

**STATEMENT BY FINNISH SAAMI PARLIAMENT ON THE REALIZATION OF SAAMI
PEOPLE'S RIGHT TO SELF-DETERMINATION IN FINLAND**

**PRESENTED BY THE PRESIDENT OF THE SAAMI PARLIAMENT OF FINLAND
JUVVÁ LEMET, MR. KLEMETTI NÄKKÄLÄJÄRVI**



**CONFERENCE WITH THE SPECIAL RAPPORTEUR ON THE
SITUATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS OF INDIGENOUS PEOPLE,
JAMES ANAYA ON 15TH OF APRIL 2010**

CHECK AGAINST DELIVERY

Respected Special Rapporteur Anaya, Saami politicians and government representatives,

While the statutory status of the Saami is satisfactory in Finland, the law is not adequately enforced. The Constitution of Finland guarantees the Saami the status of an indigenous people, right to their own language and culture and cultural autonomy in their homeland, which covers the municipalities of Enontekiö, Inari and Utsjoki and the northern part of Sodankylä. The right to own culture includes traditional means of livelihood. The language is protected by the Saami Language Act, and the responsibilities of the Saami Parliament are specially set by law.¹

The Saami right of self-determination concerning their language, land and water will be discussed in other speeches during the day. I shall focus on the realization of self-determination in the work of the Saami Parliament and in legislation applicable to Saami culture at the general level.

Finland has failed to ratify and enforce international conventions that would help improve Saami self-determination, such as the ILO Convention 169², the U.N. Declaration of the Rights of Indigenous Peoples, and UNESCO's Convention for the Safeguarding of Intangible Cultural Heritage³. Nor has Finland succeeded in implementing fully the obligations of conventions already ratified, when it comes to the rights of the Saami.

Finland has ratified the International Covenant on Civil and Political Rights (ICCPR). The first article of the Covenant guarantees the right of self-determination to all peoples. The Finnish Government, however, fails to recognize the right of self-determination to Saami as a people, though the unambiguous view of the U.N. Human Rights Council is that the provision includes Saami as an indigenous people. The Human Rights Council has also stressed that the Covenant guarantees the right of peoples, in this case the Saami people, to determine the use of their natural resources.

The Finnish Ministry of Justice has set up an inter-ministry working group to review the Nordic Saami Convention in relation to national legislation. The resulting report states that Finland recognizes the Saami as an indigenous people, not as a people. The working group beholds that international legislation contains no generally accepted definition of a people or an indigenous people. According to the report, the historical background of the ICCPR is closely associated with the independence of colonies and the emergence of new national states, and thus does not apply to the Saami.⁴ In failing to recognize the Saami as a people, Finland knowingly violates Article 1 of the Covenant. How the concept of an indigenous people differs from the concept of a people was not clarified on in the report. The opinion of the Finnish Government reflects a deplorable nationalistic tradition based on the idea of one people in one state. The failure to recognize the Saami as a people and the failure to obey the Covenant mean that the prerequisites are not desirable in Finland for positive development of the legal status of the Saami.

¹ Finnish Constitution 731/1991, § 17, § 121; Saami Parliament Act /1995, Saami language Act 1086/2003, Government Bill (GB) 309/1993.

² C169 The Indigenous and Tribal Peoples Convention, 1989 (International Labor Organisation ILO)

³ Convention for the Safeguarding of Intangible Cultural Heritage, Unesco 2003

⁴ Luonnos pohjoismaiseksi saamelaisopimukseksi . Arvio sopimusluonnoksen suhteesta Suomen perustuslakiin ja muuhun kansalliseen lainsäädäntöön sekä Suomea sitoviin kansainvälisiin ihmisoikeusvelvoitteisiin. Työryhmämietintö 2009:18, p. 16.17.

