

The Activity, Progressiveness and Consistency
of the Human Rights Policy of Finland:
The Rights of Indigenous Peoples



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Table of contents

Preface	ii
1 Enhancing international respect for the rights of indigenous peoples.....	1
1.1 Emphasizing the collective dimension of rights	3
1.2 The establishment of international instruments and institutions	5
2 The situation of the Sámi people in Finland	10
2.1 The unsolved question of the Sámi land rights.....	10
2.2 The Sámi language and the media	18
3 Preliminary observations: inconsistency wiping out Government's credibility.....	24

Bibliography

Preface

Finland, together with many other countries, has included the universal promotion and protection of human rights and fundamental freedoms as one of its central foreign policy goals. Accordingly, human rights are, allegedly, taken into account not only in the Finnish foreign human rights policy but in all sectors of the foreign policy. The aim of the Government of Finland is an active, competent, consistent and progressive human rights policy. According to the main priorities of its human rights policy, the Government of Finland has committed itself to promote and protect the rights of indigenous peoples, various minorities, including sexual and gender minorities, women, children and other vulnerable groups, actively and consistently.

The capacity and credibility of a government's action to promote the respect for human rights at the international level is inseparably related with the promotion and protection of human and fundamental rights at the national level. In the Government report to Parliament on the human rights policy of Finland of 2004, it is noted that Finland has the capacity and credibility needed to promote the respect for human rights at international fora. In line with its officially adopted position, Finland has worked actively for the development of structures and mechanisms for enhancing the international promotion and protection of human rights. The Finnish initiatives to create a European Roma and Travellers Forum and an office of a Commissioner for Human Rights, both within the framework of the Council of Europe, represent perhaps the most concrete examples of the activity of Finland in building international human rights structures.

Despite a relatively active international role when promoting respect for human rights, there are signs that indicate that the standard of the protection of human and fundamental rights at the national level does not always correspond to the standard promoted by Finland at international fora. Consequently, and despite the occasional statements commending its human rights record, human rights treaty monitoring bodies of the United Nations and the Council of Europe, including the European Court of Human Rights, have repeatedly reminded Finland of certain international treaty obligations that are inadequately taken care of.

It illustrates certain inconsistency or indeed ignorance towards recommendations issued by international human rights monitoring bodies that while receiving criticism Finland has simultaneously promoted actively all these questions at various international fora. However marginal, such inconsistency or ignorance does not go unnoticed and may eventually lead to a loss of a government's credibility.

In addition to the international monitoring bodies, also national courts and other national bodies constantly remind the Government of certain inconsistencies and failures in meeting its human rights obligations. In their decisions, the Parliamentary Ombudsman and the Ombudsman for Minorities, for example, both draw regularly the Government's attention to shortcomings in laws and regulations.

Despite the numerous bodies monitoring its human rights record, the Government of Finland has, occasionally, been, for a variety of reasons, relatively slow or sometimes even reluctant to take corrective measures. This is the case despite the fact that the Government has repeatedly emphasized the importance of human rights treaties and of the work carried out by the expert bodies monitoring the compliance of a state party with these treaties.

The present research report on the rights of indigenous peoples results from the author's ongoing study on the activity, progressiveness and consistency of the human rights policy of Finland. The Finnish Ministry for Foreign Affairs has granted the present author an extraordinary permit of access to any documentation produced by the Ministry for Foreign Affairs that may be of relevance for the carrying out of the research which will later result in a monograph. The author presents his gratitude to the trust placed on him. The author is also indebted to Kone Foundation for having awarded funding to carry out the study.

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M.L.

1 Enhancing international respect for the rights of indigenous peoples

When the Government of Finland drew up its foreign human rights policy in 1998, the furthering of the rights of indigenous peoples was among the Government's priority areas.¹ According to its own estimate, as presented in 2004, the Government has systematically aimed at "contributing to improved living conditions of indigenous peoples so that the communities and culture may be maintained and developed on the terms of the indigenous peoples themselves".² In its efforts to promote and protect the rights of indigenous peoples, the Government of Finland is also devoting special attention to indigenous women and children, in particular the girl child, as these are vulnerable to multiple discrimination.³

International bodies and mechanisms dealing exclusively with issues relevant for the promotion and protection of the rights of indigenous peoples or with indigenous affairs more generally are of a fairly recent origin. Except for the Working Group of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on Indigenous Populations that was established in 1982, the Permanent Forum on Indigenous Issues was established only in 2000, the mandate of the Special Rapporteur of the Commission on Human Rights on the situation of human rights and fundamental freedoms of indigenous people was established in 2001 and the Declaration on the Rights of Indigenous Peoples was, finally, adopted by the General Assembly in 2007.

Within the framework of the United Nations, the issue of indigenous affairs had indeed been placed on the agenda rather early. According to an early draft resolution presented by the delegation of Bolivia at the General Assembly in 1948, the Economic and Social Council was to "organize a sub-commission of the Social Commission on the study of the social problems of the aboriginal populations of the American continent".⁴ The proposal to create a sub-commission was, subsequently, transformed into a recommendation for a study to be prepared on the "large aboriginal population and other under-developed social groups which face peculiar social problems" on the American continent.⁵ As noted by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the problem of discrimination against indigenous populations, José Martínez Cobo, this recommendation was not transformed into any practical measures, "except for the eradication of the chewing of coca leaf in Bolivia and Peru".⁶

¹ Human rights and Finland's foreign policy, 1998, p. 48-50. The Government had, nonetheless already before that actively promoted the rights of indigenous peoples at international fora. During its three year membership at the Commission on Human Rights between 1993 and 1995, the delegation of Finland had, in addition to the work in plenary, also organized, for instance, side events on issues relevant to the rights of indigenous peoples. Eero Aarnio, 2001, p. 126.

² Government report to Parliament on the human rights policy of Finland, 2004, p. 179.

³ Human rights and Finland's foreign policy, 1998, p. 42. Government report to Parliament on the human rights policy of Finland, 2004, p. 179.

⁴ UN doc. A/610 of 12 August 1948.

⁵ General Assembly resolution 275 (III) of 11 May 1949. See UN doc. E/CN.4/Sub.2/476/Add.4, paragraphs 11-13 and 83-89 for the process leading to the adoption of General Assembly resolution 275 (III) and on how the process proceeded thereafter.

⁶ José Martínez Cobo, 1986, paragraph 6. See also UN doc. E/CN.4/Sub.2/476/Add.4, paragraphs 90-106.

It was mainly the Sub-Commission on Prevention of Discrimination and Protection of Minorities that concerned itself with issues relevant to indigenous affairs. In 1971, the Economic and Social Council authorized, in this regard, the Sub-Commission "to make a complete and comprehensive study of the problem of discrimination against indigenous populations".⁷ It was, however, only thirteen years later, in 1984, that the study prepared by José Martínez Cobo, the Special Rapporteur appointed by the Sub-Commission, was completed.⁸ In the meantime, the Sub-Commission had been authorized to establish a working group on indigenous populations.⁹ As José Martínez Cobo put it in his final report, the creation, in 1982, of the Sub-Commission's Working Group on Indigenous Populations "completed the sequence of actions begun 34 years earlier by the Bolivian initiative of 1948".¹⁰ It took a further fourteen years before the Commission on Human Rights added a separate agenda item on "indigenous issues" on its agenda.¹¹ Until that date, questions relevant to the rights of indigenous peoples had been considered under the agenda item on the "Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities" together with all the other issues that the Sub-Commission dealt with. In a joint Nordic statement at the Commission's session in 1996, it was noted that the separate agenda item on indigenous issues marked "yet another step forward in a long process of growing international concern and awareness about the situation of indigenous peoples".¹²

In accordance with its human rights policy, the Government of Finland has consistently worked for the establishment and strengthening of bodies and mechanisms working for the promotion and protection of the rights of indigenous peoples. The Government has also stood behind certain questions of particular importance for indigenous peoples despite the fact that these questions have not received broad support among other governments. It has not been uncommon that Finnish delegations have stood rather alone during, for instance, negotiations on the self-determination of indigenous peoples or during negotiations on whether the rights

⁷ Economic and Social Council resolution 1589 (L) of 21 May 1971; Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 8 (XXIV) of 18 August 1971. See UN doc. E/CN.4/Sub.2/476/Add.4, paragraph 47 for the process leading, subsequently, to the adoption of Economic and Social Council resolution 1589 (L).

⁸ José R. Martínez Cobo, 1986 (originally distributed as UN doc. E/CN.4/Sub.2/1983/21/Add.8). Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1984/35 A of 30 August 1984; Commission on Human Rights decision 1985/103 of 11 March 1984; Economic and Social Council decision 1985/137 of 30 May 1985.

⁹ Commission on Human Rights resolution 1982/19 of 10 March 1982 and Economic and Social Council resolution 1982/34 of 7 May 1982 which authorized the establishment of a working group on indigenous populations that was, among other things, to give special attention to the evolution of standards concerning the rights of indigenous populations. In its resolution 1985/21, the Commission on Human Rights urged the Working Group to intensify its efforts to develop international standards.

¹⁰ José R. Martínez Cobo, 1986, paragraph 10.

¹¹ UN doc. E/1996/23; E/CN.4/1996/177, paragraph 6. Commission on Human Rights decision 1996/102. Ministry for Foreign Affairs, GEN0294, 23.2.1996. A separate sub-item on "indigenous issues" had been added on the Commission's agenda in 1995 under the item "Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-sixth session". UN doc. E/CN.4/1995/SR.23, paragraph 1.

¹² Joint Nordic statement at the fifty-second session of the Commission on Human Rights delivered by the delegation of Denmark on 9 April 1996. Ministry for Foreign Affairs, GEN0599, 12.4.1996, annex. See also UN doc. E/CN.4/1996/SR.29, paragraphs 56-60. With regard to most, albeit not all, issues relevant to the rights of indigenous peoples, the Nordic countries have acted jointly.

of indigenous peoples embrace also collective rights without being in a position to find the desired and necessary support for its proposals.

1.1 Emphasizing the collective dimension of rights

The question on whether minorities and indigenous peoples possess collective rights or individual rights with a collective dimension is subject to debate. Rights included in general international human rights instruments are formulated cautiously in order to avoid any formal acceptance of the collective nature of the rights. Rights are, in other words, mostly provided to the individual belonging to a particular group, but not to the group as such. References to a collective dimension of rights are, however, occasionally to be found. This is the case when rights have been formulated in a manner that the individual belonging to a minority group has the right, for instance, to enjoy his or her own culture, to profess and practise his or her own religion or to use his or her own language "in community with other members of his or her group".¹³

The Government of Finland is among the very few countries that have actively and consistently furthered the view according to which the rights of minorities and the rights of indigenous peoples embrace also collective rights and individual rights with a collective dimension.¹⁴ As stated in the Government's human rights report of 1998, "Finland takes the view that it is not logical to protect the individual rights of persons belonging to minorities unless it is acknowledged that these rights are often exercised as a group".¹⁵ A similar understanding had been included in an opinion prepared in 1995 by the Finnish Ministry of Justice for the negotiations on the draft United Nations declaration on the rights of indigenous peoples. In this opinion, the Finnish position was formulated as to consider certain collective rights of indigenous peoples as irreplaceable in the promotion and protection of the identity and culture of indigenous peoples.¹⁶ The emphasis on the collective dimension of rights lies also behind the Government's consistent reasoning to promote the use of the term "indigenous peoples" instead of, for instance, the term "indigenous people" in negotiations at different international fora.¹⁷

¹³ Article 30 of the Convention of the Rights of the Child. See also, *e.g.*, Article 27 of the International Covenant on Civil and Political Rights as well as the Framework Convention for the Protection of National Minorities. Article 3 (2) of the Framework Convention reads as follows: "Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others". For a historical overview of the rights of minorities, see the study on the rights of persons belonging to ethnic, religious and linguistic minorities prepared by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Francesco Capotorti in 1979.

¹⁴ Anja Portin has noted that collective rights are not only found satisfactorily in the Finnish national legislation, but Finland is among the most active sponsor of the collective rights of indigenous peoples at international fora. Anja Portin, 1999, pp. 117. See also Government Bill HE 309/1993 vp, p. 25 and 65; Act No. 969/1995, Section 14; The Constitution of Finland, Section 17, subsection 3, for certain provisions of collective rights in the Finnish legislation.

