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COURSE ON UNITED NATIONS CRIMINAL JUSTICE POLICY

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FOREWORD

The first of a projected series of courses on United Nations Criminal Policy was organized by the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations, in Helsinki 25-29 March 1985. The course was arranged in close cooperation with the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, United Nations.

The Helsinki Institute was privileged to be the host not only of many leading professionals associated with the development and promotion of United Nations criminal policy, but also of distinguished experts from all over Europe.

Due to the proximity at the time of the course of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held at the invitation of the Government of Italy in Milan, 26 August - 6 September 1985, the discussions in Helsinki dealt not only with United Nations criminal policy in general, but also with the specific topics on the tentative agenda of the Seventh Congress. Both of these main themes are reflected in the present report.

This report includes most of the materials presented at the meeting by the lecturers and experts, in the form they were submitted to the Helsinki Institute. The report also includes a summary of the discussions prepared by the Rapporteur, Senior Researcher Matti Joutsen.

Helsinki, 19 June 1985

Inkeri Anttila
Director
Helsinki Institute for
Crime Prevention and Control,
affiliated with the United Nations

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Helsinki Institute for
Crime Prevention and Control
affiliated with the United Nations.

Report on the meeting on United Nations criminal policy

1. Opening and organization of the meeting

The meeting on United Nations criminal policy, organized by the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations, was held in Helsinki, 25-29 March 1985. (The list of participants is given in annex I.)

The meeting was opened by Inkeri Anttila, the Director of the Helsinki Institute, who welcomed the participants to the first in a planned series of courses on United Nations criminal policy. In her remarks, she noted the need for an exchange of experiences in crime prevention and control specifically among the European countries.

The Secretary General of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Mrs. Leticia R. Shahani, in addressing the meeting, called special attention to the importance of a regional approach in crime policy. She regarded this approach as particularly promising, as international and national activities could be encouraged, assisted and complemented by practical programmes at the regional level, thus providing for additional forms of action. This would maximize the area of common ground which exists among the countries of the same region, and promote greater utilization of institutional and organizational arrangements. It was noted that this would also promote greater differentiation in the formulation and implementation of crime control policy.

In the approval of the agenda of the meeting (the agenda is given in annex II), attention was paid to the upcoming Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held at the invitation of the Government of Italy in Milan, Italy, 26 August - 6 September 1985. Although the programme for future meetings of this nature would be devoted to United Nations criminal policy as such, the Helsinki Institute had decided, in view of the closeness of the Seventh Congress, to devote the second part of the meeting to a consideration of the topics on the provisional agenda of the Congress.

2. The structure of United Nations crime policy

During the first day of the meeting, the presentations dealt with the organizational framework of international criminal policy, and in particular with the role of the United Nations. A summary of these proceedings is given below, as made by the Rapporteur, Mr. Matti Joutsen. (The presentations are provided in annex III.)

The nucleus of United Nations activity in criminal policy is formed by the United Nations Crime Prevention and Criminal Justice Branch in Vienna, under the expert advice and guidance of the United Nations Committee on Crime Prevention and Control. The latter body is a committee of experts individually appointed by the Economic and Social Council. The Committee regularly convenes as a body every two years. It reports directly to the Economic and Social Council.

The Crime Prevention and Criminal Justice Branch is part of the United Nations Centre for Social Development and Humanitarian Affairs, which belongs to the Department of International and Economic and Social Affairs. It is responsible for the preparation of documentation on crime prevention and control requested by relevant United Nations bodies and offices, as well as the preparation of the quinquennial Congresses on the Prevention of Crime and the Treatment of Offenders.

One of the functions of the Branch is to provide technical assistance and expertise to requesting states. The establishment of the position of United Nations interregional adviser has facilitated the meeting of these requests.

The work of the Branch is supplemented by the activity of the United Nations institutes in crime prevention and control. There are two types of such institutes. The United Nations Social Defence Research Institute (UNSDRI), which is located in Rome, has been characterized as the research arm of the Branch. Its focus is on action-oriented research that would be of assistance primarily to the developing countries. The regional institutes (the United Nations Asia and Far East Institute, UNAFEI, in Tokyo, the Latin American and Caribbean Institute, ILANUD, in Costa Rica, and the European Institute, HEUNI, in Helsinki) provide a regional focus in the work, and concentrate on research, training and the exchange of information on crime prevention and control.

The United Nations works not only with individual states, but also with the many non-governmental organizations interested in crime prevention and control. Foremost among these are the International Penal and Penitentiary Foundation, the International Association of Penal Law, the International Society for Social Defence and the International

Society for Criminology. The activities of the non-governmental organizations in relation to the United Nations are coordinated by the NGO-Alliance, which has branches in both Vienna and New York. With special reference to the European region, the role of the Council of Europe in promoting the exchange of information and i.a. in preparing draft international agreements is of considerable importance.

In the discussion on the expectations of the various European countries with regard to United Nations criminal policy, the need for both information and cooperation was stressed heavily. It is important for decision-makers to be aware of developments in their field in other countries, as these developments may presage or have parallels in their own countries, just as the solutions adopted elsewhere may prove instructive.

In the discussion on the importance of an exchange of information, observations were made about the role of crime statistics on the international level. Experiences with international comparisons among various European countries were cited. Some of these experiences were considered very disillusioning, in that they revealed that even on the national level analysis was difficult.

Other experiences were cited as more encouraging. In the latter case, it was stressed that attempts at making crime definitions uniform were extremely difficult, and that the focus should not be on comparisons between countries on, for example, the rate of certain categories of crime. Instead, the crime statistics should be used to establish part of the framework for assessing the operation of the criminal justice system, and in learning through this from the experiences of the various countries in crime control policy. The results can also be presented in the form of certain basic facts on crime prevention and control which will then serve to stimulate discussion. In all cases, the crime statistics should be analysed with care. Especially inferences based on reported totals of all offences should be avoided, due to the considerable variety in the construction of this total.

Special mention was made of the Second United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies, the results of which are to be reported to the Seventh United Nations Congress. Although the Survey elicits statistical data, it was stressed that these results can only be understood within the framework of the individual state or, in some cases, of part of the state. It was mentioned that the Helsinki Institute was preparing a report on a transnational survey of the operations of the criminal justice systems of the European countries, based on the responses to this Survey.

Further attention was paid to the paucity of any information at all from a number of countries. Several participants noted countries where no criminal justice information was compiled even for internal use by the various sectors of administration. The role of the Latin American and Caribbean Institute (ILANUD) was cited in providing states in the area with a manual and other basic information on the collection of data.

In listing important achievements of the United Nations in criminal policy, reference was made to the Standard Minimum Rules for the Treatment of Prisoners, the Code of Conduct for Law Enforcement Officers, and the establishment of a data base on crime prevention and control in various states. Mention was also made of the reports and newsletters of the United Nations and the products of the activity of the regional institutes.

According to one participant, the work of the United Nations in promoting justice and stability was hindered by the dilemma inherent in combining the goals of harmonization of criminal justice with the increasingly recognized importance of maintaining the different national traditions. This dilemma was seen to be critical in the choice of focusing on either general principles or detailed standards and guidelines. Although general guidelines are relatively easy to formulate in theory, in practice they can be interpreted in many ways. On the other hand, detailed norms may be considered to be intrusive. Furthermore, it is difficult to achieve agreement on detailed standards and guidelines, although they in turn may lead to the greatest concrete results.

There was general agreement on the importance, in the formulation of recommendations, standards and norms, of concentrating on practical, useful and applicable measures as opposed to general principles which are readily acceptable to all. One participant noted that, while such general principles may serve as a useful point of departure, the formulation of recommendations should be based on a recognition of the realities of different systems and different traditions in the world. Consequently, the participant recommended a differentiation in this formulation, and cited in the case of the developing countries as an example that some recommendations should be oriented towards those countries with an Anglo-Franco background, while others should be oriented towards those with a Socialist background. In all cases, the basic traditions of the various countries should be kept in mind.

The need for a more differentiated approach to the criminal justice systems of the various countries was illustrated with the example of crime prevention in the Soviet Union. The system of crime prevention in the Soviet Union was described as serving the overall goal of developing social-

ist society by functioning on various levels. One level deals with the background for crime prevention, through the development of e.g. economic life, education, culture, and the solving of legal problems in general. A second level deals with more specific crime control measures through inter alia the militia, the prokuratura, courts, corrections and after-care. The planned economy of the Soviet Union permits the incorporation of the prophylaxis of crime in all general development plans. It is realized that the prevention of crime involves not only penal law, but also for example labour law and economic law.

3. Discussions on selected crime policy issues

The importance of research and scientific knowledge in crime prevention was underscored by several participants. One participant called for more information on successful crime prevention strategies, based on studies of areas and sectors where crime is not considered a major problem. This more positive approach may serve to offset the negative thinking often associated with crime and criminal policy. This theme was taken up by another participant who noted the need for a long-term strategy which is not based on mere reaction to current crime problems.

Another participant noted the common assumption that urbanization and technical progress lead to more crime, and noted that the experts in his country disagree. These experts hold that it is the social framework and the measures which are undertaken which in fact are decisive in preventing crime.

Another participant noted that, although social prevention measures are widely considered to be of critical importance in crime prevention, the experience in his country was instead that the considerable increase in the standard of living during the previous decades has been accompanied by an increase in registered traditional crime. He attributed this increase to the greater number of opportunities for crime brought by the increase in the standard of living, as well as by the changes in the way in which every-day life is organized. He cited as an example figures indicating that one third of all registered crimes in his country were in some way related to automobiles, and involved theft of, theft from, or vandalism of cars. He argued that the focus in crime prevention should therefore be shifted from social prevention to situational prevention, and that crime prevention measures should be tailored to specific crime problems so that the measures in themselves would not involve any loss in the quality of life.

The question of situational crime prevention was taken up by several participants, who noted that the subject shall also be dealt with in connection with topics I and II of

the provisional agenda of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as well as in the action-oriented workshop to be arranged by the United Nations Social Defence Research Institute in connection with topic IV, on Youth, Crime and Justice.

One participant stressed that the technical aspects of situational crime prevention are only part of the whole, and that attention should also be paid to such matters as the social context of interaction and social events. Another participant noted that, in fact, situational crime prevention had long been recognized as one of several suitable complementary approaches, and that it is important to distinguish between awareness of the connections between social settings and crime on one hand, from the design and use of effective measures on the other.

The increase of opportunity for the commission of crime was dealt with also in other respects. One participant noted that any increase in crime does not negate the importance of social planning, and instead would show that the society in question has been unsuccessful in dealing with the general prophylactic factors of skewed values and lack of social solidarity. In agreeing with this, another participant underlined the importance of moral education, and noted that prevention merely through, for example, increased police patrolling is not a feasible option.

4. General exchange of views with reference to United Nations Congresses on the Prevention of Crime and the Treatment of Offenders

There was general agreement that the United Nations quinquennial Congresses on the Prevention of Crime and the Treatment of Offenders are not only the most visible signs of the formulation of United Nations criminal policy, they are also the most important instruments in the fulfilling of this policy.

One participant noted the changes and development in the work of the United Nations congresses. He observed that the Congresses are no longer addressed primarily to any particular group of countries, but to the world at large. This change in focus accompanied the decolonization process during the post-war period. Furthermore, the Congresses have evolved from primarily treatment-oriented conferences, to conferences which pay more attention to crime prevention and justice. According to the participant, the earlier dominant themes were the Standard Minimum Rules for the Treatment of Prisoners, juvenile delinquency, and crime in the context of development. The participant observed that, although victims of crime will be the subject of a specific topic for the first time in 1985, this theme will presu-

mably be repeated in future Congresses.

It was noted that the idea for holding quinquennial Congresses was advanced within the United Nations already during the 1940s and the early 1950s, and that this idea led to the first United Nations Congress in 1955. Several participants observed that, after the United Nations had assumed the responsibility for the organization of these congresses on crime prevention, the role of the academics has constantly decreased, along with the increasing role of government officials. These participants regretted this tendency, and noted the importance of maintaining an academic and scientific input.