According to U.N. Human Rights Council's current interpretation of the ICCPR, the self-determination of indigenous peoples is not restricted only to political decision-making authority, but also covers self-determination on land, water and means of livelihood, as prescribed in Article 1 of the Covenant. Also Article 27, which provides that Saami, in community with the other members of their group, have the right to enjoy their own culture, to practice their own religion and to use their own language, encompasses the traditional means of livelihood and the right to the land as a decisive and integral element of Saami identity.⁵

Cultural autonomy secured by the Constitution of Finland applies to the Saami language and culture in the Saami homeland. The Saami Parliament has a very limited genuine decision making power; it is restricted solely to the distribution of certain granted appropriations⁶. The main means of the Saami Parliament's pursuit of policies are negotiations, pronouncements and initiatives. The present right of self-determination is limited to the presentation of shared opinions and common representation through the Saami Parliament. The right to self-government as a people is not fulfilled, because self-government is restricted to language and culture only. It does not apply to protection of Saami livelihoods, though these, as part of the Saami culture, enjoy legal protection granted by the Constitution of Finland. The right to self-determination is not fully realized even when it comes to the protection of the Saami language and culture. The Saami language and culture can only be promoted through funding and through preparation of statements and initiatives. The Saami Parliament has not even the right to language planning – the law provides that the Research Institute should do this for the Languages of Finland, a Finnish body, and there are plans to delegate these tasks to universities.⁷

The Saami Parliament has strived to actively develop the Saami cultural autonomy through initiatives and propositions. The Saami cultural self-government is usually ignored in favor of the needs of municipal self-government, other means of livelihood and other forms of economy. Most of the Saami Parliament's propositions and statements remain unanswered, and the Government makes no genuine attempts to consider the needs of the Saami culture from the Saami point of view. In some legislative proposals, such as the Mining Act⁸ and the Waters Act⁹, which are being reformed, the protection of Saami culture has been improved, but legislation as a whole is underdeveloped when it comes to the rights of the Saami.

Quite often when we make a justifiable initiative and later try to prompt an answer, we are told that it has not been possible to examine the matter for lack of resources, and we should wait for the next electoral period. At the same time, the Ministries do have resources to launch extensive development projects that exclude Saami interests.

The needs of the Saami are not prioritized; they are repeatedly overlooked in favor of other needs. The improvement of the legal status of the Saami should be one of the cornerstones of Finnish policies, considering that the future of the only indigenous people within the E.U. is at stake. Unfortunately the attitude of the national government is quite the opposite. While Saami Culture is will-

⁵ CCPR/C/79/Add.112, CCCPR/CO/82/FIN/Rev.1, GE.04-44232.

⁶ Special appropriations to the Saami Parliament:

Appropriation to support Saami organizations and the Saami culture, 205,000 euro a year.

Appropriation for the production of learning materials in the Saami language, 258,000 euro a year.

State subsidy to secure social and health care services in the Saami language, 600,000 euro a year.

⁷ The Act on Research Institute for the Languages of Finland (48/1976, 591/1996), Kotimaisten kielten tutkimuskeskuksen tehtävät. Opetusministeriön työryhmämuistioita ja selvityksiä 2010:1.

⁸ Government Bill on Mining Act, GB 273/2009

⁹ Government Bill on Water Act, GB 277/2009.

ingly exploited for the benefit of tourism and in international contexts to create a positive image of Finland, reality is something else. There is no willingness promote granting a genuine right of self-determination to the Saami Parliament.

The cultural autonomy and the lobbying of Saami interests are endangered because of Saami Parliament's lack of resources. The annual fund available for the primary work of the Saami Parliament is about 1.6 million euro. Some of this comes from project funding. The Saami Parliament is a representative body, but we cannot afford taking part in all important meetings or forms of cooperation because of the scantiness of our funds. We have no opportunities to develop our work, to apply funds for new projects or to implement the constitutional right to cultural autonomy sufficiently. The funding of the Saami Parliament has grown minimally, by a few ten thousand Euros, including index increases. At the same time, our work and tasks have increased constantly. Work associated with the environment and climate change, in particular, has increased considerably. We have applied for funding to establish the position of an Environmental Issues Secretary in the Saami Parliament, but funds haven't been granted.¹⁰

