

Abilis Foundation  
Siemenpuu Foundation  
The Finnish NGO Foundation for Human Rights KIOS

International seminar:  
**MINORITY AND INDIGENOUS PEOPLES' RIGHTS**

Seminar Publication 2011

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## Foreword

Abilis Foundation, The Finnish NGO Foundation for Human Rights KIOS and Siemenpuu Foundation organized an international seminar *Minority and Indigenous Peoples' Rights* 4–5 October 2011 in Helsinki. This was the first time when the three NGO foundations organized a seminar as a joint effort.

The main goals of the seminar were:

- Increasing awareness of the persons working with development cooperation and persons who are interested in development cooperation on the significant inter-relationship between minority and indigenous peoples' rights and development and increased cooperation to reach this goal.
- Identifying and breaking down discriminating structures that cause the discrimination of minorities and indigenous peoples.

There were also five objectives:

- Increasing discussion about the interconnections between the fulfilment of minority and indigenous peoples' rights and the achievement of development and how these support each other.
- Increasing awareness of the partners from the developing countries about minority and indigenous peoples' rights in Finland.
- Strengthening of the South-South and North-South cooperation.
- Increasing of the recognisability of the work of the organizing foundations.
- Strengthening of the cooperation between the organizing foundations.

This publication summarizes the opinions, facts and visions expressed during the seminar. The brief summaries of the presentations of the seminar are based on notes and they highlight only the main points of the presentations.

The key questions of the seminar were:

- ❖ What are the discriminating structures violating the rights of the minorities and indigenous peoples?
- ❖ How can we change these discriminating structures?

# 1. Organizers of the seminar

The three NGO foundations organizing the seminar receive financial support for their activities from the Ministry for Foreign Affairs of Finland. They all have a commitment to support NGOs and civil society in developing countries and they collaborate in several issues.

## **ABILIS**

Abilis Foundation is a development fund, founded by people with disabilities in Finland in 1998. Its mandate is to support the activities leading to the empowerment of disabled persons in the Global South. Abilis supports activities that contribute toward equal opportunities for disabled people in society through human rights, independent living, and economic self-sufficiency. Special priority is given to projects on advocating for human rights of disabled people and to activities developed and implemented by disabled women.

Abilis gives small grants ranging from 500 to 10 000 Euros to projects initiated by disabled persons. Abilis supports organizations that are run by persons who have a disability, be it related to mobility, vision, hearing or any other type of disability. Abilis also supports organisations that are run by parents of children with disabilities.

## **KIOS**

The Finnish NGO Foundation for Human Rights KIOS is a consortium of eleven Finnish organisations working for human rights and development issues. KIOS was founded in 1998 to fund projects promoting human rights and development for democracy. KIOS is an independent, non-political, non-religious and non-governmental foundation.

Founding organisations are:

- Amnesty International Finnish Section
- Committee of 100 in Finland
- Finn Church Aid
- Finnish Disabled People's International Development Association (FIDIDA)
- Finnish League for Human Rights
- Finnish Peace Committee
- Finnish Refugee Council
- UN Association of Finland
- Service Centre for Development Cooperation (KEPA)
- Finnish National Committee for UNICEF
- The National Committee for UN Women in Finland.

KIOS promotes the realisation of human rights in developing countries as they are defined in the human rights treaties and instruments of the United Nations and the Council of Europe and in other correspondent regional human rights instruments. To advance this mission KIOS funds human rights projects organized by NGOs in developing countries.

According to KIOS's new strategy, it mostly supports projects in its twelve focus areas and countries in Africa and Asia.

### **Siemenpuu**

Siemenpuu Foundation was founded in 1998 by fifteen Finnish non-governmental organisations working in the areas of environment and development:

- Bird Life Finland
- The Swallows of Finland
- Service Centre for Development Cooperation
- The Finnish Nature League
- WWF Finland
- Friends of the Earth Finland
- The Finnish Association for Nature Conservation
- Tinku Finland
- The Finnish Association for Environmental Education
- Technology for Life
- The New Wind Association
- The Green Cultural Association
- The Coalition for Environment and Development.

Siemenpuu supports civil societies in developing countries to address a multitude of environmental themes. Siemenpuu channels its support to the civil societies in the South mainly through its cooperation programmes in:

- Indonesia
- India (NAA, Tamil Nadu, SADED)
- Latin America
- Mali
- Mekong region.

The projects supported are designed and executed by the grassroots organisations in the South. The projects are enhancing ecological democracy and nature conservation or preventing environmental threats. Along with the environment, the human rights, social justice and cultural diversity are regarded.

## 2. Summary of the seminar

### 2.1. Structure of the seminar

This international two days seminar consisted of presentations, workshops, panel discussion and cocktail party. The seminar was separated into four sessions.

Day 1:

- Opening session with keynote speakers on Finnish and UN mechanisms on the rights of minority and indigenous people
- Multiple discrimination

Day 2:

- Discriminating structures in politics, law and culture
- Workshop sessions on four main issues as the following:
  - How to overcome multiple discrimination?
  - Displacement and discrimination caused by development
  - How to reach equal rights and opportunities for people with disabilities?
  - Lesbian, gay, bisexual and transgender people and discriminating structures in society

The seminar was held in English and participation in the seminar was free of charge. The seminar was funded by the Ministry of Foreign Affairs of Finland.

### 2.2. Facilitators and participants of the seminar

Facilitators of the seminar included experts in human rights and ecological democracy representing NGOs from Bangladesh, Brazil, Burundi, India, Indonesia, Kenya, Kyrgyzstan, Nepal, Rwanda, Somalia, Tanzania, Tibet and Uruguay, and from Finnish and international institutions.

- Ms Anima Pushpa Toppo, India
- Ms Sonia Guajajara, Brazil
- Mr Nanang Sujana, Indonesia
- Ms Tenzin Dhardon Sharling, Tibet
- Mr Elphas Naivasha Njeru, Kenya
- Mr Adilur Rahman Khan, Bangladesh
- Mr Zephyrin Kalimba, Rwanda
- Ms Tika Dewi Dahal, Nepal
- Ms Jannatul Ferdous, Bangladesh
- Mr Josephat Torner, Tanzania

- H.E. Mr Vital Bambanze, Burundi
- Ms Batulo Essak, Somalia/Finland
- Ms Gulmira Kazakunova, Kyrgyzstan
- Mr Pablo Martinez, Uruguay
- Ms Eva Biaudet, Finland
- Mr Matti Lahtinen, Finland
- Ms Kristiina Kouros, Finland
- Mr Kalle Könkkölä, Finland

The facilitators of the seminar offered valuable insights to African, Asian and Latin American realities. Topics under discussion included the implications of multiple discrimination, the promotion of the rights of the sexual minorities, women's rights and roles in promotion and preservation of minority cultures, the cultural structures discriminating disabled people, and the methods to fight against the displacement of indigenous peoples.

This international two days seminar gathered together approximately two hundred people which was also stated to be the goal of the seminar. The list of participants included representatives of environmental, human rights and disabled people's organisations, students, civil society and media representatives and other interested individuals to share ideas, experiences and best practices. The total sum of preregistered persons was for Wednesday 212 and for Tuesday 211. Simultaneously, at the seminar venue hall there were approximately 130-180 person audience.

The four workshop sessions that were held during the second day of the seminar gathered around 130 participants. The workshop that concentrated on the interconnections between displacement and discrimination gathered most audience of the four workshops. This session had over fifty participants. The workshop on multiple discrimination gathered a little over thirty participants. The workshop that concentrated on the question what we can do to get equal rights to LGBT people gathered over twenty persons. Half of them were foreign students, who mainly study at the universities of applied sciences. How to reach equal rights and opportunities for people with disabilities was the question that the fourth group, formed of 35 people, discussed.

Approximately, fifty persons of the seminar participants were students. Many of them were foreign exchange students that are studying in Helsinki. This high number of students was truly a pleasant surprise for the organisers. Seminar was being advertised as a possible component to be regarded as part of the university course in Aalto University as well as two universities of applied sciences.

### 2.3. Feedback and reaching of objectives

The discussion and debate were vivid and a rich variety of opinions and best practices were exchanged during the presentations, panel discussion, workshops sessions and coffee breaks. The seminar provided networking opportunities for NGO representatives, government officials, researchers, students, other professionals of nature conservation, human rights and development and everyone interested in development cooperation.



Most speakers seemed to agree on the notion that unified voice is better tool than many separate voices when fighting against discrimination, and that the civil society, states and regional and international systems all have an important role to play in advancing and promoting non-discrimination. Cooperation and solidarity are the best ways of bringing about change.

One key objective was to boost discussion between the actors of the developing countries' civil societies and between the actors of the North and South and to think of new possible ways of cooperation. Aim of the seminar was to enhance debate between the actors of the developing countries and Finland about the interconnections between the fulfilment of minority and indigenous peoples' rights and the reaching of true development and how these support each other. Enhancing the cooperation between the different actors to reach more equitable ways of participation and take part in decision making processes was also one key objective of the seminar. The objectives were considered to be reached because the seminar and the related visits raised conversation, networking and sharing of experiences, information and know-how. The event was a fruitful networking opportunity for the representatives of different organisations and promoted North-North, North-South and South-South cooperation. The seminar also strengthened the cooperation between the three organizing sister foundations.

In addition to the seminar days there were some additional visits and other programme organized for the foreign facilitators of the seminar. There was for example a visit to the Human rights unit of the Ministry of Foreign Affairs of Finland. Objective was to increase awareness of the partners from the developing countries about minority and indigenous peoples' rights in Finland that they could reflect the situation in their country with the new information gained from Finland. Mr Josephat Torner, Mr Nanang Sujana, Ms Tenzin Dhardon Sharling, Ms Tika Dahal, Mr Elphas Naivasha Njeru, Mr Pablo Martinez, Ms Jannatul Ferdous and H.E. Mr Vital Bambanze were being interviewed by one or more reporters.

In general the feedback of the seminar was very positive. According to the persons who had filled the feedback forms, the seminar had met their expectations. The theme of the seminar was considered to be fruitful but because the framework was so wide it was sometimes hard to go deep into the topic during the discussions. There were different opinions whether it was interesting to hear about case study examples or about more general and theoretical reflections. Some liked the fact that the seminar programme was a combination of examples from Finland and from developing countries while some hoped that the focus could have been more on developing countries. Many of the speeches were considered to be fruitful, subjective, touching, brave and interesting.

