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COMMISSION ON HUMAN RIGHTS
SUB-COMMISSION ON THE PROMOTION AND
PROTECTION OF HUMAN RIGHTS
WORKING GROUP ON INDIGENOUS POPULATIONS
NINETEENTH SESSION
GENEVA, 23 - 27 JULY 2001

AGENDA ITEM 5
"REVIEW OF RECENT DEVELOPMENTS PERTAINING TO THE
PROMOTION AND PROTECTION OF HUMAN RIGHTS AND
FUNDAMENTAL FREEDOMS OF INDIGENOUS PEOPLE"

STATEMENT BY THE OBSERVER DELEGATION OF FINLAND
MR. EERO J. AARNIO,
COUNSELLOR OF LEGISLATION, MINISTRY OF JUSTICE

Madame Chairperson,

Let me, first of all, congratulate you on your re-election to the Chairperson of this Working Group. Let me also take this opportunity to express, on behalf of my delegation, appreciation and thanks to you for the extensive and valuable work you have carried out in the exercise of your duties. You can count on the full support of the Finnish delegation. I wish you and the other members of the Working Group every success in your challenging and important tasks.

Bearing in mind the distinctive relationship which indigenous peoples have with their land, the Finnish delegation will concentrate under agenda item 5 to land issues. On the national level there has been some progress achieved of which my delegation is pleased to be able to inform the Working Group.

The right of the Sami as an indigenous people to maintain and develop their own language and culture as well as the Sami cultural autonomy, which have been guaranteed by the Finnish Constitution, were strengthened by the Act on the Sami Parliament in 1995.

The said Act gives contents to the linguistic and cultural autonomy. The Sami Parliament can have its say on issues concerning the Sami culture, livelihoods, language, social position and status as an indigenous people. National, regional and municipal authorities are obliged to negotiate with the Sami Parliament in all far-reaching and important matters which may directly and in a specific way affect the status of the Sami as an indigenous people.

In practice, however, this negotiation obligation does not give the Sami sufficient powers to affect land use decisions as changes often take place gradually and never fall into the mentioned category of far-reaching and important matters. It can be questioned whether the Sami Parliament with its limited decision-making powers actually is a master of cultural and linguistic autonomy. Land ownership issues were left out the cultural autonomy as this complex issue was at the time under consideration by the predecessor of the Sami Parliament. This extensive work then later passed on to the Sami Parliament and is still going on.

In May 1999, the Ministry of Justice, after having negotiated with the Sami Parliament, appointed Dr. Pekka Vihervuori as Special Rapporteur to clarify how obstacles to ratification of the ILO Convention No 169 could be removed. It was not his commission to tackle the question of land ownership, but firstly to examine especially, how to guarantee the rights of the Sami to their own traditional natural sources of livelihood that are part of their culture in the Sami Homeland, while taking into account the international conventions.

Dr. Vihervuori's report was published in September 1999. He came out with two major proposals. First, proposing that a Land Rights Council of the Sami Homeland would be founded in connection with the Sami Parliament. The Council were to consist of representatives of the Sami Parliament and of the municipalities in the Sami Homeland. The suggested Council would have the right to speak and the right to appeal in matters concerning the application of the laws on the use of lands and waters, in parallel with the owner's representative, the National Board of Forests. In practice, the proposal would mean giving a certain veto-right to the Council whilst the state would hold title to the land.

Secondly, a Land Rights Fund would be established, the idea being that a part of all income arising from permit fees, compensations, sales proceeds and other equivalent money payments would have to be channelled to the Fund. The resources of the Fund could be used for the development of traditional livelihoods, repairing damages caused by the use of the lands and promotion of the interests of the Sami in general. In addition, Dr. Vihervuori proposed modifications to a number of acts concerning the use of land and waters, the main idea being to better safeguard the interests of reindeer husbandry and the Sami culture directly and indirectly.

In November 2000 the Ministry of Justice set up a committee to make a proposal as to the arrangement of the rights to the land, water, natural resources and traditional means of livelihood on state-owned land within the Sami Homeland. Half of the committee members are Sami. The most important duty of the committee is to examine the question of land rights and to suggest how the rights of the Sami to maintain and develop their culture and traditional means of livelihood may be ensured while taking the local conditions and the need for their development into account. The committee proposal should fulfil the minimum criteria that are required for the ratification of the ILO Convention No 169. The committee should especially assess to what extent the proposals made by Dr. Vihervuori as to the establishment of a right to use the land may be implemented. However, the mandate of the committee does not cover decision-making on the question of land ownership. The committee should complete its work by 30 November 2001.

Another step was taken when the Ministry of Justice appointed, simultaneously with the mentioned Committee, a new Rapporteur, Dr. Juhani Wirilander to elaborate on the land ownership issue. Dr. Wirilander is in the process of finalising a legal assessment, from real estate law point of view, on the existing reports and analysis of the land ownership issue in the Sami Homeland. The report of the Rapporteur will be available by August 2001.

As a focal point, it is obvious that the possibilities of the Sami to influence various land use decisions need to be strengthened. The question of their land rights will get further elaboration when the report of Dr. Wirilander is available. Depending on the results, whatever they are, it is possible and even seems necessary to reflect those in the work of the new Committee.

It must be remembered that, as far as the land rights of the Sami are concerned, the conflict situations are not the usual type of conflicts between the interests of the State and those of a private individual, but conflicts of interests of different population groups that have lived together in northern Lapland for a long time and pursued different means of livelihood. The Government is of the view that the dispute over land rights should be resolved as expeditiously as possible, in a manner that will contribute to the protection of the culture of the Sami without interfering with the rights of the local non-Sami population. Considerable efforts, which are constantly being made, are still needed in order to resolve the problems.

Thank you.