The lack of resources pre-empts the implementation of cultural autonomy and should be regarded as structural discrimination. The low level of resources of the Saami Parliament effectively pre-empts active promotion of the status of the Saami and the improvement of their self-determination rights. With the present resources, the Saami Parliament cannot support Saami livelihoods. Funding to the Finnish Saami Parliament is the lowest of the three Nordic countries and hinders cooperation in the Saami Parliamentary Council. I would ask the Special Rapporteur to note that the Saami Parliaments should be granted adequate resources to manage its responsibilities.

Respected Special Rapporteur, the Saami right to self-determination or autonomy in Finland does not include Saami livelihoods, land use management and planning or the management of natural resources. The Saami Parliament's possibilities to promote Saami livelihoods are restricted to pronouncements, negotiations and small-scale projects. The Finnish legislative and administrative systems fail to recognize Saami livelihoods; these are treated in the same way as other economic activities. The Saami means of livelihood are protected by the Constitution, but not by special enactments that govern them. This is a problem, because the special enactments surpass the Constitution when it comes to Saami livelihoods. Also Article 27 of the ICCPR obliges Finland to safeguard the future of the Saami culture and means of livelihood. The U.N. Human Rights Council requires that governments should safeguard the viability of traditional Saami livelihoods. The only viable traditional means of livelihood is only reindeer herding.¹¹ Hunting and fishing have become secondary livelihoods. We are now in a situation where the viability of traditional Saami livelihoods and the Saami society are endangered. As for fishing and hunting, the requirement of the U.N. Human Rights Council for safeguarding the viability of livelihoods remains to be unrealized.

Saami handicraft, a subsidiary vocation of Saami traditional livelihoods, is developing into separate livelihood, but is still dependent on materials provided by the traditional Saami livelihoods. However, even Saami handicraft – the tradition carrying the Saami identity and culture – is vulnerable. The future of Skolt and Ánar Saami handicraft traditions are highly endangered. There is only few craftswomen left who master traditional skills and knowledge linked in Skolt or Ánar Saami handicrafts comprehensively. The younger generation may study handicraft but their knowledge is not so extensive as it's needed to help secure the future of the tradition. The safeguarding of Saami handi-

¹⁰ An initiative to establish the position of an Environmental Issues Secretary in the Saami Parliament 8.5.2009 Dnro 311/D.a.1/2009

¹¹ *Ilmari Länsman etc.. vs. Suomi*, No. 511/1992.

craft, its traditional knowledge and terminology, is a substantial challenge of the next few years. Finnish Government should safeguard the future of Saami handicrafts by funding and legislation. The Saami Parliament should be given possibilities to secure the future of Saami handicraft.

The traditional Saami livelihoods must compete with other land use forms, the Saami must specifically claim their rights, and they may face criticism of their way of life, livelihoods and culture. In Lapland, the Saami are not yet accepted – there is still much resistance against them, their culture and their means of livelihood. Unfortunately, the opponents are heard in national and municipal administration.

It is difficult to attract Saami youth to engage in traditional Saami livelihoods because these are seldom profitable. Another reason may be that the Saami livelihoods are subject to conflicting pressures. Seventy per cent of Saami children in Finland live outside the Saami homeland without possibilities to enjoy their own language, culture and livelihoods. This is a serious situation. After a few generations, or maybe just one, the distinctive Saami livelihoods and cultural knowledge and skills may have disappeared, international conventions would be knowingly violated, and the entire Saami culture would be highly endangered. This will happen unless the Saami people's right to self-determination is improved.

