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SUBMISSION TO THE UN  
COMMITTEE ON THE  
ELIMINATION OF  
DISCRIMINATION AGAINST  
WOMEN, 57<sup>TH</sup> SESSION  
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# INTRODUCTION

Amnesty International submits the following information to the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW), in advance of its examination of Finland's seventh periodic report in February 2014, submitted under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women (the Convention).

The submission focuses on the following issues from the List of Issues in relation to the seventh periodic report of Finland: legal gender recognition and discrimination of trans individuals; violence against women; trafficking for the purposes of sexual exploitation; and health in forced removals.

## LEGAL GENDER RECOGNITION (QUESTION 2 LIST OF ISSUES)

Widespread prejudices, gender-based stereotypes and discriminatory legislation negatively affect the enjoyment of human rights by trans individuals in Finland.<sup>1</sup> A recent study on the wellbeing of young Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) people in Finland found that many young trans individuals face discrimination and harassment in school and other areas of life. Eighty per cent of the trans individuals interviewed had faced harassment, and generally, trans pupils are more likely to experience violence than their cisgender peers. Sixty seven per cent of the trans pupils who experienced violence perceived it as motivated by their gender identity or expression.<sup>2</sup> According to the European Union (EU)'s LGBT survey, 48 per cent of the trans individuals surveyed and living in Finland had been discriminated against in the 12 months prior to the survey.<sup>3</sup> Such discrimination occurs irrespective of whether or not trans people have documents that reflect their gender identity.

Amnesty International welcomes the commitment of the Finnish government to tackle the discrimination faced by trans individuals by reforming the Equality Act. In its reply to the list of issues, the government stated that it would submit the Bill prohibiting discrimination based on gender identity and expression to the Parliament in 2013.<sup>4</sup> However, at the time of writing (January 2014) the final draft had not yet been made public.

In this submission Amnesty International would like to raise some concerns with regard to current laws, policies and practices on gender legal recognition and their impact on the enjoyment of human rights of trans individuals.<sup>5</sup>

### LENGTH OF PROCESS FOR LEGAL GENDER RECOGNITION (ARTS 2, 3, 5)

The current procedure to obtain legal gender recognition in Finland is very lengthy, taking up to 2-3 years, exposing trans people to discrimination in situations where they are required to present documents with gender markers not corresponding to their gender identity and expression.

According to the Act on Legal Recognition of the Gender of Transsexuals (the Trans Act), in force since 2002, the gender registered in the Population Information System can be changed only if the applicant presents a medical statement certifying that she or he permanently feels to belong to the opposite gender, lives in that gender role, and has been sterilized or is for some other reason infertile.<sup>6</sup> The medical statement requires in practice a psychiatric diagnosis as trans individuals have to undergo a cumbersome and lengthy process to be diagnosed with “transsexualism”.<sup>7</sup> To obtain that diagnostic, every trans person is referred by their general practitioners to one of the two multidisciplinary teams established at the Helsinki University Central Hospital and the Tampere University Central Hospital (the Trans Units). The diagnostic period - the period elapsing from the first meeting at one of the Trans Units to the moment where the psychiatric diagnosis is established - can take up to 12 months depending on the specific individual situation and the availability of human resources. In this period, trans individuals have to pass a “real life test” whereby they live according to the preferred gender identity. This phase also includes hormone treatment, possibly mastectomy, voice therapy, depilation, and other treatments.<sup>8</sup>

According to research carried out by Amnesty International, many trans persons feel that in order to obtain this diagnosis, they are required to conform to stereotypical ideas of masculine or feminine appearance or behavior.<sup>9</sup> Individuals who do not conform to these notions risk being denied diagnosis and thus legal recognition of their gender. This is even more of a barrier for individuals who do not identify with binary notions of gender (male/female). In many cases, such individuals are not diagnosed with “transsexualism”, but with “other gender disorders”<sup>10</sup>, which excludes them from accessing legal recognition of their gender.

Amnesty International is further concerned by two discriminatory provisions of the Trans Act: the sterilization and single status requirements.