Seminar brought together not just persons who were labelled as representatives of minorities because of ethnicity or culture fighting for their rights but also other actors who share the same common struggle, for example representatives of sexual minorities and persons with disabilities. Many people felt that it was important that the foundations brought to the same table different perspectives about minority and indigenous people rights. Providing possibilities for networking and meeting of interesting people were considered to be important part of the seminar. The organizing of workshops, cocktail party and giving opportunity for discussion and presenting questions got positive feedback.

### **3. The main points of the presentations of the seminar in chronological order**

#### **3.1. Opening session**

##### **Chaired by Mr Kalle Könkkölä, Abilis Foundation**

Mr Kalle Könkkölä opened the seminar by focusing on the present situation and debate on minorities in Finland. He highlighted that the Finnish government has put effort on the rights of minority groups such as language and sexual minorities and immigrants. As far as people with disabilities are concerned; they are not classified as minorities in Finland.

Mr Könkkölä finalised his opening word by encouraging individuals to unite their voices in order to get stronger voice. He also pointed out that it is essential to share experience and ideas, learn from each others. In practice, this means that many discriminative structures are based on same elements and can be overcome with similar mechanisms.

##### **Opening Speech**

##### **Mr Matti Lahtinen, Ministry for Foreign Affairs of Finland, Unit for Non-Governmental Organizations, Finland**

Mr Matti Lahtinen concentrated on his speech on the question of multiple identities. He started by stating that people are constantly being labelled. We are giving ourselves labels but we are also labelled from the outside. We are labelled due to identities. Identity is however never a single, separate topic but it is linked to our relation to other people. There is a tendency to separate people to minorities and majorities based on these various labels. Being a member of a minority based on some character is not automatically a negative thing. The ideal situation is that people could be proud of being part of minority and not to be ashamed of being labelled as a member of minority.

The structures of society affect the way minorities are being treated. For example in Finland the school system used to be designed to teach all the children to be right-handed and it discriminated the children born as left-handed. When looking at the different minority labels it is relevant to pay attention to the differences behind those minority labels. Being a left-handed person is not considered to be discriminating or stereotyping like being labelled as a representative of religious minority, for example. Minority labels can lead to life threatening situations. Mr Lahtinen emphasized the search for alliances. Actors of civil society should pay attention on building alliances to fight against discrimination and making societies more inclusive.

Why do minorities and indigenous peoples need to be protected?

**Ms Kristiina Kouros, Finnish League for Human Rights, Finland**

Ms Kristiina Kouros raised essential questions, which formed the core of her speech: If human rights are for all, and they are guaranteed for all, is that not enough? Why do certain groups need special protection, such as minorities, indigenous peoples, people with disabilities, women, and children?

According to Ms Kouros there are several justifications for minority protection. Minorities need to be protected to ensure that a group which is in a vulnerable, disadvantaged or marginalized position in society is able to achieve equality and is protected from persecution. It is needed to guarantee minorities' physical and cultural existence. Minorities need to be protected to achieve equality and non-discrimination, but also to guarantee cultural diversity. Minority protection is also a fundamental precondition for democracy, and necessary to achieve full participation. It can be further argued that minority rights guarantees are needed to avoid conflicts and to maintain peace and harmony, since lack of these guarantees, exclusion and discrimination often are behind wars and conflicts.

Ms Kouros reminded of the focus of the seminar: discriminating societal structures which impede the realization of group rights and even threaten the groups' very existence. She noted that these structures, be they political, legal, social or cultural, are often mutually reinforcing, and thus rigid. They may be for a great part visible, but one needs to pay special attention to structures that are hidden, and thus more difficult to address.

Before sharing experiences of minority and indigenous peoples' rights protection in the Finnish League for Human Rights, Ms Kouros took a short look at the international law framework for minority and indigenous peoples' rights protection.

She emphasized that there is a clear conceptual difference between minority rights, which can be characterized as collective rights in the broad sense, and indigenous peoples' rights, which often are referred to as collective rights in the strict sense. Minority rights are guaranteed to individual members of minorities, such as racial, ethnic, religious, linguistic or e.g. sexual minorities, but they gain their meaning and can be exercised only in the context of the group.

Though initially, the United Nations treated indigenous peoples as a sub-category of minorities, there is today an expanding body of international law specifically devoted to them. Thus by indigenous peoples' rights we refer to those rights that exist in recognition of the specific condition of the indigenous peoples. This includes not only the most basic human rights of physical survival and integrity, but also the preservation of their land, language, religion and other elements of cultural heritage that are part of their existence as a people.

Ms Kouros also pointed out that defining a group whose members, or the group as such, are entitled to special protection is not always an easy task. One also needs to ask who has the power to make the definition/identification. Is it done from within the group or from outside? If it is done from within, what is the power structure in the group, are women heard on equal basis, for example?

Ms Kouros then made reference to the main specific instruments of minority and indigenous peoples protection at global level, namely the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, article 27 of the Covenant on Civil and Political Rights (CCPR), and European regional instruments (EC Framework Convention and EC Convention on minority languages) and OSCE Copenhagen Document of 1990, as far as minorities are concerned, and the UN Declaration of 2007 and International Labour Organisation (ILO) Convention No. 169 on indigenous peoples rights. Concerning the so called new minorities she mentioned especially the UN Convention on rights of persons with disabilities of 2006 and the Yogyakarta principles on LGBT rights.

Ms Kouros continued by short presentation of the work of the Finnish League for Human Rights. The League conducts research, produces publications, disseminates information, provides training and consulting, and does human rights advocacy work. Promoting equality and non-discrimination is one of FLHR's strategic priorities. As far as advocacy in general is concerned Ms Kouros made an important notion. She pointed out that the aim of this work is usually to influence majorities, but often we only address like-minded people. She also wished to draw attention to how the non-like-minded are being addressed, and asked for means to strengthen human rights advocacy work.

Lastly, Ms Kouros referred to several difficult questions related to minority and indigenous peoples' rights protection: Should people with disabilities be defined as a minority? What does it mean to preserve the traditional livelihoods? Are we talking about traditional or modern methods for example in the case of the Sami people? Why are we preserving herding tradition but not fishing or hunting? What about women's traditional livelihoods?

## Finnish policies for promoting minority rights

### **Ms Eva Biaudet, Ombudsman for Minorities in Finland, Member of Permanent Forum for Indigenous Issues, Finland**

Ms Eva Biaudet started her presentation by explaining shortly the duties of Ombudsman and the mandate. Ombudsman prevents ethnic discrimination, promotes good relations between ethnic groups, safeguards the right of ethnic minorities and foreigners, supervises the compliance with the principle of non-discrimination and serves as the national rapporteur on human trafficking. The mandate of the Ombudsman is wide and independent. Ombudsman supervises compliance with the Equality Act, reports and makes studies on the status of different ethnic groups, makes recommendations, public statements, gives opinions and promotes good relations, non-discrimination and fights racism and xenophobia. Ombudsman's office provides daily customer services. It handles complaints.

Ethnic agitation is a punishable offence under the Penal Code in Finland. That means that any person who makes public statements or other communication that threatens, insults or defames a national, racial, ethnic or religious group is guilty of a crime. This criminalisation is based on the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights.

Ms Biaudet briefly described the statistics of people living in Finland. It can be stated that Finland is a small but multicultural society. One interesting and worrying fact is that Finland has not ratified ILO 169.

Ms Biaudet concentrated in her speech on the indigenous people living in Finland - the Sámi people:

- There are about 9300 indigenous Sámi people living in Finland. More than half of them live outside their homeland region in the North.
- Actually the Sámi is one people living in four countries.
- The language is important for the Sámi people.
- In Finland there are three Sámi languages and the Sámi people have a right to services in their own language.
- The Sámi Parliament is a democratically elected body to deal with matters that is within Sámi cultural autonomy.
- The role of Sámi parliament is not to make their own laws.

The Finnish Constitution is very clear on issues related to the Sámi people. The Sámi have, as an indigenous people, as well as the Roma and other groups the right to preserve and develop their language and their culture. The right of the Sámi to use their language with authorities is defined in law. The Sámi people have, within their homeland region, autonomy over their language and culture, which is more specifically defined by law. There is an obligation to negotiate with the Sámi Parliament about all important matters or matters that have widespread consequences and that directly and specifically may have implications on the Sámi as an Indigenous People and their homeland regions in matters stated in law. In Finland there is no need to reach agreement as it is the case for example in Norway. Ms Biaudet stressed that the situation in Finland is not in line with the UNDRIP Free, Prior and Informed Consent principle.

The biggest challenge that the Sámi people is facing is the fact that the language needs much support. Other current challenges are issues like economy and self-determination, urbanization and the rights in practise and livelihoods in traditional regions and gender perspective in Sami self-governance. Environmental questions are also causing a lot of debate.

Ms Eva Biaudet listed the challenges of ombudsman's work:

- There is a need for more comprehensive mandate towards non-discrimination (e.g. the employment issues are not included).
- People who are in the weakest situation do not contact ombudsman – the most vulnerable ones are the most difficult to reach.
- New minorities bring challenges.
- People that are not documented are new phenomena and there are no structures for non-registered people.

Ms Eva Biaudet raised the issue how the majorities force the minorities for stereotypes. According to Ms Biaudet Finnish people have finally learnt that immigrants are not just one group but individuals. Mechanisms, institutions and structures are needed to secure the

human rights of every people. Ms Biaudet ended her speech by saying: "Every effort to support human rights and diversity strengthens your and my freedom to be who we are. "

## Keynote on the United Nations expert mechanism on the rights of indigenous peoples

### H.E. Mr Vital Bambanze, UNIPROBA, Burundi

#### H.E. Mr Vital Bambanze, Unissons-Nous Pour la Promotion des Batwa, UNIPROBA, Burundi

H.E. Mr Vital Bambanze is a founding member of an NGO for indigenous peoples called Unissons-Nous Pour la Promotion des Batwa (UNIPROBA). At the moment H.E. Mr Vital Bambanze is a member of the organizations Board of Directors. In 2010 he was elected as a member of the Senate of Burundi and in 2011 he became a member of the United Nations Expert Mechanism on the Rights of Indigenous peoples (EMRIP) and currently he is the chairperson of EMRIP. On top of this, he is the chairman of the Indigenous Peoples of Africa Coordinating Committee (IPACC).