The Saami in Finland have certain legislative rights but these are not realized without repeated demands, correspondence and appeal procedures. The Saami must endure many types of pressure from surrounding society. Although their rights are collective rights, individuals must specifically demand them. Finnish society does not make it easy to be a Saami. In many legislative proposals involving Saami rights, similar rights are granted to the other residents of the municipality as well. On the strength of the Constitution, rights justified by the indigenous status of the Saami can only be granted to the indigenous people and not to other groups. For instance, in the new amendment of the Conservation Act, Saami rights are equaled with the rights of the other inhabitants of the municipality.¹²

The Saami self-determination does not cover traditional Saami knowledge and cultural heritage. Article 8(j) of the United Nations Convention on Biological Diversity protects the traditional knowledge of Saami linked in natural resources.¹³ The material cultural heritage of the Saami has been scattered to various museums in Finland and abroad. Also, the knowledge collected by different scientists and explorers of the Saami is dispersed in various archives and not returned to the Saami community. Responsibility for safeguarding the built cultural environment, too, lies with the Finnish Government, not with the Saami Museum, for instance.

Finland has begun the implementation of Article 8(j) of the Convention on Biological Diversity. The purpose of the work is to secure the safeguarding of traditional Saami knowledge. The working group will complete its work by the end of this year. The Saami expect that the proposals to be made by the working group will help safeguard the traditional Saami knowledge. The fact is, however, that it is the Finnish Government, which is responsible for the enforcement of the initiatives, and we don't know what will happen when the working group's work has been finished. We do hope that the Special Rapporteur's report will highlight the need to protect the traditional Saami knowledge and prompt the Finnish Government to secure the future of our traditional knowledge.

¹² Government Bill on Conservation Act, GB 99/209.

¹³ United Nation's Convention on Biological Diversity, 1992 (SopS 78/1994)

In Finland, authorities must negotiate on significant issues in relation to Saami Culture with the Saami Parliament. In reality, the authority of the Saami Parliament is modest, and the right of Saami to self-determination and their participation in decision-making, provided by the ICCPR, are not realized.¹⁴ The negotiations do not require the parties to consider the Saami Parliament's proposals or even assess their importance, though the Finland's Constitutional Committee, for instance, has highlighted the situation and finds that the Ministries should take reasoned Saami initiatives into consideration. This hasn't been realized and it's a disadvantage. The Ministries should be obliged to consider the significance of the Saami Parliament's proposals.

The insignificant awareness of government officials of the Saami and their legal status, notably in the various Ministries, is an obstacle to the development of self-determination. We have proposed that the situation could be improved by establishing the position of a Saami Secretary of State to the Office of the Council of State, as is the case in Norway. The initiative hasn't proceeded in the Government.

According to Section 6 of the Finnish Act on the Saami Parliament, the Parliament represents the Saami in matters concerning the Saami people at the national and international level. Saami cooperation in the Nordic countries is complicated by the fact that in Sweden and Norway there is no similar statutory authorization. In international organs, the Saami may be represented even by NGOs, because Acts on the Saami Parliament differ from country to country. Neither is the Saami right to self-determination realized at the international level. As long as the Nordic Saami Convention has not been ratified, national Saami Parliaments cannot delegate their international responsibilities to their common body, the Saami Parliamentary Council.

Respected Special Rapporteur thank you for this opportunity to give you a review of the implementation of Saami self-determination in Finland. I regret that I don't have anything more positive to tell you. But I want to be an optimist and hope that the situation will improve in the next few years. Your work as a Special Rapporteur is really significant for the improvement of the legal status of the Saami people.

Respected Special Rapporteur, in conclusion I would like to ask few questions from the Finnish Government

- When will Finland start to realize ICCPR covenant article 1 and begin to treat Saami people as people?
- When will Finland start the negotiations with the Saami Parliament on developing the legal status of the Saami and to ratify the ILO 169-Convention?
- When will Finland safeguard the future of Saami language and establishes the revitalization program for Saami languages? President of the Republic, Council of State and the Finnish Parliament have all engaged with the revitalization program.
- When will Finnish Government safeguard sufficient funding for Finnish Saami Parliament according to Saami Parliament's proposals, so that the parliament can realize it's cultural autonomy?

¹⁴ CCPR/CO/74/SWE