### **STERILIZATION REQUIREMENT (ARTS 2, 5, 12)**

The requirement to be sterilized as a gateway to gender legal recognition is coercive and undermines the ability of individuals to consent freely to this kind of medical treatment. The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment recently called on all states to “repeal any law allowing intrusive and irreversible treatments, including forced genital normalising surgery, involuntary sterilisation, unethical experimentation, medical display, ‘reparative therapies’ or ‘conversion therapies’, when enforced or administered without the free and informed consent of the person concerned”. He also calls upon states to outlaw forced or coerced sterilization in all circumstances and provide special protection to individuals belonging to marginalized groups.<sup>11</sup>

### **SINGLE STATUS REQUIREMENT (ARTS 2, 3, 16)**

According to the Trans Act, those who are married or in a civil partnership cannot obtain legal gender recognition. In practice, the single status requirement is not implemented if the partner or the spouse of the trans individual seeking gender recognition gives his or her consent to convert their civil partnership into a marriage or vice-versa.<sup>12</sup> Amnesty International believes that such a difference of treatment is discriminatory as states should ensure the enjoyment of all human rights, including the right to marry and to found a family, without any discrimination, including on grounds of sexual orientation and gender identity. A discriminatory aim can never justify restricting a human right.

As the then Commissioner for Human Rights of the Council of Europe noted, courts in some states not recognizing same-sex marriages have nonetheless decided in favour of allowing marriages to continue when one partner has changed gender. Such rulings, the Commissioner noted, recognize that “protecting all individuals without exception from state-forced divorce has to be considered of higher importance than the very few instances in which this leads to same-sex marriages. This approach is to be welcomed as it ends forced divorce for married couples in which one of the partners is trans”.<sup>13</sup> The current Commissioner has also specifically recommended that Finland abolish the single status requirement as a prerequisite for legal gender recognition.<sup>14</sup>

Under such circumstances, Amnesty International is concerned that the Trans Act does not meet the standards of non-discrimination and efficiency laid out in the Yogyakarta Principles, whereby legal gender recognition procedures should be “efficient, fair and non-discriminatory, and respect the dignity and privacy of the person concerned”.<sup>15</sup> Moreover, the procedure for legal gender recognition places undue and unnecessary burdens on individuals’ behavior, appearance or other forms of gender expression.

## RECOMMENDATIONS

### **Amnesty International recommends that Finland:**

- Simplify and expedite the legal gender recognition process by abolishing the “real life” tests, medical or psychiatric hurdles;
- Ensure that the gender recognition process is carried out in a non-stigmatizing manner by removing trans identities from the national classification of diseases;
- Ensure that the process for legal gender recognition does not require individuals to conform to stereotypical notions of masculinity or femininity, and is accessible to those who do not identify with binary concepts of gender;
- Eliminate the discriminatory requirements of sterilization and single status in the Trans Act.

# **VIOLENCE AGAINST WOMEN (QUESTIONS 7-13 LIST OF ISSUES)**

## **WOMEN MURDERED BY PARTNERS (ARTS 2, 3, 5)**

Police received over 3600 reports of domestic violence against women in 2012.<sup>16</sup> According to the National Research Institute of Legal Policy only 10 percent of domestic violence cases against women are reported to the police.<sup>17</sup> However, the number of women murdered by their male partners remains however high; from 2003 to 2008 an average of 23 women were murdered by their partners every year.<sup>18</sup>

## CONCILIATION (ARTS 2, 3)

Conciliation remains widely used in crimes of domestic violence and violence against women in Finland. The amount of domestic violence cases referred for conciliation doubled from approximately 1000 cases in 2010 to almost 2000 cases in 2011.<sup>19</sup> This is at least partly explained by the fact that petty assault is no longer a complainant offence following the revision of the Penal Code in 2011. Under the current law prosecutors are obliged to raise criminal charges for “petty assault” where there is sufficient evidence, while before this was dependent on whether the victim wished to pursue a criminal case.

The outcome of conciliation in cases concerning intimate partner violence or domestic violence is unpredictable. There are diverging views among prosecutors in Finland as to whether criminal proceedings should be conducted alongside mediation. Some prosecutors may drop criminal charges when the case is referred to mediation; some may take the outcome of mediation into account when determining what penalty to seek in the case; and others may not allow mediation to affect the legal process in any way.<sup>20</sup>

Amnesty International opposes the use of conciliation in domestic violence cases as these are not appropriate methods to deal with crimes of violence against women. Mediation undermines the principle of equality before the law, and frequently leads to repeated re-victimization of women at risk.<sup>21</sup>

## SEXUAL VIOLENCE (ARTS 2, 3, 5)

Current legislation pertaining to sexual offences, notably Chapter 20 of the Penal Code, remains inadequate. Rape continues to be categorized according to the degree of violence used or threatened by the perpetrator, rather than the violation of sexual autonomy and physical and mental integrity.<sup>22</sup> The Ministry of Justice sent a draft bill for comments in July 2013,<sup>23</sup> and the government proposal will be sent to the Parliament in early 2014. While the draft bill includes some positive changes,<sup>24</sup> it continues to define rape according to the degree of violence by the perpetrator and does not place the lack of consent of the victim at the centre of the definition. The draft bill also retains the possibility to lower the sentence for rape if the rape is committed under mitigating circumstances when assessed as a whole, but the draft bill does not specify what such mitigating circumstances might be.