¹⁵ Government report on human rights of 1998, p. 47.

¹⁶ Ministry of Justice, 27 July 1995, register no. 2009/45/95 OM.

¹⁷ On the discussion whether or not to co-sponsor a draft resolution in case the formulation preferred by Finland did not find sufficient support, see, *e.g.*, Ministry for Foreign Affairs, GENC029-11, 15 April 2002; HELD2076-26, 16 April 2002; HELD1622-29, 13 May 2002.

The dispute among approaches has led to the use of a wide variety of terms where the outcome always is depending on the negotiations at hand and the willingness to reach consensus. As examples of this variety of terms used with regard to indigenous affairs can be mentioned that the term "indigenous people" was used throughout the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993,¹⁸ the working group of the Sub-Commission on Prevention of Discrimination and Protection of Minorities that was established in 1982 was named the "Working Group on Indigenous Populations",¹⁹ the Permanent Forum established in 2000 as a subsidiary body of the Economic and Social Council was on "indigenous issues"²⁰ as was the separate agenda item added on the agenda of the Commission on Human Rights in 1996,²¹ and the special procedure mandate established by the Commission on Human Rights in 2001 was again on "indigenous people".²²

A wonderful example of the difficulties and tensions attached to the issue of collective rights is the debate that took place at the first session of the open-ended intersessional working group on a draft United Nations declaration on the rights of indigenous peoples, as the working group was called by the United Nations Secretariat in 1995. On that occasion, it was not possible to agree on whether the name of the working group that was to continue with the drafting of the declaration was to include the term "people" or "peoples". The solution was that the working group of the Commission on Human Rights established in 1995 was called the "Working Group established in accordance with Commission on Human Rights resolution 1995/32 of 3 March 1995".²³ The title of Commission on Human Rights resolution 1995/32 of 3 March 1995 referred to in the working group's name was, obviously, not the "[E]stablishment of a working group to elaborate a draft United Nations declaration on the rights of indigenous peoples" as Sub-Commission resolution 1994/45 of 26 August 1994 had been formulated, but the "[E]stablishment of a working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994".²⁴

¹⁸ Vienna Declaration and Programme of Action, Part I, paragraph 20, and Part II, paragraphs 28-32. See also, Peter Stenlund, 1994, p. 10.

¹⁹ Commission on Human Rights draft resolution I submitted to the attention of the Economic and Social Council; Economic and Social Council resolution 1982/34 of 7 May 1982.

²⁰ Economic and Social Council resolution 2000/22 of 28 July 2000.

²¹ Commission on Human Rights decision 1996/102.

²² Commission on Human Rights resolution 2001/57.

²³ Ministry of Justice, 14.12.1995; UN doc. E/CN.4/1996/84, paragraph 14. The name of the Working Group remained the same until 2006 when it held its eleventh and final session (UN doc. E/CN.4/2006/79) except those occasions when the working group was called the "working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994". See, for example, UN doc. E/CN.4/2003/1/Add.1.

²⁴ In its resolution 49/214 of 23 December 1994, the General Assembly had encouraged the Commission on Human Rights to consider the draft declaration on the rights of indigenous peoples, with the participation of representatives of indigenous peoples, with a view to achieving the adoption of a draft declaration within the first International Decade of the World's Indigenous People.

However, as finally adopted by the General Assembly in 2007,²⁵ the United Nations Declaration on the Rights of Indigenous Peoples – the latest of the documents of relevance for the promotion and protection of the rights of indigenous peoples – has its basis, as the title already indicates, in an approach that – at least in theory – accepts and strengthens the understanding of the existence of the collective rights of indigenous peoples.²⁶ As stated in one of the preambular paragraphs of the Declaration, "indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples".²⁷ When a certain provision of the Declaration has no collective dimension, this is clearly indicated by referring, in these cases, to rights belonging to "indigenous individuals".²⁸ Several articles are also formulated to read "indigenous individuals and peoples". This formulation again emphasizes that the provision in question has, besides an individual dimension, also a collective dimension.²⁹ Although the Declaration contains and acknowledges the collective rights of indigenous peoples numerous delegations, despite having voted in favour of the adoption of the draft Declaration, expressed their reservation to this approach when the Human Rights Council, at its first session on 29 June 2006, adopted the draft Declaration. The representatives of Japan and of the United Kingdom of Great Britain and Northern Ireland, for example, both stated that they "did not accept the concept of collective human rights in international law".³⁰ Similar statements were made on 13 September 2007 when the General Assembly adopted the Declaration. The representative of Finland did not, in his statement, address the issue of collective rights.³¹

1.2 The establishment of international instruments and institutions

For years, the Working Group of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on Indigenous Populations was the only body within the framework of the United Nations that dealt exclusively with indigenous affairs. Together with other governments, the Government of Finland worked consistently and actively for the establishment and strengthening of additional international bodies or mechanisms for the promotion and protection of the rights of indigenous peoples.

As with so many other issues, the Commission on Human Rights contributed to the promotion and protection of the rights of indigenous peoples mainly through its special procedures.

²⁵ General Assembly resolution 61/295 of 13 September 2007.

²⁶ See, for example, articles 1, 7 (2), and 40.

²⁷ Preambular paragraph 22 of the Declaration on the Rights of Indigenous Peoples. This paragraph was added, as PP18 bis, to the draft declaration at the eleventh and final session of the working group elaborating the draft declaration. UN doc. E/CN.4/2006/79, annex.

²⁸ See, for instance, articles 6, 7 (1), 14 (2), 17 (1) and (2), 24 (2).

²⁹ Also the ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries is, in its entirety, about rights belonging to indigenous and tribal peoples, not to the individual belonging to these groups. See also Tanja Tirronen, 2001, p. 160.

³⁰ UN doc. A/HRC/1/SR.21, paragraphs 24-60.

³¹ The delegations of Japan, the United Kingdom of Great Britain and Northern Ireland, and Slovakia stated their view that they did not recognize collective rights and the delegations of Sweden and France, while not explicitly stating that they did not recognize collective rights, stated that collective rights cannot take precedence over individual rights. UN docs. A/61/PV.107 and A/61/PV.108.

There has been a steady increase in the number of special procedure mandates established by the Commission on Human Rights and assumed by the Human Rights Council.³² After having, for years, established country-specific and later thematic special procedure mandates to cover civil and political rights, the Commission began to attach increasing attention also to economic and social rights and to different groups of individuals in a vulnerable position when establishing new thematic special procedure mandates.

At its fifty-seventh session in 2001, the Commission on Human Rights established a special procedure mandate on the situation of human rights and fundamental freedoms of indigenous people.³³ In their joint statement on the rights of indigenous peoples delivered at that session, the Nordic countries gave their support to what was originally an initiative by the Sub-Commission on the Promotion and Protection of Human Rights to appoint a special rapporteur on the rights of indigenous peoples.³⁴ As noted in the statement delivered by the observer for Denmark, the Nordic countries expressed the view that a special rapporteur's mandate was needed and it would not duplicate the work done by other mechanisms.³⁵ In their joint statement the following year, the Nordic countries regarded the appointment of the Special Rapporteur "as an important achievement which strengthens the mechanisms of the Commission in the field of human rights of indigenous peoples".³⁶

In the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993, it had been recommended that the General Assembly proclaim an international decade of the world's indigenous people. Within the framework of the international decade, the establishment of a permanent forum for indigenous people "should be considered".³⁷ In its resolution 48/163 of 21 December 1993, the General Assembly took note of the recommendation by the World Conference and proclaimed the first International Decade of the World's Indigenous People with the goal of strengthening international cooperation for the solution of problems faced by indigenous people. In the resolution, the General Assembly also requested the Commission on Human Rights to give priority

³² For a list on country-specific and thematic special procedure mandates established by the Commission on Human Rights between 1967 and 2005, see, *e.g.*, Miko Lempinen, 2005, annex 1 (a) and (b) as well as United Nations Special Procedures: Facts and Figures 2007. Office of the United Nations High Commissioner for Human Rights.

³³ Commission on Human Rights resolution 2001/57 of 24 April 2001. On the initiative of the delegation of Finland, the Special Rapporteur was invited "to pay special attention to violations of the human rights and fundamental freedoms of indigenous children". Commission on Human Rights resolution 2001/57, paragraph 3. Ministry for Foreign Affairs, GENC028-53, 25 April 2001. With regard to the realization of the rights of indigenous peoples before the establishment of the mandate on the situation of human rights and fundamental freedoms of indigenous people, the Commission on Human Rights had requested some special rapporteurs to take into consideration the special requirements of indigenous peoples when carrying out their mandates.

³⁴ Sub-Commission on the Promotion and Protection of Human Rights resolution 1999/20.

³⁵ UN doc. E/CN.4/2001/SR.58, paragraph 12. Finland was among the co-sponsors of draft resolution E/CN.4/2001/L.63 establishing the mandate as it had been the previous year when the Commission had, however, postponed the consideration of a draft resolution (E/CN.4/2000/L.63) containing a similar provision. Commission on Human Rights decision 2000/105. For the Finnish position, see Ministry for Foreign Affairs, GENC026-29, 8 April 2001 and GENC028-53, 25 April 2001, annex.

³⁶ Joint statement delivered by the representative of Norway on 15 April 2002. Ministry for Foreign Affairs, GEN0010-33, 17.4.2002. See also UN doc. E/CN.4/2002/SR.40, paragraphs 53-55.

³⁷ Vienna Declaration and Programme of Action, chapter II B, paragraph 32.

consideration to the establishment of a permanent forum for indigenous people in the United Nations system. Consequently, in 2000, the Economic and Social Council established, on the recommendation of the Commission on Human Rights, a Permanent Forum on Indigenous Issues as a subsidiary organ of the Council.³⁸

Finland attached utmost importance to the need for a permanent forum. This is well illustrated in the Government's response to the request for comments on a permanent forum by the High Commissioner for Human Rights of 4 November 1998. In the Government's response, it was noted that the permanent forum is needed in order to "safeguard an effective and coherent participation of indigenous peoples". It was also noted that a forum with a broad mandate – covering also issues other than those on human rights – would allow indigenous issues to be addressed in a more comprehensive and efficient manner.³⁹ In addition, acting jointly with regard to indigenous issues, the Nordic countries urged, at the fifty-third session of the Commission on Human Rights in 1997, the Commission "to take quick and decisive steps" towards the establishment of a permanent forum for indigenous peoples.⁴⁰ In their joint statement the following year at the Commission's fifty-fourth session, the Nordic countries reiterated their support to the proposal to establish a permanent forum at a prominent level within the United Nations system. The Nordic countries, therefore, suggested that the Commission establish an open-ended Ad hoc working group to draw up a draft mandate for a permanent forum.⁴¹

The most recent negotiation process concerning indigenous affairs within the framework of the United Nations was brought to an end in 2007 by the adoption of the United Nations Declaration on the Rights of Indigenous Peoples. The Nordic countries regarded a declaration on indigenous rights as a major objective of the International Decade of the World's Indigenous People.⁴² When the Sub-Commission on Prevention of Discrimination and Protection of Minorities had reached agreement on the draft declaration at its forty-sixth

³⁸ Commission on Human Rights resolution 2000/87 of 27 April 2000 and Economic and Social Council resolution 2000/22 of 28 July 2000.

³⁹ Ministry for Foreign Affairs, HELD782-1, 11.1.1999. In his statement at the fiftieth session of the Commission on Human Rights on 2 February 1994, the Minister for Foreign Affairs, Heikki Haavisto, had rather cautiously noted that "the establishment of a Permanent Forum for indigenous peoples deserves our attention" without any indication of Finland supported the initiative or not. See also UN doc. E/CN.4/1994/SR.4, paragraphs 2-14. In May 1994, however, Finland welcomed the initiative to establish a permanent forum for indigenous people. Ministry for Foreign Affairs, GEN0291, 24.5.1994. See also Ministry for Foreign Affairs, YKE0612, 16.11.1995 and Human Rights and Finland's Foreign Policy, 2000, p. 102-103 as well as Government report to Parliament on the human rights policy of Finland, 2004, p. 182-183.

