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NGO submission to the 57 session (10 - 28 Feb 2014) of
United Nation's Committee on the Convention on the
Elimination of All Forms of Discrimination against
Women related to the consideration of the seventh
periodic report submitted by **Finland** under
article 18 of the Convention

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Submitted by:

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Introduction

1. This information is submitted by Seta to the on the Convention on the Elimination of All Forms of Discrimination against Women in order to draw the attention of the Committee to human rights concerns affecting lesbian, bisexual, transgender and intersex (LGBTI) women and other LGBTI people in Finland related to Finland's seventh periodic report on the implementation of the Convention. This compilation is based on published as well as unpublished data, such as information received by the submitting organization from its members.

2. In the report submitted to the Committee by Finland the measures adopted and factors affecting the fulfilment of obligations under the Convention are discussed in considerable detail. The rights that LGBTI people should be able to exercise under the Convention, however, are hardly mentioned.
3. Finnish gender equality politics are fairly heteronormative and for the most part based on a binary understanding of gender. LGBTI women and other LGBTI people remain in many ways invisible, and the existence of transgender and intersex people is not sufficiently recognised and acknowledged in governmental and municipal gender equality policies.
4. Authorities and legislators do not have adequate expertise in the field of sexual orientation and gender identity, which in combination with discriminatory attitudes and preconceptions leads to a wide prevalence of discriminative practises. In addition, little data or statistics on LGBTI people is available. There is no national authority, such as an Ombudsman, officially responsible for the discrimination prevention of LGBTI people.
5. Expectations related to gender roles and sexuality infiltrate school, media and the labour market. This complicates the lives of LGBTI people and their families. Thousands of children live in families in which the parent or parents are gay, bisexual, transgender, transvestite or intersex.
6. One of the most blatant forms of discrimination related to gender identity in Finland is the fact that one must prove to be infertile as a prerequisite for legal gender recognition. Furthermore, even people just considering gender reassignment have been denied the storage of sex cells and their use in future fertility treatments. The Ombudsman for Equality and the Council of Europe's Commissioner for Human Rights are against this discriminative practise, and the NGOs call for a hurried revision of the gender reassignment legislation. The government has started a reform process but the outcome will be clear only later on.
7. LGBTI people must enjoy all the rights guaranteed by the Convention without discrimination of any kind, and this view should be mainstreamed to all activities designed to improve gender equality.
8. That LGBTI people are not able to enjoy all the right guaranteed to them in Finland has been pointed out many times, e.g. by the Human Rights Council¹ and the Human Rights Committee². Finland also has to a high extent failed to adopt comprehensive strategies on protecting the human rights of LGBTI people, contrary not only to the HRC recommendations, those of the European Union Agency for Fundamental Rights (FRA), of the Committee of ministers of the Council of Europe and of the Commissioner for Human Rights of the Council of Europe. The scope of specific actions taken by Finland to combat discrimination on the grounds of sexual orientation and gender identity and promote the human rights of LGBTI people have been limited.
9. Seta thus asks the Committee to provide Finland with recommendations related to the enjoyment of all rights without discrimination based on sexual orientation, gender identity or gender expression. Particularly, Seta submits for consideration issues relating to the discrimination of LGBTI people in protection from violence, in employment, health and education.

¹

Report of the Working Group on the Universal Periodic Review, Finland, A/HRC/21/8

²

Concluding observations on the sixth periodic report of Finland, CCPR/C/FIN/CO/6

ARTICLES 1 AND 2 – LEGISLATION

The Act on Equality between Women and Men

10. Many women and girls in Finland are subject to multiple discrimination. Some of those who are in a particularly vulnerable position face discrimination because of their sexual orientation, gender identity or gender expression.
11. Gender equality legislation so far lacks explicit provisions regarding gender identity and gender expression discrimination as well as intersex status. A reform is underway and the government has committed itself to protect all trans people from discrimination. However, it seems likely that the protections related to gender identity and expression will be weaker than those related to sex or legal gender.
12. Presently, the Finnish legislation lacks a concept of multiple discrimination. It would be of great importance to recognize multiple discrimination in the legislation for the protection of people with multiple minority background.
13. Seta urges the Committee to provide Finland with recommendations regarding protection against discrimination based on gender identity, gender expression, intersex status and/or multiple discrimination.

