

CRC, CRC/C/124 (2003)

Annex II

**OUTLINE FOR THE DAY OF GENERAL DISCUSSION ON “THE RIGHTS OF
INDIGENOUS CHILDREN” TO BE HELD ON 19 SEPTEMBER 2003**

OUTLINE

The Committee on the Rights of the Child decided at its thirty-first session to devote its 2003 day of general discussion to the rights of indigenous children.^a

While the Convention on the Rights of the Child applies to all children equally, it is the first international human rights treaty to specifically identify indigenous children as a group of rights holders. According to article 30 of the Convention, an indigenous child “shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture to profess and practise his or her own religion, or to use his or her own language”. Articles 17 and 29 also explicitly refer to the rights of indigenous children with respect to information and education.

In 1993 the General Assembly proclaimed 1995-2004 as the International Decade of the World’s Indigenous People. The main objective of the Decade is to strengthen international cooperation for resolving problems faced by indigenous people in such areas as human rights, the environment, development, education and health. The Economic and Social Council, by resolution 2000/22, established the Permanent Forum on Indigenous Issues to serve as an advisory body to the Council, with a mandate to discuss indigenous issues relating to economic and social development, culture, the environment, education, health and human rights. At its first session in May 2002, the Permanent Forum suggested that the Committee on the Rights of the Child declare indigenous children as a theme for its annual discussion day (see E/2002/43 (Part I)). In July of the same year, the outcome document of the Third International Workshop on Indigenous Children and Youth, held in Geneva, supported the same proposal.

Themes for the day

In reviewing State party reports on the implementation of the Convention, the Committee has found that many of the concerns facing indigenous children revolve around the questions of non-discrimination and cultural specificity. The Committee systematically identifies indigenous children as a group which suffers from discrimination in relation to most rights enshrined in the Convention, and regularly calls on States to fulfil their right to enjoy their own culture. In that context, the Committee is particularly concerned at the various forms of violence that indigenous children may confront, both in the home and in society at large.

Non-discrimination (art. 2) is one of four general principles of the Convention, together with the best interests of the child (art. 3), the right to life, survival and development (art. 6) and respect for the views of the child (art. 12). Article 2 obliges States parties to prevent discrimination against indigenous children. At the same time, article 30 recognizes the cultural

specificity of indigenous children and requires States parties to provide them with special protection in order to exercise all their rights and allow them to enjoy their own culture, language and religion.

The participants in the day of general discussion will be divided into two working groups based on two themes. At the same time, the Committee encourages participants to explore how indigenous children can participate directly in resolving these challenges facing their communities, particularly in light of articles 12 to 17 of the Convention.

Working group 1: non-discrimination

Broadly, this working group will examine the issue of discrimination against indigenous children in the enjoyment of their rights, and more specifically with regard to “law and public order”, including juvenile justice.

Racism and xenophobia, and discrimination in accessing services

Article 2 of the Convention states: “States parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.” In spite of this provision, racism, xenophobia and related intolerance continue to affect the lives of indigenous children. In addition, indigenous children are still affected by discrimination in the enjoyment of their rights such as access to health care, education or social services. The World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, in 1999, recognized that indigenous peoples are victims of discrimination and stressed the continuing need for action to overcome the persistent racism, racial discrimination, xenophobia and related intolerance that affect them. Discrimination against indigenous children can exist at the societal, legal and structural levels. In addition, indigenous girls can be victims of double discrimination based on race and gender.

“Law and public order”, including juvenile justice

One area of particular concern to the Committee in which both societal and structural discrimination manifest themselves is the nature of the contact of indigenous children with law enforcement officials^b or the justice system. The Committee is aware that in some countries indigenous children are disproportionately overrepresented in the juvenile justice system. In other countries, the Committee has come across reports which state that police violence is more likely to affect indigenous children, as they belong to one of the most vulnerable groups of the population.