⁴⁰ Statement at the fifty-third session of the Commission on Human Rights delivered by the delegation of Denmark on behalf of the Nordic countries at 1 April 1997. Ministry for Foreign Affairs, GENC003-54, 4.4.1997, annex. See also UN doc. E/CN.4/1997/SR.31, paragraphs 80-86 as well as the joint Nordic statement delivered by the representative of Finland at the Third Committee of the General Assembly on 11 November 1997. Ministry for Foreign Affairs, YKEC019-42, 11 November 1997, annex, and UN doc. A/C.3/52/SR.32, paragraphs 5-8.

⁴¹ Statement by the Premier of Greenland (Denmark) on behalf of the Nordic countries of 26 March 1998. Ministry for Foreign Affairs, GENC014-18, 27.3.1998, annex; UN doc. E/CN.4/1998/SR.18, paragraphs 5-7.

⁴² Statement at the fifty-third session of the Commission on Human Rights delivered by the delegation of Denmark on behalf of the Nordic countries at 1 April 1997. Ministry for Foreign Affairs, GENC003-54, 4.4.1997, annex; UN doc. E/CN.4/1997/SR.31, paragraphs 80-86. The first International Decade of the World's Indigenous Peoples was between 1995 and 2004. General Assembly resolution 48/163 of 21 December 1993.

session in 1994,⁴³ the observer for Finland noted that the draft declaration "was a very important document" in the international effort to promote and protect the rights of indigenous peoples.⁴⁴

Indigenous representatives, however, were disappointed when the Commission on Human Rights began dealing with the draft declaration that already had been adopted by the Sub-Commission. It was considered that the Governments were only to dilute the achievement by the Sub-Commission. This disappointment was tangible, in October 1996, during the second session of the Commission's working group that had been established for the sole purpose of elaborating a draft declaration⁴⁵ when non-governmental organizations, after having requested the immediate adoption of the draft declaration "without change, amendment or deletion", walked out of the meeting room.⁴⁶ Because of this reluctance to touch the draft adopted by the Sub-Commission, it took years before non-governmental organizations and indigenous representatives made substantive proposals to the draft declaration.⁴⁷ It was only at the first part of the Working Group's tenth session, in September 2004, that non-governmental organizations and indigenous representatives agreed to further develop the original draft text prepared by the Sub-Commission, in order to find more widely acceptable formulations for the provisions in the draft declaration.⁴⁸

The Government of Finland announced that its aim, during the negotiating process, was to respect as much as possible the draft prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.⁴⁹ As explained by the observer for Finland when commenting on the draft adopted by the Sub-Commission in 1994, one of the few concerns regarding the draft declaration concerned the issue of land rights. This was considered to be the case because the provisions on land rights were considered to be "quite far-reaching even in comparison with article 14 of ILO Convention No. 169, which makes a distinction between lands traditionally occupied by indigenous peoples and lands not exclusively occupied by them".⁵⁰ Nonetheless, during the fourth session of the Commission's Working Group in 1998, the Government of Finland expressed its readiness to adopt the draft declaration as submitted to the Commission by its Sub-Commission.⁵¹ In the Government report to Parliament on the human rights policy of Finland of 2004, it is peculiarly, albeit simultaneously rather trivially, however, noted that the Government of Finland respects the draft declaration "to the extent

⁴³ Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1994/45 of 26 August 1994.

⁴⁴ UN doc. E/CN.4/Sub.2/1994/SR.29, paragraph 29.

⁴⁵ Commission on Human Rights resolution 1995/32 of 3 March 1995; Economic and Social Council resolution 1995/32 of 25 July 1995.

⁴⁶ Ministry for Foreign Affairs, GENC003-14, 22.10.1996.

⁴⁷ Ministry for Foreign Affairs, HEL1028-32, 9 January 2003, annex.

⁴⁸ Ministry for Foreign Affairs, COREU CFSP/HEL/0221/04, 23.11.2004.

⁴⁹ See, e.g., Ministry for Foreign Affairs, HEL1028-78, 31.12.2003.

⁵⁰ UN doc. E/CN.4/Sub.2/1994/SR.29, paragraph 31.

⁵¹ Ministry for Foreign Affairs, GENC003-139, 21.12.1998. See also Human Rights and Finland's Foreign Policy, 2000, p. 103.

possible and only intends to propose amendments that are considered absolutely necessary".⁵² The message sent over the years by the Government of Finland was, in other words, somewhat imprecise as to whether it was satisfied with the draft declaration as prepared by the Sub-Commission or whether it preferred to propose amendments, as any government would have done, that better would suit the views of the government.

As so many drafting exercises, the drafting process of the Declaration on the Rights of Indigenous Peoples was anything but easy. The draft declaration had been submitted to the Commission on Human Rights already in 1994 by the Sub-Commission on Prevention of Discrimination and Protection of Minorities after the Sub-Commission's Working Group on Indigenous Populations had worked on the draft for a decade.⁵³ The Commission on Human Rights was abolished before it was in a position to adopt the draft declaration. The Human Rights Council – the Commission's successor – on the other hand adopted the draft Declaration immediately at its first session. It seems that with the establishment of the Human Rights Council, governments had a need to prove, at least to themselves, that new Council represented a new and fresh beginning where the Council was able to take action – contrary to the Commission – on issues promptly, even on the expense of consensus.⁵⁴ The Council did this, despite the fact that it appears evident that “a declaration that did not enjoy consensus would not be of real and practical benefit to indigenous peoples”.⁵⁵

Later that same year, at the sixty-first session of the General Assembly, it became, however, clear that too many governments were unhappy with the draft declaration as adopted by the Human Rights Council. It was only in September 2007, after the General Assembly had, in December 2006, decided to defer consideration and action on the draft adopted by the Human Rights Council until a later date,⁵⁶ that the General Assembly finally adopted the Declaration on the Rights of Indigenous Peoples⁵⁷ although the Declaration still did not satisfy everyone. It comes as no surprise that there is now, after the adoption of the Declaration of the Rights of Indigenous Peoples, no agreement on how – if at all – reference ought to be made to this document in draft resolutions being prepared.

⁵² Government report to Parliament on the human rights policy of Finland, 2004, p. 183.

⁵³ Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1994/45. See UN doc. E/CN.4/Sub.2/1985/22, annex II for the first draft principles with regard to the development of a draft declaration that the Sub-Commission's Working Group on Indigenous Populations had debated and worked on ever since its first session in 1982. In the concluding remarks of the report of the first session, it was noted that the possibility of drafting one or more declarations on the rights of indigenous populations should be discussed and that “[A]t some time in the future it [the Working Group] might also contemplate drafting a convention in this field.” UN doc. E/CN.4/Sub.2/1982/33, paragraphs 47-73 and 126.

⁵⁴ In its resolution 1/2 of 29 June 2006, the Human Rights Council adopted the Declaration on the Rights of Indigenous Peoples. The resolution was adopted by 30 votes to 2, with 12 abstentions. See also UN doc. A/HRC/1/SR.21. Of the Council's members, Canada and Russian, both countries with large indigenous populations, voted against the adoption of the declaration.

⁵⁵ Representative of Bangladesh. UN doc. A/HRC/1/SR.21, para. 34.

⁵⁶ General Assembly resolution 61/178 of 20 December 2006 was adopted by a recorded vote of 85 in favour to none against, with 89 abstentions.

⁵⁷ General Assembly resolution 61/295 of 13 September 2007 was adopted by 143 votes to 4, with 11 abstentions. See also Ministry for Foreign Affairs, HEL6578-2, 28 June 2007.

2 The situation of the Sámi people in Finland

The Sámi are the only indigenous people in Finland. The right to cultural autonomy and the right to maintain and develop their own language and culture, within the Sámi Homeland, are guaranteed in the Constitution of Finland.⁵⁸ In 1991, in an amendment to the Parliament Act, representatives of the Sámi had also been granted the right to be heard before decisions are taken on matters affecting them.⁵⁹ The Sámi Parliament, as the representative body of the Sámi, is to be consulted on issues of possible concern to the Sámi.⁶⁰ The establishment, in 1973, of the Sámi Delegation – the predecessor of the Sámi Parliament – had represented the beginning of the participation of the Sámi in political decision making.⁶¹

2.1 The unsolved question of the Sámi land rights

Given the importance of reindeer herding, fishing and hunting to the Sámi, as an indigenous people, the issue of land rights in the Sámi Homeland is of central importance to the promotion and protection of the Sámi culture, their identity and their traditional way of life.⁶² The Government of Finland has underlined that it considers the right to land as particularly important to the preservation of indigenous culture and their traditional way of life and that the Government is committed to examine the question of Sámi land rights with the aim of removing any obstacles to ratification of the ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.⁶³

Despite the Government's assurances and alleged attempts to promote and protect the rights of indigenous peoples, the widely recognized dispute over the use of land in the Sámi Homeland has not found a successful solution.⁶⁴ In its efforts to solve the dispute concerning the use of land in the Sámi Homeland, the Government has commissioned the preparation of a number

⁵⁸ The Constitution of Finland, Act No. 731/1999, Section 17, subsection 3. In Section 121, subsection 4, the Sámi are provided in their native region linguistic and cultural self-government. See also Government Bill HE 309/1993 vp, p. 20 and 65; Act No. 969/1995, Section 14.

⁵⁹ Act No. 1079/1991. According to the Constitutional Law Committee of Parliament, representatives of the Sámi are to be heard in a sufficiently early stage of the preparatory process in order to ensure a proper opportunity to influence the consideration of the matter under preparation. PeVM 12/1990 vp.

⁶⁰ Ulla Aikio-Puoskari has noted that because the Sámi Parliament is heard by the various Committees of Parliament at a rather late stage of the legislative process, the arrangement is clearly unsatisfactory. Ulla Aikio-Puoskari, 2001 (a), p. 35. The Finnish Sámi Parliament (Saamelaiskäräjät) established in 1996 (Act No. 974/1995 and Decree No. 1727/1995) continues the work of its predecessor, Sámi Delegation (Saamelaisvaltuuskunta), that had functioned since 1973 (Decree No. 824/1973). See also Kristian Myntti, 2000.

⁶¹ Ulla Aikio-Puoskari, 2001 (a), p. 17.

⁶² See also Articles 25 to 27 of the United Nations Declaration on the Rights of Indigenous Peoples. General Assembly resolution 61/295 of 13 September 2007.

⁶³ See the Government reports on its human rights policy of 1998, 2000, and 2004; Ministry for Foreign Affairs, GENC031-131, 17.8.2001, annex. According to Kristian Myntti, at least partly because of the unsolved issue of Sámi land rights there is no general Sámi Act in Finland. Kristian Myntti, 2000, p. 206.

⁶⁴ For a short compilation of measures taken, see, *e.g.*, the periodic reports of Finland on the application of the Framework Convention on the Protection of National Minorities. CoE docs. ACFC/SR/II(2004)012E, p. 39-42 and ACFC/SR(1999)003, p. 11-12. See also the annual reports of 2003, 2004 and 2005 on the situation of fundamental rights in Finland prepared by the EU Network of independent experts on fundamental rights.

of studies.⁶⁵ The lack of sufficient political commitment has, nonetheless, ensured that no solution to the dispute acceptable to the Sámi people has been found. In the latest of its efforts, the Ministry of Justice began, in 2005, the preparation of a Government Bill for the purpose of providing for the Sámi rights to land, water, natural resources and traditional means of living within the Sámi Homeland in a way that not only meets the Government's international obligations but that also would remove any existing obstacles for the ratification of ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries, and would, in other words, expand the Government's international commitments concerning the rights of indigenous peoples.⁶⁶

Despite the fact that Finland has not ratified the ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries,⁶⁷ the convention is considered, by the Government of Finland, to be a key document for the promotion and protection of the rights of indigenous peoples.⁶⁸ The reason given for this indefinite delay in the ratification of the Convention is that the Finnish legislation on the land rights of the Sámi is not in harmony with the provisions of the convention.⁶⁹ The objective of the Government is, however, to remove the still existing obstacles for ratification because, and as observed among other things in the Government reports on Finland's human rights policy, "[R]ights to land are particularly important to the preservation of culture and way of life [of indigenous peoples]".⁷⁰ In addition, and according to the opinion presented by the Social Committee of Parliament, the provisions of the Convention ought to be respected and followed also prior to the ratification.⁷¹

⁶⁵ The proposal presented by Pekka Vihervuori, appointed by the Ministry of Justice in 1999, was generally considered foreign to the practical point of view and difficult to implement; Also appointed by the Ministry of Justice, Juhani Wirilander, Justice of the Supreme Court, made a judicial appraisal in 2001 on the importance of the earlier examinations for the land ownership from the point of view of property law; A Sámi Committee was set up in 2000 to examine and prepare a proposal on how the use of the land administered as State land in the Sámi Homeland should be organized in order to secure the rights of the Sámi, as an indigenous people, to maintain and develop their culture and traditional livelihoods. The report of the Committee on the right to use state-owned land within the Sámi Homeland (Saamelaisoimikunnan mietintö) was communicated to Minister of Justice Johannes Koskinen on 3 December 2001. CoE doc. CRI (2007) 23, paragraph 33. See also Tanja Tirronen, 2001, p. 113-151. In 2006, the study based on archive material concerning the settlement, population and land use history was finalized. Ministry of Justice publications 2006:5, 2006:6, 2006:7 and 2006:8. For doubts about the usefulness of these latest historical studies commissioned by the Ministry of Justice, see Martin Scheinin, 2006 (a), p. 34-35.