The Non-Discrimination Act

14. The Non-Discrimination Act of Finland does refer explicitly to sexual orientation, but in the act the different grounds for discrimination are dealt with in an unequal way.
15. There is no Ombudsperson covering sexual orientation. It is hard for lesbian and bisexual women to obtain help for employment discrimination as the authorities responsible for tackling discrimination are not perceived as LGBTI sensitive.
16. Work to revise the Non-Discrimination Act has been going on since 2006 and a government proposal is supposed to be given to the parliament in 2014 together with a proposal to include gender identity and expression and intersex in the gender equality act. These reforms are anticipated take a positive step forward but it is unclear as to what extent. So far there is also a lack of sufficient funding to the equality bodies monitoring the implementation of the laws.
17. Seta asks the Committee to provide Finland with a recommendation to reform the Non-Discrimination act in order to establish an Ombudsperson with mandate to deal with many discrimination grounds, including sexual orientation, in all areas of life, including employment.

ARTICLE 3

The government's human rights policies

18. The government adopted its first national action plan for human rights in 2012. This plan almost totally omitted reforms related to the implementation of LGBTI people's human rights. This is very unfortunate and gives a signal that LGBTI people are not seen as important when it comes to evaluation of the human rights situation of Finland. On a positive note, the foreign ministry has included LGBTI issues in its human rights strategy and action plan. There should be coherence between national and foreign policy when it comes to enhancing and implementing human rights. Currently, an interministerial working group is preparing suggestions for LGBTI policies. It remains unclear whether such suggestions will have government support.
19. Seta urges the Committee to ask Finland to include issues related to the human rights of LGBTI people in all human rights programmes and other policy programmes, whether within domestic or foreign policy.

ARTICLE 5

Hate crime legislation

20. LGBTI women face a high risk at becoming victims of violence, threat of violence or other hate crimes. Sexual orientation was included in the new legislation concerning hate crimes in 2011, but regulations related to gender identity were omitted. LGBTI people experience crimes of hate related to both homophobia and transphobia, and both ought to be acknowledged in the legislation. Furthermore, LGBTI victims of violence do not necessarily contact the authorities in fear of prejudice, discrimination, and ignorance. Lesbian, bisexual and transgender women have more obstacles than other women regarding access to services, for intimate partner violence in lesbian relationships is not sufficiently identified or recognised in the service system.
21. Seta asks the Committee to provide Finland with a recommendation to include bias motive related to gender identity and expression explicitly in the Criminal Code.

Services for victims of violence

22. The service network for victims of violence in Finland is scattered and geographically uneven. There are very few explicitly LGBTI inclusive services, such as low-threshold services and shelters. Especially LGBTI youth and trans people facing violence have difficulties in accessing safehouses as they are often primarily targeted at (cis) women with children.
23. Seta asks the Committee to provide Finland with recommendations about explicit inclusion of LGBTI specific services and expertise in the services for victims of violence.

State violence against intersex children

24. The bodily integrity and self-determination of intersex children is endangered in hospitals without a medical basis. Cosmetic surgeries of intersex children's genitalia intend to alter their bodies into strictly 'feminine' or 'masculine', having long-lasting consequences related to intersex people's gender identity and self-image. Moreover, successive treatments of genitalia have been traumatising for intersex children and their sense of bodily integrity. No directions

or policies are available concerning the status of intersex children, and the experiences of intersex people have not been studied sufficiently in Finland. Hence, the human rights of intersex people should be brought under discussion. According to Seta's understanding, a majority of the children with intersex condition who undergo genital surgery as infants are raised as girls.

25. Seta urges the Committee to provide Finland with a recommendation about protecting the bodily integrity of intersex infants and children and to prepare human rights-based instructions to health care professionals about care and support of intersex people.

ARTICLE 7

Inequality in Political and Public Life

26. There are very few openly LGBTI public figures in Finland. Especially trans people are invisible in the public life and political sphere. This is a problem as positive examples would make it easier for new generations to step forward.
27. Some LGBTI NGOs are consulted by ministries and other government institutions regarding programmes and legislation related to equality, non-discrimination, human rights and/or in other ways directly to LGBTI issues. However, LGBTI NGOs are still often omitted from more general hearings that may still have relevance for the human rights of LGBTI people. What's more, the views of LGBTI organisations are often not included in government proposals despite sometimes extensive hearing procedures.
28. Several LGBTI NGOs are funded by the government to some extent. This is very positive. It is notable though that it is difficult for NGOs in general to obtain funding for human rights work whereas peer support and service provision are easier to get funding for. This makes it hard for NGOs to push for long-term goals in legislation and government policies.
29. Seta asks the Committee to draw Finland's attention to measures needed to improve participation and equality of LGBTI people and organisations in political and public life.