The draft bill continues to define abuse of position leading to sexual intercourse as sexual abuse, not rape. The overlap of definitions of rape and sexual abuse with regard to people with disabilities<sup>25</sup> is particularly problematic because it weakens the legal protection of sexual integrity of those persons who reside in closed institutions. In practice acts committed in institutional setting by persons in position of authority or power against vulnerable persons under their care continue to be sentenced and punished as sexual abuse, and not rape, and therefore continue to carry a minimum sentence of a fine. Although the draft bill recognizes that where the victim is a child, this should be treated as an aggravating factor, Amnesty International continues to recommend that aggravating factors should be amended to include a broader understanding of vulnerable persons. Severe mental suffering caused, for example, due to the breach of a relationship of trust between the victim and the perpetrator should be considered when assessing the gravity of the crime.

The attrition rate in Finland – the filtering process whereby alleged offences do not come to the attention of the criminal justice system, either because they are not reported, or because



cases are dropped at various stages of the legal process – remains very high. Less than 10 per cent of all rapes are estimated to be reported. Of those reported, only 16 per cent go to court and approximately 13 per cent lead to a conviction.<sup>26</sup> Women who report rape to the police only have a small chance of having their case tried in court and as a result most perpetrators are never held to account for their crime.

Despite the fact that the Finnish law as well as the Istanbul Convention<sup>27</sup> prohibits the presentation of indiscreet and irrelevant evidence in court, research indicates that this prohibition is not applied in sexual violence cases.<sup>28</sup> Even if the courts rarely rely on this evidence in their verdicts, allowing this evidence to be presented makes the legal process even more burdensome for the victim and may lead women not to report the cases. In a study by Amnesty International and University of Lapland, 60 percent of respondents stated that their trust towards the judiciary to treat rape victims fairly is little or non-existent.<sup>29</sup>

### SERVICES FOR VICTIMS OF VIOLENCE (ARTS 2, 3, 5)

The National Plan to Reduce Violence against Women (2010-2015) was not allocated a budget and measures aiming at improving the services for women victims of violence have not been carried out.<sup>30</sup> There are no walk-in centres that would provide assistance for all women victims of violence and the specialized services for rape victims are very limited and run mainly by NGOs and funded on a project basis.<sup>31</sup> The number of shelter places remains inadequate and has decreased in 2013 when two shelters were shut down while only one new shelter has opened.<sup>32</sup> Most of the shelters are run by non-profit associations.

Services for victims of violence have been under a public discussion in 2013 when the government set up a working group to prepare a draft government proposal to ratify the Istanbul Convention signed in 2011. Amnesty International welcomes the fact that Finland is in the process of ratifying the Convention but the government proposal fails to address key requirements of the Convention. The government proposal does not introduce any concrete measures on how to extend the service system for victims of violence, e.g. by establishing “one-stop” walk-in centres and a 24/7 telephone hotline for victims, and does not guarantee sufficient allocation of funds to existing services for victims of violence. The government proposal also does not introduce any concrete measures of how to establish a co-ordinating body for the work against violence against women, as required by the Istanbul Convention (article 10).<sup>33</sup>

In December 2013, the government announced that from 2015 onwards shelters would be funded directly from the state budget, but it remains unclear how this decision will be implemented in practice and how it will affect the total funding of the services for victims of violence.<sup>34</sup> Also, the Parliament obliged the government to allocate sufficient funding for the ratification of the Istanbul Convention in the frame budget for 2015-2018 and 300 000€ were added for the development of 24/7 phone services for the 2014 budget.<sup>35</sup>

Despite these positive developments,<sup>36</sup> Amnesty International remains concerned about the lack of services for women victims of violence, as well as fulfilling the aforementioned other obligations of the Istanbul Convention.