UNIPROBA is an organization founded in 1999 with the focus on promoting the rights of the Batwa minority. It functions as an umbrella organization for Batwa organizations in Burundi. UNIBROBA seeks to enhance the status of the Batwa within the society in several ways; it does for instance awareness raising on matters such as land rights, education of children, healthcare, preservation of culture and gender equality. The organization also works to promote the Batwa participation in decision making processes. One of the targets of UNIPROBA is to make the Batwa to have access to local and national services such as schooling and healthcare by providing them with National Identity Cards. When registered officially the Batwa would have the possibility to vote and stand as candidates in elections.

The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) was founded by the Human Rights Council, the UN's main human rights body, in 2007 under Resolution 6/36 as a subsidiary body of the Council. It consists of five independent experts on the rights of the indigenous peoples. The EMRIP collaborates with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people.

According to the lecturer, official government reports on the indigenous peoples' rights are deficient. The role of the Special Rapporteur is to try to report the facts – the truth – at the grass root level. This role of producing alternative reports is important and more research on indigenous peoples' rights is needed. Too often, for example, the children of minorities belonging to indigenous peoples are excluded from education. Accurate research may also enable implementation of the best practices in regard to indigenous peoples' rights.

The indigenous people issue is important in the United Nations but it is also considered to be difficult. H.E. Mr Vital Bambanze called for more attention on the studying how for example the Millennium Development Goals have been reached when it comes to special groups like indigenous people.

The EMRIP also makes proposals to the Human Rights Council. The role of EMRIP can also be seen to act as a facilitator. The EMRIP works with the governments. Governments ought to respect people's perspectives and statements and address these issues. However, the ratification of agreements is not sufficient. People need to push more for the implementation of indigenous people's rights.

## 3.2. Session: Structures of multiple discrimination

**Chaired by Mr Ari Suutarla, Abilis Foundation**

**Women with disabilities and discriminating structures in Nepal**

**Ms Tika Dahal, Nepal Disabled Women Association, Nepal**

### **Ms Tika Dahal, Nepal Disabled Women Association, Nepal**

Ms Tika Dahal is the chair of Nepal Disabled Women Association (NDWA). She is also a member of the Abilis Review Board (ARB) of the National Federation of the Disabled (NFDN). Ms Tika Dahal and NDWA work actively to promote the rights and improve the education of women with disabilities. Women with different kinds of disabilities are taken into account in the organization's agenda. For instance, all the employees are able to communicate in sign language. Also Ms Tika Dahal uses sign language for communication though she is hearing.

NDWA promotes the empowerment of women with disabilities and aims at increasing awareness on the issues of women with disabilities. In order to eliminate discrimination against disabled women NDWA also seeks to improve the self-esteem and the economic status of the women.

The focus of the presentation was on current situation of the woman with disabilities in Nepal and the woman with disabilities movement in Nepal. Women with disabilities have been more victimized from sexual and other forms of extreme violence. Because of this there is a need to protect their human rights to live a free and dignified life. The family, society and the state itself are discriminatory towards disabled women.

Women with disabilities living in Nepal are facing multiple discrimination as a combination of gender, disability and poverty. Other issues relevant are caste ethnicity, HIV/AIDS and geographical circumstances.

The conceptual barriers are high. People's discriminating mindset, language and negative attitude need to be changed. Women with disabilities are treated as objects and as an unproductive and unskilled resource. Therefore girls and women with disabilities are seen something as not worth investing.

According to Nepal Disabled Women's research report from year 2007 women with disabilities are very often victims of violence:

- 80 % of disabled women had suffered from physical violence
- 50 % from sexual violence
- 60 % from domestic violence
- 30 % from verbal harassment.

Ms Tika Dahal argues that not only the family or society, but the existing legal framework are discriminatory. Women with disabilities are being deprived from opportunities, socially, politically and economically and their situation is generally insecure. In Nepal there is lack of mechanisms to promote or protect rights of WWDs.

Women with disabilities are discriminated within the women movement in Nepal. Women with disabilities and their issues have not been the priority agenda for global women movement either. Key challenges that would need to be addressed are poor reproductive health and poor health in general and the questions related to poor property rights. Ms Dahal argued that the issues related to women with disabilities enjoying dignified life are being neglected and this calls for a change.

## Albinism and the challenges of inclusion in Tanzania

### Mr Josephat Torner, ICD, Tanzania

#### Mr Josephat Torner, ICD, Tanzania

Mr Josephat Torner is a Tanzanian human rights activist speaking for the rights of the people with disabilities. Mr Torner is an albino himself and has sought to raise discussion about the status of albinos and the beliefs related to them. As part of this mission he climbed the Kilimanjaro, and his journey was followed and filmed by the BBC and turned into a documentary about to be published in the beginning of 2012.

The status of the albinos in Tanzania and widely in other parts of Africa as well is very difficult. People believe that the albinos are born because of a curse set upon a certain family. On the other hand, people also believe the albinos to possess supernatural powers; for instance potions with albino body parts as their ingredients are believed to make people rich. Because of these various prejudices and beliefs, the albinos are looked down upon and being killed and mutilated.

In Europe and America it is estimated that 1 in 20 000 people have some form of albinism. In Tanzania however, it is 5 times as common with 1 in 4 000 being affected. The issue is global; however the reality of living with albinism in Africa is still widely unknown.

Like so many children with albinism in Africa, Mr Josephat Torner's parents were advised to kill him when he was born. He was lucky to be left alive, but his childhood was very difficult. "Growing up in a community that stigmatized me meant I spent most of my young childhood feeling completely isolated", he said. Like so many children with albinism in Africa he felt worthless and alone. The stigmatization he experienced as a child has never stopped and today in Tanzania albinos are continuously judged by the colour of their skin. The stigma has been ingrained within society for many generations and throughout their lives they battle with prejudice, social exclusion and isolation. Albinos are seen as curse from God and they are believed to bring bad luck to the households they are born in to. In rural Tanzania there is a belief that people with albinism are not African, leaving those suffering from the condition with little sense of racial identity.

In recent times, the situation for people with albinism has become even worse. Since 2007, people with albinism have been brutally murdered because of ignorant and ridiculous claims by witch doctors that albino body parts can bring you good wealth. This superstitious belief has created a market for albino body parts and has led to the persecution, killing and hunting of more than 60 people with albinism in Tanzania. "We are being hunted in our own country; by people in our own communities; by our own neighbours, and in some cases by our own family members", says Mr Torner.



Over the last 4 years, as the attacks and killings have escalated in Tanzania Mr Torner has journeyed across the country to talk about the human rights of albinos and to confront the communities where the killings have taken place. Mr Torner raised the question how we can fight these beliefs. He strongly believes in direct education of communities about albinism and facing stigma front on. He argues that the special schools and refugee camps for albinos are not the answer. The answer is education. Education leads to understanding, compassion and community action, said Mr Josephat Torner.

Panel discussion: Women's role in the promotion of the rights of minorities and indigenous peoples

**Moderator: Ms Elina Multanen, UN Women Finland**

**Panelists: Ms Pushpa Toppo (India), Ms Gulmira Kazakunova (Kyrgyzstan), Ms Tenzin Dhardon Sharling (Tibet), Ms Jannatul Ferdous (Bangladesh)**

The moderator of the panel discussion Ms Elina Multanen started the session by introducing the UN mechanisms on women issues and the general features of the discrimination of women. After this Ms Multanen challenged the participants of the discussion to think what else is needed in addition to law and other documents to end discrimination.

**Ms Pushpa Toppo, Save the Forest Movement, India**

Ms Pushpa Toppo from the indigenous Adivasi community in India is an activist on forest protection issues with the Save the Forest Movement, Jharkhand. Ms Toppo is known to be a ferocious defender of the rights of the Adivasi women. She works to promote the sustainable use of forest which is based on the culture and traditions of the Adivasi people.

Save the Forest Movement (JJBA, Jharkhand Jungle Bachao Andolan) is an Adivasi led civil society organization. Its work is guided and implemented by the Adivasi themselves working for the wellbeing of their communities. Save the Forest Movement has become known as a civil society movement promoting forest protection. The hired coordinators are Adivasi people and the Adivasi represent the organization in larger coalitions. Save the Forest Movement is, for instance, a member of the National Adivasi Alliance (NAAlliance).

**Ms Pushpa Toppo** highlighted the close connections of nature and the Adivasi culture and how these tight connections influence the Adivasi women and their rights. The key focus of the presentation was on following issues:

- Adivasis consider that they have two mothers –their birth mother and the Mother Earth.
- Rights are given by birth: rights to land, forest and water.
- Forest Rights Act is important mechanism to be used in gaining land rights in India.
- Women have the right to play with children and take care of their homes and traditionally Adivasi women have been powerful members of the communities.
- Government does not respect the Adivasi tradition that the women as the main users of the land and its resources can be seen as “owners” of the land.
- Self-governance principle is vital for the Adivasis' in their struggle for existence.

- Nature provides everything to Adivasi people, but this relationship between nature and the Adivasi communities is being put into jeopardy.

**Ms Gulmira Kazakunova, Ravenstvo, Kyrgyzstan**

Ms Gulmira Kazakunova is a doctor and one of the leading figures of the movement of people with disabilities in Kyrgyzstan. She uses wheelchair and as a woman with a disability she has had to fight for a family and for a profession. At present Kazakunova is the head of a cross-disability organization called Ravenstvo which supports the people with disabilities in being active members of the society and promoting the rights of the people with disabilities.

Ms Kazakunova is also a facilitator for cooperation with Abilis in Kyrgyzstan. Through this mission she facilitates, trains, guides and keeps up with the projects planned and executed by disability organizations. Ms Kazakunova has wide knowledge of the situation of the people with disabilities, and the women in particular, in Kyrgyzstan. She is also actively involved with a disability network of Central-Asia. In the seminar she also represents the women with disabilities of Central-Asia as she is well-acquainted with the challenges they face.

