

COMMITTEE ON THE RIGHTS OF THE CHILD
34th Session
15 September – 3 October 2003

DAY OF GENERAL DISCUSSION
ON THE RIGHTS OF INDIGENOUS CHILDREN

RECOMMENDATIONS

Preamble

Recalling that article 30 and articles 17 (d) and 29.1 (c) and (d) of the Convention of the Rights of the Child are the only provisions of an international human rights instrument to explicitly recognize indigenous children as rights-holders, and

In light of the recommendations of the Special Rapporteur on the Situation of the Human Rights and Fundamental Freedoms of Indigenous People pertaining to children contained in his annual and mission reports to the UN Commission on Human Rights,

Following the request of the UN Permanent Forum on Indigenous Issues to the Committee on the Rights of the Child to hold a discussion day on the rights of indigenous children in order to promote greater awareness of the rights of indigenous children (E/2002/43 part I), and in light of the Permanent Forum's recommendations on the rights of indigenous children adopted during its first two sessions in 2002 and 2003,

In view of the 1994-2004 International Decade of the World's Indigenous;

Taking into account the International Labour Organization's Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries,

Recognizing the ongoing work of the open-ended inter-sessional UN Working Group on the Draft Declaration on the rights of Indigenous Peoples and the UN Working Group on Indigenous Populations regarding issues such as self-determination, land rights and other collective rights,

And although indigenous children are disproportionately affected by specific challenges such as institutionalization, urbanization, drug and alcohol abuse, trafficking, armed conflict, sexual exploitation and child labour and yet are not sufficiently taken into consideration in the development and implementation of policies and programmes for children,

The Committee on the Rights of the Child:

General

1. Strongly recalls the obligations of States parties under articles 2 and 30 of the Convention to promote and protect the human rights of all indigenous children.

2. Reaffirms its commitment to promote and protect the human rights of indigenous children by addressing more systematically the situation of indigenous children under all relevant provisions and principles of the Convention when periodically reviewing State party reports.
3. Calls on States parties, UN specialized agencies, funds and programmes, the World Bank and regional development banks, and civil society to adopt a broader rights-based approach to indigenous children based on the Convention and other relevant international standards such as ILO Convention 169, and encourages the use of community-based interventions in order to ensure the greatest possible sensitivity to the cultural specificity of the affected community. Particular attention should also be paid to the variety of situations and conditions in which the children live.
4. Acknowledges that, as stated in the Human Rights Committee's General Comment No. 23 on the rights of minorities (1994) and in ILO Convention 169, the enjoyment of the rights under article 30, in particular the right to enjoy one's culture, may consist of a way of life which is closely associated with territory and use of its resources. This may particularly be true of members of indigenous communities constituting a minority.

Information, data and statistics

5. Requests States parties, UN specialized agencies, funds and programmes, in particular UNICEF and the ILO, the World Bank and regional development banks, and civil society including indigenous groups, to provide the Committee with specific information on laws, policies and programmes for the implementation of indigenous children's rights when the Committee reviews the implementation of the Convention at country level.
6. Recommends that States parties strengthen mechanisms for data collection on children so as to identify existing gaps and barriers to the enjoyment of human rights by indigenous children, and with a view to developing legislation, policies and programmes to address such gaps and barriers.
7. Encourages greater research, including the development of common indicators, into the situation of indigenous children in rural and urban areas by UN human rights mechanisms, UN specialized agencies, programmes and funds, international organizations, civil society and academic institutions. In this regard, the Committee requests all interested parties to consider initiating a global study on the rights of indigenous children.

Participation

8. In light of article 12, as well as articles 13 to 17, of the Convention, recommends that States parties work closely with indigenous peoples and organizations to seek consensus on development strategies, policies and projects aimed at implementing children's rights, and set up adequate institutional mechanisms involving all relevant actors and provide sufficient funding to facilitate the participation of children in the design, implementation and evaluation of these programmes and policies.

Non-discrimination

9. Calls on States parties to implement fully article 2 of the Convention and take effective measures, including through legislation, to ensure that indigenous children enjoy all of

their rights equally and without discrimination, including equal access to culturally appropriate services including health, education, social services, housing, potable water and sanitation.

10. Recommends that States parties, international organizations and civil society strengthen efforts to educate and train relevant professionals working with and for indigenous children on the Convention and the rights of indigenous peoples.
11. Recommends that State parties, with the full participation of indigenous communities and children, develop public awareness campaigns, including through the mass media, to combat negative attitudes and misperceptions about indigenous peoples.
12. Requests States parties, when updating the Committee on measures and programmes undertaken to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to provide specific and detailed information on the situation of indigenous children.