## RECOMMENDATIONS

### **Amnesty International recommends that Finland:**

- Collect data and conduct regular “post mortem” investigations of domestic violence related killings;
- Set up and adequately fund a concrete action plan to prevent the murder of women by their male partners, which should take into account all forms of violence in the family likely to escalate into killing;
- Cease reliance on conciliation and mediation in cases of intimate partner and domestic violence;
- Adopt a definition of rape in the criminal law which protects women’s enjoyment of the international human rights principles of sexual integrity and autonomy;
- Define rape and other forms of sexual violence as sexual conduct in which the agreement of the victim involved is not truly and freely given or given without coercion of any kind;
- Ensure that all legal procedures in cases involving crimes of sexual violence are impartial and fair, and that presenting previous sexual history and other forms of irrelevant evidence in court, which acts to degrade and insult victims, is not allowed;
- Establish an independent monitoring mechanism to systematically analyze all sexual violence investigations that are closed before coming to trial, and to report on the reasons;
- Take preventive and effective measures against sexual violence and to eliminate gender-based prejudices and practices that constitute a barrier to women’s reporting of sexual violence;
- Provide adequate funding to The National Plan to Reduce Violence against Women;
- Establish a co-ordinating body to work on violence against women and ensure it has an appropriate budget, seniority of staff to co-ordinate, implement, monitor and evaluate policies and collect all the needed statistical information;<sup>37</sup>
- Open “one-stop” walk-in centres that provide protection and assistance to all women victims of violence, including paperless and migrant women, women with disabilities and women who belong to gender and sexual or other minorities;
- Improve access to and increase the number of shelter places.

# TRAFFICKING FOR THE PURPOSE OF SEXUAL EXPLOITATION (QUESTIONS 14-16 LIST OF ISSUES)

## ARTS 2, 3, 6

Despite some positive developments, including the identification of a growing number of trafficking victims by the authorities<sup>38</sup>, women who have been trafficked into sexual exploitation are often still not recognized as such and are not provided with adequate protection and assistance. Women who are victims of sex trafficking are instead treated as witnesses in cases concerning the facilitation or provision of a sex worker to a customer. By being defined only as witnesses, such women are not advised of their right to legal assistance. This is at least in part due to the fact that the definitions of trafficking and aggravated pandering/procuring overlap in the Penal Code.<sup>39</sup> This has been recognized by the authorities and the Penal Code is being modified at the moment.

The Finnish National Rapporteur on Trafficking as well as the Parliament has called for a specific Act to be passed on the system of victim assistance in order to reinforce the legal protection of trafficking victims and a working group has been appointed to prepare the Act. The working method of the group has however been seriously criticized for being insufficient; as a result, the National Rapporteur left the working group in spring 2013.<sup>40</sup> The working group published a report in November 2013<sup>41</sup> but the drafting of a new Act will continue in 2014.

Amnesty International acknowledges the initiative of the Ministry of Justice to commission a report assessing the current prohibition of purchase of sexual services.<sup>42</sup> Among other issues more information is needed on the discriminatory section of the Aliens Act (para.148.1.6),<sup>43</sup> which is also mentioned in the report. This section of the Aliens Act provides that if there are reasonable grounds to suspect that a person may sell sexual services, she can be removed from the country and/or banned from re-entering it. According to the report commissioned by the Ministry of Justice, 131 persons were removed from the country between January 2011 and April 2013.<sup>44</sup>

A study published by the National Research Institute of Legal Policy (2003)<sup>45</sup> stated that the provision has increased the influence of procurers and undermined the position of women in prostitution. Procurers benefit from a situation where women involved in prostitution, including women who have been trafficked into sexual exploitation, are unable or too afraid to report exploitation as they fear deportation. More recently the National Rapporteur on Trafficking<sup>46</sup> has expressed her concern on that Finnish authorities might not always investigate the possibility of human trafficking in an adequate way before removing third country nationals based on the aforementioned provision of the Aliens Act.<sup>47</sup>

Amnesty International is disappointed that the report commissioned by the Ministry of Justice does not go far enough in suggesting any change to this discriminatory provision, but

instead recommends that the purchase of sexual services should be prohibited entirely.

## RECOMMENDATIONS

### **Amnesty International recommends that Finland:**

- Finalize the Act on the system of victim assistance and secure the rights of trafficking victims to support regardless of their willingness to cooperate with law enforcement officials.
- Carefully assess the effects of the Aliens Act paragraph 148.1(6) on the human rights of victims of trafficking and sex workers;
- Engage with sex workers in order to assess their human rights situation and to develop alternative measures to improve the situation of sex workers and prevent trafficking of human beings.