**Ms Gulmira Kazakunova** stressed the importance of networking between leaders of the disabled people's organisations whether they are women or men. As a result of this networking and cooperation 21.9.2011 Kyrgyzstan signed the United Nation's Convention on the Rights of Persons with Disabilities (UNCRPD). However, her focus was on the rights of the women with disabilities that are violated constantly in Kyrgyzstan. Ms Kazakunova pointed out that women with disabilities are one of the most marginalized groups of people. There are many discriminating structures and practices that lead to the following facts:

- Women with disabilities cannot create a career and earn money.
- Women with disabilities are not given the possibility to start a family life, but they are considered to be immature and nonsexual creatures.
- Women with disabilities cannot decide whether to give birth to a baby or not. They are being pressured to have an abortion. Women with disabilities have also been forced to undergo forced sterilisation.
- Women with disabilities are considered by their family to be housekeepers or nannies that do not need to be paid.
- Women with disabilities are considered to be a sick person who needs constant care.
- Women with disabilities are in danger of suffering from physical and sexual violence and might be verbally abused by their families.
- The voice of the women with disabilities is not being addressed in women's programmes and women movement or in the actions of Kyrgyzstan government.

Despite all the problems women with disabilities are playing an important role in the promotion of equal rights and opportunities for all. Ms Kazakunova shared an example about a project funded by Abilis Foundation that was executed recently. The project was about training of health care personnel and officials working with health care sector questions. They and women with disabilities themselves were trained to change their conceptions about women with disabilities. This project was recognized widely in the society.

**Ms Tenzin Dhardon Sharling, Tibetan Women's Association, Tibet**

Ms Tenzin Dhardon Sharling is a Tibetan woman with academic education. She is currently living in India. She has been, for instance, responsible of tasks related to research and media in the Tibetan Women's Association and at the moment she represents the organization in various conferences. She has been a journalist for several newspapers and leading leadership trainings for women. In March 2011 she was the youngest candidate ever to be elected to the exiled parliament of Tibet.

Tibetan Women's Association, TWA, is a women's organization originally founded in Tibet in 1959 and again in India in 1984. Its main focuses are responding to the human rights violations against women in occupied Tibetan territory and informing on the incidents as well as promoting the political, social and economic status of exiled Tibetan women and promoting and treasuring the religion, culture, language and identity of Tibetans. TWA aims at reaching its goals by spreading information, training, campaigning, awareness raising and by giving social assistance.

TWA is the second largest NGO of exiled Tibetans. It has more than 15 000 members and 52 offices around the world including India, Nepal, Europe, Japan, USA and Canada. It holds offices in all the Tibetan exiled communities in India and a small central office in McLeod Ganji/Dharamshala in the State of Himachal Pradesh.

**Ms Tenzin Dhardon Sharling** started by stating that the majority forms governments at their essence, so the government can only do so much in protecting minority rights and affording equal opportunities to minorities. Language preservation is one of the key foundations to the preservation of minority cultures. Identity is tied up in language, and so are subtle values and "worldview." Furthermore, language is reflective of the culture. For example, in cultures that are very family-centric (Latino, Mexican, Chinese, Tibetan, Indian), there are words to describe everyone's role and relationship within a family (the title for a father's brother and a mother's brother will be different). However, in the English language, there is only one generic term for an aunt or an uncle. There is no distinction between the family members. Women, as mothers and caretakers, have the inherent responsibility of passing on their mother tongue to their children. Ms Tenzin Dhardon Sharling urged the participants of the workshop to keep in mind that we do not always expect the woman to play the caretaker role, but this is quite common among patriarchal societies. However, in minority cultures where the men are absent for some reason, like in the case of the Tibetan community in Dharamshala, many women have taken on traditionally male roles to keep their community running.

However, preservation does not mean isolation, as cultures have to account for globalization and the evolution and development of cultures. They cannot remain closed off from the world. What communities should strive for is integration, the hyphenation of cultures, that allowing the minority culture to work in tandem with the national one at large. This is not to say that minority cultures, or their majority counterparts, should force assimilation.

Women inside Tibet shoulder an important and unflinching role of nurturing the young generation of Tibetans who despite facing domination from Han Chinese for more than five decades have been successful in preserving and promoting Tibetan culture, language and religion. Women have the capacities to lead families and societies, argued Ms Tenzin Dhardon Sharling. She sees the role of the NGOs in the North to lobby government to promote the status of Tibetans.

**Ms Jannatul Ferdous, National Council of Disabled Women, Bangladesh**

Ms Jannatul Ferdous from Bangladesh is the director of the National Council of Disabled Women (NCDW) and a speaker for the rights of disabled women in her home country. She has written a book and directed a documentary on the subject. Ms Ferdous is aware of the discrimination against women with disabilities and the societal structures that cause it.

NCDW is an umbrella organization for women with disabilities in Bangladesh. The organization seeks to empower disabled women to be able to better fight against discrimination. In addition to receiving knowledge on their rights, the women with disabilities in Bangladesh have a need for legal counselling, leadership training and income. Also cooperation with the authorities has been crucial in making the government work for the wellbeing of women with disabilities.

**Ms Jannatul Ferdous** started by stating that women are the resource of all customs, whether religious or indigenous, to hold on and to deliver it to new generation. Everywhere women are double or triple discriminated. According to Ms Ferdous the religious orthodox thinking, domestic violence and lack of self dependency do not work for women's reproductive decision. In Bangladesh, there is "Women Development Policy" and women favourable laws, but still Bangladesh has reservation at Article 2 and 16(C) of CEDAW. Education is ultimately more effective than laws in empowering women to overcome the barriers to equality, said Ms Ferdous. Educated girls are more likely to resist pressures to marry too young, to have too many children and to resign themselves to unpaid work. They have greater competence as mothers and as active agents in their communities. However, in Bangladesh the transgender and bi-sexual people are excluded from education.

Occupational inequality is not only a matter of unequal culture of discrimination but the basic ingredients of economic status – education, land and decent work. Because of low education, property, and indecent job it is hard for women to get a bank loan. Although Grameen bank of Bangladesh demands that over 90 percent of its borrowers are women, there is high opportunity cost of restricting opportunities for women.

Minority women are victims of violence by the local majority and the dominant people. According to Ms Ferdous, it is like a vicious cycle. Violence is making minority women more vulnerable for example victims of trafficking and then victimised women become minority. Therefore there is big need in Bangladesh in helping low income women to be self dependant that they could become decision makers in their own life and stand for their rights.

### 3.3. Session: Discriminating structures in politics, law and culture

**Chaired by Ms Sari Varpama, Demo Finland**

Denial of self determination as discrimination

**Mr Adilur Rahman Khan, Odhikar, Bangladesh**

**Mr Adilur Rahman Khan, Odhikar, Bangladesh**

Mr Adilur Rahman Khan is a prominent human rights defender and an advocate of the Supreme Court of Bangladesh. He works as the Secretary General of Odhikar, a local organization for human rights, and speaks openly in the media about human rights issues. His articles concerning various human rights issues are being published on a regular basis in the local newspapers. However, his relentless work for the promotion of human rights doesn't always appeal to the authorities and he is currently the target of harassment, threats and pressure by the authorities.

Odhikar is an independent non-governmental organization registered in 1995 with the focus on increasing democracy and citizens' participation in the politics of Bangladesh as well as increasing the general awareness of human rights issues. Odhikar monitors the general human rights situation; it documents and reports the events of human rights violations and, in addition, actively seeks to influence the authorities and the political decision makers. Thus, the goal of Odhikar is to mainstream the international human rights legislations into the Bangladeshi law and make their implementation into reality. The special focus of the organization is on the realization of democratic rights and women's rights and on the elimination of the violence and impunity practiced by the state.

Mr Adilur Rahman Khan started his speech by the notion that to highlight the discrimination against religious, ethnic and linguistic minorities, it is often necessary to contrast the dominance of the majority against the minority population. Such characterization of the population may turn to be disadvantageous if it takes out of the view the fundamental question of democratic state building. This is true for the weak states such as Bangladesh; where discrimination against various minorities is essentially the denial of right to 'self determination' of the people. If small communities do not feel secure under the constitution of the state, that their rights are going to be protected, they would perceive the majority as a threat to their distinct identities. The point that Mr Adilur Rahman Khan made was that in order to address the discrimination and the discriminating structures in a society, it is important to remain focused on the extent to which the state itself denies the right to self determination of the citizens or the small communities who are different from the majority population. Reducing the fundamental political question into a problem of demography often reinforces the discrimination and hides the fundamental political problem of a society, argued Mr Adilur Rahman Khan.

Islam is the religion of the almost 90 percent of the population of Bangladesh. There are also:

- Hindus
- Buddhists
- Christians
- Animists.

The majority of the Muslims are Sunni and the remaining are Shi'a and other sects. Despite being religious minority the Hindus are closely integrated in the Bangladesh society because of the common linguistic and cultural identities. The vast majority of Bangladeshis are from the Bengali ethno-linguistic group. There are lots of smaller ethnic minority groups in Bangladesh.

This present land of Bangladesh was originally a land of trees and rivers with its indigenous population who were living here for more than one thousand years of history and culture. Their civilization has been known as 'Aronnyo Shobbhota' or the forest civilisation as reflected in the writings of many writers. When the Aryans started to invade from north-western part of the subcontinent to Bengal (present Bangladesh), the demography, culture and civilization of this land started to change and the indigenous people either gradually became marginalized within the dominant race to give rise to a new nationhood with the mixture of the people from various races, which has emerged as the present Bengali nation. The marginalised population of the indigenous origin who either failed or refused to integrate in the making of the dominant race left aside and their land, language and culture became endangered. These indigenous people from different ethnic groups along with their relatively newer colleagues of Chittagong Hill Tracts, who migrated from Arakan and Myanmar in about 17th century form diverse sections of ethnic minority groups who are now in the present day of Bangladesh struggling for the establishment of their rights and justice.

Ownership of land is the most vital issue for these marginalized groups of ethnic minority people, who do not have access to justice and legal recourse. Due to lack of education, information or financial recourses, different ethnic minority people face the same or at least similar problems of land grabbing, unemployment, poor access to resources and to justice.

Although Chakmas in Chittagong Hill Tracts are the most educated among all but still there is a genuine sense of frustration due to losing of their ancestral lands or community lands to the new comers in their area. Other ethnic groups in the Chittagong Hill Tracts even do not have proper education and skills to address their issues. Although a land commission had been established on the basis of the peace agreement of 1997 this commission is yet to resume its work.