Other participants, in dealing with this dilemma, responded that the United Nations has in fact recognized the need for a considerable scientific input, and has taken steps to ensure a high academic contribution. The example was cited of the arrangements for the Seventh United Nations Congress, which shall be provided with several reports of the Secretariat based on empirical data. Many national delegations shall contribute material based on their own experiences. Furthermore, a research workshop shall be organized at the Seventh United Nations Congress by the United Nations Social Defence Research Institute. Also, in inviting member States to send delegations to the Congress, the United Nations is specifically calling the attention of these member States to the importance of including in the delegations national correspondents of the United Nations Crime Prevention and Criminal Justice Branch, and in many cases these national correspondents are academics.

One participant summarized the primary outcomes of the United Nations Congresses as lying in the formulation of actual standards and norms on one hand, and in a greater understanding of existing differences on the other. The participant considered this latter aspect of great importance as the basis for future development.

Other participants agreed on the importance of focusing on such concrete results in the form of agreed declarations, norms and guidelines. Several participants noted that the topics generally covered by the Congresses were quite broad, and could not be dealt with in depth within the space of two weeks. This calls not only for advance planning and the focusing on selected issues but also, according to one participant, to a concentration on work in small bodies within the framework of the Congress, thus providing for a constructive and informed discussion and exchange of views.

5. The topics on the provisional agenda of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

The Secretary General of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders introduced the general theme of the Seventh Congress, "Crime Prevention for Freedom, Justice, Peace and Development", by explaining the particular components of this theme. He drew the attention of the meeting to the possible implications for the work of the Congress.

Topic I. New dimensions of criminality and crime prevention in the context of development: Challenges for the future

In the discussion of Topic I of the provisional agenda of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, New dimensions of criminality and crime prevention in the context of development: Challenges for the future, it was noted that the emphasis would be on the two themes of crime trends and development.

The question of development and crime was noted as having been a dominant one in United Nations Congresses, spanning the period from the Second United Nations Congress in 1960 to the present. The participant noted that development was not mechanically connected with crime. What was most important was the way in which a country develops. This development could also be seen from several angles, such as that of social, political and economic development. The participant further noted that crime as such has its own form of development, which is not necessarily linked to the other forms of development. However, another participant noted that the criminal justice system influences economic development both directly through the definition and prevention of economic activity, and indirectly, through its general influence on activities in society.

One participant observed that the topic appears to attempt to integrate criminal justice into the process of development. The prevailing trend among the European countries, however, was towards a limiting of the scope of criminal justice, and the participant therefore cautioned that such an attempt at integration is potentially dangerous should it be aimed at expanding the use of criminal justice. The participant also cautioned that the placing of hopes on criminal justice as a tool in development may lead to disillusionment, and concluded that, although there are connections between development and crime, one should not try to establish an overly ambitious and comprehensive framework which would tie the two concepts of crime trends and development together.

Also other participants called attention to the relative role of criminal justice in development. One participant distinguished between the concepts of negative and positive planning of development. Negative planning is involved in the prevention of crime and other barriers to development, while positive planning (in which sense the word planning is normally used) is involved in outlining the hoped-for development of society.

One participant spoke in general about all the agenda items, and in particular about topic I, in stating that the Congress shall be dealing with difficult problems which may not be solved within the space of the two-week Congress. He noted that juvenile delinquency had been dealt with at several Congresses, and only now at the Seventh Congress were tangible results being approached in the form of the Beijing Standard Minimum Rules for the Administration of Juvenile Justice. He therefore suggested that a similar development might be in store for the issue of crime and development: concrete results in the form of guidelines may be the result only of an extended period of preparation.

Topic II. Criminal justice processes and perspectives in a changing world

In the general discussion on the topic, it was noted that both topics I and II would deal with much the same subjects. However, topic II would deal more with the specifics of the subject, and would be oriented towards the criminal justice processes, as opposed to the phenomenon of crime. Some of the themes which would be considered include the effect of changes on operations of the criminal justice system, the decision-making process in the system, the problem of inter-agency coordination, and the need for research.

It was emphasized that the discussions on Topic II were intended to alert the participants to the interconnections in the system. In routine decisions, the decision-makers may become imbued with the routine, and fail to remain aware of the influence of their decisions not only on other sectors in the criminal justice system, but also on the surrounding community.

One participant noted that the topic was an extremely wide one, and concrete results might best be achieved by focusing the discussions on a narrower theme, such as resource management in criminal justice. Another participant noted that the introduction of the computer into criminal justice had taken place in the more advanced countries quite recently, but that its potential in resource management, in managing the ramifications of decisions at different stages, and in speeding up the process were enormous. Other participants, in turned, cautioned about the dangers

of centralization related to over-reliance on computerization.

Two items of particular interest were singled out in the discussions. One was on the development of the participatory model of justice in industrialized countries, and on the questions involved in the balancing of interests in reconciliation. The second item was the question of how to build on the indigenous models of the developing countries, in order to avoid the dangers of trying to implant an inappropriate foreign model.

Topic III. Victims of crime

The discussions on the topic of victims of crime, both in the ad hoc discussion group and in the plenary focused extensively on the draft Declaration on Justice and Assistance for Victims, and in particular on the respective definition and position of victims of crime on one hand and victims of abuse of power on the other. In making this distinction, crime was understood primarily as conventional or unconventional crime recognized and punished by a state as criminal.

The background to the Declaration was presented. It was noted that the Declaration included mechanisms for redress as well as for ensuring justice for the victims of both conventional and nonconventional crime. This dual focus springs not only from the mandate given by the Sixth United Nations Congress in 1980, but also from the insight on the similarity in the issues related to both forms of crime.

Special attention was paid to the status of the draft Declaration as a Declaration, as opposed for example to Standard Minimum Rules or a draft agreement. Many elements of the draft Declaration (such as on the primary responsibility of the offender for compensating damages) were intended as minimum rules. However, it has been explicitly recognized that the situation in many countries did not make it feasible to implement all the elements of the Declaration in full at present. Consequently, some elements (such as on state responsibility for compensation) were designed to have primarily moral force, in order to guide states towards the implementation of these measures as soon as possible.

Several participants argued that there were differences in position between the victims of crime and abuse of power, and consequently different principles and different remedies were called for. These participants feared that should an attempt be made at combining the two phenomena in a joint declaration, this would ultimately prove to be overly ambitious, and it would be difficult to achieve practical results.

The concept of abuse of power was subjected to an extended amount of scrutiny. The difficulties resulting from the absence of a workable definition of abuse of power were noted, and one participant observed that in practice, it may prove difficult to distinguish between abuse of power, personal misfortune and economic circumstances. Another participant noted that part of the nebulosity of the term flowed from the many meanings of power: one could speak, for example, of political, economic, social, technological and religious power.

On the other hand, the concept of "violations of internationally recognized human rights" was widely regarded as a suitable and workable concept, also in legal connections. Its overlap with abuse of power was manifest, especially when the abuse of power in question was defined as infringing against life, liberty and personal security.

On this basis, the suggestion was made that the present formulation of Article II contains some overlap between 2(c) and 2(d).

The meeting decided to submit for the consideration of the Secretariat a reformulation of Article II of the draft Declaration as follows:

delete article II(c) and (d), add the words "at the time of commission" to the leading sentence in article II, and insert the following new article II(c):

("A victim is a person who has suffered ... as a result of conduct which at the time of commission ...)

(c) although not presently proscribed by national or international law, otherwise violated universally recognized human rights protecting life, liberty and personal security.

and add to the preamble the following:

11. recommends that the Committee on Crime Prevention and Control consider the formulation of model procedures for the providing of justice and assistance to victims of governmental acts which amount to an abuse of power by persons who, by reasons of their political, economic or social position, whether they are public officials, agents or employees of the State, or corporate entities, are beyond the reach of the law.

Topic IV. Youth, crime and justice

It was noted that juvenile delinquency was one of the recurring themes of United Nations Congresses, and that also the International Penal and Penitentiary Foundation

and the League of Nations had organized conferences and congresses on this theme already before the United Nations began organizing the Congresses.

One of the most important issues before the Seventh United Nations Congress in connection with Topic IV was seen to be the adoption of the Beijing Draft Standard Minimum Rules on the Administration of Juvenile Justice. The draft Standard Minimum Rules were noted to have been the result of an extended period of preparation and consideration. They were introduced to the meeting with the comment that they were intended to minimize the adverse effects of juvenile justice, keeping however in mind the interests of society; they were intended to protect fundamental human rights, and they were intended to be applicable in a diversity of national settings and legal structures.

In dealing with the Standard Rules, it was noted that the Rules avoided taking a specific position on the definition of youth crime. Already at the Second United Nations Congress in 1960, it was unanimously agreed that the problem of juvenile delinquency should be defined in accordance with the general structure of the corresponding state. It was also agreed that the term should refer to acts which, if committed by an adult, would lead to criminal prosecution.

Also the question of age is one that was not dealt with specifically in the Standard Rules. It was observed that not only do national laws vary considerably in regards to the ages covered by the concept of youth crime, but that also the ages may change, over time and in accordance with other factors. There was also a considerable difference between the average life-span in the states of the world, and this has an effect on the perception of youth crime.

The draft Standard Minimum Rules were welcomed as a significant contribution to United Nations criminal policy, and those who had participated in the drafting of the Rules were congratulated on their balanced work on a sound scientific basis, with acknowledgment of the realities of practice.

Several participants noted minor details of the draft Rules which might be amended. It was noted, for example, that rule 12.1 called for specialization within the police, but besides from the general provisions in rules 1.5 and 23.1, there was no comparable provision for prosecutors, tribunals or other authorities. Another remark was directed towards rule 15(2), and the comment was made that in certain cases it might even be appropriate to exclude the juvenile from the immediate proceedings. A third comment related to the rule against further use of records, and the comment was made that in some cases past records might be valuable in benefitting the juvenile.

One point of principle to which attention was called was that the provision on the closing of the proceedings to the public, in Rule 15.1, might be considered to violate the common principle according to which legal proceedings are to be public, in order for it to be possible to supervise the administration of the public.

Topic V. Formulation and application of United Nations standards and norms in criminal justice

The discussion on United Nations standards and norms was opened by a presentation of the considerable success of the work of the United Nations in this field. The degree to which these standards and norms have influenced national criminal policy was illustrated with the example of Poland. On the basis of this and other examples, the Secretariat of the United Nations was congratulated on its successful and important work.

Special attention was paid to the draft guidelines on the independence of the judiciary, which had been the subject of an ad hoc discussion group during the meeting. In reporting on the discussions in this group, the importance of the guidelines was stressed. It was noted, however, that although the draft had undergone considerable and valuable preparation, the terminology in the field may require further harmonization. The discussion group had also suggested that more stress might be given in the guidelines to the notion of fair trial.

Attention was also paid to the draft agreement on the transfer of prisoners, and the experience of several countries was cited to illustrate the positive effect of existing bilateral and multilateral agreements. One participant expressed the hope that similar progress could be made on the transfer of penal proceedings from one country to another.

The meeting noted that among the issues before the Seventh United Nations Congress will be a review of the progress in the implementation of both the United Nations Standard Minimum Rules on the Treatment of Prisoners, and the Code of Conduct for Law Enforcement Officers. Several states had responded to the inquiries of the Secretariat on this progress, and the results were regarded as highly favourable. The meeting recommended to the Secretariat that more member States be invited to comment on the progress.

6. Closing of the meeting

The representative of the Crime Prevention and Criminal Justice Branch thanked the Helsinki Institute for the arrangement of the meeting, which served not only as a fruitful forum for a general discussion of United Nations criminal policy, but also as a significant venue for furthering the preparations for the Seventh United Nations Congress. He also warmly thanked the participants for their very active contributions during the course of the meeting, and congratulated the participants on the high level of the discussions.

The representative of the United Nations Committee on Crime Prevention and Control also extended his congratulations to the Helsinki Institute. He noted that the contributions of the participants during the week will be of valuable assistance in preparing for the Congress, and will thus promote the success of the Congress. He noted the evolution of the United Nations Congresses from forums focusing on the treatment of the offender, to forums giving more balanced attention to the important issues of crime prevention, criminal justice and treatment, and therefore proposed that the name of the Congresses become the United Nations Congresses on Crime Prevention and Criminal Justice.

In closing the meeting, the Director of the Helsinki Institute expressed her appreciation for the close support and valuable contribution of the United Nations Secretariat in the arrangement of the proceedings. She also warmly thanked the various organizations represented at the meeting. She in particular thanked the representatives of the European countries who had contributed their time and, above all, their great expertise in assuring the high level of discussions. She closed by expressing her hopes of seeing as many of the participants as possible at the United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Milan.