# HEALTH-FORCED REMOVALS (QUESTION 20

## LIST OF ISSUES)

### ARTS 2, 3, 12

Amnesty International is concerned that no regular medical assessment is carried out on foreign nationals who are to be forcibly removed from Finland before their removal.<sup>48</sup> This group of people may include women asylum seekers whose asylum application has been rejected and women deported based on a suspicion that they sell or have sold sexual services (Aliens Act 148.1). This serious omission may result in that the special needs of women or those with particular vulnerabilities – such as pregnancy – may not be properly identified, or identified at all, before a removal takes place. A further serious omission consists in the failure to carry out medical assessment on those individuals whose enforced removal from Finland failed.<sup>49</sup> Amnesty International considers that such assessments would be vital in order to detect whether any excessive force, including amounting to ill-treatment, may have been used during failed enforced removals and to ensure that they be medically documented when possible.

## RECOMMENDATIONS

### **Amnesty International recommends that Finland:**

- Ensure that all persons who are to be forcibly removed receive a full medical assessment.

# ENDNOTES

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<sup>1</sup> Amnesty International refers to trans, or trans people as individuals whose gender expression and/or gender identity differs from conventional expectations based on the physical sex they were assigned at birth. Trans is a political umbrella term that is used to describe a wide range of identities, experiences, and people whose appearance seem to conflict with the binary gender norms of society, including transsexuals, trans, transvestite, gender queers, cross dressers, drag queens, drag kings, and many more. Intersex individuals possess genital, chromosomal or hormonal characteristics which do not correspond to the given standard for 'male' or 'female' categories as for sexual or reproductive anatomy. Intersexuality may take different forms and cover a wide range of conditions. Amnesty International refers to gender identity as each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, or with the way they are made to express their gender, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms. An individual's gender identity may be male, female, or a gender which is neither male nor female; it may also be more than one gender, or no gender. When reporting experiences of trans individuals, Amnesty International refers to the specific identity each person prefers to be identified with. For instance in the context of the research on legal gender recognition in Finland, some trans individuals have explicitly indicated that they identified themselves as either man or woman with a trans past or as masculine or feminine gender queers.

<sup>2</sup> K. Alanko, "How are young LGBTI people doing in Finland? Seta and the Finnish Youth Research 2013", available at <http://www.nuorisotutkimusseura.fi/how-are-young-lgbtqi-people-doing-in-finland-abstract>, accessed 15 November 2013.

<sup>3</sup> EU Fundamental Rights Agency LGBT Survey (May 2013), available at <http://fra.europa.eu/en/publication/2013/eu-lgbt-survey-european-union-lesbian-gay-bisexual-and-trans-survey-results>, accessed 13 January 2014.

<sup>4</sup> Replies of Finland to the list of issues and questions in relation to the seventh periodic report, Committee on the Elimination of All Forms of Discrimination against Women (CEDAW/C/FIN/Q/7/Add.1), November 2013, para 4.

<sup>5</sup> Amnesty International is carrying out a research project on legal gender recognition for trans individuals in Europe to be published in February 2014. This submission is based on the research conducted in Finland as a part of the ongoing research project.

<sup>6</sup> Unofficial English translation of the Trans Act available at <http://www.finlex.fi/en/laki/kaannokset/2002/en20020563>, accessed 11 November 2013. Further details on the requirements to access legal gender recognition are spelled out in the Decree 1053/2002 of the Ministry of Social Affairs and Health on the organization of the examination and treatment aiming at the change of gender as well as on the medical statement for the confirmation of the gender of a transsexual. Unofficial English translation of the Decree available at [www.trasek.net/wp-](http://www.trasek.net/wp-)

content/uploads/2011/03/TransDecree2003.pdf , accessed 11 November 2013.

<sup>7</sup> According to the International Statistical Classification of Diseases and Related Health Problems (ICD 10), transsexualism (F64.0) is defined as "A desire to live and be accepted as a member of the opposite sex, usually accompanied by a sense of discomfort with, or inappropriateness of, one's anatomic sex, and a wish to have surgery and hormonal treatment to make one's body as congruent as possible with one's preferred sex". <http://apps.who.int/classifications/icd10/browse/2010/en#/F60> (accessed 15 November 2013).

