous boys and girls, where the problems that they face in both family and community life may be analysed and where they are provided with information about their rights.

The Government of Norway reports the following:

(a) There are no indications that indigenous people in Norway in general are unable to exercise their individual human rights to the same extent as the rest of the Norwegian population. Whether the Norwegian government respects the indigenous rights of the sami people in particular regarding land and natural resources has been a matter of dispute. The proposed legislation put forward in the the Finnmark bill, Proposition No. 53 to the Odelsting (2002-2003), on the right to own and use land in Finnmark county is now under consideration by the Parliament (Storting). The Storting has entered into consultations with the Samediggi in order to make necessary changes to reach agreement on disputed issues and achieve a balanced solution. The Storting is scheduled to make a decision on the bill in May 2005.

New guidelines for Norway's efforts to strengthen support for indigenous peoples in development co-operation were approved in 2004. These guidelines emphasize that Norway will continue to include and strengthen the human rights perspective in its efforts to support indigenous peoples. Norway will ensure that the projects supported have a rights-based approach and are gender sensitive.

(b) Relevant information on the rights of indigenous peoples was provided by the Norwegian government to the CEDAW Committee in its last report in 2001, and will also be included in the next report, which is due in 2006.

(c) There are different legal aid options available to indigenous women in the event of violation of their fundamental rights: 1) they may contact the Centre for Combating Ethnic Discrimination; 2) alternatively, indigenous women may contact the Legal Aid Officer in Inner Finnmark. The Legal Aid Office offers free legal aid to everyone in the district regardless of income or area of law involved. Legal aid

is also provided in the Sami language. Free legal aid is also available from student-based legal aid offices, JussBuss and JURK, which is specifically for women.

(d) In Proposition No. 34 to the Odelsting (2004-2005), the Norwegian government proposes the establishment of a Gender Equality and Discrimination Ombud. The proposed mandate for the Ombud is to promote both the rights of women and the rights of minorities, and to combat any form of discrimination on the grounds of gender or ethnicity.

## **Area of Work**

Human rights