The largest chunk of ethnic minority people lives in the greater districts of Dinajpur, Rangpur and Rajshahi of the northern Bangladesh. They live side by side with the majority Bengali community but unfortunately are deprived from almost all kinds of resources and support. In the Modhupur forest of Central Bangladesh, Garo people suffer seriously due to logging and slow process of land grabbing by the local land grabbers of dominant Bengali community with the help of the dishonest land registration officials. The 'Buno's of greater Jessore of western Bangladesh are possibly the poorest of all the ethnic minority groups living in Bangladesh. They do not have their own land even as graveyard. They live on the railway's lands with the risk of being evicted at any time and work as day labours. People of Manipuri, Khasi and few other smaller ethnic groups live in the greater district of Sylhet of north-eastern Bangladesh, who has recently become engaged in a struggle to protect their common forest land from the forest department which is trying to create eco-forest area in their ancestral forest area.

Once the land of forest, rivers and greenery has been gradually reduced to a sorrowful situation by the growing and dominant Bengali population who instead of protecting the forest and living side by side with its colourful indigenous people have gradually marginalized them by the exposing their greed, said Mr Adilur Rahman Khan. The role of the forest and land administration officers is no different from the rich and locally powerful touts and land grabbers.

The role of NGOs is also not very much commendable, stated Mr Adilur Rahman Khan. People belonging to the poorer section, especially from the ethnic minority origin lacks services of the established NGO's. Very few initiatives have so far been taken at the local, district or national level to address the situation of these ethnic minority people, especially from the plain land, whose situation is much worse compared to Hill areas. Although several church oriented education programmes and health facilities have brought comfort to many plain land people belonging to the ethnic minority communities, but unfortunately these facilities are in many cases denied to the people who refuse to convert to Christianity. Local social and cultural organizations also have failed to play a positive role in bringing these oppressed people to the front line and to address their issues.

According to Mr Adilur Rahman Khan, due to the failure of the dominant political parties to understand about the life, struggle and expectations of the ethnic minority people, these people themselves have established their own political organizations. "Adivasi Samity" in the northern Bangladesh is one such organization, which has successfully organized thousands of ethnic Shantals, Garo, Malpahari and many other people belonging to different ethnic groups of that area. "Adivasi Samity" has even successfully started their own schools where their indigenous languages are taught at the primary level. When other dominant political parties failed to address their issues the people of ethnic minority origin in northern Bangladesh has contested the last national parliamentary election under the banner of the "Adivasi Samity" as the question of governance and participatory democracy are not merely the words for them but also their visions and accordingly they have taken appropriate steps in that direction.

In the same way after the peace agreement of 1997, the "Jono Shonghati Samity" the leading political organization of the ethnic minority people of Chittagong Hill Tracts emerged as the main political organization of that area and took part in the last parliament elections. Another, political organisation of that area established mainly by the former student activists is "United Peoples Democratic Front" of Chittagong Hill Tracts. The perception of the people is that these two organizations, although in a situation of conflict with each other, are able to bring peace and prosperity for their constituents if they work together.

It is a hard reality that due to failures of the dominant political parties and weakness of the other left or liberal groups, the indigenous and ethnic minority people of northern and Chittagong Hill area have formed their own organizations to properly address their own issues, argued Mr Adilur Rahman Khan.

According to Mr Adilur Rahman Khan there is a need for better understanding of the situation and training of the leadership of these dominant political parties regarding a multi-ethnic policy and opening of their doors for the people of all the ethnic groups and ensure

their participation in the local governments and decision making processes which will eventually ensure good governance participatory democracy.

Denial of the self determination of the people and the distinct ethnic communities has remained the fundamental problem of Bangladesh despite the fact that Bangladesh is a signatory to many of the international covenants including International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) and Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). By becoming signatory it has declared its commitment for upholding human rights of all the people within and outside Bangladesh. But these rights must be grounded in the constitution. "Unless we address the fundamental question problematising the problem as minority/majority problem will not resolve the task of building a democratic Bangladesh free from all forms of discrimination" , stated Mr Adilur Rahman Khan. In order to build non-discriminating Bangladesh he strongly proposed the forming of a new constitution to replace the existing one that does not address the rights of the minorities and indigenous peoples which raised conversation among the audience of the seminar.

## Violating disability rights in Somalia

### **Ms Batulo Essak, Finland/Somalia**

Ms Batulo Essak introduced the situation in Somalia and Somaliland and distinguished between the two main parts of the area: southern part of Somalia is the most unsecure part, but Somaliland, the northern part of Somalia is more peaceful. Puntland is something in between.

According to Ms Essak, there are no human rights at all in Somalia. The situation and human rights of the persons with disabilities in Somalia are still weakening. The current conflict and the drought have caused suffering. The easily marginalized, including women, children, disabled persons and elders, are suffering the most. People with disabilities have no equal opportunities to education, job, transportation and health care. There is no action plan or national agency for persons with disabilities to coordinate special needs and services. Human rights and special needs of people with disabilities are not properly recognised. Disabled people's organizations are weak and without support in lobbying and working for the promotion of the human rights of people with disabilities. There is a huge need to build the capacity of the civil society and particularly the capacity of Disabled People's Organizations. Ms Essak called for more support and decision makers involvement. The fact is that:

- Disabilities in Somalia derive from war injuries (52%), illness (36%), and other reasons (12%).
- People with disabilities are discriminated, looked down upon, locked away, maltreated, and raped. These concern mainly disabled women, youth and children.
- Persons with disabilities receive less of everything.



## The new Kenyan constitution and the rights of sexual minorities

### Mr Elphas Naivasha Njeru, Gay Kenya Trust, Kenya

#### Mr Elphas Naivasha Njeru, Gay Kenya Trust, Kenya

Mr Elphas Naivasha Njeru is a founding member of the human rights organization Gay Kenya Trust (GKT), currently holding the post of the organization's chairman. He has been an active defender of LGBT rights for decades.

Gay Kenya Trust, founded in 2004, is focused on the promotion of the rights of sexual and gender minorities. This is done through campaigning, awareness raising, training and a small scale legal aid scheme. GKT is the only NGO in Kenya focused on the rights of sexual minorities. The aim of the organization is to raise awareness on the rights of sexual and gender minorities.

Sexual minority rights have become increasingly a subject that the civil rights movements pursue, but unfortunately the other members of the society prefer to skip and close the closet, argued Mr Elphas Naivasha Njeru. Homosexuality is difficult thing to discuss, particularly in African society.

Mr Elphas Naivasha Njeru concentrated on his speech to discuss about how to raise a gay child. He shared a story about a boy called Peter who was homosexual and had no one to turn to since he felt completely abandoned because of having homosexual feelings. He grew up thinking his feelings, his sexual desires and his fantasies were abnormal. In rebellion, Peter was plunged into alcohol and sex. At the age of 21, Peter was diagnosed with HIV and he died seven years later. Mr Njeru raised question: who failed Peter? Mr Njeru argued that it's important for us to realize that the real problem we are facing is not simply homophobia or even the existence of homosexuality in the society per se – but the forces of discrimination. After all, the culture, religion, law and policies, education system, state machineries and morality militia groups are the main forces of discrimination in Kenya.

In Kenyan culture, there is no written record of same sex existence, but that doesn't mean it never existed, argued Mr Elphas Naivasha Njeru. The society is said to have been silent about the same sex practises. Although in some communities there are stories and evidence of the culture allowing same sex marriages. This is in a case where, that was being shown by a short video clip, a woman is unable to have children and would be allowed to marry another woman for reasons of bearing her children with another man. The woman assumes the roles of a husband to her wife and becomes the head of the family.

There are also the cultures of tolerance, but instead Kenyans remain silent in the degradation of their culture, argued Mr Njeru. And yet, with all these evidence in the society, there has been remarkably little done to give sexual minorities the tools and the information necessary to make their own informed choices about what they want and how they want in their lives. Instead, they are forcefully given the heteronormative way of life.

Today, according to Mr Elphas Naivasha Njeru, Kenyan culture therefore dictates what are acceptable gender and sexual roles, and in order to enforce compliance, the same culture has developed an elaborate sanctioning mechanism, for those who do not follow the

mainstream. Social exclusion is one such mechanism. This is of course fed through by homophobia and transphobia which create an environment of fear through stigma, discrimination and violence, presenting significant barriers to tolerance and services including health services.

In Kenya, homosexuality is not only a penal offence, but also a sexual offence. Law affects policy and since homosexuality is criminalized in Kenya it has then created a fertile ground for stigma and discrimination towards the sexual minorities. However, these laws are foreign. The United Kingdom established its influence in Kenya in the 19th century. The British brought in a discriminatory law on homosexuals. From 1820 to date, homosexuality has been criminalized.

When the former president of Kenya gave in to the pressure to re-write the entire constitution, the LGBTI community was excited but at the same time was very much concerned. Finally, when the draft constitution was published, LGBTI community felt betrayed. In fact, the Chairman of the team of Committee of Experts (CoE) on Constitutional Review was quoted on the local media saying there is no room for gay rights in Kenya. He was referring to the article of the new constitution, which explicitly states every adult has the right to marry a person of the opposite sex based on the free consent of the parties. While, the homophobes were celebrating, the LGBTI community sought legal advice in understanding the entire document.

However, as Mr Njeru stated, LGBTI community was amazed to learn that despite the article, the document is comprehensive, progressive and a framework for the respect of individual liberties, access to justice for all, social equality, and economic opportunity.

The constitution is already changing the way Kenyans manage affairs, giving a voice to minorities and marginalised, and imposing tough integrity and accountability standards on those vying for public office. It is making unprecedented demands for transparency and accountability in the management of public affairs, and ensuring public participation in critical decision-making. Examples are recent judicial and government appointments, which have been achieved in a dramatically different manner. According to an expert view, the constitution of Kenya protects the rights of the sexual minorities.

Rights of the sexual minorities are primarily based on the legal concepts of human dignity, equality and non-discrimination. These have been enshrined and recognized in the constitution as the national values and principles of governance in Kenya. They bind all state organs, state officers, public officers and all persons whenever any of them applies or interprets this constitution, enacts, applies or interprets any law; or makes, or implements public policy decisions – including access to reproductive health.

Article 27(4) states that the state shall not discriminate directly or indirectly against any person on any ground, including for example sex, marital status, health status, disability or culture. In the interpretation, Article 260, interprets “marginalized group” as a group of people who, because of laws or practices, were or are disadvantaged by discrimination on one or more of the grounds in Article 27(4).

Such laws and practices include the provisions in the penal code that criminalizes homosexuality; article 260 is also allowing groups which are discriminated by law to invoke the national values of article 10 when seeking declaration of rights not previously provided

for. Of interest to the sexual minorities in this regard, is the discrimination visited by the constitutional refusal to allow same sex marriage as per article 45 or the discrimination visited by the penal code against homosexuals.