<sup>8</sup> Interview with Hanna Hintsala (do we have her position?) at the Helsinki Trans Unit, 5 November 2013.

<sup>9</sup> Amnesty International, Gender legal recognition in Finland, Submission to the Working Group tasked to propose a new draft law (Index: EUR 20/003/2013), available at <http://www.amnesty.org/en/library/info/EUR20/003/2013/en>. This Working group was set up by the minister of Social Affairs and Health to propose a new draft law on legal gender recognition by the end of September 2014.

<sup>10</sup> Based on the International Statistical Classification of Diseases and Related Health Problems, other diagnosis could include dual role transvestism (F64.1), gender identity disorders of childhood (F64.2), other gender identity disorders (F64.8), gender identity disorders, unspecified (F64.9)

<sup>11</sup> Report of the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/22/53), February 2013, para.88.

<sup>12</sup> Under Finnish law only different sex partners can marry (Section 1.1, Marriage Act, 234/1929) while civil partnerships are exclusively accessible by same sex partners (Section 1, Act of Civil Partnerships, 950/2001)

<sup>13</sup> Thomas Hammarberg, Council of Europe Commissioner for Human Rights, Human Rights and Gender Identity (CommDH/IssuePaper(2009)2), 29 July 2009, available at <https://wcd.coe.int/ViewDoc.jsp?id=1476365>, accessed January 2014, para 3.2.2.

<sup>14</sup> Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to Finland, from 11 to 13 June 2012, available at <https://wcd.coe.int/ViewDoc.jsp?id=1977837>, accessed January 2014

<sup>15</sup> The Yogyakarta Principles, Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, Principle 3 on the right to recognition before law.

<sup>16</sup> Information received from Statistics Finland 09/2013.

<sup>17</sup> Violence in Close Relationships – Results of National Crime Victim Survey 2012. In Finnish only: [http://www.optula.om.fi/material/attachments/optula/julkaisut/verkkokatsauksia-sarja/DzIYwy7b/parisuhdevakivalta\\_34.pdf](http://www.optula.om.fi/material/attachments/optula/julkaisut/verkkokatsauksia-sarja/DzIYwy7b/parisuhdevakivalta_34.pdf) (Accessed 8 January 2014)

<sup>18</sup> The National Plan to Reduce Violence against Women (2010-2015), p. 17.

<sup>19</sup> The number of domestic violence cases referred to mediation: 1058 cases in 2010, 1929 cases in 2011 and 2070 cases in 2012. In 2012 domestic violence cases amounted to 17 per cent of all the cases referred to mediation. Mediation in Criminal Cases 2012, available at [http://www.thl.fi/fi\\_FI/web/fi/tilastot/aiheittain/aikuisten\\_sosiaalipalvelut/rikossovittelu](http://www.thl.fi/fi_FI/web/fi/tilastot/aiheittain/aikuisten_sosiaalipalvelut/rikossovittelu) (Accessed 24 January 2013)

<sup>20</sup> According to research report 252 published by the National Research Institute of Legal Policy there are different practices between prosecutors even within same city. See: Honkatukia Päivi, Research report 252, Victims in the Criminal Process. Vulnerability, Services and Treatment. Summary: <http://www.optula.om.fi/en/Etusivu/Julkaisut/Tutkimuksiasarja/1290610276900> (accessed 28 May 2013).

<sup>21</sup> The Committee on the Elimination of Discrimination against Women also expressed its concern about the wide use of mediation in partner violence and domestic violence in its follow up letter to the government of Finland on 25 August 2010, see <http://www2.ohchr.org/english/bodies/cedaw/docs/followup/Finland.pdf>,

<sup>22</sup> Penal Code, 24.7.1998/563, Chapter 20, unofficial translation <http://www.finlex.fi/fi/laki/ajantasa/1889/18890039001#L20> (accessed 7 January 2014)

<sup>23</sup> Oikeusministeriö: Hallituksen esitys Eduskunnalle Rikoslain 20 luvun muuttamisesta, in Finnish only [http://oikeusministerio.fi/material/attachments/om/valmisteilla/lakihankkeet/rikosoikeus/611f7mvxH/HE\\_luonnos\\_20130711085613.pdf](http://oikeusministerio.fi/material/attachments/om/valmisteilla/lakihankkeet/rikosoikeus/611f7mvxH/HE_luonnos_20130711085613.pdf) (accessed 7 January 2014)

<sup>24</sup> According to the current law some acts of sexual violence are not automatically investigated by the authorities, but only if so requested by the victim. The draft bill creates an obligation for the authorities to investigate all cases of sexual violence. However, sexual harassment would be made a complainant offence. In addition the problematic “free will” section (Chapter 20, Section 12) that enables the prosecutor to waive criminal proceedings if the victim objects to them of her own “free will” and if there’s no significant public or private interest that requires charges to be pressed, is abolished from the Criminal Code.

