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COMMISSION ON HUMAN RIGHTS
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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF INDEPENDENCE
OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

REPORT OF THE SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF
HUMAN RIGHTS

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

Women in Prison

Friends World Committee for Consultation (Quakers) welcomes Decision 2003/104 of the United Nations Sub-Commission on the Promotion and Protection of Human Rights to mandate Ms Florizelle O'Connor to prepare a working paper for their next session on the issue of women in prison and the children of women in prison.

We also welcome the United Nations General Assembly (58th session) resolution on Human Rights in the administration of justice, which *inter alia* "Invites Governments, relevant international and regional bodies, national human rights institutions and non-governmental organizations to devote increased attention to the issue of women in prison, including issues relating to the children of women in prison, with a view to identifying the key issues and ways in which they are addressed and notes the proposal of the Sub-Commission on the Promotion and Protection of Human Rights (decision 2003/104) to prepare a working paper on this issue."

As women constitute only a small (but rapidly growing) minority of the prison population their particular circumstances and needs are often overlooked by prison regimes designed for male prisoners. Whilst issues such as overcrowding, hygiene, and visitation rights are relevant to prisoners of either gender, there are many concerns which are specific to female prisoners, or which affect female prisoners in a different or particularly harsh way when compared to their male counterparts.

Of the many issues arising in this field, we wish to highlight the following:

- a) The (comparatively) small number of prisons for women means that they are often imprisoned further away from their homes and communities than are male prisoners. This causes particular difficulties – including financial difficulties - for receiving visits from family members, particularly children who cannot travel unaccompanied. As a result women prisoners receive fewer family visits, causing substantial psychological and emotional distress.
- b) As a result of the lack of facilities for women’s detention, women (and girls) are often imprisoned in mixed-sex facilities. This places women, including those still awaiting trial, at an unacceptable risk of violent and/or sexual assault by male prisoners.
- c) Besides the risks posed to them by male prisoners, female prisoners may also suffer sexual abuse by prison staff. Despite the United Nations Standard Minimum Rules for the Treatment of Prisoners, some countries still employ male staff in an inappropriate capacity in women’s prisons. Prisoners who are abused by staff have no way of escaping from their abuser. Those who file a complaint or take legal action are at risk of further retaliatory abuse, even if they are transferred to another facility.
- d) Women who are pregnant on entering prison (or become pregnant during their incarceration as a result of the abuses mentioned above or of conjugal visits), as well as nursing mothers, are in need of particular health care facilities which are often unavailable or sorely inadequate. The children (including those as yet unborn) of these women also require particular consideration in terms of medical and dietary requirements.
- e) Very young children often accompany their mothers into prison, but in many countries the exact age limits are imprecise and subject to discretion. Appropriate and adequate provisions need to be made for these children while in prison - medically, educationally, and socially. Issues also arise about the subsequent separation of the child from the mother where this occurs.

Where children are not permitted to stay with their mother during her incarceration it is important to consider what arrangements are made for their care. In many instances the mother is the sole or main care-giver, in which case the children must be placed with either extended family, a foster family, or in the care of state social services. In these circumstances, not only are the children separated from their mother but it is also common for siblings to be separated from each other, thus increasing the trauma of family breakup. The effects of this separation on the mother-child relationship and the difficulties many mothers face in retrieving their child from state care and reunifying their family on being released from prison should not be underestimated.

- f) The increase in the number of women in prison is primarily due to the increasing use of incarceration as a punishment for offences which were previously punishable by non-custodial sentences. This is particularly the case in relation to drug offences and non-violent theft. Considering the very serious consequences imprisonment – even a short term - has for family relationships, and considering the importance of good family relationships as a key factor in crime prevention, States should consider carefully the appropriateness of increasing the use of custodial sentences as punishment for non-violent offenders.

As a result of these concerns, Friends World Committee for Consultation (Quakers) urges the UN Commission on Human Rights to:

1. Welcome the Sub-Commission's decision to request Ms Florizelle O'Connor prepare a working paper on the much-neglected subject of "women in prison and the children of women in prison" in its resolution on Human Rights in the Administration of Justice;
2. Call on Governments, relevant international and regional bodies, national human rights institutions, the International Committee of the Red Cross and non-governmental organisations to provide information and analysis of key issues to the Sub-Commission expert;
3. Urge States to keep and provide disaggregated data on women and girls in prison and pre-trial detention, and on children in prison with their mothers, and provide this and other information on these topics in their reports to the Human Rights Treaty Bodies;
4. Encourage the Human Rights Treaty Bodies, in particular the Committee on the Elimination of All Forms of Discrimination against Women and the Committee on the Rights of the Child, to give serious and consistent attention to these issues when considering State reports;
5. Call on UNIFEM, the Commission on the Status of Women and the Commission on Crime Prevention and Criminal Justice to give greater attention to these issues;
6. Urge States to consider the particular problems arising from women's imprisonment, especially those relating to family break-up and the care of their children, and therefore to investigate and to give serious consideration to alternative, non-custodial sentences;
7. Urge States to ensure that female prisoners are adequately protected from violent and sexual assault, in particular by prohibiting the inappropriate use of male correctional staff and the mixing of genders in prison facilities;
8. Request States to ensure that adequate provisions are made for the care of the children of incarcerated women, both those entering prison with their mother (through the provision of more and better quality facilities) and those remaining on the outside. In countries where it is the norm for convicts to be taken directly to prison after sentencing consideration should be given to those who are the sole or primary care-giver of children: many women who do not expect to receive a custodial sentence do not make arrangements for their children in advance, and so face entering prison not knowing if someone will even collect their children from school. They should be given time to make adequate care arrangements, including the possibility of deferral of sentence until such provisions have been made satisfactorily.
9. Request the Sub-Commission to follow the working paper with a full study on women in Prison and the children of women in prison with a view to identifying the different ways in which these issues have been addressed and making practical recommendations with regard to them, taking account of the recommendations and comments made by women prisoners and ex-prisoners themselves about the problems and ways in which they could be addressed better.