⁶⁶ CoE doc. GVT/COM/II(2006)004, p. 9.

⁶⁷ As of 28 September 2007, nineteen countries had ratified the ILO Convention No. 169 concerning indigenous and tribal peoples in independent countries, Denmark, the Netherlands, Norway and Spain being the only European countries having done so.

⁶⁸ Government report on human rights, 1998, p. 49.

⁶⁹ Government Bill HE 306/1990 vp; Opinion by the Foreign Affairs Committee of Parliament UaVM 26/1990 vp; and opinion by the Social Committee of Parliament SoVL 11/1990 vp. See also Merja Pentikäinen, 2001, pp. 109.

⁷⁰ See, for example, Government report on human rights of 2000, p. 102.

⁷¹ Opinion by the Social Committee of Parliament, SoVL 11/1990 vp. This wish has been rather well respected at least by the Constitutional Law Committee of Parliament. See, *e.g.*, PeVL 30/1993 vp. See also Kristian Myntti, 1998, p. 309-310 and Tanja Tirronen, 2001, pp. 113.

In its reply in February 1995 on the Government Bill on cultural autonomy of the Sámi,⁷² the Parliament insisted that the Government prepare, without delay, a proposal on how and with what practical consequences the obstacles for the ratification of the ILO Convention No. 169 could be solved.⁷³ In their joint response submitted to the Constitutional Law Committee of Parliament, the Ministry of Justice and the Ministry of Labour merely noted the existing obstacles without proposing, although specifically requested by Parliament to do so, how and with what practical consequences the obstacles could be solved.⁷⁴

With regard to the ratification of the ILO Convention, the Government of Finland noted, in the report on human rights in the foreign policy of Finland of 1998, that the Government "is considering possible ratification of this crucial document for indigenous peoples' rights."⁷⁵ In its following report of prepared in 2000, it was noted that the Government of Finland has "examined the question of Sami land rights with the aim of removing obstacles to Finnish ratification" of the ILO Convention and that the Government "continues to explore whether it would be possible for Finland to ratify" the Convention.⁷⁶ In the Government report to Parliament on the human rights policy of Finland of 2004, the wording was again slightly modified. In 2004, the Government announced that it "continues its efforts to find ways to remove the obstacles to the ratification of the ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries".⁷⁷

In its written statement on the Government report to Parliament on the human rights policy of Finland of 2004, the Sámi Parliament expressed its strong disappointment over the understanding presented by the Government according to which the Government would be sincere in its efforts to find ways to remove the obstacles to the ratification of the key document, as the Government had called it in 1998, on the rights of indigenous peoples. In its statement, the Sámi Parliament noted, among other things, that not a single Government Bill has been sent to Parliament on the issue although numerous studies, for more than half a century, have been prepared in order to solve the question of Sámi land rights.⁷⁸

⁷² Government Bill HE 248/1994 vp.

⁷³ Answer by Parliament to the Government Bill (HE 248/1994 vp) on the cultural autonomy of the Sámi. See also, Martin Scheinin, 2001 (a), p. 42.

⁷⁴ Ministry of Justice and Ministry of Labour, 17 April 1996, register no. 5218/053/95 TM.

⁷⁵ Human rights and Finland's foreign policy, 1998, p. 49-50.

⁷⁶ Human Rights and Finland's Foreign Policy, 2000, p. 101-102.

⁷⁷ Government Report to Parliament on Human Rights, 2004, p. 178.

⁷⁸ Written statement by the Sámi Parliament of 5 May 2004 submitted to the Foreign Affairs Committee of Parliament concerning the Government report to Parliament on the human rights policy of Finland of 2004.

In addition to national courts⁷⁹ and other national supervisory bodies that have dealt with the issue of land use in the Sámi Homeland or other issues relevant to the Sámi,⁸⁰ numerous international human rights monitoring bodies have, over the years, expressed their wish that the existing land dispute be resolved as expeditiously as possible in a manner that would not jeopardize the rights of the Sámi as an indigenous people to enjoy and develop their culture and traditional way of life. The current land-use in the Sámi Homeland has become increasingly contested, notably as regards the logging activities of the State Forest Administration (Metsähallitus). Human rights monitoring bodies of the United Nations and the Council of Europe have repeatedly expressed their concern about the fact that these logging activities are, in some cases, carried out without adequate attention being paid to the rights of the Sámi, as an indigenous people, to preserve their traditional livelihood.

In its concluding observations on the fourth periodic report of Finland adopted in April 1998, the Human Rights Committee noted with concern that the issue of land rights of the Sámi has not been resolved.⁸¹ Six years later, in its concluding observations on the fifth periodic report of Finland, in October 2004, the Human Rights Committee regretted that Finland had failed to settle the question of the land rights of the Sámi people and the various public and private usage of the land affecting the traditional means of subsistence of the Sámi, thus endangering their traditional way of life, identity and culture. The Committee, therefore, reiterated its concern over the Government's failure to settle the question of Sámi rights to land ownership and the various public and private uses of land that affect their traditional means of subsistence - in particular reindeer breeding - thus endangering their traditional culture and way of life, and hence their identity. According to the Human Rights Committee, the State party should, in conjunction with the Sámi people, swiftly take decisive action to arrive at an appropriate solution to the land dispute with due regard for the need to preserve the Sámi identity in accordance with article 27 of the Covenant. Meanwhile, the Government was requested to refrain from any action that might adversely prejudice settlement of the issue of Sámi land rights.⁸²

In addition to the periodic reports of Finland, the Human Rights Committee has dealt with the issue of Sámi land rights in a number of individual cases concerning the right of Sámi, as an

⁷⁹ See, for instance, Supreme Administrative Court, decision rendered on 23 February 2004, reference to source, KHO 2004:18, reference no. 354; 1646/1/03; Supreme Administrative Court, decision rendered on 31 March 1999, reference to source KHO 1999:14, reference no. 692 (614 and 632/1/97); Rovaniemi Court of Appeal, decision rendered on 30 August 1996, reference no. 601; S96/396; Supreme Court, decision rendered on 11 June 1995, reference to source KKO 1995:117, reference no. 2435; S94/1432. On other issues concerning the Sámi, see, *e.g.*, Supreme Administrative Court, reference to source KHO 2003:3, reference no. 100; 1870/3/01. See also Martin Scheinin, 2001 (a), pp. 61 and 2000, pp. 211 on how the Supreme Administrative Court has applied article 27 of the International Covenant on Civil and Political Rights in numerous cases; Johanna Ojala, 2001, on how the Supreme Administrative Court has ruled with regard to mining activities authorized by the Ministry of Trade and Industry; Kristian Myntti, 1998, p. 305-308 also on the dealing of the cases concerning reindeer herdsman in domestic courts and before the Human Rights Committee.

⁸⁰ See, *e.g.*, decision by the Deputy Parliamentary Ombudsman dated 31 December 2003, register no. 112/2/01; decision by the Deputy Parliamentary Ombudsman dated 15 June 2006, register no. 896/5/06; initiative by the Ombudsman for Minorities dated 15 April 2003, register no. 842/65/2003 TM; statement by the Ombudsman for Minorities of 12 October 2007, register no. 1424/65/2006 TM.

⁸¹ UN doc. CCPR/C/79/Add.91, para. 11.

⁸² UN doc. CCPR/CO/82/FIN, paragraph 17.

indigenous people, to enjoy their traditional way of livelihood.⁸³ The Committee has not, however, been in a position to conclude, on the evidence before it, that the Sámi, as an indigenous people, have been denied the right, under article 27 of the International Covenant on Civil and Political Rights, to enjoy their own culture.⁸⁴ Nonetheless, the Committee has established several general principles for the interpretation of the rather modestly worded provision of article 27 including, among other things, that the provision not only protects traditional means of livelihood, but even their adaptation to modern times.⁸⁵ In its reasoning, the Human Rights Committee has noted that measures whose impact would amount to a denial of the right to enjoy one's culture will not be considered compatible with the provision set out in article 27 of the Covenant.⁸⁶ The Committee has also, however, noted that "measures that have a certain limited impact" on the way of living of the Sámi will not necessarily amount to a denial of the rights under the Covenant.⁸⁷ This latter reasoning has systematically also been applied when assessing the impact of logging and mining activities on the reindeer herding of Sámi herdsman. The Committee has repeatedly noted that it was not in a position to conclude that the impact of logging activities would be such as to amount to a denial of the authors' rights under article 27.⁸⁸

Although the Committee has also acknowledged the importance of the overall effect not only of past and present activities but also of planned future logging or mining activities on the enjoyment of the rights under the Covenant, it has not been able to conclude that these activities would have amounted to a denial of the right of the Sámi to enjoy their own culture. For instance, in its views on Communication No. 671/1995 adopted in October 1996, the Human Rights Committee noted that no violation had taken place, but, as the Committee

⁸³ Communication No. 431/1990 (O. Sara et al.). UN doc. CCPR/C/50/D/431/1990; Communication No. 511/1992 (Ilmari Länsman et al.). UN doc. CCPR/C/52/D/511/1992; Communication No. 671/1995 (Jouni Länsman et al.). UN doc. CCPR/C/58/D/671/1995; Communication No. 779/1997 (Anni Äärelä and Jouni Näkkäläjäarvi). UN doc. CCPR/C/73/D/779/1997; Communication No. 1023/2001 (Jouni Länsman, Eino Länsman and the Muotkatunturi Herdsmen's Committee). UN doc. CCPR/C/83/D/1023/2001. On 10 November 2005, three reindeer herdsman addressed a communication to the Human Rights Committee alleging that loggings in the area used by the Nellim herding group constitute a violation of articles 14 and 27 of the Covenant. Ministry for Foreign Affairs, press release 358/2005 of 16 November 2005 and press release 8/2006 of 17 January 2006.

⁸⁴ In its views on Communication 779/1997 (Anni Äärelä and Jouni Näkkäläjäarvi), the Human Rights Committee found, however, a violation of article 14, paragraph 1, taken in conjunction with article 2 of the Covenant as well as a violation of article 14, paragraph 1, of the Covenant taken alone. The State party was, therefore, under an obligation to reconsider the authors' claims as the decision of the Rovaniemi Court of Appeal, representing the last instance, was tainted by a substantive violation of fair trial provisions. UN doc. CCPR/C/73/D/779/1997. In its concluding observations on the fifth periodic report of Finland, the Human Rights Committee regretted that the Government "has only partly followed up on its observations" regarding the case. The Committee, therefore, urged the Government of Finland "to give full effect to the Committee's observations". UN doc. CCPR/CO/82/FIN, paragraph 8.

⁸⁵ Views adopted by the Human Rights Committee on Communication No. 511/1992 (Ilmari Länsman et al.). UN doc. CCPR/C/52/D/511/1992, paragraph 9.3. See also Raija Hanski and Martin Scheinin, 2007, p. 418.

⁸⁶ In its views on Communication No. 511/1992 (Ilmari Länsman et al.), the Human Rights Committee noted, among other things, that "economic activities must, in order to comply with article 27, be carried out in a way that the authors continue to benefit from reindeer husbandry". UN doc. CCPR/C/52/D/511/1992, paragraph 9.8.

⁸⁷ See the Committee's views on Communication No. 511/1992 (Ilmari Länsman et al.). UN doc. CCPR/C/52/D/511/1992, paragraph 9.4. See also Kristian Myntti, 1998, pp. 137.