The basic rights are entrenched in the law of the Kenyan land. Among such are the rights in the Universal Declaration of Human Rights which will become law in Kenya. Many countries have used the provision in Article 1 "All human beings are born free and equal in dignity and rights" to argue that everyone has the same human rights as everyone else in the world, because of being human being. These rights are inalienable – they cannot be taken away from you. Every individual, no matter who they are or where they live, should be treated with dignity. Argumentatively, LGBTI issues find this vent into the mainstream bill of rights.

“At referendum of the draft constitution, we opted to adopt a reverse psychology strategy because despite all these benefits, the LGBTI community openly campaigned for a No vote. We secretly campaigned for a yes vote”, told Mr Njeru. “We shall use this constitution as the basis, the gate valve of greater rights and freedoms for the LGBTI community in Kenya. We told our people not to vote No simply because the word gay or sexual orientation is not in the draft. We believed the CoE were wise enough to leave it out. They hid it between the lines, they hemmed it in loose words scattered here and there so that few won’t read and understand. The bill of rights is a pink beacon; at the appropriate time - we will embrace it as the LGBTI” said Mr Elphas Naivasha Njeru.

### 3.4. Workshop sessions

Group 1: How to overcome multiple discrimination?

**Moderator: Mr Mikko Joronen, Finnish League for Human Rights**

**Speakers: Mr Adilur Rahman Khan (Bangladesh), Mr Zephyrin Kalimba (Rwanda), Ms Tenzin Dhardon Sharling (Tibet)**

Mr Mikko Joronen started the workshop by making a distinction between different forms of multiple discrimination. The typology is of importance when trying to tackle various kinds of multiple discrimination. He divided multiple discrimination into three categories:

- 1) *Multiple discrimination*: a situation in which one person suffers from discrimination on several grounds, but in a manner in which discrimination takes place on one ground at a time.
  - Example: A disabled woman may be discriminated against on the basis of her gender in access to highly skilled work, and on the basis of her disability in a situation in which a public office building is not accessible to persons with wheelchairs.

- Example: A homosexual migrant may be discriminated against on the basis of his ethnic origin in access to labour market, and on the basis of his sexual orientation in dealings with his peer group (i.e. his own ethnic community).

Applicable to both in-group and out-group discrimination.

2) *Compound discrimination*: a situation in which several grounds of discrimination add to each other at one particular instance.

- Example: a situation in which the labour market is segregated on multiple basis. That is, some jobs are considered suitable only for men, and only some jobs are reserved particularly for immigrants. In such a situation the prospects of an immigrant woman to find a job matching her merits are markedly reduced because of compound discrimination.

In practice, applicable to out-group discrimination.

In both 1 and 2, the grounds are distinguishable.

3) *Intersectional discrimination*: a situation involving discrimination which is based on several grounds operating and interacting with each other at the same time, and which produces very specific types of discrimination.

- Example: a disabled woman may face specific types of discrimination not experienced by disabled men or by women in general. One example of such discrimination would be unjustified subjection of disabled women to undergo forced sterilization, of which there is evidence around the world: this kind of discrimination is not experienced by women generally or by disabled men, not at least anywhere near to the same extent as disabled women.

In practice, applicable to out-group discrimination.

In 3, the grounds of discrimination are indistinguishable – they operate together and thereby produce intersectional discrimination.

**Ms Tenzin Dhardon Sharling** started her workshop session by stating that women from ethnic minorities are one of the most vulnerable groups and the discrimination faced is due to the gender and ethnicity of the victim and the two factors cannot be separated. For instance, women inside Tibet continue to be victims of state-sponsored gender specific violence against women such as forced sterilization and abortions.

It is also notable that the disadvantages faced by women in societies around the world are also familiar:

- lower pay for work of equal value
- high illiteracy rates
- poor access to health care.

While race is one reason for inequality and gender is another, they are not mutually exclusive forms of discrimination. Indeed, too often they intersect, giving rise to compounded or double discrimination. Furthermore, factors such as age, disability, and socio-economic status can compound discrimination based upon sex, forming further multiple barriers to women's empowerment and social advancement. Amongst the most disadvantaged and vulnerable are women from minority communities, who face problems compounded by their uniquely disadvantaged positions in society.

Traditional understanding implies that discriminated characteristics are permanent, without change, visible and easily identifiable, with our choice, without intergroup differences. Therefore we have to find alternatives to immutability and as Ms Iyiola Solanke from the London School of Economics has said “the first step legislators may need to take is a conceptual one, away from the logic of immutability underpinning current anti-discrimination law”.

Therefore, what is pressing is finding the solutions to end multiple discrimination against women. Women should be persistent and assertive in claiming for what the respective governments and United Nations agencies should do to eradicate multiple discrimination. Furthermore, women should work to make sure that laws protecting women such as UN CEDAW are adequately enforced and equal access to the rule of law should be provided for women, children and minority cultures. Women groups can promote solidarity and networks among women of different minority communities as well as between minority women and majority women, so that all can work together for the same goal – the elimination of discrimination against women, argued Ms Tenzin Dhardon Sharling.

**Mr Adilur Rahman Khan** talked about the importance of democratic state-building. Colonialism has left its traces in several societies. Democratic processes and inclusiveness are needed. In order to ensure anti-discrimination and balanced development of society, a bottom-approach is required as well. Denial of the self determination of the people and the distinct ethnic communities has remained the fundamental problem of Bangladesh despite the fact that Bangladesh is a signatory to many of the international covenants. By becoming signatory it has declared its commitment for upholding human rights of all the people. But these rights must be grounded in the constitution. In order to build non-discriminating Bangladesh he strongly proposed the forming of a new constitution to replace the existing one that does not address the rights of the minorities and indigenous peoples. When the current constitution was being formed the process was not democratic and it did not acknowledge the minorities. This forms the core problem and the solution according to Mr Adilur Rahman Khan is to start forming the new constitution.

**Mr Zephyrin Kalimba, Communauté des Potiers du Rwanda COPORWA, Rwanda**

Mr Zephyrin Kalimba is the head of a Rwandese NGO for indigenous peoples called Communauté des Potiers du Rwanda (COPORWA). Mr Kalimba has for long been a defender of the rights of the indigenous peoples.

COPORWA promotes the rights of the indigenous Batwa minority who belong to the pygmy population. COPORWA, which was founded in 1995 by the name Communauté des Autochtones Rwandais, focuses on the elimination of discrimination and marginalization of the Batwa. The organization's agenda and the use of the term Batwa made it difficult to get the organization registered. Only after having changed its name and having given up the use of the word Batwa did the organization get its legal status. The organization is founded and led by the Batwa themselves though also some Hutus and Tutsis are involved in the organization.

COPORWA promotes the societal status of the Batwa in numerous ways, for instance through education, socio-economic growth and awareness raising. Following the new organizational strategy the work of COPORWA has an emphasis on human rights, education, healthcare and livelihoods. One of the major goals of the organization is to decrease the number of human rights abuses against the Batwa in the Districts of Musanze and Burera in the Northern Province. In order to achieve this goal COPORWA aims, for instance, at providing legal aid and counselling to the victims of human rights abuses and involving and including the Batwa in local decision making processes and official national development programmes.

**Mr Zephyrin Kalimba** suggested two main national level long-term solutions on how to overcome multiple discrimination of Batwas:

- The state should hold some consultations and to deepen its dialogue with the organizations of the civil society working in the domain of human rights protection, in particular with those that fight against the racial discrimination.
- The state should clarify the notion of historically marginalized group which appears in the report of the state left in order to permit, otherwise to the members of the community Batwa to enjoy their rights fully according to the convention.

At the international level there should be:

- Sensitization of the states to elaborate specific laws in the PA concerning management and the equitable sharing of the advantages of natural resources.
- Setting in application of the international norms of the protection on the biodiversity.
- Some of the lands should be distributed to the natives having been ousted of their ancestral earths without indemnification.
- Reinforcing the regional autochthonous people networks concerning the protection of racial discrimination is also one key thing.

At the continental level there should be:

- Better availability of accessible and affordable health facilities, goods and services of reasonable quality for all.
- Creation of enabling conditions and taking measures to promote the rights and opportunities of those in informal sector, including subsistence agriculture.
- Access to basic shelter, housing and sanitation and adequate supply of safe and potable water.

- Education is utterly important factor and giving access to information concerning the main health problems in the community.

One worrying fact is that on socioeconomic indicator basis the Batwa population is penalized more than the national population. At the same time the quality of housing, the rate of illiteracy and schooling of the Batwas are lower. The Batwa population depends more strongly on sources of non drinkable water and uses less the poor toilets, and are therefore more exposed to the illnesses.

### *Conclusions*

After the discussion about the inclusiveness of the demographic process in state building in Bangladesh, reproductive rights of Tibetan women and the multiple discrimination of Batwas. The role of NGOs in the North was discussed and their role as enhancing the situation in the South was highlighted. The possible solutions to break down the multiple discrimination were:

- respect of human rights,
- implementation of international standards,
- effective legislation, and
- ensuring balance of power in demographic processes.

The moderator of the workshop session Mr Mikko Joronen stressed that it is important to address the special nature of multiple discrimination. Education, mainstreaming of policies, cultural sensitiveness and inclusiveness of the processes are the most important things to address in breaking down the structures of multiple discrimination. In general, discrimination issues are not minority issues; they should be seen as majority issues.

The session did not end to a solution how to eradicate multiple discrimination. Understanding of different kinds of discrimination is, however, a step forward on the path for raising awareness on this issue.

Group 2: Displacement and discrimination caused by “development”. How to promote ecological democracy and the rights of the indigenous peoples?

**Moderator: Ms Mira Käkönen, Siemenpuu Foundation**

**Speakers: Mr Nanang Sujana (Indonesia), Ms Sonia Guajajara (Brazil), Mr Pablo Martinez (Uruguay), Ms Pushpa Toppo (India), H.E. Mr Vital Bamberze (Burundi)**

The chair of the panel, Ms Mira Käkönen, opened the session by focusing on the concepts of development and displacement; following the notion that since the 1980’s ten million people yearly have been displaced due to development projects. There has been for example the land grabbing done by China in Congo, where 2,8 million hectares are taken to be palm oil plantations. Finnish pulp and paper companies in Brazil and in Uruguay are also seen as agents of displacement and there are strong movements against them.