ANNEX I
LIST OF PARTICIPANTS

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HEUNI

ANNEX II
AGENDA OF THE COURSE

Course on United Nations Criminal Justice Policy

Helsinki, 25 - 29 March, 1985

Place: Kalastajatorppa Hotel

March 24

Registration of participants

March 25

- 09.00 Opening of the course
- 09.15 Opening presentation by Mr. Minoru Shikita, Chief of the Crime Prevention and Criminal Justice Branch (CPCJB), United Nations, on the activities of the Branch and the preparations for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders
- 10.15 Presentation of the work of the United Nations Committee on Crime Prevention and Control, by Justice Dusan Cotic, Vice-Chairman of the United Nations Committee on Crime Prevention and Control
- 10.45 The United Nations regional institutes for crime prevention and control, short presentations; The experiences of a United Nations appointed Expert, by Professor Alexander Yakovlev, Institute of State and Law, the Academy of Sciences of the USSR
- 11.45 The criminal policy activities of the Council of Europe, by Dr. Ekkehart Muller-Rappard, Council of Europe
- 12.15 Presentation of the activities of the United Nations Social Defence Research Institute, by Director Ugo Leone (apologised, paper presented by Dr. Konrad Hobe, FRG)
- 14.30 The role and tasks of the United Nations Interregional Adviser, by Interregional Adviser, Dr. Pedro David, CPCJB
- 15.00 The history of international crime prevention, with special reference to the activities of the International Penal and Penitentiary Foundation, by Justice Helge Röstad, representative of IPPF

- 16.30 The cooperation between the Non-Governmental Organizations and the United Nations in the field of criminal policy, by Dr. Robert Linke, Austria; (paper presented by Dr. Helmut Epp, Austria); The International Association of Penal Law, the International Society for Criminology, and the International Society for Social Defence, short presentations

March 26

- 09.00 The expectations of the different European nations vis-à-vis the United Nations' work in crime prevention and criminal justice, by Deputy Under-Secretary of State David Faulkner, member of the United Nations Committee on Crime Prevention and Control, United Kingdom, and Professor Igor Karpetz, Director of the Federal Institute for the Studies of the Causes of Criminality and Crime Prevention, USSR

Discussion

- 12.00 The previous United Nations Congresses on the Prevention of Crime and the Treatment of Offenders, by Professor Manuel Lopez-Rey, former chief of the CPCJB, Chairman of the United Nations Committee on Crime Prevention and Control

- 14.30 Address by Mrs. Leticia R. Shahani, Assistant Secretary-General, United Nations

Introduction to the preparations for the Seventh Congress

- 15.00 First topic of the Seventh Congress: New Dimensions of Criminality and Crime Prevention in the Context of Development: Challenges for the Future, presented by Mr. Minoru Shikita, Chief, CPCJB; prepared statement by Director Patrik Törnudd, the National Research Institute for Legal Policy, Finland

Discussion

March 27

- 09.00 Excursion to a prison outside Helsinki

- 17.00 Discussion in ad hoc groups on the five topics of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

March 28

- 09.00 Discussion on the first topic (continued)
- 09.30 Second topic of the Seventh Congress: Criminal Justice Processes and Perspectives in a Changing World, presented by Social Affairs Officer Slawomir Redo, CPCJB;
prepared statement by Professor Gerhard Mueller, Rutgers University, former chief of the CPCJB
- Discussion
- 12.00 Third topic of the Seventh Congress: Victims of Crime, presented by Social Affairs Officer Slawomir Redo, CPCJB;
prepared statement by Senior Researcher Matti Joutsen, HEUNI
- Discussion
- 16.00 Fourth topic of the Seventh Congress: Youth, Crime and Justice, presented by Mr. Minoru Shikita, Chief, CPCJB;
prepared statement by Professor Derick McClintock, University of Edinburgh
- Discussion

March 29

- 09.00 Discussion on the fourth topic, (continued)
- 09.30 Fifth topic of the Seventh Congress: Formulation and Application of UN Standards and Norms in Criminal Justice, presented by Social Affairs Officer Slawomir Redo, CPCJB;
prepared statement by Dr. Przemyslaw Mackowiak, Deputy Director, Institute of Research on Judicial Law, Poland
- Discussion
- 11.30 Closing of the course

Minoru Shikita
Chief, Crime Prevention and
Criminal Justice Branch,
United Nations, Vienna, Austria

The United Nations Organizations, and the Crime Prevention
and Criminal Justice Branch within it

Organization of the United Nations

1. The United Nations consists of six organs, namely the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice and the Secretariat.
2. The Crime Prevention and Criminal Justice Branch belongs to the Secretariat, corresponding largely to the executive branch of a government. It is a part of the Centre for Social Development and Humanitarian Affairs which belongs to the Department of International Economic and Social Affairs.
3. The General Assembly and ECOSOC can be equated to the legislative branch of a government.

The role of the Crime Prevention and Criminal Justice Branch

1. Assists Member States, at their request, with respect to all matters of crime prevention and control and criminal justice (by providing various policy options, technical assistance, service of interregional advisers, etc.)
2. Collects, analyses, and disseminates relevant information on a worldwide basis (by periodical world crime surveys, network of national correspondents, International Review of Criminal Policy, Crime Prevention and Criminal Justice Newsletter, etc.)
3. Assists in the development of norms and guidelines for Governments (i.e. Standard Minimum Rules on the Treatment of Offenders and Code of Conduct for Law Enforcement Officers, etc.)
4. Promotes collaboration between Governments (by convening quinquennial Congresses and other meetings, assisting regional and interregional institutes, etc.)

Regional and Interregional Institutes

1. Regional institutes:

de jure

(a) The United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) established in 1962 in Tokyo serving the Asia and Pacific region;

(b) The United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) established in 1975, in San José, Costa Rica, serving the Latin American and Caribbean region;

(c) Helsinki Institute for Crime Prevention and Control affiliated with the United Nations (HEUNI), established in 1982, in Helsinki, serving the European region.

de facto

Arab Security Studies and Training Centre, established in 1982, in Riyadh, Saudi Arabia, serving the Arab countries.

2. Role of regional institutes:

- (a) Training;
- (b) Research;
- (c) Collection and dissemination of information;
- (d) Stimulation and encouragement of regional consensus;
- (e) Facilitating implementation of United Nations policies and programmes;
- (f) etc.

3. Interregional institute:

The United Nations Social Defence Research Institute (UNSDRI) was established in 1968 in Rome, as the "research arm of the Secretariat".

National Correspondents

1. Established in 1950 by General Assembly resolution 415 (v).

2. As of the end of February 1985, a total of 274 persons from 112 countries.

3. Functioning as a very effective means of collecting, disseminating and analysing salient data and information, as well as facilitating the implementation of United Nations policies and programmes, at the national level.

Interregional Adviser on Crime Prevention and Criminal Justice (to be presented separately).

Committee on Crime Prevention and Control (to be presented separately).

M. Minoru Shikita

Les organisations des Nations Unies, et parmi elles, le service pour la prévention du crime et la justice pénale

Organisation des Nations Unies

1. Les Nations Unies se composent de six organes, à savoir l'Assemblée générale, le Conseil de sécurité, le Conseil économique et social, le Conseil de tutelle, la Cour internationale de justice et le Secrétariat.
2. Le Service pour la prévention du crime et la justice pénale appartient au Secrétariat, correspondant largement à la branche exécutive d'un gouvernement. Il fait partie du Centre pour le développement social et les affaires humanitaires qui appartient au Département des affaires sociales et économiques internationales.
3. L'Assemblée générale et le Conseil économique et social (EOSOC) peuvent être comparés à la branche législative d'un gouvernement.

Le rôle du Service pour la prévention du crime et la justice pénale

1. Assiste les Etats membres, sur leur demande, pour tout ce qui concerne la prévention du crime et la lutte contre la délinquance, et la justice pénale (en fournissant diverses options politiques, une assistance technique, un service de conseillers interrégionaux, etc.).
2. Recueille, analyse et distribue une information utile sur une base mondiale (par les enquêtes périodiques sur le crime dans le monde, un réseau de correspondants nationaux, des revues: International Review of Criminal Policy, Crime Prevention and Criminal justice Newsletter, etc.).
3. Assiste dans le développement de normes et de directives pour les gouvernements (c.à.d. Ensemble des règles minima pour le traitement des délinquants et le Code de conduite pour les responsables de l'application des lois etc.).
4. Promouvoit la collaboration entre les gouvernements (en convoquant les congrès quinquennaux et d'autres réunions, assistant les instituts régionaux et interrégionaux, etc.).

Instituts régionaux et interrégionaux

1. Instituts régionaux

de jure

- (a) L'Institut de l'Organisation des Nations Unies de l'Asie et de l'Extrême-Orient pour la prévention du crime et le traitement des délinquants (UNAFEI) établi en 1962 à Tokio, desservant l'Asie et le Pacifique.
- (b) L'Institut de l'Organisation des Nations Unies d'Amérique latine pour la prévention du crime et le traitement des délinquants (ILANUD) établi en 1975 à San José, Costa Rica, desservant l'Amérique latine et les Caraïbes.
- (c) L'institut d'Helsinki pour la prévention du crime et la lutte contre la délinquance affilié à l'Organisation des Nations Unies (HEUNI), établi en 1982 à Helsinki, desservant l'Europe.

de facto

Centre arabe d'études et de formation sur la sécurité, établi en 1982 à Riyad, Arabie Saoudite, desservant les pays arabes.

2. Rôle des instituts régionaux:

- (a) Formation
- (b) Recherche
- (c) Collecte et distribution de l'information
- (d) Stimulation et encouragement de consensus régionaux
- (e) Facilitant la mise en oeuvre des politiques et des programmes des Nations Unies
- (f) etc.

3. Institut interrégional:

L'Institut de recherche des Nations Unies sur la défense sociale (UNDSRI) a été établi en 1968 à Rome, en tant que "bras de recherche du Secrétariat".

Correspondants nationaux

- 1. Établis en 1950 par la résolution 415 (V) de l'Assemblée générale.
- 2. A la fin février 1985, un total de 274 personnes de 112 pays.
- 3. Fonctionnant comme moyen très efficace pour recueillir, distribuer, analyser les données et les informations marquantes, ainsi que pour faciliter l'application des politiques et des programmes des Nations Unies, au niveau national.

Conseiller interrégional sur la prévention du crime et la justice pénale (sera présenté séparément);
Comité pour la prévention du crime et la lutte contre la délinquance (sera présenté séparément).

Г-н Мирону Шикита

Система Организации Объединенных Наций и отделение предупреждения преступности и уголовного права в ее составе

Резюме

Система организаций ООН

1. Организация Объединенных Наций состоит из шести органов, то есть из Генеральной Ассамблеи, Совета Безопасности, Экономического и Социального совета, Совета по опеке, Международного Суда и из Секретариата.
2. Отделение предупреждения преступности и уголовного права относится к Секретариату и действует в значительной степени совместно с исполнительным отделом управления. Оно является частью Центра Социального развития и Гуманитарных дел, который относится к Отделению Интернациональной экономики и Социальных дел.
3. Генеральная Ассамблея и ЭКОСОК можно считать равными с законодательным отделением управления.

Роль Отделения предупреждения преступности и уголовного права

1. Помочь странам-членам, по их просьбе, во всех вопросах предупреждения преступности и контроля ее, а также в вопросах уголовного права (предоставляя различные оптации политики, тезническую помощь, помощь межрегиональных советников и т.п.).
2. Сбирать, анализировать и распространять относящуюся к делу информацию (с помощью периодического мирового обзора по преступлениям, сети национальных корреспондентов, Интернационального Обзора Криминальной политики, Информационного Бюллетеня предупреждения преступности и уголовного права и т.д.).
3. Помочь правительствам в развитии норм и директив (напр.

Стандарта Минимальных правил по обращению с правонарушителями и Кодекса Руководства служащих судебного ведомства, и т.п.)

4. Содействовать развитию сотрудничества между правительствами (созывая пятилетние конгрессы и другие собрания, помогая работе региональных и межрегиональных институтов и т.д.).