⁸⁸ Views on Communication 671/1995 (Jouni Länsman et al.). UN doc. CCPR/C/58/D/671/1995, paragraph 10.5.

continued, "if logging plans were to be approved on a scale larger than that already agreed to for future years in the area in question or if it could be shown that the effects of logging already planned were more serious than can be foreseen at present, then it may have to be considered whether it would constitute a violation of the authors' right to enjoy their own culture within the meaning of article 27".⁸⁹ The Government of Finland is under an obligation to bear this in mind when either extending existing economic activities or granting new ones.

Of the treaty bodies working within the framework of the United Nations, also the Committee on the Elimination of Racial Discrimination and the Committee on Economic, Social and Cultural Rights have repeatedly regretted that the Government has not been able to resolve the question of the Sámi land rights. In its concluding observations on the thirteenth and fourteenth periodic reports of Finland adopted in March 1999, the Committee on the Elimination of Racial Discrimination recommended that the Government of Finland "redouble its efforts"⁹⁰ to resolve the land dispute and that it ensure that the activities authorized by State bodies in Sámi reindeer-breeding areas which may threaten Sámi culture and their traditional way of life are terminated.⁹¹ In its concluding observations on the fourth periodic report of Finland adopted in November 2000, also the Committee on Economic, Social and Cultural Rights recommended that Finland settle the issue of Sámi land title "as a matter of high priority"⁹² and in its concluding observations on the fifth periodic report of Finland adopted in May 2007, the Committee on Economic, Social and Cultural Rights expressed its concern concerning the "prevailing legal uncertainty" surrounding the issue of the ownership and use of land in the Sámi Homeland. The Committee urged the Government of Finland "to adopt all necessary measures to ensure that logging and other activities currently carried out by private actors in the Sámi Homeland do not negatively affect the right of the Sámi to maintain and develop their traditional culture and way of life, in particular reindeer herding and the enjoyment of their economic, social and cultural rights".⁹³ Curiously, the Committee limited its attention to activities by "private actors" only excluding, in other words, any harmful activities carried out or administered by, for example, the State Forest Administration (Metsähallitus).⁹⁴

⁸⁹ Communication No. 671/1995 (Jouni Länsman et al.) adopted in October 1996. UN doc. CCPR/C/58/D/671/1995, paragraph 10.7.

⁹⁰ UN doc. CERD/C/304/Add.66.

⁹¹ For the latest concluding observations by the Committee on the Elimination of Racial Discrimination concerning Finland and the issue of Sami land rights, see UN docs. CERD/C/63/CO/5, paragraph 12 (sixteenth periodic report); CERD/C/304/Add.107, paragraph 11 (fifteenth periodic report); CERD/C/304/Add.66, paragraphs 10 and 14 (thirteenth and fourteenth periodic reports); CERD/C/304/Add.7, paragraphs 11 and 23 (eleventh and twelfth periodic reports). In its General Comment No. 23 on indigenous peoples adopted in 1997, the Committee on the Elimination of Racial Discrimination calls upon States Parties, among other things, "to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without free and informed consent, to take steps to return those lands and territories". UN doc. A/52/18, annex V.

⁹² UN doc. E/C.12/1/Add.52, paragraph 25.

⁹³ UN doc. E/C.12/FIN/CO/5, paragraphs 11 and 20.

⁹⁴ In comparison it is to note that, for instance, the Human Rights Committee has addressed "public and private" stakeholders. See, e.g., the Committee's concluding observations on the fifth periodic report of Finland. UN doc. CCPR/CO/82/FIN, paragraph 17.

Of the monitoring bodies working within the framework of the Council of Europe, the European Commission against Racism and Intolerance strongly encouraged, in its second report on Finland adopted in December 2001, that the Government of Finland intensify its efforts to solve the controversy concerning the question of Sámi land rights and to accede to the ILO Convention No. 169 in a manner "that does not result in the intensification of tensions between the Sami and the non-Sami communities".⁹⁵ In its third report on Finland adopted in December 2006, the European Commission against Racism and Intolerance noted, rather optimistically, that "progress has been made on the issue of land rights". That a Government Bill is under preparation, without any certainty of the reception it will receive, should not necessarily, however, be regarded as progress. The Commission against Racism and Intolerance recommended that the Government of Finland does its utmost to ensure "a successful conclusion to the ongoing process aimed at the preparation of a bill on land use in the Sámi Homeland" so that the Government will be in a position to ratify the ILO Convention "as soon as possible".⁹⁶ Illustrating certain variation among the various monitoring bodies, the Advisory Committee on the Framework Convention for the Protection of National Minorities had only a few months earlier, in its second opinion on Finland, noted that "no tangible progress" towards a solution to the dispute could be reported.⁹⁷

Also the Council of Europe Commissioner for Human Rights has stressed the importance to find a solution to the issue of Sámi land rights which take due account of the requirement of their culture and traditional way of life. In his report on his visit to Finland in June 2001, the Commissioner also stressed the importance for Finland to ratify the ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries.⁹⁸ In his follow-up report of 29 March 2006 assessing the extent the Government of Finland has implemented the recommendations made in 2001, the Commissioner for Human Rights regretted that the issue of Sámi land rights was still not resolved. The Commissioner recommended that the expert recommendations issued during the negotiations for a Nordic Convention on the Sámi would assist in this regard.⁹⁹ Having examined the second opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities, the Council of Europe Committee of Ministers continued in January 2007 with the pressure on the Government by expressing its concern about the delays in finding an acceptable solution to the issue at hand by inviting the Government to "take rapid measures" to address the issue.¹⁰⁰

⁹⁵ CoE doc. CRI (2002) 20, paragraphs 3 and 33.

⁹⁶ CoE doc. CRI (2007) 23, paragraphs 2, 5 and 81. In its first report on Finland, the European Commission against Racism and Intolerance had noted that the Government may want to give consideration to the ratification of the ILO Convention No. 169. CoE doc. CRI (97) 51, paragraph 2.

⁹⁷ CoE doc. ACFC/OP/II(2006)003, paragraph 52.

⁹⁸ CoE doc. CommDH (2001)7, chapter 11.

⁹⁹ CoE doc. CommDH (2006)9, chapter 2.1.

¹⁰⁰ Committee of Ministers, resolution ResCMN(2007)1 of 31 January 2007 on the implementation of the Framework Convention for the Protection of National Minorities by Finland. For the Advisory Committee's second opinion on Finland adopted on 2 March 2006, see CoE doc. ACFC/OP/II(2006)003. In its opinion of Finland adopted on 22 September 2000, the Advisory Committee on the Framework Convention for the Protection of National Minorities was of the opinion that the Government of Finland should resolve the issue of Sámi land rights "as expeditiously as possible". CoE doc. ACFC/OP/I(2000)1, paragraph 22. See also resolution ResCMN(2001)3 on the implementation of the Framework Convention for the Protection of National Minorities by Finland adopted by the Committee of Ministers on 31 October 2001.

It would seem reasonable to expect that the Government of Finland would seriously consider the need to follow the recommendations made by the Council of Europe Commissioner for Human Rights with regard to, for instance, the issue of Sámi land rights if not for any other reason than for the fact that the post of the Commissioner is the result of a Finnish initiative.

In its second opinion on Finland adopted on 2 March 2006, the Advisory Committee on the Framework Convention for the Protection of National Minorities had pointed out that there is an undisputed obligation to pursue logging and other related economic activities in a manner that protects the rights of the Sámi, as an indigenous people, to develop reindeer herding and other elements of their culture. The Advisory Committee continued its opinion in an unusually straightforward manner by noting with regret that the specific status of the Sámi people as the only constitutionally recognised indigenous people of Finland "seems not to be fully comprehended throughout the State Forest Administration staff".¹⁰¹ The same seems to be true for the staff at the Ministry of Agriculture and Forestry as well.¹⁰²

What the Ministry of Agriculture and Forestry has had difficulties in realizing is that because of their more vulnerable position, the Sámi, as an indigenous people, have a constitutionally protected right to positive measures that ensure the enjoyment of their rights.¹⁰³ The authorities not only have the right but they are under an obligation to undertake such measures that ensure that the rights of the Sámi are fulfilled on an equal basis with others.¹⁰⁴

In addition to certain difficulties in understanding or accepting the status of the Sámi as an indigenous people, the Ministry of Agriculture and Forestry has made other strange judgements and interpretations with regard to questions in the field of human rights as well. A brilliant example of such an interpretation is found in an opinion presented in 2004 on a proposal prepared jointly by the Nordic countries on the right to self-determination of peoples for the draft declaration on the rights of indigenous peoples.¹⁰⁵ In its opinion, the Ministry of Agriculture and Forestry was of the view that the proposal on the right to self-determination was not acceptable, because, as it was reasoned, self-determination of indigenous peoples, in case this group is a minority in the region they live, is harmful and a danger to the rest of the population living in that region.¹⁰⁶ What made the opinion of the Ministry of Agriculture and

¹⁰¹ CoE doc. ACFC/OP/II(2006)003, paragraph 55.

¹⁰² The Ministry of Agriculture and Forestry has even difficulties to accept that the Sámi are an indigenous people. Ministry of Agriculture and Forestry, 12 December 1989, register no. 3181/309/MMM 1989; Ministry of Agriculture and Forestry, 30 March 2000, register no. 3813/044/99.

¹⁰³ Ministry of Agriculture and Forestry, 19 October 2001.

¹⁰⁴ Martin Scheinin, 2006 (a), p. 28.

¹⁰⁵ Ministry for Foreign Affairs, HEL1028-78, 31 December 2003; HEL1028-77, 31 December 2003; HEL1028-27, 17 June 2004. Article 3 of the United Nations Declaration on the Rights of Indigenous Peoples reads as follows: "Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development". This is identical with the wording adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in August 1994. Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1994/45.

¹⁰⁶ Ministry of Agriculture and Forestry, 30 January 2004, register no. 33/311/2004. This view was not included in the joint Nordic proposal subsequently presented at the United Nations.

Forestry even more interesting was that the joint Nordic proposal had its basis in the Vienna Declaration and Programme of Action.¹⁰⁷

The Advisory Committee continued its second opinion on Finland by recommending that "Finland must address the prevailing legal uncertainty over land rights in the Sami Homeland as a matter of high priority, by providing high level political input and by designing a process that is endorsed by all key parties concerned, including the Sami Parliament. While the outcome of the process should be such that it fully reflects the right of the Sami to develop their culture, it is essential that the current land use is also pursued in accordance with this obligation. In this respect, the logging practices and other related activities of the Forest Administration deserve particular attention, including monitoring and evaluation from outside the said Administration, so as to ensure that the cultural and participatory rights of the Sami are scrupulously honoured".¹⁰⁸

2.2 The Sámi language and the media

As stated in the Government report to Parliament on the human rights policy of Finland of 2004, the Government underlines the importance of implementing the language rights of indigenous peoples. In the report, it is further noted that the right to a language of one's own is not only a fundamental right of every individual but also a right that has both an individual and a collective dimension. Therefore, the language for indigenous peoples is a precondition for the existence and maintenance of the characteristics of the people concerned.¹⁰⁹

This line of reasoning is, however, of fairly recent origin. Until the adoption of the Sámi Language Act in 1991,¹¹⁰ the Sámi language was not granted any special status or protection. According to Ulla Aikio-Puoskari, the language policy of the Government of Finland was, until the adoption of the Sámi Language Act, one of assimilation and discrimination and the Government did not see any effort in preserving the Sámi language. As a consequence, many Sámi lost their native language as illiteracy among the Sámi in their native language is not uncommon.¹¹¹ This was, in other words, the case despite alleged regular efforts to improve the right of the Sámi to enjoy and practice their traditional way of life.¹¹²

¹⁰⁷ Article 2 of Part I of the Vienna Declaration and Programme of Action reads as follows: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status, and freely pursue their economic, social and cultural development". As pointed out a number of times by the Finnish delegation, the right to self-determination was to be understood as internal self-determination applying, in other words, to internal and local affairs, not external affairs. Ministry of Justice, 14 December 1995, annexes 2, 4, and 6. Ministry for Foreign Affairs, HELD1237-39, 4 November 1999 and annex. See also Martin Scheinin, 2006 (a), p. 37-38.

¹⁰⁸ CoE doc. ACFC/OP/II(2006)003, paragraph 56. According to the Act on State Forest Administration (Metsähallitus) (Act No. 1378/2004) the use and protection of land governed by the State Forest Administration shall be adjusted to ensuring the conditions of the Sámi people to practice their culture and carried out in accordance with legislation on reindeer husbandry (Act No. 848/1990).