Key question of the workshop was: What is the role of Northern civil society and the North-South cooperation? Plenty of varied and also contrasting viewpoints were presented in the workshop. Yet, there seemed to be a general understanding of the fact that the people's participation and their right to define their vision of development are essential parts of true development.

**Mr Pablo Martinez, World Rainforest Movement, Uruguay**

Pablo Martinez is a retired farmer who speaks on behalf of the people and nature of the countryside. However, he still grows crops for his own use and continues as an activist in the World Rainforest Movement (WRM). He has seen the changes in the people and nature on the countryside brought about by the adoption of crop monoculture.

World Rainforest Movement was founded in 1986 by activists from different corners of the world who were interested in forest related and indigenous peoples' issues. For the first ten years the organization's headquarters were based in Malaysia but today they're located in Montevideo Uruguay. The work of WRM focuses on forest and plantation related issues and on supporting the local communities' rights to land and forests. WRM is thus an environmental movement aiming at social change. The goals of the organization are to be achieved by diffusing information, influencing policies and supporting networks. (World Rainforest Movement functions as a secretariat for the Latin American Network against Monoculture Tree Plantations (RECOMA) and the national Grupo Guayubira network.)

**Mr Pablo Martinez** from Uruguay shared his experiences as a long-term activist and former dairy cattle farmer. He started by giving a short introduction on Uruguay:

- Historically cattle farming were integrated in the cultivation of crops.
- There was a radical industrialization to make Uruguay so called second Switzerland that ended in military coup.
- Uruguay said no to privatization of public service, water and energy, but then came the eucalyptus plantations.
- Vast areas of land have been bought by multinational companies.
- The land has been bought by 300 dollars per hectare, which is now worth 11 000 dollars.
- There has been big migration from countryside to cities at the same time as Uruguay has moved of being an agricultural country to an exporter of eucalyptus and soy.

**Mr Nanang Sujana, Telapak, Indonesia**

Nanang Sujana, of the Rejang people, is the head of the multimedia unit in an Indonesian environmental organization Telapak. He is an internationally awarded director of environmental documentaries who seeks to visualize the link between the rights of the locals and nature preservation in Indonesia. Nanang Sujana has an academic degree in Marine Biology.

Telapak is an organization founded by seven environmental activists in 1996 in Bogor. The organization is focused on promoting sustainable use of natural resources. It encourages the use of community driven natural resource management which leads to sustainable use of resources and to improved wellbeing of people dependent on forests' resources. Telapak is especially renowned for its multimedia campaigns that aim at influencing public policies related to nature conservation. Under Telapak, Sujana was one of the founders of Geggo Studio in 2006. Geggo produces films for change and promotes the conservation of Indonesia's environment.



**Mr Nanang Sujana** continued the discussion by sharing facts and his experiences from Indonesia.

- Indonesia forest cover is 120 million hectares.
- There are 50 million hectares of forest in good condition in the territories of indigenous people.
- During the last 40 years Indonesia has lost fifty million hectares of forest. One reason is the currently booming oil palm sector.
- In year 2011 annual forest cover loss is estimated to be 1 million hectares. That is causing huge CO<sup>2</sup> emissions.

Mr Nanang Sujana stressed that the main problem is the non-recognition of indigenous peoples' ownership of land and the overall failure of Indonesian forest policy. Mr Nanang Sujana called for secure land tenure rights for the local people and for the government to stop corruption and discrimination of the indigenous people and to step up to really control companies. He strongly argued that the world leaders should realize that indigenous people renew life, rejuvenate forest and maintain ecological balance of the world. The role of the indigenous people as wise managers of natural resources should be acknowledged and they should be given rights to the lands that they have inhabited for hundreds of years.

**Ms Pushpa Toppo** moved the focus from Indonesia to India. She comes from Jharkhand, an area which is very rich in forest, minerals and culture. Due to the minerals found in this Northeast Indian state there are also many mines, for example bauxite mines. National development process has brought biggest companies in the world to the area. The companies have taken their land with 12 rupees per acre. People are facing displacement as the 107 companies have made agreement with the government to take the land. Ms Pushpa Toppo asked question: If all the land will be given to companies in the name of development, where would we live?

Adivasi religion is based on the connection with mother earth. Ms Pushpa Toppo stressed that Adivasis have two mothers: birth mother and mother earth. Community rights are important to the Adivasis and the individual rights are irrelevant. Government offers health system but Adivasis have their own systems that are based on their tradition. Government does not see the value of their local traditions and tries to replace them with new ones, argued Ms Toppo. There is the paradox that Indian government speaks about rights and at the same time violates them, argued Ms Pushpa Toppo.

**H.E. Mr Vital Bambanze** continued by saying that indigenous peoples land is essential part of society and there is urgent need to address their rights. The question of self-determination is also relevant. He also talked about the importance of United Nations declaration of indigenous people and especially the guidelines for land in article 25-30. Indigenous people should be given the right to control their own lands. There should be free, prior and informed consent needed in land, water and mineral resources. This should be also the case with REDD. The question about the REDD process caused discussion and debate about whether the rights of indigenous people are protected. There should be equity based approach. There should be not only stakeholders but also rights holders included in the discussion on climate change, argued H.E. Mr Bambanze. He stated that REDD is an example of program that has been introduced to Africa without any

consultation of the people. REDD process should include the participation of indigenous people in all that concern their rights, he argued.

**Ms Sonia Guajajara, COIAB, Brazil**

Sonia Guajajara belongs to the Guajajara people. She is the vice-chairperson of the Coordenação das Organizações Indígenas da Amazônia Brasileira (COIAB) which is a cooperative organization of various indigenous peoples' organizations in Brazil. This 1989 founded organization promotes the social, economic and cultural wellbeing as well as the human rights of the indigenous peoples. Special core areas of the organization are land rights, healthcare, education, sanitation, cultural issues and the sustainability of indigenous communities and their organizations. COIAB has for instance created an educational centre in order to train indigenous people as environmental technicians, created forums to enhance the dialogue between indigenous groups and improved the capacity of the indigenous people to respond to issues initiated by the Brazilian government.

COIAB belongs to the regional organization of the indigenous peoples of the Amazon, COICA, and has been networking internationally otherwise as well. COIAB is one of the founding parties of the alliance of organizations in the Brazilian Amazon, Aliança dos Povos da Floresta (the other two being CNS of gatherers and organizational network GTA). The alliance was created in the mid 1980's by Chico Mendes and other leaders in the Amazon with the purpose of uniting the societal movements for sustainable development.

**Ms Sonia Guajajara** continued with facts concerning the Amazonas:

- There are 224 peoples in Brazil with 180 different languages.
- The Amazonas region has 180 peoples with 120 languages.
- In Amazonas area there are peoples that are isolated with no contact to outside world.

During the last six years president Lula's government had a growth acceleration program. Economic development was considered to be the most important thing and government gave benefits to big companies, farmers and politicians. This kind of program was not suitable for indigenous peoples and not favourable to social programs and for people in general, argued Ms Sonia Guajajara. The more it gives to companies the less it gives to indigenous people. Poverty is not only lack of money, but lack of natural resources, defined Ms Sonia Guajajara. Development is considered to be big power plants, roads, railways and mines. People's rights are not respected but instead people are being displaced.

The constitution of Brazil guarantees the right for people to be consulted and the need for their consent, told Ms Guajajara. However, still people are fighting to get original territories back and they are sent to jail and even murdered. There are indigenous people living now around the roads in camps.

Really worrying fact is that 47 leaders have been assassinated this year in Brazil. Indigenous people have been abandoned socially. They starve, because there are no land rights. Ms Sonia Guajajara shared an example about Belo Monte dam project in Para, which is the third biggest hydropower plant in the world. The building of the dam has caused displacement of 26 000 indigenous people. Government says that the indigenous people don't need to move, but all the natural resources are at the same time being lost, so practically there is no other choice than to move. For indigenous people it is difficult to

separate human and environmental rights. Ms Sonia Guajajara considers this kind of processes that happen not just displacement but genocide as the indigenous people lose their history and culture. Monocultures of soy, eucalyptus and sugar cane are the consequences of continuous deforestation in Brazil.

The focus of the conversation moved from Amazonas to Finland and to the role of Finnish companies. The consumption of Finnish society and the actions of Finnish companies are also part of the debate. The participants of the workshop reminded that there is urge to make our own companies responsible for what they do abroad. Mr Shri Prakash from India shared with the other participants the fact that Sweden is supporting the uranium mining in Southern India but also it is supporting the human rights. The participants of the workshop were also asked to reflect what is their ecological footprint and how does it affect the world.

Many of the participants called for concrete actions for rights. Also the question about the difficulty in being able to address these issues efficiently was raised. It is not rare that it can be dangerous for people to stand for themselves as the government kills people, argued Ms Pushpa Toppo. Human Rights can be a scary word when it is associated with assassination and torture of leaders. Several people reminded that the current decision making structures are undemocratic, blur the notion of accountability, dismiss international human rights standards, and don't take into consideration the needs and views of the local people. Participation remains the privilege of a small minority and, as many of the participants pointed out; it is essential part of the problem of discrimination, displacement and unsustainable "development". The national and global policies ought to be radically reformed in such a way that people have genuine opportunities to participate in the social, political and economic life and to define their own vision of development. Development must be a bottom-up process. Human rights based approach was raised as an example of a small step forward.

In sum, in order to have real development there should be access to information, there should be no threat of violence for those who speak out their views, and the local people should be encouraged to claim their space and given tools to do so.

### Group 3: How to reach equal rights and opportunities for people with disabilities?

**Moderator: Mr Jukka Kumpuvuori, Abilis Foundation**

**Speakers: Ms Jannatul Ferdous (Bangladesh), Ms Gulmira Kazakunova (Kyrgyzstan), Ms Tika Dahal (Nepal), Mr Josephat Torner (Tanzania)**

The moderator of the workshop Mr Jukka Kumpuvuori started the workshop by conceptualising the theme of the workshop. He presented the legal framework introduced by Mr Kaarlo Tuori. The introduction to theme helped the facilitators and the participants of the workshop to position their experiences and visions, particularly when considering how to change legislation.