Региональные и межрегиональные институты

1. Региональные институты:

de jure

- а) Институт предупреждения преступности и обращения правонарушителей Азии и Дальнего Востока, связанный с Организацией Объединенных Наций (UNAFEI) основанный в 1962 г. в Токио для нужд Азии и района Тихого Океана;
- б) Институт предупреждения преступности и обращения правонарушителей Латинской Америки, связанный с Организацией Объединенных Наций (ILANUD) основанный в 1975 г. в Сан Хозе, в Соста Рике для нужд Латинской Америки и района Карибского моря;
- в) Хельсинский Институт предупреждения преступности и борьбе с ней связанный с Организацией Объединенных Наций (HEUNI) основанный в 1982 г. в Хельсинки для нужд европейского района.

de facto

Арабский Центр исследования безопасности и обучения, основанный в 1982 г. в Рияде, в Саудовской Аравии для нужд арабский стран.

2. Роль региональных институтов

- а) Обучение
- б) Исследования
- в) Сбор и распространение информации
- г) Стимулирование и ободрение районного консенсуса
- д) Содействие выполнению политики и программ ООН
- е) и т.д.

3. Межрегиональные институты

Институт исследования социальной защиты Организации Объединенных Наций (UNSDRI) основан в 1968 г. в Риме для создания "исследовательского оружия для Секретариата".

Национальные корреспонденты

1. Система создана в 1950 г. с резолюзией Генеральной Ассемблеи 415 (V) .

2. В конце февраля 1985 г. общее количество корреспондентов

составляет 274 человек в 112 странах.

3. Система служит эффективным средством сбора, распространения, анализа выходящихся данных и информации, а также средством содействия выполнению политики и программ ООН на национальном уровне.

Межрегиональные советские по предупреждению преступности и уголовному праву
(представляются отдельно)

Комитет предупреждения и контроля преступности
(представляется отдельно)

Цушан Сотич

Труды комитета Организации Объединенных Наций по предупреждению преступности и борьбы с ней

I. История и эволюция комитета

Определение роли, положения и задач Комитета Организации Объединенных Наций по предупреждению преступности и борьбы с ней в эволюции непрерывного сороколетнего существования этой всемирной организации, а в рамках роли и задач и организационных схем многочисленных органов и агентств Организации Объединенных Наций, - является весьма сложной задачей.

Считаем что решающим моментом, с весьма многозначительными последовательностями, является начальное определение ООН - заснованное на ст. 55 Устава Организации Объединенных Наций о том что бы в рамках международного социального и экономического сотрудничества были осуществлены и развиты определенные действия на плане борьбы с преступностью. Преимущество получила точка зрения Временной Социальной Комиссии с Экономическо-социального Совета что предупреждение преступности и борьба с ней представляют значительное содержимое социальных действий и особый вид международного сотрудничества в рамках Организации Объединенных Наций. Этому помог и опыт Лиги Наций которая в определенной мере занималась проблемами торговли невольниками, борьбы с порнографией, проституцией, рабством, а и преступностью несовершеннолетних и терроризмом. Сознанию о нужности международного сотрудничества в области уголовной политики так же помогли и опыт и результаты Международной организации по изучению пенитенциарных проблем (МООП) а и проведение традиционных международных конгрессов этой Комиссии на которых трактовались самые важные проблемы связанные с преступностью и с улучшением положения и с уважением прав заключенных.

Комплексность проблематики вызвала необходимость существования сотрудничества разных агентств не только в рамках ООН (Всемирная организация здравоохранения, Международная организация уголовной полиции - Interpol -, Комиссия прав человека, Комиссия для борьбы против злоупотребления наркотических средств итп.), но и с национальными и международными ассоциациями и учреждениями которые занимаются проблемами уголовного правосудия.

На Третьем заседании Социальной комиссии которое осуществлено в апреле 1948 года наступило осуществление соответствующих служб и органов ООН, которым были доверены задания предупреждения и борьбы с преступностью. В этом смысле особо значительной является резолюция ЭКОСОС-а (Экономического и Социального Совета) под № 155/С/VII с 13 августа 1948 года, которой принимается ориентация Социальной комиссии в связи с ролью ООН на плане предупреждения преступности и даётся официальность идеи о организации конгрессов ООН как весьма значительного вида международного сотрудничества. Осуществлению этих целей должна была помогать и особая группа экспертов (всего седемьмерых) которые в первый раз встретились в 1949 году, сугерируя приоритетные пути международного сотрудничества в этой области.

В следующем году Генеральная Ассамблея ООН своей резолюцией 145/V/Ц 1 декабря 1950 года, согласовано с Пенитенциарной Комиссией, - заключила что определенные функции Международной организации по изучению пенитенциарных проблем включаются в программу ООН. Этим были осуществлены условия для более широкого подхода к программе борьбы преступностью и к обращению с правонарушителями в рамках начал Объединенных Наций. Тогда было принято и формальное постановление об организации пятилетних конгрессов Объединенных Наций; о эдиции Международного обзора уголовной политики и о осуществлении особых региональных групп для проблемов уголовной политики. Тогда осуществлено и фор глонос основоположение ad hoc Комитета 7 (семи) экспертов как зачаток сейчас существующего Комитета ООН по предупреждению преступности и борьбы с ней. Обстоятельство что трактование этих вопросов организуется в связи с празднованием сороколетия Организации Объединенных Наций а и подготовки к VII Конгрессу объясняет и наш подход в реферате который дает возможность установления развития Комитета и результатов стараний многих энтузиастов в этой области деятельности Объединенных Наций, а особо тех которые были членами Комитета, но и тех которые на этом работали или же руководили Секцией по предупреждению преступности и уголовному правосудию, в виде постоянного трудового органа ООН.

Иначе говоря, этот тандем (Комитет и Секция), потпираясь помянутой резолюцией, а сотрудничая и с другими агенствами и органами ООН, региональными группами и с учреждениями ООН а и с научными неправительственными организациями, - организовал конгрессы ООН по предупреждению преступности и по обращении с правонарушителями - (Женева - 1955, Дондон - 1960, Стокгольм - 1965 и Киото - 1970). Содержание первых конгрессов указывает на то что - особенно в течении первых двух конгрессов - доминировали вопросы связанные с результатами труда Международной организации по изучению пенитенциарных проблем (МОПП), что кульмировалось с принятием Минимальных стандартных правил обращения с заключенными, с тем что наступающее их содержание было обогащено темами более широкого уголовно-политического значения.

В течении IV Конгресса состоявшегося в Киото в 1970 году, еще не был сформирован Комитет который сейчас старается о программах предупреждения преступности в рамках ООН. Тогда - как уже было указано - существовал еще ad hoc Комитет экспертов (он потом - резолюцией ЭКОСОС-а 1086/6 переименован в Советательный комитет экспертов со структурой в десять членов) который представлял именно академический компонент стараний Объединенных Наций на плане уголовной политики. Значительно нужно подчеркнуть что Конгресс в Киото принял Декларацию в которой указывается на недостаточное внимание с которым прослеживается феноменология и превентива от преступности, а особо в связи с развитием.

Эта Декларация - хотя и принята в течении крупных стараний Объединенных Наций о том что бы первоначально развить программу образования, питания, стандарда быта и т.п., - всё таки повлияла на принятие резолюции ЭКОСОС-а № 1584/L/ с 25 мая 1971 года, которая инициирует осуществления Комитета по предупреждению преступности и борьбы с ней. Имея в виду то что на своей XXVII сессии, состоящейся в 1972 году Генеральная Ассамблея Объединенных Наций - своей резолюцией 3021/XXVII/ приняла такую ориентацию ЭКОСОС-а - началась и формальная история Комитета о котором тут идет речь.

Новый Комитет - сейчас со структурой пятнадцати человек, членов Комитета - взял на себя задание о разработке стратегии и конкретных действий ради осуществления резолюций и рекомендаций предыдущего - IV-ого Конгресса. Тут - как самые важные - появились вопросы: борьбы против преступности "белых воротничков" и организованной преступности; расширение участия общественности в борьбе против преступности, уменьшение количества заключенных и искание альтернатив тюремному заключению, придавая большая старания несовершеннолетним, междусекторной комплементарной планировке борьбы против преступности и общественного развития итп. Между теми заданиями которые были планированы за 1971 год замечаем и такие некоторые вопросы которые стали содержанием ряда следующих программ работы Секретариата и Комитета, а и содержанием тех конгрессов которые затем и следовали.

До сих пор - а в связи с осуществлением своих задач, Комитет имел восемь сессий, при чем продолжительность мандата и структура Комитета этого времени - менялись. Менялась и сама сущность Комитета. На всё таки некоторые его характеристики всё время остаются. Прежде всего Комитет должен выразить: соединение региональных интересов выраженных путем региональной дистрибуции мест в Комитете; академический подход к проблемам путем выбора соответствующей части членов Комитета из рядов выделяющихся криминологов и социологов - и представителей уголовного правосудия, людей которые имеют влияние на развитие национальных и международных активностей в борьбе против преступности.

В рамках тогда существующего трехлетнего мандата, члены Ко-

митета желали - кроме пленарных сессий - континуировано работать на определенных проектах или в связи с другими программными заданиями путем трудовых групп в промежуточное время между пленарными сессиями Комитета. Но это не удалось осуществить из за стремления Объединенных Наций к бережливости в связи с чем уменьшились и объём и число органов ООН и их сессий. Получилось только то что Комитету были обеспечены рядовые сессии каждым вторым годом. Такое правило существует еще и сейчас, хотя Комитет проширился сначала на двадцать два, а затем и на двадцать семь членов, получая в течении этого всё более широкие и усложненные задания. Сессии Комитета не являются только форумом для трактования подготовленных документов и материалов. На них - чаще всего в рамках трудовых групп - весьма интенсивно обрабатываются и дорабатываются соответствующие документации, нормы и руководящие принципы или подготовки резолюций которые затем посылаются компетентным органам ООН. Этим сессиям всё чаще и больше присутствуют многочисленные наблюдатели - представители - представители стран - членов ООН, региональных и интеррегиональных институтов, правительственных и неправительственных организаций с правом субсидиарного активного участия на сессиях Комитета.

Кроме этих общих характеристик которые освящают сущность и методологию работы Комитета в течении целого времени, нужно указать и на определенные перемены которые означают и частичную модификацию характера и роли Комитета.

Не хотел бы много указывать на увеличение числа членов (резолюцией ЭКОСОС-а № 1979 / 30 увеличено число членов Комитета на двадцать семь человек, в то время как мандат продолжен на четыре года), а хотел бы указать на содержание резолюции Генеральной Ассамблей ООН № 32/60 в которой утверждается что члены Комитета должны иметь определенные специалностные и научные квалификации из области предупреждения преступности и из области уголовного правосудия. Практика такого вида выбора указывает на старания что бы и дальше было присуще соответствующее соотношение членов Комитета как отчетливо академического профиля, так и тех которые имеют определенное влияние в сфере национальных и интернациональных связей относящихся к уголовному правосудию.

Считаю что особо значительным является указать на то что Комитет, действуя в структуре Комиссии по социальному развитию, а в рамках Центра по социальному развитию и по гуманитарным вопросам - на основании резолюции ЭКОСОС-а 1979/19 с 9 мая 1979 года, получил и определенные - хотя всё еще только рудиментарно выраженные атрибуты функционального, а не только совещательного органа. Кстати, этой резолюцией - а исходя от резолюции Генеральной Ассамблеи 32/60 с 8 декабря 1977 года - Комитету поручаются следующие действия:

(а) Подготовка Конгресса ООН по предупреждению преступности и борьбы с ней с целью трактования и введения в практику бо-

лее эффективных методов и способов предупреждения преступности и обращения с правонарушителями;

(б) Подготовка и направление компетентным органам ООН и конгрессам ООН для изучения и разрешения программ международного сотрудничества в области борьбы с преступностью на основании суверенной одинаковости и невмешивания во внутренние отношения стран - членов, а и другие предложения которые касаются борьбы с преступностью;

(в) Ассистирование ЭКОСОС-у с целью координации деятельности в области предупреждения и борьбы с преступностью и обращения с правонарушителями; нужно направлять данные и рекомендации Генеральному секретарю и соответствующим органам ООН;

(г) Побуждение обмена опытом стран - членов ООН в области предупреждения и борьбы с преступностью;

(д) Организация обсуждений об основных вопросах специальной заинтересованностью как базиса для международного сотрудничества, а особо о тех вопросах которые касаются предупреждения и редуцирования преступности.

Кроме этого, Комитету доверено изучение краткосрочных и долгосрочных программ ООН в области предупреждения преступности и выложение мнения о бюджетных средствах для реализации этих программ (Резолюция 79/15).