¹⁰⁹ Government report to Parliament on the human rights policy of Finland, 2004, p. 180.

¹¹⁰ Act No. 516/1991 of 8 March 1991.

¹¹¹ Ulla Aikio-Puoskari, 2001 (a), p. 14 and 2001 (b), p. 163. See also Committee report 1973:46, pp. 167.

¹¹² See, for example, Committee report 1952:12 (Saamelaisasiain komitean mietintö, komiteamietintö 1952:12); Committee report 1973:46 (Saamelaiskomitean mietintö, komiteamietintö 1973:46); Committee report 1985:66

Despite the gradual development since the 1950s of the Finnish school legislation, Sámi pupils had no right to claim instruction of or in their own mother tongue. It was only with the reform of the school legislation in 1998 when, for the first time, the municipalities were obligated to provide for Sámi language instruction for pupils in the comprehensive schools (grades 1 to 9) in the Sámi Homeland.¹¹³ According to the Basic Education Act of 1998, the language of instruction may, in addition to Finnish and Swedish, also be Saame, Roma or sign language. Accordingly, pupils living in the Sámi Homeland who are proficient in the Sámi language shall be primarily taught in Sámi.¹¹⁴ In accordance with the Basic Education Act and the Upper Secondary Schools Act, Sámi shall be taught in the Sámi Homeland in the same way as Finnish or Swedish. In practice, however, these intentions are not fulfilled as there is a lack of teachers and teaching materials.¹¹⁵ In addition, the amount of education in the Sámi language diminishes in the higher classes at least partly due to the fact that the secondary school examination has to be written either in Finnish or Swedish, but not, for instance, in the Sámi language.¹¹⁶ As noted by the Ombudsman for Minorities, the amount of education offered in the Sámi language ought to be increased to the extent that the secondary school examination could be written also in Sámi language.¹¹⁷ Not surprisingly, the Sámi Parliament considered the Language Act of 1991 insufficient in securing the realization of the rights of the Sámi to their own language, among other things, because the use of the language before the authorities was still very much dependent on translation and interpretation.¹¹⁸ Subsequently, a new Sámi Language Act entered into force in January 2004.¹¹⁹

(Saamelaiskulttuuritoimikunnan mietintö, komiteamietintö 1985:66); and Committee report 1987:60 (Saamelaisvaltuuskunnan ehdotus laiksi saamen kielen käyttämisestä viranomaisissa, komiteamietintö 1987:60) which, subsequently, led, in 1991, to the enactment of the act on the use of the Sámi language in dealing with the authorities.

¹¹³ Basic Education Act 628/1998. In 1991, the Sámi language was granted the status of an independent "mother tongue" that could be taught in upper secondary schools. Act No. 262/1991, Section 18. For the development of the Finnish school legislation with regard to the Sámi population, see Ulla Aikio-Puoskari, 2001 (a), p. 44-50.

¹¹⁴ Basic Education Act 628/1998, section 10, subsections 1 and 2. The Children's Day Care Act (Act No. 36/1973 as amended by Act No. 875/1981) provides that local authorities are under an obligation to ensure that there is day care available in the Sámi language for children with Sámi as their mother tongue. See also Decrees No. 239/1973 and 1336/1994. The Day Care Act is the only act explicitly authorizing the use of the Sámi language in the field of social security. Ulla Aikio-Puoskari, 2001 (a), p. 62. See Second Periodical Report of Finland on the implementation of the European Charter for Regional or Minority Languages. CoE doc. MIN-LANG/PR (2003) 2, pp. 66. There is, however, little day care services available. As the Ombudsman for Minorities has noted, besides that the municipalities in the Sámi Homeland lack the financial resources required, there is a lack of qualified personnel. Ombudsman for Minorities, initiative of 15 April 2003, register no. 842/65/2003 TM.

¹¹⁵ CoE doc. ECRML (2004)7, paragraph 101.

¹¹⁶ In 1992, it became possible to take a matriculation exam in the Sámi language as an independent subject when graduating from upper secondary school. The matriculation exam as such still has, however, to be written in either Finnish or Swedish. Decree No. 1451/1992.

¹¹⁷ Ombudsman for Minorities, statement of 7 May 2004, submitted to the Foreign Affairs Committee of Parliament on the Government report to Parliament on the human rights policy of Finland of 2004. Statement of file with author.

¹¹⁸ Ulla Aikio-Puoskari, 2001 (a), p. 39. See also, for example, the annual report of the Sámi Parliament of 1998, chapter 3.1.

¹¹⁹ Sámi Language Act (Act No. 1086/2003). The objective of the new Sámi Language Act is the preservation and promotion of the three variants of the Sámi language through various positive measures, such as translation

Despite the new Sámi Language Act, it appears as if the right to use the Sámi language in contacts with the authorities is still not fully implemented in practice because of lack of personnel among the authorities with an adequate knowledge of the Sámi language.¹²⁰ Measures are also needed to increase the enjoyment of minority languages in the field of education and the media. Accordingly, in its third report on Finland adopted in December 2006, the European Commission against Racism and Intolerance encouraged the Government to monitor the implementation of the Sámi Language Act and to take the necessary measures to ensure a satisfactory implementation of the language rights in cooperation with the representatives of the Sámi indigenous people.¹²¹ Similar concern was expressed by the Council of Europe Committee of Ministers in January 2007. Having examined the second opinion on Finland by the Advisory Committee on the Framework Convention for the Protection of National Minorities, the Committee of Ministers expressed its concern about the limited effect that the Government's efforts to meet the needs expressed have had and encouraged the Government to further develop the minority language media and to review the subsidy system "with a view to ensuring that it takes into account the specific situation of minority language print media".¹²² The Committee of Ministers continued with its recommendations later that same year when it, after having examined the evaluation made by the Committee of Experts of the Charter with respect to the application of the European Charter for Regional or Minority Languages by Finland, recommended that the Government of Finland "further develop the use of Sámi in the media, especially as regards TV and in newspapers, when appropriate in cooperation with other Nordic countries".¹²³

Having taken note of the comments by the Committee of Experts of the European Charter for Regional or Minority Languages,¹²⁴ the Council of Europe Committee of Ministers had recommended already in 2001 that the Government of Finland "take immediate measures to strengthen the position of the Sami language in the field of education. Special efforts should be devoted to pre-school and primary education and to making available the necessary teacher training and teaching materials for Skolt and Inari Sami which seem to be in danger of extinction". The Committee of Ministers also recommended that the Government "increase

and interpretation services and incentives offered to civil servants who wish to study the Sámi language. To a limited extent, the Act also guarantees an individual right to use the Sámi language in dealings with such authorities that have jurisdiction extending to the Sámi homeland. In its Report the Constitutional Law Committee inserted a clause into the Act according to which a person's knowledge of the Sámi language is a special merit in recruitment to public office also in cases where it is not made a required qualification for a particular post. Report on the situation of fundamental rights in Finland in 2003 by the EU Network of independent experts on fundamental rights, CFR-CDF. repFI.2003.

¹²⁰ See the decision by the Deputy Parliamentary Ombudsman of 20 December 2007, register no. 3722/4/05. During the second monitoring cycle of the European Charter for Regional or Minority Languages, representatives of the Sámi informed the Committee of Experts that the position of the Sámi language as an official language in the Sámi Homeland was, in practice, rather marginal. CoE doc. ECRML (2004) 7, paragraph 28.

¹²¹ CoE doc. CRI (2007) 23, paragraphs 79 and 82.

¹²² Committee of Ministers, resolution ResCMN(2007)1 of 31 January 2007 on the implementation of the Framework Convention for the Protection of National Minorities by Finland.

¹²³ Council of Europe Committee of Ministers Recommendation RecChL(2007)7 of 21 November 2007 on the application of the European Charter for Regional or Minority Languages by Finland.

¹²⁴ CoE doc. ECRML (2001)3. See also Merja Pentikäinen, 2001, p. 121-138. When ratifying the European Charter for Regional or Minority Languages, Finland declared that it will apply 59 of the provisions under Part III of the Charter to the Sámi language. CoE doc. MIN-LANG/PR(99)4.

the presence of Sami within the media, in particular by encouraging, through concrete measures, the creation of newspapers and the broadcasting of regular television programmes", and that the Government "provide favourable conditions to encourage the use of Sami before judicial and administrative authorities in the Sami Homeland, in particular by taking measures aimed at improving the Sami language skills of legal officials and administrative personnel" as well as to ensure services in the Sámi language in the health care and social welfare sectors to all those who so wish.¹²⁵

Having examined the second opinion on Finland by the Advisory Committee on the Framework Convention for the Protection of National Minorities, the Council of Europe Committee of Ministers noted, in January 2007, the need to develop further the public service broadcasting in minority languages in order to meet the demand, among other things, of children's programmes in the Sámi language.¹²⁶ The Finnish Broadcasting Company (YLE) broadcasts, in the Sámi language, a ten-minute daily news programme five days a week. Sámi representatives have, however, expressed the concern to the Committee of Experts on the European Charter for Regional or Minority Languages about the lack of children's television programmes in the Sámi language underlining the importance of such programmes in the maintenance and promotion of the Sámi language.¹²⁷ In its first evaluation report in 2001, the Committee of Experts considered that due to the significant costs of production of programmes in the Sámi language "every effort should be made to enable programmes in Sami from Norway and Sweden to be received in Finland". The Committee also suggested that the Finnish authorities "provide the necessary means to support the Nordic Sami TV Channel".¹²⁸ In its second evaluation report of 2004, the Committee of Experts considered the undertaking with regard to article 11, paragraph 2,¹²⁹ of the European Charter for Regional or

¹²⁵ Council of Europe Committee of Ministers, Recommendation RecChL(2001)3 on the application of the European Charter for Regional or Minority Languages by Finland adopted on 19 September 2001. See also Government report to Parliament on the human rights policy of Finland, 2004, p. 180-181. In its concluding observations on the eleventh and twelfth periodic reports of Finland adopted in March 1996, the Committee on the Elimination of Racial Discrimination recommended that the Government of Finland "do all in its powers to enable Sami children to pursue their studies at the primary and secondary levels in their mother tongue". UN doc. CERD/C/304/Add.7, paragraph 24. The Committee has since its concluding observation of 1996 not adopted any recommendations with regard to the question of the realization of the Sámi language. UN docs. CERD/C/63/CO/5 (sixteenth periodic report), CERD/C/304/Add.107 (fifteenth periodic report), CERD/C/304/Add.66 (thirteenth and fourteenth periodic reports). The Committee on the Rights of the Child has not paid any particular attention to the situation of Sámi children. UN docs. CRC/C/15/Add.52 (concluding observations on the initial report of Finland); CRC/C/15/Add.132 (concluding observations on the second periodic report of Finland); CRC/C/15/Add.272 (concluding observations on the third periodic report of Finland).

¹²⁶ Committee of Ministers, resolution ResCMN(2007)1 of 31 January 2007. In its second opinion on Finland of 2 March 2006, the Advisory Committee encouraged the Government of Finland "to support continuous development of the Sami electronic media, taking into account also the needs of the Sami residing outside the Sami Homeland and those of Sami children". CoE doc. ACFC/OP/II(2006)003, paragraph 100.

¹²⁷ CoE doc. ECRML (2004) 7, paragraph 141. See also declaration adopted by the joint Nordic Council of Nordic Sámi Parliaments (Saamelaisten parlamentaarinen neuvosto) on 8 December 2005.

¹²⁸ CoE doc. ECRML (2001) 3, paragraph 178.

¹²⁹ Under article 11, paragraph 2, of the Charter for Regional or Minority Languages, the Parties undertake, among other things, "to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language".