Law and public order including juvenile justice

13. To the extent compatible with articles 37, 39 and 40 of the Convention and other relevant UN standards and rules, the Committee suggests that States parties respect the methods customarily practised by indigenous peoples for dealing with criminal offences committed by children when it is in the best interests of the child.
14. Requests the Special Rapporteur on the Situation of the Human Rights and Fundamental Freedoms of Indigenous People to pay particular attention to juvenile justice issues in his report on indigenous people and the administration of justice to be submitted to the 60th session of the Commission on Human Rights in 2004.

Right to identity

15. Calls on States parties to ensure the full implementation of articles 7 and 8 of the Convention for all indigenous children, by inter alia,
 - a) ensuring the existence of a free, effective and universally accessible birth registration system;
 - b) allowing indigenous parents to give their children a name of their own choosing, and by respecting the right of the child to preserve her/his identity;
 - c) taking all necessary measures to prevent indigenous children from being or becoming stateless.
16. Recommends that States parties take all necessary measures to ensure that indigenous children enjoy their own culture and can use their own language. In that regard, States parties should pay particular attention to article 17 (d) of the Convention which calls on States parties to encourage the mass media to have particular regard to the linguistic needs of the child who is indigenous.

Family environment

17. Recommends that States parties take effective measures to safeguard the integrity of indigenous families and assist them in their child-rearing responsibilities in accordance with articles 3, 5, 18, 20, 25 and 27.3 of the Convention. For the purpose of designing such policies, the Committee recommends that States parties collect data on the family

situation of indigenous children, including children in foster care and adoption processes. The Committee recommends that maintaining the integrity of indigenous families and communities be a consideration in development programmes, social services, health and education programmes affecting indigenous children. The Committee reminds States parties, in cases where it is in the best interest of the child to be separated from his or her family environment, and no other placement is possible in the community at large, institutionalization should only be used as a last resort and be subject to a periodic review of placement. In accordance with art. 20.3 of the Convention, due regard shall be paid to ensuring continuity in the child's upbringing and to his or her religious, cultural, ethnic and linguistic background.

Health

18. Recommends that States parties take all necessary measures to implement the right to health of indigenous children, in view of the comparatively low indicators regarding child mortality, immunization and nutrition that affect this group of children. Special attention should also be paid to adolescents regarding drug abuse, alcohol consumption, mental health and sex education. The Committee also recommends States parties to develop and implement policies and programmes to ensure equal access for indigenous children to culturally appropriate health services

Education

19. Recommends that States parties ensure access for indigenous children to appropriate and high quality education while taking complementary measures to eradicate child labour, including through the provision of informal education where appropriate. In this regard, the Committee recommends that States parties, with the active participation of indigenous communities and children,:
 - a) review and revise school curricula and textbooks to develop respect among all children for indigenous cultural identity, history, language and values in accordance with the Committee's General Comment no. 1 on the aims of education;
 - b) implement indigenous children's right to be taught to read and write in their own indigenous language or in the language most commonly used by the group to which they belong, as well as in the national language(s) of the country in which they live;
 - c) undertake measures to effectively address the comparatively higher drop out rates among indigenous youth and ensure that indigenous children are adequately prepared for higher education, vocational training and their further economic, social and cultural aspirations;
 - d) take effective measures to increase the number of teachers from indigenous communities or who speak indigenous languages, provide them with appropriate training, and ensure that they are not discriminated against in relation to other teachers;
 - e) allocate sufficient financial, material and human resources to implement these programmes and policies effectively.

International cooperation and follow-up

20. Encourages greater cooperation between human rights treaty bodies and UN mechanisms on indigenous issues.

21. Requests thematic and country-specific mandate holders of the Commission on Human Rights to pay special attention to the situation of indigenous children in their respective fields.
22. Recommends that the Special Rapporteur on the Situation of the Human Rights and Fundamental Freedoms of Indigenous People dedicate one of his annual reports to the Commission on Human Rights to the rights of indigenous children. The preparation of such a report should include a survey of the implementation of the recommendations arising from the Committee's discussion day by all States parties to the Convention.
23. Encourages UN agencies, multilateral and bilateral donors to develop and support rights-based programmes for and with indigenous children in all regions.
24. Recognizing the strengths of indigenous communities to address many of the aforementioned issues, the Committee calls on the Permanent Forum on Indigenous Issues and the Special Rapporteur on the Situation of the Human Rights and Fundamental Freedoms of Indigenous People, to coordinate the elaboration of a set of best practices for the promotion and protection of the rights of indigenous children in consultation with relevant NGOs, indigenous experts and indigenous children.

N.B: These recommendations are the result of the day of general discussion on the rights of indigenous children and do not pretend to be an exhaustive list of recommendations regarding all rights covered by the Convention.