Таким путём Комитет был еще более интегрирован с ЭКОСОС-ом и связан с теми структурами ООН которые имеют точки соприкосновения с этой проблематикой. Это особо выразилось на Шестоц (1980) и Седьмой (1982) сессии Комитета, когда трактовалось о долгосрочных программах труда в этой области, а и о других требованиях Генеральной Ассамблеи направленных непосредственно Комитету.

Постановлением ЭКОСОС-а (1983/25) - в различие от предыдущего положения в течении которого Комитет все свои рекомендации и проекты резолюций должен был доставлять ЭКОСОС-у через Комиссию социального развития, - Комитет получил возможность обращаться этому органу непосредственно. Это конечно вызвало определенное усиление его положения в структуре органа, хотя и не было перемен в его формальном статусе. Этим была создана возможность для своевременного доступа на сессии, при чем окрепла и эффективность действий Секции по предупреждению преступности и по уголовному правосудию, хотя желательного повышения статуса Секции не было.

II. Деятельность комитета

Уже указано с каким энтузиазмом первая структура Комитета решила инициировать творческую программу ООН в связи с рядом стратегических важных вопросов у предупреждения преступности и борьбы с ней.

В Комитете тогда находились председатели верховных судов Пакистана, Нигерии, Франции и Побережья Слоновой Кости, затем известные деятели министерств правосудия и внутренних дел США, СССР, Венгрии, Италии, Соединенного Королевства Великобритании и Северной Ирландии, а и директора некоторых национальных и региональных институтов. Эта комплетная структура известных экспертов вложила усилия что бы создать выходные положения для стратегии предупреждения и борьбы с преступностью что представляет одно от действий Организации Объединенных Наций осуществляемое путем широкого международного сотрудничества. Приоритет получили вопросы злоупотребления наркотиков и эффективное осуществление правосудия и защиты прав человека, а было изучаемо и сообщение Секретариата: "Преступность и социальные изменения". Началась и подготовка к Пятому конгрессу Объединенных Наций.

Содержание остальных сессий Комитета первой структуры представляло цепное продолжение ранее начатых деяний в течении предыдущей сессии. Второе заседание состоящаяся в 1973 году занималось: трактованием предложений для усовершенствования Минимальных стандартных правил обращения с заключенными; вопросом более содержательного ангажирования национальных корреспондентов которые представляют необходимое и весьма значительное средство коммуницирования между странами - членами ООН, комитетом и Секретариатом. В повестке дня были и традиционные вопросы в связи с преступностью, с злоупотреблением наркотиков и с защитой прав человека. Это выявилось и в особой студии "О равенстве в уголовном правосудии". Тогда же выявилась и идея о нужности осуществления новых стандартов и норм (Декларация о запрещении пытки, Кодекс поведения должностных лиц по поддержанию правопорядка), которая идея затем была и осуществлена в виде новых значительных инструментов защиты личности и людских прав в течении осуществления уголовного правосудия. Комитет на этом заседании трактовал проблематику смертной казни, имея при этом в виду задание из резолюции Генеральной Ассамблеи (1745/LIV). Тогда появилась и идея что бы обо всех весьма важных вопросах организовалось особое заседание министров правосудия стран - членов ООН, что и было принято в соответствующих органах Объединенных Наций, но что не реализовано из за временной теснины в связи с приближением течения следующего Конгресса.

Таким путем мы подошли к Третьей сессии Комитета, которая была в октябре 1974 года в Женеве. Оно было заседанием на котором оканчивался мандат членам Комитета первого созыва. Поэтому тут были внесены крупные старания для реализации основных задач Комитета то есть что бы были определены первенства и что бы определилась стратегия будущих действий. Особо

была подчеркнута нужность эффективной и организованной борьбы против экономических преступлений, злоупотребления и недопустимой торговли наркотиками, насилий и терроризма. На пенитенциарном плане были предложены: программа ограничения смертной казни и других телесных наказаний, съужение пременения предварительного заключения и наказания лишения свободы, с одновременным исканием альтернатив тюремному заключению.

В рамках проблем уголовного правосудия Комитет настаивал на рационализации законодательства, на ограничение частных полицейских служб обеспечения, а за формирование Кодекса поведения должностных лиц по поддерживанию правопорядка. Комитет поддержал идею о альтернативной процедуре неуголовного характера - главным образом в виде общественных внесудебных мер и указал на нужность рационализации, упрощения, экспедитивности и справедливости судебной процедуры.

После проведения Пятого конгресса Объединенных Наций, Комитет - в своей новой структуре - сорбался на свою Четвертую сессию в Нью-Йорке (структура Комитета значительно изменилась и увеличилась - было двадцать семь членов с тем что мандат членов был утвержден на четыре года). Продолжая дело начатое предыдущим Комитетом, на этой сессии принят проект Кодекса поведения должностных лиц по поддержанию правопорядка, а рассматривались и первые материалы находящиеся в Сообщении Секретариата о методах и способах которыми обеспечивается эффективность предупреждения преступности и улучшения обращения с заключенными. Кроме того, Комитет поддержал все резолюции и рекомендации Пятого конгресса и стал определять темы для следующего - Шестого конгресса; рассмотрел среднесрочный план работ за период 1978 - 1981 годы и - в связи с этим - установил нужность предпринятия эффективных мер для применения Минимальных стандартных правил обращения с заключенными.

Пятая сессия Комитета - состоящаяся с пятого по шестнадцатое июня 1978 года в Вене, происходила во время непосредственных подготовок к Шестому конгрессу. Поэтому в Комитете доминировали вопросы связанные с повесткой дня этого Конгресса. В связи с требованием из резолюции Генеральной Ассамблеи 32/61 разбирался и вопрос смертной казни и это было внесено в повестку дня Конгресса. Как особо значительную деятельность Пятой сессии нужно указать на трактование сообщения об активностях ООН на плане подавления и предупреждения преступности (реализация трудовой программы за периоды 1976 - 1977 и 1978 - 1979 годы; результаты Первой студии ООН о тенденциях преступности и о криминальной политике; реализация программы публикаций, технической помощи, Сообщения институтов ООН для Далекого Востока, для Средней и Южной Америки, и ЮНСДРИ в Риме, а и модальитеты их сотрудничества с региональными комиссиями ООН и со странами - членами ООН). В своей - особой - резолюции Комитет предлагал оформление особого Регионального института ООН для стран Африки к югу от Сахары и выразил признательность тем странам которые дали значительные вклады с целью обеспечения труда существующих институтов (Коста Вика, Египт, Италия и Япония).

Имея в виду увеличения ответственности ООН на плане предупреждения подавления преступности, - Комитет подчеркнул необходимость повышения статуса Секции которая обременена деятельностью на предупреждении и на подавлении преступности. Но - в связи с тем что этой резолюции не была указана соответствующая поддержка, она была приключена Докладу Комитета только в виде Анекса.

После уже помянутой - для Комитета весьма важной - резолюции 1979/19 с 9 мая 1979 года, следующие сессии Комитета: Шестая, Седьмая и Восьмая, а которые уже уходят в настоящее время - еще больше ангажировали Комитет в связи со стратегическими вопросами борьбы против преступности и международного сотрудничества в этой области. К более активной деятельности Комитета и остальных органов ООН в этой области призывала и так называемая "Каракасская декларация" принята на Шестом конгрессе Объединенных Наций.

Шестая сессия Комитета состоялась непосредственно после Шестого конгресса в самом Каракассе с восьмого по двенадцатое сентября 1980 года. Комитет тогда совершил прелиминарное рассмотрение рекомендаций помянутого Конгресса в виде заключения о необходимости более крупной координации между теми органами ООН которые - с разных аспектов - занимаются преступностью и предложил усиление статуса Секции.

Из за того что уже между оконченым (Шестым) и следующим (Сельвым) Конгрессом препологались еще две сессии Комитета (в 1982 и в 1984 году), Комитет намеревлся начать заниматься вопросом о подготовке к Седьмому конгрессу в связи с чем вопросы для этого Конгресса хотел разъяснить еще в 1981 году вместо в 1982 году. Но это предложение не было принято - ЭКОСОС 1768/LIV. Поэтому Комитет тогда рассматривал Сообщение об активностях ООН в периоде с 1978 по апрель 1980 года и указал на возможные темы для следующего - Седьмого конгресса.

Но значительно содержательны были следующие сессии Комитета (Седьмая и Восьмая) потому что касались весьма значительных вопросов связанных с организацией Седьмого конгресса.

Седьмая сессия Комитета была с пятнадцатого по двадцатое марта 1982 года в первый раз в совсем новом комплексе ООН в Вене. Особо значительным было трактование вопроса о том как последовательно и эффективно применить резолюцию ЭКОСОС-а № 1979/19, которой Комитет призывается на более интенсивное сотрудничество в ЭКОСОС-ом как координационным органом ООН на плане предупреждения и обуздывания преступности. Для того что бы Комитет мог успешно исполнять эту задачу было предложено - в различие от ранее существующей процедуры - что Комитет свои сообщения и предложения резолюций посылал непосредственно ЭКОСОС-у. После довольно долгой дебаты и несмотря на сдержанность определенного числа стран это всё таки принято - ЭКОСОС 1983/25.

Самая значительная часть труда Комитета касалась подготовления к Седьмому конгрессу (определение конечного предложения повестки дня и всех организационных подготовок; директивы в связи с работой и организацией региональных и интеррегиональных собраний, а и манифестации в связи с Конгрессом итп.). Так как Конгресс своей целью имеет развитие норм и руководящих принципов в области уголовного правосудия, - Комитет, согласованно рекомендациям Шестого конгресса, определил проект стандарда для обхождения с нарушителями в обществе, за обхождение с заключенными иностранными гражданами, включая и передачу заключенных, а и профессиональную подготовку судей и остальных кадров уголовного правосудия.

Резолюциями 35/172 и 36/22 принятыми в 1980 и в 1981 году Генеральная Ассамблея ООН потребовала что бы Комитет рассмотрел произвольные казни или казни без судебного разбирательства, в связи с чем нужно было предложить соответствующую рекомендацию непосредственно Генеральной Ассамблее.

Нужно подчеркнуть что Комитет на своей Седьмой сессии с удовольствием констатировал что соответствующим договором подписанным 29 декабря 1981 года между Организацией Объединенных Наций и правительством Финляндии, к сети региональных органов ООН был приключен и HEUNI который - в интересах стран европейского континента Запада и Востока - осуществляется "суть Helsingi" на плане международного сотрудничества на обуздывании преступности и на улучшении уголовного правосудия. Активности которые затем следовали в рамках этого Института, доказывают что такие ожидания и осуществляются.

Сейчас мы дошли до того когда нужно вкратце указать и на работу Комитета на Восьмой - последней осуществленной сессии (с двадцать первого по тридцатое марта 1984 года). Прежде этого уже были реализованы все региональные встречи ради подготовки к Седьмому конгрессу (за Европу, Азию - область Пацифика, Среднюю и Южную Америку, Африку и Западную Азию), а были уже сделаны подготовки для организации интеррегиональных встреч о каждой теме повестки дня Конгресса. Как уже и было сказано, на всех этих встречах присутствовали и представители Комитета, при чем они на Восьмой сессии - наряду с официальным сообщением - указали и на свои собственные впечатления.

Очень важно указать на то что при подготовке Конгресса были весьма серьезно ангажированы и многочисленные международные ассоциации и региональные и национальные институты. Почти по всем темам Конгресса были устроены ad hoc встречи экспертов, Можно сказать что на инициатив Секретариата и Комитета вся международная общность (стран - члены ООН, институты ООН и другие региональные учреждения и объединения, а и неправительственные международные организации) всколыхнулись ради приготовления Конгресса. Комитет вместе с Секретариатом непосредственно все эти манифестации.

Комитет в течении приготовления к Конгрессу принял решение предложить ЭКОСОС-у что бы Седьмому конгрессу - наряду с рядом документов и материаллов Секретариата, послал на рассмотрение и Минимальные стандартные правила для правосудия несовершеннолетних; проект руководящих принципов для обеспечения независимости правосудия; модель договора о передаче заключенных и попросить Генерального секретаря ООН что бы собрал необходимые информации о применении Кодекса о поведении должностных лиц по поддержанию правопорядка; об употреблении Минимальных стандартных правил для обращения с заключенными и об альтернативах тюремному заключению. Подчеркнуто желание что бы данные 11 студии ООН о трендах преступности разбирались в связи с основными социало-экономическими индикаторами развития, Особо значительным является то что Комитет определил текст руководящих принципов для стратегии борьбы против преступности в контексте развития, которые прелиминарно в виде проекта были рассмотрены и на региональных встречах, а которые - как свой официальный документ для Седьмого конгресса - установил и ЭКОСОС. ЭКОСОС так же принял резолюцию о техническом сотрудничестве, которую ему так же послал Комитет.