Working group 2: cultural specificity

The Committee recognizes that, because of their cultural specificities, indigenous children face different challenges than other groups of children. In this regard, the Committee is particularly interested in the right to identity and the right to education.

Right to identity

Article 7 of the Convention requires States parties to register all children immediately after birth. Article 8 requires States parties to “respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference”. The Committee pays special attention to the birth registration of indigenous children, who often have limited recourse to, and awareness of, birth registration procedures. At the same time, the Committee is aware of cases where birth registration systems are not always sensitive to indigenous specificities.

Right to education

According to the Committee’s general comment No. 1 on the aims of education, “the child’s right to education is not only a matter of access (art. 28) but also of content in order to empower children for the future. An education with its contents firmly rooted in the values of article 29 (1) is for every child an indispensable tool”. For the Committee, this means, on the one hand, that indigenous children have a right to an education directed to the development of respect for their own cultural identity, language and values. On the other hand, it also means that education for all children must “reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin”. These two aspects are not confined to the academic curriculum, but must extend to the school environment and beyond, including play and leisure activities.

Approach and objectives of the day

At the end of the session at which the day of general discussion has taken place, the Committee adopts a set of recommendations on how to improve implementation of the Convention in the area discussed. In adopting the recommendations, the Committee is guided by the discussions during the day and the written contributions. The recommendations, which are intended to provide pragmatic guidance, are aimed primarily at States parties but also at other relevant actors. In order to maximize the effectiveness of the recommendations, the Committee aims to maintain a specific focus for the discussion day. Therefore, the Committee has decided not to address issues already being dealt with by other United Nations mechanisms, including the Working Group on Indigenous Populations, the Permanent Forum on Indigenous Issues, and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, such as self-determination and land rights.

The rights of indigenous children are of particular relevance to a number of other United Nations mechanisms, specialized agencies and programmes and other international organizations, as well as NGOs. The objectives of the discussion will be to facilitate the

exchange of information and of the experience accumulated by different stakeholders and thereby explore opportunities and challenges in implementing policies and programmes (including legislative and other measures) at the national and international levels to promote and protect the rights of indigenous children.

The discussion will contribute to the adoption of recommendations by the Committee on the area discussed and further help the Committee in addressing the rights of indigenous children through its monitoring functions. In allowing the Committee to benefit from the expertise of other agencies and organizations working directly in this field, those organizations will also enhance their understanding of how to contribute more effectively to the work of the Committee.

Participation in the day of general discussion

The day of general discussion is a public meeting at which representatives of Governments, United Nations bodies and specialized agencies, non-governmental organizations, including indigenous organizations and youth groups, and individual experts are welcome.

The meeting will be held during the thirty-fourth session of the Committee, at the Office of the High Commissioner for Human Rights (Palais Wilson, Geneva), on Friday, 19 September 2003.

The format of the day is intended to allow participants to engage in a frank and open dialogue; the Committee therefore asks participants to avoid making formal statements. The Committee invites written contributions on the issues and topics mentioned, within the framework outlined above. In particular, the Committee is interested in receiving information about best practices and child participation within the four subthemes. Contributions should be sent electronically to:

crc@ohchr.org
Secretariat, Committee on the Rights of the Child
Office of the High Commissioner for Human Rights, UNOG-OHCHR
CH-1211 Geneva 10
Switzerland

For more information on submission and registration, please see the guidelines posted on the Committee's web page at: <http://www.unhchr.ch/html/menu2/6/crc/>.

Notes

a/ According to rule 75 of its provisional rules of procedure, the Committee on the Rights of the Child may devote one or more meetings of its regular sessions to a general discussion on one specific article of the Convention or related subject in order to enhance a deeper understanding of the content and implications of the Convention.

b/ The Code of Conduct for Law Enforcement Officials (adopted by the General Assembly in resolution 34/169 of 17 December 1979) defines law enforcement officials, as "all officers of the

law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention ... In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services”.