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COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 15 of the Provisional Agenda

INDIGENOUS ISSUES

Written statement submitted by Friends World Committee for Consultation (Quakers), a non-governmental organization in general consultative status

Friends World Committee for Consultation (Quakers) welcomes the progress made at the sixtieth session of the working group on the draft declaration on the rights of indigenous peoples in September 2003, whilst regretting the failure to adopt provisionally any of the articles discussed. We urge both States and indigenous representatives to continue their efforts and to work together in a spirit of cooperation to achieve further progress. As the International Decade of the World's Indigenous People draws to its end, the urgent need to complete work on the draft Declaration is to the fore. However, it is essential that the final Declaration is an effective tool for protecting and promoting the rights of indigenous peoples. The need to achieve consensus should not be used as a bargaining tool by States in order to lower the standards of protection. The right to self-determination, guaranteed to all peoples, is fundamental to the Declaration and it must be remembered that control over lands and resources is a key component of this right.

FWCC continues to support the work of the Working Group on Indigenous Populations and believes it should be maintained as an important mandate whose work is complementary to, but not a duplication of, the Permanent Forum on Indigenous Issues and the work of the Special Rapporteur on the human rights and fundamental freedoms of indigenous peoples. The rights of indigenous peoples have been overlooked for too long, and while they remain in a precarious and marginalized situation every effort must be made to provide the necessary support required for improvement. This is not an appropriate time to be scaling back on resources devoted to indigenous issues.

FWCC expresses its appreciation to the Committee on the Rights of the Child for devoting its 2003 Annual Discussion Day to the rights of indigenous children. This valuable occasion raised a number of issues, including in particular the situation of indigenous children in prison. It was highlighted that whilst indigenous children

constitute a very small minority of the population in some countries, they represent a disproportionately large percentage of incarcerated juveniles (the same is also true for indigenous adults). The conditions of their detention are a cause for concern, but of even greater importance is the need to address the reasons behind their imprisonment. It is widely acknowledged that poverty, family and community breakdown, and lack of education and opportunities are all contributing factors towards a child's involvement in crime. As such, the high incidence of incarceration of indigenous youth can be seen as symptomatic of States' failures to protect their rights (for example, to education).

The issue of indigenous people and the administration of justice was discussed both at the CRC discussion day and during the Working Group on the draft Declaration, under Articles 4 and 33. It was also the subject of an expert seminar held in Madrid from 12 – 14 November 2003. It is essential that wherever indigenous peoples are in conflict with the law that appropriate provisions are made to provide full translation and interpretation services wherever necessary. If indigenous peoples are unable to participate fully in legal, administrative, or political procedures due to language barriers, a clear violation of their fundamental civil and political rights occurs.

Besides imprisonment, indigenous children are separated from their families at an alarmingly high level for a number of reasons, including through human trafficking, domestic slavery, child soldiering and being placed into the care of Social Services. Whilst these are issues which affect many sectors of society, indigenous children are particularly prone to victimization and the results of this stretch beyond personal tragedy as they contribute to the loss of indigenous cultures. Again, States have a responsibility to address why it is that Social Services find it necessary to place so many indigenous children into foster families. Where this is considered essential for the child's best interests, every effort should be made to place such children with indigenous foster families from the same group, in order to protect their cultural identity and linguistic rights.

Friends World Committee for Consultation therefore urges the UN Commission on Human Rights to:

1. Give high priority to the work of the Permanent Forum on Indigenous Issues;
2. Continue the Working Group on Indigenous Populations;
3. Support the work of the Special Rapporteur on the human rights and fundamental freedoms of indigenous peoples, and pay particular attention to his recommendations;
4. Urge States to approach work on the draft Declaration in a spirit of compromise and commitment to the rights of indigenous peoples; and
5. Consider the particular victimization and needs of indigenous children in relation to the administration of justice, human trafficking, child prostitution and child soldiering.