Может бы было целесообразно указать и на другие аспекты приготовления к Седьмому конгрессу, но об этом нужно будет обсуждать позже - когда это пройдет. Но нельзя бы было не указать что Комитет так же рассматривал и положение женщин в уголовном правосудии, что бы нужно было включить в будущую программу труда. По вопросу произвольных казней или казни без судебного разбирательства - не было сомнений что этот вопрос заслуживает особое внимание в рамках нормы и руководящих принципов Объединенных Наций с желанием что бы были приняты и определенные инструменты которые бы обеспечили последовательное применение принятых норм.

III. Заключение

Обзор работы Комитета может нам послужить основой для складывания мозаика деятельности ООН в области международного сотрудничества на предупреждении преступности и борьбы с ней; на обнаруживании направлений проширения этих деятельности, а и роли и задач Комитета что бы в сотрудничестве с другими органами ООН, он помог осуществлению целей Объединенных Наций, которые так коротко и ясно выражены в лозунге к наступающему Седьмому конгрессу, а который гласит: "Предупреждение от преступности за свободу, правду, мир и развитие". Надеямся что осуществлению такой цели послужить и эта наша встреча.

SUMMARY

The activity of the United Nations Committee on Crime Prevention and Control

The history of the United Nations Committee on Crime Prevention and Control has been linked to the basic definition of the United Nations expressed in article 55 of the United Nations Charter, in that certain criminal policy activity has been developed in the social and economic field, and the development of international cooperation in criminal law has been promoted. The orientation of the activity in the above manner has been supported in part by the earlier attempts of the League of Nations as well as the corresponding activity of the International Penal and Penitentiary Commission. The orientation of the activity received even more emphasis after the General Assembly of the United Nations decided in a 1950 Resolution (415 V) to transfer the activities of the Commission to the United Nations and to supplement it with a special committee of experts. According to this Resolution of the General Assembly, the United Nations was to arrange international congresses on the prevention of crime and the treatment of offenders, where the problems and programmes of international cooperation in criminal policy would be considered.

It would appear that the Fourth United Nations Congress held in Kyoto was, in a sense, a turning point in the increasing of the effectiveness of United Nations criminal policy. According to the Congress Resolutions, the States participating in the work of the Committee stressed the need for the United Nations to pay increased attention to the development of international cooperation in this field. On the basis of a Resolution approved immediately after this (Resolution 1584/L), a special United Nations organ was established to coordinate this activity. This organ was later called the Committee on Crime Prevention and Control. At first, it included fifteen members, later enlarged to twenty two, and finally to twenty seven. The term of the Committee was originally set for three years, then for four years. It included both academic persons as well as legally trained persons in practical legislative and executive work, who had expertise and scientific merit in this field.

Formally, the history of this Committee began in 1971, but in practice it began in 1972 with its first meeting, held in New York.

In cooperation with the Secretariat of the United Nations (the Crime Prevention and Criminal Justice Branch) the Committee attempts to define the strategic outline of activity and international cooperation in order to maintain and develop adherence to international standards of criminal law,

and international cooperation in order to maintain and develop adherence to international standards of criminal law, influence the development of procedures and effective policies in criminal law, influence the adoption of a humanitarian approach to offenders, and defend human rights in this field.

The significance and role of the Committee received special emphasis with the adoption of Resolution 19 in 1979, following which the Committee was assigned with certain functions belonging to United Nations organs, including the preparation and organization of international congresses, the adoption and forwarding of its own recommendations and resolutions in criminal policy (later on directly to ECOSOC), and the development of standards and guiding principles in this field.

Despite the budgetary restrictions on the Committee, the Committee has been able to fulfill its obligations through its plenary sessions. So far eight such sessions have been held. The primary obligations of course are the preparations for the United Nations Congresses, the development and improvement of United Nations principles and standards in criminal policy, and the monitoring of their fulfillment.

In this connection I wish to refer both to the history and the development of the status of the Committee, and to the results of the work of the Committee, which have been realized through the resolutions of the Congress or through the corresponding United Nations meetings.

SOMMAIRE

L'Activité du comité des Nations Unies pour la prévention du crime et la lutte contre la délinquance

L'histoire du Comité des Nations Unies pour la prévention du crime et la lutte contre la délinquance a été liée à la définition de base de l'Organisation des Nations Unies exprimée à l'article 55 de sa Charte, en ce sens qu'une certaine activité de la politique pénale a été manifesté dans les domaines social et économique, et que l'on a favorisé le développement de la coopération internationale concernant le droit pénal. L'orientation de l'activité décrite ci-dessus a été partiellement supportée par les tentatives précédentes de la Ligue des nations ainsi que par l'activité correspondante de la Commission pénitentiaire internationale. L'orientation de l'activité a été encore plus mise en relief après que l'Assemblée générale des Nations Unies eut décidé, dans une résolution de 1950 (415 V), de limiter les activités de cet organisme international et de lui adjoindre une commission académique spéciale composée d'experts. Conformément à cette résolution de l'Assemblée générale, l'Organisation des Nations Unies devait organiser des congrès internationaux concernant la prévention du crime et le traitement des délinquants, dans lesquels il serait tenu compte des problèmes et des programmes de la coopération internationale en matière de politique pénale.

Il semblerait que le quatrième Congrès des Nations Unies tenu à Kyoto fut, d'une certaine façon, un point tournant dans l'accroissement de l'efficacité de la politique pénale des Nations Unies. Les Etats participant au travail du Comité ont insisté, conformément aux résolutions du Congrès, sur le besoin des Nations Unies d'apporter une plus grande attention au développement de la coopération internationale dans ce domaine. Sur la base d'une résolution approuvée immédiatement après cela (résolution 1584/L), un organe spécial des Nations Unies a été créé pour coordonner cette activité. Cet organe fut appelé, par la suite, le Comité pour la prévention du crime et la lutte contre la délinquance. A l'origine, il se composait de quinze membres, s'élargit plus tard à vingt-deux, et enfin à vingt-sept. Il a été fixé, au début, un terme de trois ans au Comité, puis plus tard de quatre ans. Il se composait aussi bien de personnes académiques que de personnes juridiquement formées dans les tâches exécutives et législatives pratiques, qui avaient toutes de l'expertise et une grande valeur scientifique dans ce domaine.

L'histoire de ce Comité commença dès 1971, mais en pratique, elle débuta en 1972 par sa première réunion, qui s'est tenue à New York.

Le Comité, en coopération avec le Secrétariat de l'Organisation des Nations Unies (le Service de la prévention du crime et de la justice pénale), essaie de définir le profil stratégique de l'activité et de la coopération internationale dans le but de maintenir et de développer l'attachement aux normes internationales du droit pénal, d'influer sur le développement de procédures et de politiques efficaces concernant ce même droit, d'influer également sur l'adoption d'une approche humanitaire des délinquants, et de défendre les droits de l'homme dans ce domaine.

La signification et le rôle du Comité ont été spécialement mis en valeur par l'adoption, en 1979, de la résolution 19, suite à laquelle le Comité s'est vu confié certaines fonctions appartenant à des organes des Nations Unies, comprenant la préparation et l'organisation de congrès internationaux, l'adoption et la transmission de ses propres recommandations et résolutions en matière de politique pénale (plus tard, directement à l'ECOSOC), et le développement de normes et de principes directeurs dans ce domaine.

Malgré les restrictions budgétaires du Comité, celui-ci a été capable de remplir ses obligations à travers ses séances plénières. Huit séances de ce genre ont été tenues jusqu'à ce jour. Les obligations principales sont bien sûr les préparations des congrès des Nations Unies, le développement et l'amélioration des principes et des normes des Nations Unies en matière de politique pénale, et la surveillance de leur réalisation.

J'espère me référer, à cet égard, à la fois à l'histoire et au développement des statuts du Comité, et aux résultats de ses travaux, qui ont été réalisés à travers les résolutions du Congrès ou les réunions correspondantes de l'Organisation des Nations Unies.

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L'Institut de Recherche des Nations Unies sur la Défense
 Sociale - UNSDRI; Rôle, objectifs et méthodologie

1. Nous vivons aujourd'hui une nouvelle phase du concept de développement qui est des plus intéressantes. Au cours de ces toutes dernières années nous avons assisté à une oeuvre de réflexion approfondie qui, sur la base de certains effets pervers évidents du processus du développement économique, cherche à identifier les erreurs commises et en même temps à fournir une réponse plus avancée, plus responsable et plus globale. Cet effort philosophique a amené les Nations Unies à concevoir le développement sous la lumière nouvelle d'une référence constante à la qualité de la vie, aussi bien individuelle que de la société; en effet, le développement d'un pays ou d'une société doit correspondre à un état de paix et de justice sociales et ne peut pas être confondu avec une croissance indiscriminée des biens de consommation et des services qui, à eux tout seuls, ne suffisent pas à donner à la personne humaine sa juste dimension, une motivation à progresser et enfin la pleine dignité de l'exercice de ses droits et devoirs dans le cadre d'une vie en société pacifique et civilisée. Les progrès représentés par la condamnation de l'approche limitée au développement économique et le passage successif, à travers le concept de développement socio-économique ou global, jusqu'à celui qui met l'accent sur la qualité de la vie, ne nous mène pas à un aboutissement mais plutôt à un nouveau point de départ: cette formule ne représente certainement pas une hypothèse concrète en solution, mais plutôt un point de repère constant qui doit inspirer toute activité de croissance.

2. La paix et la justice sociale assument, dans cette perspective, une dimension et un rôle toujours accrus portant ainsi aux premiers rangs des priorités de développement les conflits sociaux et les problèmes d'inadaptation sociale de laquelle découlent la déviance, la délinquance, la criminalité.

3. La création de l'Institut de Recherche des Nations Unies sur la Défense Sociale (UNSDRI) a représenté un tournant important dans la politique des Nations Unies dans le secteur de la prévention du crime et du traitement des délinquants et qui est établi à Rome depuis janvier 1968. Il s'agit d'une structure de recherche appliquée créée sur la base d'une Résolution du Conseil Economique et Social de 1965 qui, ayant examiné les vues du Secrétaire général des

Nations Unies sur les arrangements structurels concernant le programme de défense sociale de l'Organisation des Nations Unies, le rapport d'un expert consultant et celui du Comité consultatif d'experts sur la prévention du crime et le traitement des délinquants ainsi que les observations pertinentes de la Commission des Questions Sociales, avait approuvé "le principe selon lequel la prévention de la délinquance juvénile et de la criminalité des adultes et la lutte contre ces phénomènes doivent s'inscrire dans le cadre des plans généraux de développement économique et social" et avait chargé le Secrétaire général de prendre des dispositions pour permettre à l'Organisation "de s'acquitter de ses responsabilités dans le domaine de la défense sociale". A la suite de cette Résolution, le Secrétaire général décidait de créer l'Institut de Recherche des Nations Unies sur la Défense Sociale qui était constitué à la suite d'un Accord entre l'Organisation des Nations Unies et le Gouvernement italien.

4. D'ailleurs il n'est pas mauvais de rappeler que, sur un plan beaucoup plus général, le Statut des Nations Unies a clairement indiqué à l'article 62 parmi les tâches du Conseil Economique et Social la promotions d'études et de rapports sur les questions internationales, entre autres, sociales.

5. D'autre part, on reconnaît aujourd'hui que la recherche est un élément essentiel pour la définition d'une politique nationale et de la planification et que, par conséquent, son rôle a une importance toujours croissante dans les trois phases de planification, d'exécution et d'évaluation des interventions afin d'aboutir à la prévention, dans la limite du possible, de tous les effets pervers éventuels du développement. En effet, la fonction de la recherche ne s'épuise pas dans la phase de l'identification et de la compréhension du problème et de l'indication des mesures appropriées pour sa solution, mais elle continue de remplir son rôle irremplaçable en accompagnant l'exécution concrète de l'intervention permettant ainsi des corrections en cours de réalisation; enfin, elle est l'instrument unique pour l'oeuvre indispensable d'évaluation des résultats obtenus par rapport aux objectifs poursuivis lors de l'établissement du programme. La recherche joue en outre un rôle non négligeable dans l'adoption et la création de méthodologies nouvelles et dans l'évaluation de leur efficacité.

