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**INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER
PERSPECTIVE**

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

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2006]

* This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

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Women in Prison

“How are the special needs of female prisoners taken into account?” (Committee against Torture, 2005, CAT/C/35/L/NPL)

Friends World Committee for Consultation (Quakers) welcomes the fact that since the last session of the UN Commission on Human Rights all the Human Rights Treaty Bodies, with the exception of the Committee on Migrant Workers, have raised or considered the issue of women in prison.

Women are a small minority of the prison population, but a minority that is growing at a disproportionate rate. As such their needs, and indeed their rights, are frequently not fulfilled by prison regimes that are designed for male prisoners.

The Quaker United Nations Office, Geneva, jointly with other Quaker agencies (the Quaker Council for European Affairs, Quaker Peace and Social Witness and the Friends World Committee for Consultation Representation to the UN Commission on Crime Prevention and Criminal Justice in Vienna) is undertaking a project on women in prison. The aims are to gain a clearer understanding of the particular problems faced by women prisoners and how these can be better addressed.

Imprisonment impacts on women differently than on their male counterparts, the following are some of the key areas of concern:

- a) Problems with accommodation
- b) Inappropriate staffing
- c) Lack of family contact
- d) Lack of education and work programmes
- e) Lack of proper healthcare
- f) High proportion of women prisoners with a history of mental, physical or sexual abuse
- g) The adverse impact of imprisonment of mothers on their children
- h) Disproportionate representation of indigenous women and foreign women

For more background on these issues see our written statement to the 61st Session of the UN Commission on Human Rights, E/CN.4/2005/NGO/17.

It is clear from the brief list above and our previous statement that the needs of women prisoners are often overlooked by penal institutions, by governmental policy makers, and by the international community and that consideration needs to be given to every aspect of women's prison regime as well as to the reasons for the increasing female prison population to ensure that their rights, as defined in international law, are met.

With this in mind, we welcome the attention to the subject given by the human rights treaty bodies, notably:

Committee on the Elimination of Racial Discrimination (CERD)

General Comment 31 on the Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System was adopted by the Committee on the

Elimination of Racial Discrimination on 17 August 2005. The General Comment raises issues affecting persons belonging to racial or ethnic groups, in particular non-citizens (including immigrants, refugees, asylum-seekers and stateless persons), Roma/Gypsies, indigenous peoples, displaced populations, persons discriminated against because of their descent, as well as other vulnerable groups which are particularly exposed to exclusion, marginalization and non-integration in society. It highlights the multiple discrimination faced by women from these groups in two key areas:

In respect of sentences the General Recommendation states that:

“...with regard to women and children belonging to [relevant] groups..., States parties should pay the greatest attention possible with a view to ensuring that such persons benefit from the special regime for the execution of sentences to which they are entitled, bearing in mind the particular difficulties faced by mothers of families and women belonging to certain communities, particularly indigenous women.”

Within the broader context of over-reliance on pre-trial detention, CERD identified that bail guarantees and factors taken into consideration in remand decisions may be inherently discriminatory towards members of the groups in question. The General Recommendation calls on States to ensure that:

“...the guarantees often required of accused persons as a condition of their remaining at liberty pending trial...are weighed in the light of the insecure situation which may result from their membership of such groups, particularly in the case of women and minors;”

The recognition that the criteria for such decisions may be weighted against women indicates that there is a growing understanding of the extent of the discrimination faced by women in the criminal justice system. This also highlights the importance of considering the reasons for the rapidly growing female prison population as well as their conditions of detention.

Human Rights Committee

In its Concluding Observations on country reports under the International Covenant on Civil and Political Rights, the Human Rights Committee has raised concerns about the situation of women in prison in general and specifically about employing male staff in contact positions.¹ “Contact positions” are posts that permit or require prison guards to be in physical proximity to the prisoners often unsupervised by other staff. The Committee’s recommendation reaffirms Rule 53(3) of the UN Standard Minimum Rules for the Treatment of Prisoners, which states that women should only be supervised by women.² The risk of violence posed by male prison guards in contact positions with women prisoners is obvious given the hierarchical nature of prisons and the unequal power relationship between prison guards and prisoners. This position was reinforced by the Special Rapporteur on Violence Against Women, who has stated that the presence of male

¹ Concluding observations of the Human Rights Committee: Canada. 02/11/2005, CCPR/C/CAN/CO/5, paragraph 18

² *Standard Minimum Rules for the Treatment of Prisoners*, Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977

corrections officers in housing units and elsewhere creates a situation in which sexual misconduct is more pervasive than if women are guarded by female officers.³

Committee on the Rights of the Child

In its Concluding Observations the Committee on the Rights of the Child has repeatedly raised the need to consider the best interests of the child in relation to both sentencing decisions and the conditions in which children are held with their mothers.⁴

Committee Against Torture

The Committee against Torture has raised the issue of the separation of prisoners by gender.⁵ Placing women and girls in mixed sex facilities creates a general risk that is heightened by the significant number of men in prison for committing violent or sexual offences.

It has also condemned sexual violence committed by prison staff against women in prison and requested States to establish and promote a system for receiving and investigating complaints of such abuse.⁶ Recognition of gender-based violence committed in prison as a form of gender specific torture is particularly important in light of the high proportion of women in prison who have been subjected to physical or sexual abuse prior to their incarceration.

Whilst we welcome these Concluding Observations and General Comments they are not a substitute for real change in the way that penal law is drafted and implemented, nor in the way in which prisons are managed.

Friends World Committee for Consultation (Quakers) therefore calls on the UN Commission on Human Rights to:

1. Request the Special Procedures and Human Rights Treaty Bodies to continue to give attention to these issues where appropriate;
2. Urge States to implement the Concluding Observations and General Recommendations of the Human Rights Treaty Bodies by:
 - reviewing their use of pre-trial detention;
 - ensuring that the best interests of the child are considered in decisions on detaining or imprisoning a parent;

³ Report of the Special Rapporteur on violence against women of the mission to the United States of America on the issue of violence against women in state and federal prisons, E/CN.4/1999/68/Add.2, paragraphs 55, 58.

⁴ See for example: Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Nepal, CRC/C/15/Add.261, paragraphs 51-52; Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Philippines, CRC/C/15/Add.259, paragraphs. 53-54; Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Thailand, CRC/C/THA/CO/2 paragraphs 47-48.

⁵ See for example: Conclusions and recommendations of the Committee against Torture, Bosnia and Herzegovina, CAT/C/BIH/CO/1/CRP.1, paragraph 14.

⁶ See for example: Conclusions and recommendations of the Committee against Torture, Sri Lanka, CAT/C/LKA/CO/1/CRP.2, paragraph 13; Conclusions and recommendations of the Committee against Torture, Nepal, CAT/C/NPL/CO/1/CRP.3, paragraph 28; Conclusions et recommandations du Comité contre la torture, République Democratique du Congo, CAT/C/DRC/CO/1/CRP.1, paragraph 12.

- ensuring that prison staffing policies and practices conform with the requirement that female prisoners be supervised by female guards;
- ensuring that female and male prisoners are detained separately;
- establishing a procedure for addressing complaints by women of physical and sexual violence experienced in prison;

and to include information regarding women's imprisonment and to take and report on measures they have taken to decrease the rate of women's imprisonment; and

3. Request the Office of the High Commissioner for Human Rights to give consideration to the rights of women in prison and the children of imprisoned mothers in their technical assistance work with States and follow-up to the Concluding Observations of the Human Rights Treaty Bodies and Special Procedures.

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