Minority Languages fulfilled.¹³⁰ The Committee of Experts noted, nonetheless, that despite encouraging steps taken there was still a lack of children's television programmes in the Sámi language. The Committee thus "underlined the importance of such programmes in the maintenance and promotion of the languages". The Committee of Experts considered, however, the undertaking "to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis"¹³¹ partly fulfilled.¹³² Having examined the evaluation made by the Committee of Experts, the Committee of Ministers recommended that the Government "vigorously pursue the current efforts to improve education in the Sami language and in particular take immediate measures to ensure the survival/viability of the Inari and Skolt Sami languages, which are in grave danger of extinction". The Committee of Ministers also recommended that the Government "encourage and/or facilitate a positive development regarding the availability of a newspaper in Sami".¹³³

The Sámi Parliament has criticised the fact that the administrative districts defined by the Sámi Language Act do not conform to the limits of the Sámi Homeland. This, according to the Sámi Parliament, hinders the maintenance and development of the Sámi language. Another issue that has been raised by the Sámi Parliament with regard to the Sámi Language Act is that the linguistic rights are limited to the Sámi Homeland although many Sámi live outside the Sámi Homeland.¹³⁴ In addition, regular broadcast of news and other Sámi affairs ought to be available to the majority population as well.¹³⁵ Knowledge about the Sámi culture among the majority population should be increased as members of the Sámi community still face discriminatory and stereotypical attitudes. This conclusion rests on the assumption that it is of equal importance that the majority of the population has the opportunity to receive information about the minority groups living in the country as it is for the minority group to receive information in the language of its own.

This central principle on the reception of information was also underlined by the European Commission against Racism and Intolerance in its first report on Finland adopted in 1997. In its report, the Commission noted that Finland might consider facilitating the access of minority groups to the public networks. This could, it was assumed, "raise public awareness of the culture and lifestyle of various different groups living in Finland and illustrate the benefits of cultural diversity". Measures to raise the awareness of the Sámi culture, history, language and lifestyle, not least in areas of Finland where Sámi are not present, might, as

¹³⁰ CoE doc. ECRML (2004) 7, paragraph 151. In the second periodic report presented by the Government of Finland, in 2003, on the implementation of the European Charter for Regional or Minority Languages, it was noted that Sámi Radio, which is part of the Finnish Broadcasting Company (YLE) broadcasts approximately ten hours of programmes per day. With regard to the broadcasting of television programmes, the Government assumed that along with the development of digital broadcasting services, "it will be possible to extend the geographical coverage of the programmes in Sámi". CoE doc. MIN-LANG/PR (2003) 2, p. 79-80.

¹³¹ Article 11, paragraph 1, (c), (ii).

¹³² CoE doc. ECRML (2004) 7, paragraphs 140-144. No development with respect to the broadcasting of children's television programmes was to be reported for the third monitoring cycle that took place in 2007. CoE doc. ECRML (2007) 7, paragraphs 242-246.

¹³³ Council of Europe Committee of Ministers, recommendation RecChL(2004) 6 of 20 October 2004 on the application of the European Charter for Regional or Minority Languages in Finland.

¹³⁴ CoE doc. ECRML (2004) 7, paragraph 33.

¹³⁵ Ombudsman for Minorities, 15 April 2003, register no. 842/65/2003 TM.

assessed by the Commission, be further developed both in schools and among the wider population.¹³⁶ This view was reiterated in the second and third reports on Finland of the European Commission against Racism and Intolerance.¹³⁷ In the third report on Finland adopted in December 2006, it was explicitly recommended that the Government of Finland "improve knowledge of Sámi, their status as an indigenous people and their history among the general population, including by ensuring that school education contain adequate teaching and information about the Sámi and by means of awareness raising measures for the general public".¹³⁸ During the third monitoring cycle on the implementation of the European Charter for Regional or Minority Languages, the Committee of Experts of the Charter also underlined the importance of the use of sub-titles allowing also the majority of the population to follow television programmes broadcasted in the Sámi language as this is, as the Committee of Experts assessed, "a very valuable means of increasing tolerance and understanding towards the Sámi people and the Sámi language."¹³⁹

The electronic media has a particularly important role in maintaining and developing linguistic and cultural rights of minorities and indigenous peoples. As a public broadcasting service provider, the Finnish Broadcasting Company (YLE) shall, besides treating Finnish and Swedish speaking citizens on equal grounds, also produce services in the Sámi and Roma languages and in sign language as well as, where applicable, for other language groups in the country.¹⁴⁰ Members of the Board of Directors of the Finnish Broadcasting Company (YLE) are to be competent to take care of the best interests of both regional and minority languages and the different population groups in the public broadcasting service. None of the members of the board is a native Sámi. In a decision of 31 December 2003, the Deputy Parliamentary Ombudsman noted that although there is no obligation to appoint a representative of the Sámi population to the Board of the Finnish Broadcasting Company (YLE), there might, nonetheless, be good reason to assess whether the possibility provided the Sámi people to influence the Finnish Broadcasting Company (YLE) is fully in accordance with the constitutional status provided the Sámi, as an indigenous people, to exercise their linguistic and cultural self-governance.¹⁴¹ Accordingly, in its second evaluation report on Finland of 2004, the Committee of Experts of the European Charter for Regional or Minority Languages noted that because the Committee had received no information as to how the interests of the Sámi are taken into account in the administration of the Finnish Broadcasting Company (YLE), it did not consider the undertaking "to ensure that the interests of the users of regional or minority languages are represented or taken into account within such bodies as may be

¹³⁶ CoE doc. CRI (97) 51, paragraphs 32-37.

¹³⁷ CoE docs. CRI (2002) 20, paragraph 34 and CRI (2007) 23, paragraphs 78-83.

¹³⁸ CoE doc. CRI (2007) 23, paragraph 83.

¹³⁹ CoE doc. ECRML (2007) 7, paragraph 244.

¹⁴⁰ Act on the Finnish Broadcasting Company (YLE), Act No. 635/2005, Section 7, subsection 4. Following an amendment in 1984 of the licence of the Finnish Broadcasting Company, programmes were, in addition to the programmes in Finnish and Swedish, also to be provided in the Sámi language. Ulla Aikio-Puoskari, 2001 (a), p. 66.

¹⁴¹ Decision by the Deputy Parliamentary Ombudsman, dated 31 December 2003, register no. 112/2/01. See also the Parliamentary Ombudsman, annual report 2003, p. 251-252.

established in accordance with the law with responsibility for guaranteeing the freedom and pluralism of the media" fulfilled.¹⁴²

When the law governing the Finnish Broadcasting Company (YLE) was reviewed in 2005, among other things, in order to better take into account the Sámi-speaking population, the Government was of the view that the request for a statement from the Sámi Parliament on matters concerning the Sámi population was sufficient in ensuring that the linguistic and cultural affairs of the Sámi were sufficiently taken care of.¹⁴³ In its second opinion on Finland adopted on 2 March 2006, the Advisory Committee on the Framework Convention for the Protection of National Minorities considered this development as representing a positive step, although, simultaneously, it was considered to fall significantly short of the wish of the Sámi Parliament who had preferred to ensure Sámi representation in the company's administration.¹⁴⁴ In its third report on the application of the European Charter for Regional or Minority Languages in Finland adopted one year later, on 30 March 2007, the Committee of Experts of the Charter, nonetheless, expressed its satisfaction with the arrangement and concluded that the undertaking under article 11, paragraph 3, of the Charter was fulfilled.¹⁴⁵

The Government's efforts to ensure the right of the Sámi people to enjoy their own language have, contrary to the issue of Sámi land rights, been more successful. However, much still needs to be improved also in this area. The statement by the Ombudsman for Minorities of 12 October 2007 concerning the failure of the municipality of Enontekiö to provide sufficient day care services, services for the elderly, health care services and basic education in the Sámi language illustrates well the difficulties that the authorities face in their efforts to fulfil their obligations under the Constitution, the Sámi language Act, the Non-discrimination Act as well as Finland's international obligations towards the Sámi, as an indigenous people.¹⁴⁶

3 Preliminary observations: inconsistency wiping out Government's credibility

Martin Scheinin has made the observation that the Government's approach towards the promotion and protection of the rights of the Sámi reveals inconsistency that unavoidably questions the credibility of Finland's human rights policy, at least as far as the promotion and protection of the rights of indigenous peoples is concerned. The Government has indeed actively and progressively promoted, at international fora, the rights of indigenous peoples. The situation is, however, unmaintainable, as Scheinin notes, because the national legislation

¹⁴² CoE doc. ECRML (2004) 7, paragraph 152.

¹⁴³ Government Bill HE 43/2005 vp. According to the new legislation that entered into force in the beginning of 2006, the Board of Directors are to consult the Sámi Parliament before submitting its biannual report to Parliament. Act No. 635/2005.

¹⁴⁴ CoE docs. ACFC/OP/II(2006)003, paragraph 96 and GVT/COM/II(2006)004, p. 15. The proposal to have Sámi representation in the Board of the Finnish Broadcasting Company was presented already in a report by the Ministry of Transport prepared in 1987. Liikenneministeriön julkaisu 5/87, p. 32.

¹⁴⁵ CoE doc. ECRML (2007) 7, paragraphs 255-259.

¹⁴⁶ Ombudsman for Minorities, 12 October 2007, register no. 1424/65/2006 TM. For the obligation to take "affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination", see, e.g., General Comment No. 18 by the Human Rights Committee of 1989 on non-discrimination. UN doc. A/45/40, volume I, annex VI, paragraph 10.

and practice towards the Sámi, the only indigenous people in Western Europe, does not correspond to the same principles.¹⁴⁷

The inconsistent and contradictory policy towards the rights of the Sámi, as pointed out by Scheinin, is based on the fact that certain authorities¹⁴⁸ have represented a favourable approach towards the realization of the rights of the Sámi whereas certain other authorities¹⁴⁹ have, within their own areas of activity, acted less progressively, even harmfully, with regard to the preservation and promotion of the traditional way of life of the Sámi.¹⁵⁰ However, even within the Ministry for Foreign Affairs inconsistency becomes evident when comparing the work carried out, for example, at intergovernmental organs of the United Nations, the General Assembly, the Commission on Human Rights and the Human Rights Council, with the positions presented by the Government in the handling of individual cases by the Human Rights Committee.¹⁵¹

The lack of one single authority responsible for the Sámi affairs leads, unavoidably, to inconsistency. This is particularly the case as the Government of Finland also lacks a comprehensive policy and approach towards Sámi affairs, as has also been noted by Ulla Aikio-Puoskari. Consequently, as Aikio-Puoskari observes, as matters relevant for the rights of the Sámi are scattered throughout a number of fields of administration, they are handled randomly and inconsistently.¹⁵² Also Lauri Hannikainen has noted that, despite formal structures, the dialogue between the Sámi Parliament and the Finnish authorities is not necessarily sufficiently fruitful as the exploitation of the natural resources and other economic activities, within the Sámi Homeland, that are harmful for the preservation of the traditional livelihood of the Sámi are continuously permitted by the authorities.¹⁵³

¹⁴⁷ Martin Scheinin, 2 December 1998. Written statement submitted to the Foreign Affairs Committee of Parliament on the Government's report of 1998 on Finland's human rights policy. The same observation was made with regard to the report prepared in 2000 as well. Written statement by Martin Scheinin of 9 February 2001 submitted to the Foreign Affairs Committee of Parliament concerning the Government's report on Finland's human rights policy of 2000. Statements on file with author. For the need to improve the enjoyment of human and fundamental rights at the national level in order to maintain the Government's credibility in the field of human rights, see also the debate at the plenary meeting of Parliament on 30 October 2001. PTK 107/2001 vp.

¹⁴⁸ In particular, the Ministry for Foreign Affairs, the Ministry of Education, and the Ministry of Justice.

¹⁴⁹ In particular, the Ministry of Agriculture and Forestry, with regard to logging activities, and the Ministry of Trade and Industry, with regard to mining activities.

¹⁵⁰ Martin Scheinin, 2 December 1998 and Merja Pentikäinen, 26 November 1998. Written statements submitted to the Foreign Affairs Committee of Parliament concerning the report "Human rights and Finland's foreign policy" of 1998. Statements on file with author.

¹⁵¹ See, for instance, Martin Scheinin, 2001 (a), p. 77; Eero Aarnio, 2001, p. 127-131. See also the statement by the Sámi Delegation of 11 September 1995 concerning the ILO Convention No. 169.

¹⁵² Ulla Aikio-Puoskari, 2001 (b), p. 182.

¹⁵³ Lauri Hannikainen, 2002, p. 192. See also Parliamentary Ombudsman, decision of 27 April 1999, register no. 2406/4/96, as well as the joint urgent appeal sent by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Representative of the Secretary-General on the situation of human rights defenders dated 23 October 2007 to the Minister for Foreign Affairs of Finland, Ilkka Kanerva. UN doc. OHCHR File No. UA G/SO 214 (107-6); Indigenous (2001-5); FIN 1/2007. Statement on file with author.