**Ms Jannatul Ferdous** started by sharing her experiences from Bangladesh. Ms Ferdous stressed the need to sensitizing the public at every level to equity and human rights of people with disabilities. Support and training should be provided to the families, but also the authorities and line ministries to understand the disability issues. Further education and training, particularly for the leaders of Disabled People's Organizations can strengthen the Disability Movement and the recognition of human rights of people with disabilities. There is also a need to have more statistics and data collected on disability and people with disabilities in order to work better for equal rights and opportunities.

**Ms Gulmira Kazakunova** in turn noted that also persons with disabilities would need to change their own attitudes. Persons with disabilities should learn to value themselves and start to become independent. When people see that the persons with disabilities are being active and capable, they will start to consider what to do to ensure their equal rights and opportunities. Ms Kazakunova shared also practical examples from Kyrgyzstan how people with disabilities has gained improvements through united voice and common will. The most successful example was the lobbying for the signatory of the UN Convention on the Rights of Persons with Disabilities. This legally binding international document was signed by Kyrgyzstan in September 2011. However, she reminded participants that existing laws and regulations are not enough if there are no financial resources to put the law into practice.

**Ms Tika Dahal** moved the focus from attitudes of the persons with disabilities to the attitudes of the politicians. Based on her experience in Nepal, there should be more pressure on politicians to address these issues although disability should not be seen as a political issue. The problem is that things might be good on paper but in the reality they are not being implemented. There is a great need to raise awareness of people, provide peer support and training to people with disabilities and make facilities more accessible.

**Mr Josephat Torner** from Tanzania named three main issues to be removed to reach equal rights as the following:

- 1) negative attitude towards people with disabilities
- 2) infrastructure that is discriminatory and not disability friendly
- 3) non-inclusive policies of the country.

He gave practical ideas how to involve people with disabilities and their organizations when developing new policies and mechanisms. He encouraged participants to have a dialogue and open discussion with different decision makers, institutions, authorities, development programmes and other interventions. The implementation of any new approach or policy may be a challenge, but can lead to a change when there is cooperation and harmonization of different laws, systems and structures.

### *Conclusions*

By Mr Tuomas Tuure:

People with disabilities fight for equal rights and opportunities everywhere. The challenges are more or less the same, being the following:

- inaccessible buildings and services, no access to information
- negative attitudes towards people with disabilities
- lack of knowledge on disability and needs of people with disabilities
- lack of capacity and financial resources to implement disability friendly policies, facilities, etc.

Equal rights and opportunities of people with disabilities require the following elements:

- legal norms and legislative process
- resources for the implementation
- access to information (and human rights)
- recognition of dignity of people with disabilities
- involvement and participation of people with disabilities. Equal access should be at all levels. No proper census if disabled people are not included.
- integration of people with disabilities in any democratic processes and visibility of their potentials and skills that can also lead to changes in attitudes
- positive attitude and approach among people with disabilities, not only among other community members. Snowball effect can be positive or negative.
- a linkage between attitude, infrastructure and policy
- solidarity among different groups.

Group 4: Lesbian, gay, bisexual and transgender people and discriminating structures in society. What can we do to get equal rights to LGBT people?

**Moderator: Ms Aija Salo, Seta**

**Speaker: Mr Elphas Naivasha Njeru (Kenya)**

Mr Elphas Naivasha Njeru as a speaker of the workshop wanted all the participants of the workshop to reflect on what brought all the participants there and what are the common values that they share. These values are related to commitment to social justice, solidarity, commitment to human rights and human rights laws and declarations. Mr Elphas Naivasha Njeru reminded that like many speakers of the seminar have stated non-discrimination is one of the basic principles of human rights and democracy. Realization of these principles in our work and lives is important.

In the context of human rights we are faced with increasing power imbalances and we see others as different and this often results in discriminatory processes that fuel violation of human rights and encourage inequality. Although we all are human, we all have some difference within us. These differences are gender, nationality, ethnicity, "race", language, accent, different abilities, class, culture, rural or urban dweller, level of education/literacy and even sexual orientation. These differences construct labels. We pick one difference within a group and label it to demean others. Mr Elphas Naivasha Njeru also quoted Nelson Mandela: "Diversity may be the hardest thing for a society to live with and perhaps the most dangerous thing for a society to live without".

The participants of the workshop agreed that everything is very heteronormative. This is the case in Finland and in Kenya. Many communities and younger persons are not opposing LGBTI in Finland but also in Kenya. The atmosphere is changing slowly. Gay Kenya Trust has just organized the first queer film festival in East Africa. Gay Kenya Trust used the new constitution in the debate with the authority to get the permission to organize it. More than 200 people participated in the festival. This shows that organizations are able to use the new legislation in their advocacy work.

The participants of the workshop were interested to hear about the partners of Gay Kenya Trust and Mr Elphas Naivasha Njeru explained about Kenyan Human Rights Commission and National AIDS Control Council. Kenyan Human Rights Commission helps with the harassment cases. They have a LGBTI section and a lawyer. National AIDS Control Council is a governmental organisation. They are more or less forced by the World Bank to work with Gay Kenya Trust and the constitution requires new bills to be passed. The participants also proposed that there could be more building of partnerships with other NGOs. If there would be smaller units the organisation could be more accessible. The possibility of having radio shows, web counselling and call centres was also raised. Obviously the internet has changed the situation and made it more transparent. Moderator of the workshop Ms Aija Salo stressed how important visibility is. LGBTI issue should not be advocated in a way that it is seen as a western propaganda but it should be shown in the African context.

Ms Salo moved the focus of the conversation on the question what the western actors can do and why only few Finnish organisations are doing LGBTI work in the South. The importance of getting the LGBTI questions and rights to the Finnish development policy was highlighted by one member of the workshop. There were a lot of foreign exchange students so Ms Aija Salo presented Seta quickly and Ms Sari Naskinen made a short introduction about KIOS history as a donor of LGBTI projects.

The question how do you interfere without teaching religion and culture was also raised in the workshop. Mr Elphas Naivasha Njeru highlighted the need to have training, documentaries, materials, human rights advocacy, lobbying and outreach to religious leaders.

## *Conclusions*

- The basic values of justice and the human rights apply. As Mr Elphas Njeru put it “there is a need to break the conspiracy of silence”.
- Visibility is important part of advocacy. There is an urgent need to show that lesbians, gays, bisexuals, transgender and intersexual persons are part of every society.
- People should be given access to the right to be what they are. Mr Elphas Naivasha Njeru presented the Kenyan case where there has been the use of legal framework in the advocacy work.
- The participants of the workshop agreed that there should be emphasize on building alliances and partnerships.
- Mainstreaming of LGBTI issues is needed. There are still very few Finnish NGOs who have mainstreamed LGBTI issues.
- Solidarity between different discriminated groups is important part of the struggle for non-discrimination.
- Political pressure coming from abroad influences the decision making but it should not be forgotten that this work should be also done for example in Finland.
- There is a need for long term strategic thinking.

In sum, the movement towards more inclusive societies seems slow and sometimes desperate, but Ms Aija Salo urged the audience to remember that nothing is impossible in this world.

One issue coming up in the discussions was the so called order of nature. Ms Salo encouraged the audience of the seminar to really think is it even relevant to discuss about the question about order of nature. There were also opinions in the audience whether the emphasizing of the advocacy of legal framework should be the priority. There were arguments like “nothing is going to change by changing texts on papers”. The priority should be to first go to the communities, not to the legal courts.

## 4. Conclusions from the seminar

The three foundations arranging the seminar got guest speakers from three continents. Although the theme of minority and indigenous people's rights and multiple discrimination was broad, during the seminar it became clear that this theme encompasses many central activities in regard to human rights, disabled people's position and environmental issues.

Indigenous peoples have rights to practise their own, traditional way of living. In practise, their rights are not fulfilled since they do not have equal rights to own land nor have the control of forests, water or other resources in their territories. In many cases they are displaced from their environment because the policies of these areas are often driven by investments of large-scale enterprises in natural resources and different kinds of development projects (e.g. dams, mines and road constructions) which facilitate the possibilities of investment. If the acknowledged rights of indigenous peoples of their own ways of living are actually wanted to be implemented, the control over the land should be given back to them. In addition, we as well as other rich countries should restrict our culture of overconsumption and stop to transport most of the environmental impacts of our lifestyles to the South.

People with disabilities fight for their equal rights all over the world. In many countries girls and women with disabilities have double or even multiple burdens due to sex, disability and poverty. They lack basic education, vocational training and employment, have limited access to health and social services, legal advice or facilities in society. Disabled People's Organizations need capacity building and resources how to promote disability issues and inclusive society. Potential is there, but not yet fully recognized. The seminar offered a platform to share experience on discrimination but also to learn how improvement can be achieved. Further action is needed, many tasks are waiting ahead. However, the peer support and successful stories encouraged international guests and participants to continue advocacy work and lobbying. The UN Convention of the Rights of Persons with Disabilities (UNCRPD) offers a comprehensive tool for the task.

In Finland, people are aware of the insufficient legislation for the protection of the rights of the Sami minority and certain groups of disabled people. Multiple discrimination takes place in Finland, as well. Multiple discrimination is a question which is relevant to all the countries as well as to all the people who work for the non-discriminating world. Due to multiple discrimination, many people become even more vulnerable than as a result of one dimension of discrimination.

It is necessary to work for strategies to eradicate multiple discrimination globally. However, to attain the objective of non-discriminating world, different forms of discrimination and multiple discrimination ought to be identified in order to resolve the problems related to them. International agreements to prevent discrimination need to be implemented. The implementation requires national and local strategies to tackle discrimination.

Research on multiple discrimination may help us to understand how to eradicate the phenomenon. In the future, both conceptual analysis of multiple discrimination as well as results from social sciences revealing its scope and nature may enhance our understanding how to tackle it. The research results are important for those planning the



international agreement processes as well as the implementation of anti-discriminatory policies.

To promote human rights we should influence on majorities and not only to talk to like-minded. Even at the individual level, every person needs to understand prejudices in order to be free from them. Stereotypical jokes on minorities may survive although there are protocols and agreements signed in order to prevent discrimination. Stereotypes may keep discrimination alive if we do not actively try to get rid of stereotypical thinking.

Civil societies play a vital role in advancing non-discrimination. Abilis, KIOS and Siemenpuu support NGOs and civil society activities in the South. Lots of projects enhancing the rights of minorities, indigenous peoples and vulnerable groups have been financed by the foundations. At best, these projects have supported the development of the non-discriminating world. This mission will be at the heart of the foundations in the future as well.