6. L'Institut de Recherche des Nations Unies sur la Défense Sociale n'a point pour mandat de se consacrer à la recherche pure: cette tâche peut être bien mieux remplie par les structures universitaires et de recherche, généralement nationales; l'UNSDRI n'a ni le mandat ni les moyens pour cela et ce type d'activités serait étranger à la philosophie opérationnelle qui a présidé à sa création. L'action de recherche de l'Institut vise toujours à des résultats concrets; elle est ce que les Anglo-Saxons appel-

lent "policy- and action oriented": en d'autres termes elle a pour but de reconnaître des situations réelles et des problèmes concrets qui préoccupent la communauté internationale ou un état-membre en vue d'établir scientifiquement les termes de référence de ces problèmes et de suggérer des mesures pratiques pour y faire face.

7. Compte tenu des relations étroites entre équilibre social et processus de développement, la recherche dans le domaine de la prévention du crime et du traitement des délinquants, surtout dans l'esprit d'approche élargie qui s'est imposé depuis quelques années déjà, trouve tout naturellement sa place dans une action globale de planification et d'exécution des plans de développement tendant à une amélioration de la qualité de la vie tant de la société que de l'individu.

8. C'est ainsi que l'UNSDRI, avec ses moyens limités, est appelé à apporter sa contribution à l'oeuvre d'ensemble de l'Organisation des Nations Unies au service du progrès et de l'épanouissement harmonieux de l'homme en tant qu'individu et des peuples dans l'esprit de la Charte des Nations Unies.

9. Dans le cadre général de l'ONU l'Institut s'est inséré comme un instrument pour le développement et le renforcement de l'action de l'Organisation dans le domaine de la défense sociale. Par conséquent il n'a pas été appelé à remplacer une structure préexistante, mais au contraire à fournir une dimension nouvelle à celle prévue jusqu'à sa création par les Nations Unies. L'Institut se présente comme un pool d'experts appelés à assister, avec une infrastructure de caractère technique, les activités des Nations Unies ainsi que celles des pays membres en fournissant tous les renseignements nécessaires obtenus par des études de caractère pratique pouvant contribuer à jeter des bases adéquates pour le développement de programmes et de politiques plus dynamiques dans le domaine de la défense sociale. L'élaboration d'une politique de défense sociale sur la base d'une meilleure connaissance scientifique de la situation continue d'être invoquée de manière pratiquement constante par les réunions internationales d'experts et de responsables de politiques nationales.

10. L'UNSDRI est ainsi non seulement appelé à contribuer à la diffusion de notions de base modernes acquises par l'entremise de la recherche, mais il s'efforce aussi d'assumer un rôle significatif dans la création et le développement d'une conscience de la nécessité de la recherche et de son importance pour l'établissement d'approches et de politiques de défense sociale correctes.

11. Cette oeuvre est menée par le recours à différents types d'activités: en premier lieu la recherche proprement dite, aussi bien de caractère thématique général, mais

toujours ancrée sur des réalités nationales et régionales précises, que de caractère plus spécifiquement national visant non seulement, comme le type précédent, des problèmes déterminés, mais aussi une situation particulière rentrant dans la problématique immédiate et dans les priorités de planification du pays concerné; cette dernière catégorie frôle de près l'action d'assistance technique proprement dite, d'autant plus que la distinction entre activités de recherche et assistance technique n'est plus aussi nette qu'elle l'était au cours des premières phases de l'activité des Nations Unies dans le domaine de la coopération au développement. L'UNSDRI dispose en outre d'un centre de documentation et d'une bibliothèque restreinte mais hautement spécialisée d'environ neuf mille volumes traitant de criminologie, de pénologie et d'autres secteurs s'y rapportant comme le droit, la sociologie et la psychologie; elle contient également une collection de 350 périodiques environ ainsi qu'un recueil complet des documents des Nations Unies et du Conseil de l'Europe en matière de défense sociale. Cette bibliothèque, outre à servir de support technique pour les activités de recherche de l'Institut, est un point de repère et un instrument précieux pour toute une activité relative aux échanges d'information (clearing-house) et permet en même temps de recevoir des chercheurs qualifiés qui entendent mener leurs propres recherches dans les domaines couverts par la compétence de l'Institut et en même temps fournissent à ce dernier une utile contribution d'expertise. Une activité parallèle est représentée par le répertoire mondial des Instituts de recherche criminologique qui est publié périodiquement par l'Institut.

Enfin, par son activité de recherche, l'UNSDRI facilite non seulement les contacts entre les chercheurs du Tiers Monde et les mouvements scientifiques et méthodologiques les plus avancés, mais aussi leur formation sur le terrain grâce à une participation suivie et étroite aux études effectuées par l'Institut.

12. L'UNSDRI aujourd'hui est tourné presque entièrement vers les pays en voie de développement, fidèle en cela à l'esprit général qui anime toutes les activités de coopération des Nations Unies; toutefois, l'apport scientifique des pays industrialisés et leurs demandes spécifiques sont loin d'être négligés. En effet, seul un brassage d'idées constant et le recours systématique aux conquêtes de la science les plus avancées permettent d'apporter aux membres de la communauté internationale l'aide de qualité qu'ils sont en droit d'attendre des Nations Unies.

13. Pour compléter l'examen de l'Institut de Recherche des Nations Unies sur la Défense Sociale, il est utile maintenant de considérer les grandes lignes relatives à la méthodologie appliquée par l'Institut dans l'exécution de son programme de travail. Deux aspects de la méthodologie en

question revêtent un intérêt certain et caractérisent l'action de l'Institut: d'une part le rôle que jouent constamment les pays en voie de développement aussi bien dans l'identification des besoins et des priorités de recherche que dans l'exécution directe de la recherche elle-même; en effet, l'Institut s'efforce de répondre à une demande précise des pays intéressés et tout au plus, dans les négociations qui précèdent la mise en route d'un plan d'action concret, se limite à orienter et compléter, sur la base de son expérience, ces priorités et ces demandes; d'autre part les autorités politiques et techniques locales sont appelées non seulement à donner leur approbation au projet envisagé, mais aussi à y participer tout au long des différents phases de la recherche; enfin, une équipe de recherche locale est formée sous la responsabilité d'un chef d'équipe - une personnalité éminente du monde académique ou ministériel du pays où se déroule la recherche - destinée à contribuer de manière très substantielle à la conduite sur le terrain de la recherche sous la responsabilité de l'UNSDRI.

14. Le mandat originaire qui remonte aux années 1965-1968 garde intacte toute sa validité. Il est indéniable que l'objectif principal de l'UNSDRI reste de coordonner et de conduire des recherches sur les phénomènes de criminalité des adultes et de délinquance juvénile, de leur prévention et de leur contrôle.

15. Toutefois, l'expérience de ces dix-sept années d'activités et l'évolution de la situation et des besoins de la communauté internationale ont permis de mieux préciser et interpréter la portée de ce mandat général; compte tenu de toutes les considérations exposées dans cette étude, ce mandat peut aujourd'hui se résumer comme suit:

- contribuer à une plus ample compréhension des problèmes sociaux dérivant de toutes les actions de coopération ayant tendance à modifier une situation peu satisfaisante dans les pays en développement;
- procéder à l'identification des moyens pour la prévention et le contrôle de l'inadaptation sociale qui peuvent être à l'origine de phénomènes affectant l'effort de développement;
- créer des modèles, systèmes et plans concrets répondant aux nécessités des pays en voie de développement avec la pleine participation et sous la responsabilité de ces derniers.

16. Dans un contexte d'efforts généralisés et accrus pour combler le fossé qui sépare le Nord industrialisé du Sud sous-développé, l'action de l'Institut doit continuer à se concentrer principalement sur les pays du Tiers monde où se posent de manière dramatique les problèmes de santé et

d'équilibre sociaux avec d'autant plus de dangers et de conséquences irréparables que les sociétés menacées sont socio-économiquement faibles et vulnérables. Cela ne revient pas à proscrire toute activité de recherche, ou même d'assistance technique dans des états-membres des Nations Unies appartenant au monde industrialisé; les expériences de ces derniers peuvent par ailleurs fournir d'utiles clefs de lecture pour des phénomènes analogues qui se manifestent ou qui se dessinent en perspective dans les pays en voie de développement; toutefois, les ressources fort limitées de l'UNSDRI ne peuvent pas être détournées de leurs bénéficiaires naturels et il est utile que l'Institut continue d'appliquer systématiquement la règle qui veut que toute étude ou recherche ou action d'assistance fournie à un pays industrialisé soit financée directement par ce dernier.

17. La détérioration des équilibres sociales, les multiples phénomènes de déviance et de criminalité ne sont point des fléaux contre lesquels nous sommes entièrement désarmés; d'autre part il est indéniable que leurs effets se font sentir lourdement sur le développement de la société et des pays et finalement sur la qualité de la vie des hommes.

18. Les problèmes sont graves et complexes et la dégradation de la situation a parfois atteint des niveaux tels qu'il faudra de grands efforts, d'importants moyens et de longues années pour remédier ou pour limiter des dommages irréparables. Toutefois, compte tenu du très haut degré de responsabilité que comporte le choix des politiques sociales dans le contexte du développement économique, nous croyons qu'il faut réserver un espace significatif à la recherche scientifique opérationnelle qui doit constamment identifier les problèmes, les suivre, reconnaître leur évolution, sélectionner les moyens d'intervention - de préférence préventifs - et calculer les dimensions de leur faillite ou de leur succès en termes d'efficacité-inefficacité des interventions.

19. Il s'agit sans aucun doute d'une oeuvre de coopération qui peut-être dépasse aussi les forces et les ressources des pays industrialisés, à leur tour entraînés dans une grave crise de déstabilisation économique, sociale et souvent politique; et cela aussi parce que des dommages irréparables se sont vérifiés à cause d'une prise de conscience trop tardive de l'importance des phénomènes sociaux dans le contexte du développement économique; mais cette oeuvre est indispensable si l'on veut chercher de ramener les relations internationales sur le chemin de la paix et de la construction d'un monde plus juste dans lequel l'homme, affranchi de ses nécessités vitales les plus pressantes, puisse atteindre ce niveau minimum de qualité de la vie lui permettant d'avoir accès à ses droits, à la liberté et à la dignité.

SUMMARY

The role, the object and the methodology of the United Nations Social Defence Research Institute - UNSDRI

We are confronted at present with a new phase of the concept of development which focusses on the improvement of the quality of life.

In this perspective peace and social justice move to a new dimension and it becomes of primary importance for development to solve social conflicts as well as social maladjustment which lead to deviance, delinquency and criminality.

The United Nations Organization has therefore refined and created new instruments.

The United Nations Social Defence Research Institute is one of these tools. It has its own place in the general context of the Organization whose principal organs and units in the field of social defence are: the Economic and Social Council, the Commission for Social Development, the Committee on Crime Prevention and Control, the Centre for Social Development and Humanitarian Affairs and the Crime Prevention and Criminal Justice Branch. An important role is also played by the Regional Institutes affiliated to the United Nations.

The legislative mandate of UNSDRI is defined by Resolution 1086B (XXXIX) adopted by the Economic and Social Council on 30 July 1965. The Institute conducts action-oriented research for the prevention of adult criminality and juvenile delinquency and for the treatment of offenders.

UNSDRI concentrates its efforts and resources on developing countries without necessarily disregarding collaboration with and input from industrialized countries. The Institute's purposes can be summarized as follows:

- to contribute to a wider comprehension of social problems deriving from any intervention aimed at modifying, and possibly improving, given situations in developing countries;
- to identify the ways to prevent and control social maladjustment which can originate phenomena affecting the developmental efforts;
- to create models, systems and concrete plans responding to the needs of developing countries with their full participation and involving their direct responsibility.

It is not impossible to combat the deterioration of social situations resulting in phenomena of deviance and criminality; nevertheless a significant effort of co-operation in this field among the members of the international community and through the international organizations instruments is indispensable.

Директор Уго Леоне

Роль, задачи и методология института исследования социальной защиты Организации Объединенных Наций

Резюме

В настоящее время мы поставлены перед новой концепцией развития со сосредоточием внимания на улучшение качества жизни.