In addition to the concern expressed by numerous international human rights monitoring bodies, the Government's failure to meet with satisfaction its national and international obligations with regard to the promotion and protection of the rights of the Sámi has been spelled out at different intergovernmental fora as well. In its statement delivered at the sixties session of the Commission on Human Rights in 2004, the Sámi Council noted that the government's attitude towards the Sámi was still "basically the same as those introduced during the colonization era, a period characterized by racist theories". The Sámi Council also called on all Nordic governments to implement the recommendations of the Committee on the Elimination of Racial Discrimination, with regard to – as far as Finland was concerned – the unsolved question of Sámi land rights.¹⁵⁴ The Government of Finland has, interestingly enough, also been accused for violating the rights of other indigenous peoples than the Sámi. In its statement at the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1992, the Haisla Nation – not necessarily aware of all the harmful practices taking place in Finland – accused the Government of Finland for “actively and aggressively destroying the fishing resources” relied upon by the Haisla Nation as well as for “employing forest management and environmental practices that would not be tolerated within its own national boundaries”.¹⁵⁵

The draft United Nations Declaration on the rights of indigenous peoples adopted in 1994 by the Sub-Commission on Prevention of Discrimination and Protection of Minorities contained, in article 7, the collective and individual right of indigenous peoples "not to be subjected to ethnocide and cultural genocide". The article also listed five forms of action that would constitute a violation of the said provision. The Declaration as adopted by the General Assembly thirteen years later on 13 September 2007 did no longer contain this provision. At the seventh and eighth sessions in 2002 of the Commission's working group responsible for drafting the declaration when the draft article was debated extensively, it was, in general, noted that because the terms "ethnocide and cultural genocide" were not generally accepted in international law they ought to be replaced. At the eighth session of the working group, the representative of Finland, however, stated that Finland could accept the draft article as formulated and adopted by the Sub-Commission but that proposals put forth at the working group would "improve and clarify" the text.¹⁵⁶ It is, nonetheless, of interest to note that it has been argued that contemporary Finnish legislation would allow three of the five criteria for ethnocide and cultural genocide to take place. Had such a provision remained in the Declaration, Finland would, allegedly, violate the rights of the Sámi through action "which has the aim or effect of depriving them [the Sámi] of their integrity as distinct peoples, or of their cultural values or ethnic identities", through action "which has the aim or effect of

¹⁵⁴ UN doc. E/CN.4/2004/SR.42, paragraphs. 93-94. A similar statement had been delivered by the Sámi Council at the fifty-seventh session of the Commission on Human Rights in 2001. Statement by the Sámi Council dated 12 April 2001. Ministry for Foreign Affairs, GENC028-53, 25.4.2001, annex. See also the statement by the Sámi Council at the Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights in 2000. Ministry for Foreign Affairs, HELD1231-10, 7 August 2000 and annex. The solution to the many disputes is not made easier by the fact that the disputes are many times between the Sámi themselves. Sometimes the dispute is between Sámi reindeer herdsman and Sámi forest workers, but occasionally even between the Sámi reindeer herdsman. Helsingin Sanomat 26.10.2007, p. A5 and 1.11.2007, p. A6.

¹⁵⁵ Ministry for Foreign Affairs, GEN1840. Statement by the Haisla Nation, 29 July 1992.

¹⁵⁶ Statement by the delegation of Finland at the informal session of the working group on 9 December 2002. Ministry for Foreign Affairs, HEL1028-32, 9 January 2003. See also Ministry for Foreign Affairs, HEL1028-38, 9 July 2003 and HEL1028-27, 17 June 2004 as well as UN docs. E/CN.4/2003/92, paragraphs 50-61 and E/CN.4/2002/98, paragraphs 72-76.

dispossessing them [the Sámi] of their lands, territories or resources", and through "assimilation or integration by other cultures or ways of life imposed on them [the Sámi] by legislative, administrative or other measures".¹⁵⁷

In her statement before the fifty-second session of the Commission on Human Rights in 1996, the Minister for Foreign Affairs, Tarja Halonen, noted that "[W]e all need to take a critical look at our existing national norms and practices concerning indigenous peoples and elaborate new models".¹⁵⁸ With regard to the insufficient attention given to solving the problems with regard to the rights of indigenous peoples, the Minister for Foreign Affairs noted in her statement three years later at the fifty-fifth session of the Commission on Human Rights that "the valuable contribution of the ILO provides us with a basis for their further development".¹⁵⁹ In the Government's first human rights report published in 1998, it was similarly stated that "[N]ew standards are still needed for those special groups – such as indigenous peoples – whose rights are not realized in an equal manner".¹⁶⁰

It is somewhat odd that a government that so far has failed to ratify the ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries would emphasize the need to develop new standards for indigenous peoples. It gives barely any reason to believe that any new treaty on the rights of indigenous peoples would be ratified by a government that has not accepted the already existing international standards – for example those included in the ILO Convention No. 169 – unless the provisions of the new treaty are set below those of existing standards or the provisions are formulated in such a flexible manner "as to make possible a sufficient number of fair and just national solutions to the land ownership question of the indigenous peoples".¹⁶¹ The draft Nordic Sámi Convention as submitted in October 2005 by the expert group responsible for the preparation of the draft did, naturally, not contain anything that would have solved the Sámi land rights dispute. This is the case because the issue of Sámi land rights requires effective national, not international, measures.¹⁶²

¹⁵⁷ Articles 7 (a), (b) and (d) of draft United Nations Declaration on the rights of indigenous peoples as adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 1994/45 on 26 August 1994. Martin Scheinin, 2006 (a), p. 39.

¹⁵⁸ Statement delivered by the Minister for Foreign Affairs, Tarja Halonen, at the fifty-second session of the Commission on Human Rights, 26 March 1996. Suomen ulko- ja turvallisuuspolitiikka, 1996, pp. 332-334; UN doc. E/CN.4/1996/SR.13, paragraphs 1-8.

¹⁵⁹ Statement delivered on 26 March 1999. Statement found as annex 3 in Government report to Parliament on Human Rights and Finland's Foreign Policy, 2000 and UN doc E/CN.4/1999/SR.6, paragraph 65.

¹⁶⁰ Government report on Human Rights of 1998, p. 39.

¹⁶¹ Statement of the delegation of Finland at the first session of the working group established in accordance with Commission on Human Rights resolution 1995/32 of 3 March 1995 (the Commission's working group on the draft United Nations declaration on the rights of indigenous peoples) in November 1995. Ministry of Justice, 14 December 1995, annex 5. This position was, word by word, reiterated in 2002 during the eighth session of the Commission's working group. Statement by the delegation of the Government of Finland at the informal session of the working group on 9 December 2002. Ministry for Foreign Affairs, HEL1028-32, 9 January 2003.

¹⁶² Pohjoismainen saamelaisopimus. 13. marraskuuta 2002 nimetyn suomalais-norjalais-ruotsalais-saamelaisen asiantuntijatyöryhmän 27. lokakuuta 2005 luovuttama luonnos. See also statements of 16 November 2005 by Pekka Aikio, the Finnish Minister of Justice, Leena Luhtanen, and Carsten Smith. Statements on file with author. The expert group was unanimous in its view that the provisions of the draft Nordic Sámi Convention should not be weaker than those of the ILO Convention No. 169.

In its voluntary pledges and commitments made in connection with its candidature to the United Nations Human Rights Council in 2006, the Government of Finland announced that it has been active in seeking a solution to the issue of Sámi land rights and that it would submit a Government Bill to Parliament during 2006.¹⁶³ The Government has indeed been active in preparing numerous reports and studies in its alleged effort to seek a solution to the issue of Sámi land rights. What was not mentioned in the voluntary pledges and commitments, however, was that a durable solution to the issue can be found only when there is sufficiently broad political commitment and vision among all authorities involved to solve the dispute.¹⁶⁴ Neither was any government bill submitted in 2006 to Parliament that would have proposed a solution to the issue of Sámi land rights. The Government has, consequently, been accused for having led astray other Member States of the United Nations.¹⁶⁵ It is no longer satisfactory to answer to the accusations and critique by noting that the further delay with the submission of a Government Bill on the Sámi land rights is caused by the need for further studies. This is the case because this argument has been used for decades and because numerous studies have already been prepared.¹⁶⁶

Although Finland has not been able to ratify the ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, the Government has repeatedly announced its intentions to do so as soon as it has solved the issue of Sámi land rights. In the meantime, the intention is to respect the provisions of the Convention in all legislative and administrative work.¹⁶⁷ Although the issue seems still far from unsolved, the situation may, indeed, be considered to represent an advancement from the position presented in the Government Bill of 1959 concerning the ILO Convention No. 107 on Indigenous and Tribal Populations – a convention that was replaced in 1989 by the ILO Convention No. 169 – according to which the Government was of the view that the ratification of the 1959 Convention was unnecessary because there were no indigenous peoples living in Finland, except for a small Sámi community which did not, however, give sufficient reason to action.¹⁶⁸ Although the Government's approach has changed over the years, the Ministry for Agriculture and Forestry has persistently maintained this ancient and outdated understanding – contrary to the position of the rest of the Government – according to which there are no

¹⁶³ Aide-memoire on the candidature of Finland to the UN Human Rights Council, 7 April 2006.

¹⁶⁴ See, e.g., the answer given before Parliament by the Prime Minister to a written question on the issue, in April 2006. Written question, KK 228/2006 vp. As noted by the Advisory Committee on the Framework Convention for the Protection of National Minorities in its second opinion on Finland adopted on 2 March 2006, there is a need, as a first step, to "seek a common agreement on the modalities of the process that could eventually lead to such a solution". CoE doc. ACFC/OP/II(2006)003, paragraph 53.

¹⁶⁵ See, e.g., Pekka Aikio, 11 November 2006; Saami Council, press release of 20 October 2006; Helsingin Sanomat 21 October 2006, p. A9 "Saamelaiset moittivat ihmisoikeusongelmia".

¹⁶⁶ See, for example, Ministry of the Interior, register no. 51/91/92, 22 April 1992. In the Government report prepared in February 2008 for the Universal Periodic Review of the Human Rights Council, the Government stated that the intention is to prepare the said Government Bill "during the current term of the Government", i.e., by the end of 2010. Universal Periodic Review by the Human Rights Council, report by the Government of Finland, February 2008, paragraph 106.

¹⁶⁷ Statement by the Social Committee of Parliament of 18 December 1990 (SoVL 11/1990 vp).

¹⁶⁸ Government Bill HE 39/1959 vp.

indigenous peoples, as defined in the ILO Convention No. 169, living in Finland and, therefore, also no unsolved issues concerning the use of land.¹⁶⁹

This inconsistency with regard to the Sámi land rights is clearly inconvenient and harmful for the Government's credibility to promote the rights of indigenous peoples at international fora. There can be no doubt about that. In its effort to solve this inconsistency, the Government of Finland should not, however, stop promoting the rights of indigenous peoples at international fora. This is obvious. Nor should the Government, however, continue with its present policy. Instead, the Government should solve, once and for all, the issue of land rights of the Sámi in a manner that ensures the rights of the Sámi, as an indigenous people, to enjoy and develop their culture and traditional livelihood.¹⁷⁰ When addressing the Parliamentary Assembly of the Council of Europe in January 1994, the then Prime Minister of Finland, Esko Aho, stated that “the rights extended to our Sami minority in Lapland speak for themselves”.¹⁷¹ The Prime Minister was surely referring to something else than to the question of Sámi land rights.

¹⁶⁹ Ministry of Agriculture and Forestry, 12 December 1989, register no. 3181/309/MMM 1989; Ministry of Agriculture and Forestry, register no. 3813/044/99, 30 March 2000.

¹⁷⁰ As noted by Lauri Hannikainen in 2002, "Finland should not proceed to the ratification of the ILO Convention with a land rights solution that does not meet the approval of the Saami Parliament". Lauri Hannikainen, 2002, p. 194. See also Government report 1973:46, p. 166.

¹⁷¹ Statement found in *Ulkopoliittisia lausuntoja ja asiakirjoja*, 1994, pp. 260-263; CoE doc. Parliamentary Assembly, 1994 session (first part) 24-28 January 1994. Official report of debates, volume I, sittings 1 to 8, p. 67-75.

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