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PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS
AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS

PREVENTION OF DISCRIMINATION AND PROTECTION OF CHILDREN,
HUMAN RIGHTS AND YOUTH

Written statement submitted by the Four Directions Council, a
non-governmental organization in consultative status
(category II)

The Secretary-General has received the following communication which is
circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[12 August 1987]

THE ROLE OF FAMILIES IN PROTECTION OF CHILDREN

1. As we indicated in E/CN.4/1986/NGO/1, the current draft of the Convention on the Rights of the Child weakens the recognition given by existing international instruments to the importance of uninterrupted family life in the development of children. In particular, it consistently refers to "parents" rather than "families", implying that nuclear families are more natural than extended ones, and that extended-family members such as grandparents play no role in the care and guidance of children.

2. The draft Convention merely obliges State parties to provide "appropriate assistance" to parents (article 8), while the International Covenant on Economic, Social and Cultural Rights requires "the widest possible protection and assistance" for the families of children (article 10). The draft Convention makes no reference to the conception of the family as "the natural and fundamental group unit of society", which was reiterated in the Universal Declaration of Human Rights (article 16), the International Covenant on Civil and Political Rights (article 23), and the Declaration on Social Progress and Development (article 4). While the Covenants protect the integrity and continuity of families (ICCPR, article 17), the draft Convention merely protects children against separation from their parents (article 6), disregarding the possibility of custody by other family members.

3. The nuclear family is a relatively recent development among the higher-income sectors of industrialized societies, principally in Europe. Among the disadvantaged in European countries, as well as the great majority of peoples in industrializing countries, the norm is the extended family - extended both vertically (grandparents and parents' siblings) and horizontally (married children, cousins). Extended-family members do not necessarily live in the same household; they may live in a cluster of nearby households, or even at some distance, but in any case form a single interactive unit in which all members have routine child-rearing responsibilities. It may be argued, indeed, that the nuclear family is deficient from a child-rearing viewpoint, since two (or, even more commonly, one) of the parents ends up bearing all child-rearing tasks, rather than spreading these tasks among a dozen or more persons. The extended family offers parents more respite and more freedom to pursue other activities - and affords children more varied social stimulation.

4. Extended-family members can be just as actively involved in the child's development as parents - often, as in the case of grandparents, even more involved - and they have a legitimate basis for asserting the same rights and responsibilities. Since the extended family is by no means an inferior social structure, it is entitled to the same consideration, protection and assistance as the nuclear family. If a child must be separated from its parents, moreover, it need not also be removed from its extended family. Continued custody within the extended family may be far less disruptive or traumatic than substitute care or institutionalization.

5. The importance of the social support children receive from extended-family members - and the psychosocial problems associated with disrupting these families - are well documented for American Indians 1/ and Blacks. 2/ A whole issue of the journal Child Development was recently devoted to the importance of families in the social and emotional development of children, and opened with an editorial warning 3/ that the family environment has too often been ignored by psychologists, who have been preoccupied with the child as an evolving individual. Disregarding the child's role as a member of an organized group results in an individualistic bias in child-welfare policy which wastes the potential of extended-family members as a resource on which the State can rely in the absence of the parents. This bias is reflected in the draft Convention.

6. In our view, the draft Convention should provide that:

The term "parents", where it appears in this Convention, shall include other family members who customarily share responsibility for the child's upbringing and guidance.

The effect of this addition would be to assure to persons such as grandparents and older siblings of the child, where they actually are assuming or sharing parental responsibilities, the rights to retain custody of the child (article 6), to maintain contact with or be reunited with the child (article 6 bis), to provide direction to the child's education (articles 7 bis and 15), and to share in State assistance for the child (article 8). It would likewise impose on extended-family care-givers the same legal responsibility for the well-being and protection of the child as its parents (article 8).

7. Similarly, we would urge the Commission and the Sub-Commission, in any future consideration of draft standards or proposed programmes relating to children and youth, to recognize the role of families in the protection and development of children, and to avoid ethnocentric conceptions of the size or structure of families, which must remain a matter of cultural freedom protected, as the Human Rights Committee concluded in its decision in Sandra Lovelace v. Canada. No.24/1977, by article 27 of the International Covenant on Civil and Political Rights.

Notes

1/ S. Unger, ed., The Destruction of American Indian Families (New York, 1977), S.M. Morey and O.L. Gilliam, eds., Respect For Life: The Traditional Upbringing of American Indian Children (Garden City, New York, 1974).

2/ M.N. Wilson, "The Black extended family: an analytical consideration", Developmental Psychology 22(2):246-58 (1986), W.W. Dressler, "Extended family relationships, social support, and amental health in a southern Black community", Journal of Health and Human Behaviour 26(1):39-48 (1985).

3/ F. Furstenberg, Jr., "Sociological ventures in child development", Child Development 56(2):281-288 (1985).