ARTICLE 10

Bullying and discrimination of LGBTI youth in schools

30. A recent study³ revealed that some 36 percent of the young respondents had been targets of bullying in schools because their sexual orientation or gender identity. Similarly, according to another study⁴

³ Huotari, K., Törma, S. & Tuokkola, K. 2011. Discrimination in education and leisure time. Ministry of the Interior publication 11/2011 [in Finnish].

only 12 percent of teachers believed that a student's openness about sexual orientation in school would be accepted by their mates. Harassment and uncertainty of acceptance as well as invisibility in school life and curricula may furthermore significantly raise the risk of suicides among children and youths belonging to sexual and gender minorities. There have been plans to amend legislation and some special programs by the education authorities⁵ to fight discrimination and violence in schools, but they don't include references to sexual orientation or gender identity. According to a study that is soon to be published by the Human Rights Center, systematic human rights education is lacking in Finland.

Curricula

31. The curriculum and learning materials in schools are based on stereotypical views on women and men, but also a heteronormative and narrow understanding of human sexuality and diversity of gender. Equality and diversity are not discussed in a sufficient manner at school and in other educational institutions. LGBTI youth and students may feel out of place and unable to express their identities in school environment. They experience bullying and harassment targeted at their gender identity, gender expression or sexual orientation.
32. Human rights education should always include references to the universality of human rights and information about specificities related to vulnerable groups, such as LGBTI people. The Yogyakarta principles, although dating back to 2006 and to some extent in need of revision, are still a relevant document to highlight the meaning of human rights from the point of view of sexual orientation and gender identity.

Teacher training

33. The professional manner and knowledge of teachers is a key to an equal and safe school environment for all. So far teacher training in Finland lacks up-to-date and sufficient information about sexual orientation, gender identity and expression and variety of family forms as well as adequate knowledge about human rights.
34. Seta asks the Committee to raise the lack of comprehensive human rights education in Finnish school curricula and school practices, in other educational institutions and in teacher training.

ARTICLE 11

LGBTI people and employment

35. The Committee has expressed concern with regards to discrimination of women in the Finnish labour market. LGBTI people experience severe discrimination at work⁶. Lesbian, bisexual, transgender and intersex women are thus at a great risk of multiple discrimination.

⁴ Puustinen, M. & Tikkanen, T. 2010. Moninaisuus ei mahdu kouluun. Opettaja-lehti 3: 14-22. [in Finnish, 'Diversity doesn't fit in the school'].

⁵ Anti-bullying program KiVa koulu ['cool school'], Finnish Ministry of Education and Culture, <http://www.kivakoulu.fi/there-is-no-bullying-in-kiva-school>

⁶ Charpentier, Sari "Heteronormativity and Working Life Course in the stories of People over the Age of 45" in Lehtonen, Jukka & Mustola, Kati (2004) "Straight people don't tell, do they...?" Negotiating

36. There have been several cases of discrimination against transgender people in the media. Also cases of discrimination based on sexual orientation have come to the knowledge of NGOs. It can be assumed that few people experiencing employment discrimination due to sexual orientation or gender identity take their case further due to fear of further discrimination in the workplace and being “outed” in one’s social environment. The lack of an ombudsman with a mandate to investigate LGB discrimination cases in recruitment and employment is another reason for the lack of reported cases.
37. Seta asks the Committee to provide Finland with a recommendation to enhance protection of LGBTI people in employment, including recruitment, and to pay special attention to multiple discrimination.

Parental leaves

38. Finnish law grants specific, partly salaried, parental leaves. This right, however, is not equally fulfilled for families of LGBTI people. The spouses of biological mothers or fathers are only entitled to the so called paternity leave after second-parent adoption has been approved, which may take more than half a year since the birth of the child. Legal fathers living in a separate household from the legal mother are not entitled to full rights or compensations, although they may be very involved in the care of the children.
39. Seta asks the Committee to provide recommendations to Finland about the equal treatment of all families in parental allowances and leaves and parental rights.

ARTICLE 12

Health services

40. LGBTI people experience discrimination in services. Most social and health care services are based on a gender normative and heteronormative system. Professionals within these fields lack adequate understanding about LGBTI people and their family relations and needs. It is for example sometimes difficult for the same-sex spouse of a patient in a hospital to get recognized by the hospital staff as a relative.
41. Mental health services sometimes still lack up-to-date knowledge on LGBTI people and thus the ability to properly differentiate between internal and external causes of anxiety, depression etc. It has been proved that medical professionals sometimes offer so called “gay conversion therapy” services which is completely unacceptable and against the ethics of medicine.