<sup>25</sup> Chapter 20, Section 1:2 (Rape): “Also a person who, by taking advantage of the fact that another person, due to unconsciousness, illness, disability, state of fear or other state of helplessness, is unable to formulate or express his or her will, has sexual intercourse with him or her, shall be sentenced for rape.” Chapter 20, Section 5:1:1 (Sexual abuse): “A person who abuses his or her position and entices one of the following into sexual intercourse or another sexual act essentially violating his or her right of sexual self-determination, or into submission to such an act, (3) a patient in a hospital or other institution whose capacity to defend himself or herself or to formulate or express his or her will or is essentially impaired owing to illness, handicap or other infirmity, or (4) a person who is especially dependent on the offender, where the offender blatantly takes advantage of this dependence, shall be sentenced for sexual abuse.” Italicization added in the draft bill, otherwise as in the Penal Code, 24.7.1998/563, Chapter 20 <http://www.finlex.fi/fi/laki/ajantasa/1889/18890039001#L20> (accessed 7 January 2014).

<sup>26</sup> Amnesty International, Case Closed: Rape and Human Rights in the Nordic Countries: Summary report (Index: ACT 77/001/2010), 8 March 2010, available at <http://www.amnesty.org/en/library/info/ACT77/001/2010/en>.

<sup>27</sup> Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), Article 54:

“Parties shall take the necessary legislative or other measures to ensure that, in any civil or criminal proceedings, evidence relating to the sexual history and conduct of the victim shall be permitted only when it is relevant and necessary.”

<sup>28</sup> Helena Jokila, Consent against One s Will and the Price of Undue Trust. The Legal Constructions of

Knowledge in Finnish Sexual Crimes, 2010. <https://helda.helsinki.fi/handle/10138/18334> (Accessed 8th January 2014)

<sup>29</sup> Amnesty International and University of Lapland (2010): Study on the attitudes of Finnish people towards sexual violence. In Finnish only: <http://www.amnesty.fi/raportit/asenne-esiin-mielipidekysely> (Accessed January 9 2014)

<sup>30</sup> The temporary Report of the Government's Equality Plan 2012-2015. In Finnish: [http://www.stm.fi/c/document\\_library/get\\_file?folderId=6511574&name=DLFE-28150.pdf](http://www.stm.fi/c/document_library/get_file?folderId=6511574&name=DLFE-28150.pdf) (Accessed 9 January 2014)

<sup>31</sup> Rape Crisis Center Tukinainen has 2 offices, in Helsinki and Jyväskylä. Webpage: <http://www.tukinainen.fi/english/>. In addition the Settlement Movement is conducting a project (2012-2015) to develop the protection and assistance of sexual violence victims in Tampere. Webpage in Finnish. <http://www.naapuri.fi/tyomuodot/valita-hanke/>

<sup>32</sup> The shelters were closed down in Espoo and Pori and opened in Mikkeli.

<sup>33</sup> Report of the Working Group on the Ministry of Foreign Affairs webpage, in Finnish only: <http://formin.finland.fi/public/default.aspx?contentid=274283&contentlan=1&culture=fi-FI> (accessed 7 January 2014)

<sup>34</sup> The Ministry of Social Affairs and Health is preparing a law proposal by the end of February 2014. In a news article published by the Finnish Broadcasting Company a representative of the Ministry of Social Affairs and Health says that it might be realistic to increase the amount of shelter places to 250 in the near future. In Finnish only: [http://yle.fi/uutiset/turvakotien\\_tilannetta\\_helpotetaan\\_uudella\\_lailla\\_-\\_rahoitus\\_siirtymassa\\_valtiolle/7004584?ref=leiki-uu](http://yle.fi/uutiset/turvakotien_tilannetta_helpotetaan_uudella_lailla_-_rahoitus_siirtymassa_valtiolle/7004584?ref=leiki-uu) (Accessed 9 January 2014)

<sup>35</sup> Valtiovarainvaliokunnan mietintö, in Finnish only <http://web.eduskunta.fi/dman/Document.phx?documentId=ik35013101515363&cmd=download>, page 89 (Accessed January 9 2014).