Sexual and reproductive rights and health

42. For the legal gender reassignment a person must have a medical certificate verifying sterility. This can be seen as a form of forced sterilization. Council of Europe Commissioner for Human Rights has

the boundaries of sexuality and gender at work. Research Reports 2b/ 04. Ministry of Labor 2004. Available at: <http://www.valt.helsinki.fi/sosio/tutkimus/equal/wwweng/publications.htm>

taken a strong stand against sterilization as a prerequisite for gender reassignment. Also the Committee of Ministers of the Council of Europe has questioned requirements of physical changes as prerequisites for gender reassignment. The United Nations Special Rapporteur on Torture recently defined the sterility requirement of trans persons as a form of torture. The National Ethical Board of Social and Health Sector, ETENE, has stated in May 2013 that the sterility requirement may constitute a human rights violation.

43. The government of Finland has founded a working group to examine the prerequisites of gender marker change but at this stage it is impossible to foresee the result of that work. Seta asks the Committee to pay attention to the human rights violations against transgender and gender variant persons.
44. Hiv/aids strategies in Finland do not target LGBTI people sufficiently.

Access to care for trans persons

45. Considerable local variation is found in the level and quality of treatment and support for transgender people, especially gender variant children and transgender teenagers. Thus these young people do not have equal access to essential health care services. They are often treated by professionals who do not have sufficient knowledge on gender variance. The services should be equally efficient and of high quality throughout the country. Trans youth have also been denied referral to proper professional guidance and treatment preparing for gender reassignment even as the law on gender reassignment includes no age limit for access to investigation and treatment. The access of young people to gender identity investigation was discussed in 2011 by the National Ethical Board of Social and Health Sector, ETENE. It stated⁷ that young people should have access to proper support and treatment by experts in accordance to current legislation.

Treatment of intersex children

46. Intersex children have been exposed to non-medically based surgery which may cause serious mental or physical complications in later life. There is only very limited support or counseling to the parents of intersex children. So far no comprehensive, high-quality data on the experiences of intersex persons of the treatment has been gathered in Finland. Seta asked in 2011 together with a range of NGOs that monitoring the care of intersex children would be chosen as one of the projects included in the first National Human Rights Plan of Action but the topic was omitted by the government.

Health care of pupils and students in educational institutions

47. It is of utmost importance for young LGBTI people to receive high-quality support and services from the professional adults in their daily surroundings, including health and counseling staff at schools and other educational institutions. To date there is no explicit LGBTI policy regulating school and student health care.

Suicide prevention

48. Children and youth of various gender identities suffer from the predominant gender normativity in schools and from the lack of proper and sensitive support systems. The risk of LGBTI people

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<http://www.etene.fi/fi/aineistot/tiedotteet/tiedote/view/9979>

committing suicide is high according to international data and the same is supposed to be true in Finland. This concerns especially young people who, in several previous studies made in other countries, have been found to have a higher risk of suicidal behaviour. Even though the general suicide rate in Finland is high in international comparison, so far no suicide prevention program has had an explicit LGBTI angle despite convincing international evidence that LGBTI people, especially trans persons, have a much higher suicide (attempt) rate than other persons. There is also a lack of data as to the causes behind suicide (attempts) in this respect.

Elderly LGBTI people

49. Many elderly LGBTI people who are dependent of care facilities are afraid to be open about their identities in fear of discriminatory attitudes by the staff. According to a survey conducted by Seta, many staff members working in elderly homes do not see knowledge about LGBTI issues relevant for the profession. Seta has started a project for developing LGBTI inclusive elderly care.

Disease classification

50. The National Institute for Health and Welfare recently amended the ICD-10 classification of diseases and health problems as applied in Finland and excluded classes on transvestism (F64.1 & F65.1), but unfortunately maintained transsexualism as a mental disorder, contrary to, e.g., the standpoint of the European Parliament and of the Council of Europe Commissioner for Human Rights.

Seta's recommendations in the field of health

51. Seta urges the Committee to provide Finland with recommendations about making legal gender recognition possible without medicalization and without human rights violations such as the sterility requirement, about removing obstacles from trans persons' access to care related to gender reassignment, and about securing human rights-based treatment in the care system.
52. Seta asks the Committee to provide Finland with recommendations to develop LGBTI inclusive health services and to include information about diversity of sexual orientation and gender in the curricula of all health professionals' training, including mental health professionals and elderly care staff.

ARTICLE 14

LGBTI people in rural settings

53. There is considerable variation in the wellbeing of LGBTI people across the country. Typically, in the countryside there are fewer, if any, service providers in any sectors of the society (such as education, health, employment) who are LGBTI inclusive and have sufficient knowledge on anti-discrimination and LGBTI people. Despite national curricula for schools, basic education varies a lot depending on the area. This puts LGBTI youth in unequal situation depending on where they live.
54. Seta asks the Committee to provide Finland with recommendations in favour of including LGBTI inclusive diversity and non-discrimination policies in any measures aimed at improving the situation of women residing in the countryside.