<sup>36</sup> See also: Replies of Finland to the List of Issues, para 94: Ministry of Social Affairs and Health introduced a project to draw up a plan for a nationwide shelter network by the beginning of 2015.

<sup>37</sup> Recently a co-ordinating body was established for anti-trafficking work (as required by the CoE Trafficking Convention) that could serve as a model for a co-ordinating body for VAW.

<sup>38</sup> By 12/2012, approx. 100 victims were referred to the system of victim assistance. Press release of the Finnish National Rapporteur on Trafficking on Dec 5th 2012 "Despite positive development trafficking victims are not identified in Finland" [http://vahemmistovaltuutettu.fi/fi/ihmiskauppa/1/1/tiedote\\_positiivisesta\\_kehityksesta\\_huolimatta\\_ihmiskaupaa\\_ei\\_tunnisteta\\_riittavasti\\_suomessa](http://vahemmistovaltuutettu.fi/fi/ihmiskauppa/1/1/tiedote_positiivisesta_kehityksesta_huolimatta_ihmiskaupaa_ei_tunnisteta_riittavasti_suomessa) (Accessed January 13 2014).

<sup>39</sup> Penal Code, 24.7.1998/563, Chapter 20 and 25, unofficial translation <http://www.finlex.fi/fi/laki/kaannokset/1889/en18890039.pdf> (accessed 24 January 2014).

<sup>40</sup> Press release of the Finnish National Rapporteur on Trafficking on April 17th 2013: [http://vahemmistovaltuutettu.fi/fi/ihmiskauppa/1/1/kansallinen\\_ihmiskaupparaportointi\\_jattayty\\_pois\\_ihmiskauppalahankkeesta](http://vahemmistovaltuutettu.fi/fi/ihmiskauppa/1/1/kansallinen_ihmiskaupparaportointi_jattayty_pois_ihmiskauppalahankkeesta) (Accessed January 13 2014).

<sup>41</sup> In Finnish only, see <http://www.intermin.fi/julkaisu/322013>.



<sup>42</sup> Replies of Finland to the List of Issues, para 97-99.

<sup>43</sup> Unofficial English translation of the Finnish Aliens Act [www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (Accessed January 8 2014)

<sup>44</sup> Report commissioned by the Ministry of Justice to assess the current prohibition on the purchase of sexual services, [http://oikeusministerio.fi/fi/index/julkaisut/julkaisuarkisto/1378203764840/Files/OMSO\\_39\\_2013\\_Seksikaupan\\_kohteen\\_hyvaksikaytto.pdf](http://oikeusministerio.fi/fi/index/julkaisut/julkaisuarkisto/1378203764840/Files/OMSO_39_2013_Seksikaupan_kohteen_hyvaksikaytto.pdf) (only in Finnish)

<sup>45</sup> Lehti, Martti and Aromaa, Kauko: Naiskauppa, laitton siirtolaisuus ja Suomi: Nykytilanne, lainsäädäntö ja tutkimuslähteet (Trade in women, illegal immigration and Finland: Current Situation, legislation and research sources.) Publications of the National Research Institute on Legal Policy 186/2003.

<sup>46</sup> As the National Rapporteur on Trafficking in Human Beings, the Ombudsman for Minorities monitors instances of human trafficking, oversees action against human trafficking and issues proposals, recommendations, statements and advice relevant to developing anti-trafficking work and promoting the status and rights of victims of human trafficking. The Ombudsman provides legal advice and can also assist victims of trafficking and related crimes in securing their rights.

<sup>47</sup> 2011 Report of the Finnish National Rapporteur on Trafficking in Human Beings, available in English at [http://www.vahemmistovaltuutettu.fi/intermin/vvt/home.nsf/files/lhmiskaupparaportti\\_englanti/\\$file/lhmiskaupparaportti\\_englanti.pdf](http://www.vahemmistovaltuutettu.fi/intermin/vvt/home.nsf/files/lhmiskaupparaportti_englanti/$file/lhmiskaupparaportti_englanti.pdf) (Accessed 18 November 2011).

<sup>48</sup> See European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), CPT Standards, CPT/Inf/E (2002) 1 - Rev. 2011, para. 39, page 80.

<sup>49</sup> See European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), CPT Standards, CPT/Inf/E (2002) 1 - Rev. 2011, para. 39, page 80.

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