В этой перспективе мир и социальная справедливость становятся более значимыми явлениями и попытки разрешения социальных конфликтов и нахождения выходов из случаев неумения приспособиться к окружающей обстановке, что приведет к отклонению от норм, к их нарушениям и к преступности, становятся проблемами первостепенной значимости.

Поэтому Организация Объединенных Наций создала и усовершенствовала новые орудия для этого.

Институт исследования социальной защиты Организации Объединенных Наций является одним из этих орудий. Он имеет свое место в системе организации, которая в плане социальной защиты состоит из следующих принципиальных органов и инстанций: Экономического и Социального совета, Комиссии социального развития, Комитета предупреждения и контроля преступности, Центра социального развития и гуманитарных дел и Отделения предупреждения преступности и уголовного права. Важную роль играют также региональные институты связанные с Организацией Объединенных Наций.

Мандат УНСДРИ (UNSDRI) определен в законодательном порядке в Резолюции 1086В (XXXIX) принятой Экономическим и Социальным советом 30^{го} июня 1965 г. Институт руководит ориентированными на деятельность исследованиями в сфере предупреждения преступности взрослых и правонарушений несовершеннолетних, а также обращения с правонарушителями.

УНСДРИ сосредотачивает все усилия и ресурсы на развивающиеся страны без непременно самоотверженного сотрудничества с индустриальными странами и вклада с их стороны. Цели института

можно суммировать по следующему:

- содействие более широкому пониманию социальных проблем исходящих из какого-либо вмешательства цель которого - модификация и возможное усовершенствование определенных ситуаций в развивающихся странах;
- нахождение путей для предупреждения и контроля ситуаций приводящих к неумению приспособиться к окружающей обстановке, которые могут породить феномены влияющие на старания связанные с развитием;
- создание моделей, систем и конкретных планов удовлетворяющих потребности развивающихся стран, что делается с их участием и привлекая их с предоставлением прямой ответственности.

Борьба против ухудшения социальных условий, вовлекающих за собой феномены нарушений законов и преступности, возможна: однако в этой области необходимы значительные усилия в сотрудничестве с членами международного сообщества и применяя международные организации в качестве орудия в этой работе.

HEUNI

The Helsinki Institute for Crime Prevention and Control,
affiliated with the United Nations - its structure and
functions

The Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), was established on the basis of an Agreement between the United Nations and the Government of Finland, signed at the end of 1981. The primary purpose of HEUNI is the promotion of the exchange of information and expertise in the field of crime prevention and control among the various countries of Europe.

Administrative responsibility for HEUNI lies with the Government of Finland. The Institute operates under the joint auspices of the United Nations and the Government of Finland. The Institute has an Advisory Board composed of a Chairman appointed by the Secretary-General of the United Nations after consultation with the Government of Finland, four members appointed by the Secretary-General and four members appointed by the Government of Finland. The Director of the Institute is appointed by the Government of Finland after consultation with the Secretary-General of the United Nations. Besides the Director, the personnel of HEUNI consists of a senior researcher, two programme officers, and an office secretary. One tenth of the annual budget of HEUNI is funded by the Governments of Denmark, Norway and Sweden as contributions to the United Nations Social Defence Trust Fund, and ninety percent is funded directly by the Government of Finland.

The main functions of the Helsinki Institute are:

- a) to organise seminars for policymakers, administrators, experts and researchers;
- b) to collect information on matters falling within its field of competence, to provide interested Governments with relevant information, and to publish and disseminate relevant materials and information;
- c) to conduct, within the limits of its resources, research serving the objectives of the institute; and
- d) to hold conferences and meetings serving these objectives.

During the two and a half years of its existence the Institute has concentrated primarily on organising seminars and on research. Information retrieval and dissemination has also been a matter of priority.

HEUNI has so far arranged a European seminar on "Towards a Victim Policy in Europe", in 1983 (HEUNI publication no. 2), and a European seminar on "Rational, Effective and Humane Criminal Justice" in 1984 (publication no. 3). An

ad hoc meeting of experts was arranged on "The Feasibility of Information Service Systems in the Field of Criminal Policy", in 1983 (publication no. 1).

Research projects concluded or underway include the preparation, in cooperation with UNSDRI, of a report on current research on juvenile delinquency to be delivered to the VII United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1985 as a Secretariat document, a transnational study on the waiving of prosecution in European countries, and a project on the analysis, on a transnational level, of the responses of the various European countries to the Second United Nations Survey on Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies (publication no. 5; forthcoming).

HEUNI

Structure et fonctions de l'Institut d'Helsinki pour la prévention du crime et la lutte contre la délinquance affilié à l'Organisation des Nations Unies

L'Institut d'Helsinki pour la prévention du crime et la lutte contre la délinquance affilié à l'Organisation des Nations Unies (HEUNI) a été établi sur la base d'un accord entre les Nations Unies et le Gouvernement finlandais, signé à la fin de l'année 1981. La mission principale de l'HEUNI est de promouvoir l'échange d'information et d'expertise dans le domaine de la prévention du crime et de la lutte contre la délinquance parmi les divers pays d'Europe.

La responsabilité administrative de l'HEUNI incombe au Gouvernement finlandais. L'institut opère sous le patronage mutuel des Nations Unies et du Gouvernement finlandais. L'Institut a un conseil consultatif composé d'un président nommé par le Secrétaire général des Nations Unies après consultation du Gouvernement finlandais, de quatre membres nommés par le Gouvernement finlandais. Le directeur de l'Institut est nommé par le Gouvernement finlandais après consultation du Secrétaire général des Nations Unies. En dehors du directeur, le personnel de l'HEUNI se compose d'un attaché de recherche (hors classe), de deux administrateurs de programmes et d'une secrétaire de bureau. Un dixième du budget annuel de l'HEUNI est financé par les Gouvernements du Danemark, de la Norvège et de la Suède sous la forme de contributions au Fonds de dépôts pour la défense sociale des Nations Unies, et quatre-vingt-dix pour cent par le Gouvernement finlandais.

Les tâches principales de l'Institut d'Helsinki sont:

- a) d'organiser des séminaires pour des responsables politiques, des fonctionnaires, des spécialistes et des chercheurs;
- b) de rassembler des informations sur les sujets qui rentrent dans son domaine de compétence, de fournir des renseignements utiles aux Gouvernements intéressés, et de publier et de distribuer des documents et des données utiles;
- c) d'effectuer des recherches se rapportant aux objectifs de l'Institut, dans les limites de ses ressources;
- d) d'organiser des conférences et des réunions remplissant ces objectifs.

L'Institut s'est concentré, pendant les deux ans et demie de son existence, à organiser des séminaires et à effectuer des études. La recherche et la distribution de l'information ont également été des questions prioritaires.

L'HEUNI a jusqu'ici organisé un séminaire européen sur le sujet "Vers une politique concernant les victimes en Europe", en 1983, dont les comptes rendus sont dans la publication numéro 2 de l'HEUNI, et, en 1984, un autre séminaire sur le sujet "Justice pénale rationnelle, efficace et humaine" (publication numéro 3). En 1983, une réunion de spécialistes ad hoc a été organisée sur le sujet "La possibilité de systèmes de service d'information dans le domaine de la politique pénale" (publication numéro 1).

Les projets de recherche, achevés ou en cours de réalisation, comprennent la préparation d'un rapport sur la recherche actuelle concernant la délinquance juvénile devant être fourni au septième congrès des Nations Unies de 1985 sur la prévention du crime et le traitement des délinquants en tant que document de secrétariat, une étude comparative sur l'abandon des poursuites dans les pays d'Europe, et un projet sur l'analyse, au niveau transnational, des réactions des divers pays européens à la deuxième enquête des Nations Unies sur les tendances de la criminalité, les activités des systèmes de justice pénale et les stratégies pour la prévention du crime (publication numéro 5 en préparation).

HEUNI

Хельсинский институт по предупреждению преступности и борьбе с ней связанный с Организацией Объединенных Наций - его структура и функции

Хельсинский институт по предупреждению преступности и борьбе с ней связанный с Организацией Объединенных Наций (HEUNI) был основан на основе подписанного в конце 1981 г. соглашения между Организацией Объединенных Наций и Правительством Финляндии. Важнейшей задачей "HEUNI" является содействие обмену информацией и опытом в сфере предупреждения и контроля преступности между различными странами Европы.

Административную ответственность за деятельность "HEUNI" несет Правительство Финляндии. Институт действует под совместным покровительством Организации Объединенных Наций и Правительства Финляндии. Институт имеет Советательную Комиссию, которая возглавляется назначенным Генеральным Секретарем Организации Объединенных Наций после консультации с Правительством Финляндии председателем и состоит из четырех назначенных Генеральным Секретарем членов и из четырех назначенных Правительством Финляндии членов. Директор Института назначается Правительством Финляндии после консультации с Генеральным Секретарем Организации Объединенных Наций. Кроме директора в "HEUNI" имеются следующие сотрудники - старший сотрудник по исследованиям, два сотрудника по программам и секретарь. Одна десятая часть годового бюджета "HEUNI" финансируется Правительствами Дании, Норвегии и Швеции, что передается в качестве вклада в Фонд Организации Объединенных Наций по социальной защите и ответственности, а девяносто процентов дается Правительством Финляндии.

Основными функциями Хельсинского института являются:

- а) организация семинаров для политических деятелей, представителей власти, экспертов и исследователей;
- б) сбор информации во вопросам сферы компетентности института, предоставление заинтересованным правительствам соответствующей информации, издание и распространение материалов и информации по данным вопросам;
- в) проведение - в пределах своих возможностей - исследований по вопросам сферы деятельности Института;
- г) проведение конференций и встреч по данным вопросам.

В течение двух с половиной года своего существования Институт сосредотачивает, в основном, свое внимание на организацию семинаров и на исследования. Важнейшими задачами являются также передача и распространение информации.

До сих пор "HEUNI" организовал европейский семинар по теме "Виктимная политика в Европе" в 1983 г., материалы которого изданы в публикации "HEUNI" № 2, а также семинар по теме "Рациональное, эффективное и гуманное уголовное право" (публикация № 3) в 1984 г. В 1983 г. была организована особая (ad hoc) встреча экспертов по теме "Осуществление систе-

мы информационной службы в сфере уголовно-правовой политики" (публикация № 1).

Проекты исследований включают подготовку рапорта по текущим исследованиям о преступности несовершеннолетних, который будет передан седьмому конгрессу Организации Объединенных Наций по предупреждению преступности и обращению с правонарушителями в 1985 г. в качестве подготовленного секретариатом документа, исследование по сравнению дел отложения предъявления иска в европейских странах, и проект анализа на транснациональном уровне откликов различных европейских стран на Второй обзор Организации Объединенных Наций по тенденциям преступности, деятельности систем уголовного права и по стратегиям предупреждения преступности (публикация № 5).

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The Criminal Policy Activities of the Council of Europe

1. The Council of Europe's aim of achieving closer unity among its 21 member states is pursued by the examination of questions of common interest, by the conclusion of European treaties and the adoption of common action, inter alia in the legal field. The European Committee on Crime Problems deals thus, since 1958, with a multitude of problems relating to the prevention of crime and the treatment of offenders. This Committee (CDPC) is composed of one or more government experts from each member State, meets once a year and coordinates more than a dozen select committees which, under the supervision of the CDPC, carry out the bulk of its governmental activities in the following four sectors: inter-state cooperation in the penal field, criminal law and procedure, prison administration and treatment of offenders, crime policy and criminological research. Since 1962, the CDPC is assisted by a Criminological Scientific Council, which prepares inter alia the Criminological Conferences and Colloquiums; they alternate every year and concentrate on criminological research themes likely to lead to - or further - work undertaken by the government experts with a view to elaborating a common crime policy of the member States. The yearly award of Council of Europe fellowships for criminological research and the regular publication of a Bulletin on ongoing criminological research in the member States promote mutual information in this field. Similarly, since a few years, the Council of Europe also publishes a Prison Information Bulletin.

In that field, the exchange of information and the examination of problems of common concern, such as the implementation of the Standard Minimum Rules for the Treatment of Prisoners, have been the traditional aims of the Conferences of Directors of Prison Administration which take place on a biannual basis, since 1972. The scheme for study visits abroad for persons dealing with offenders is another aspect of the Council of Europe's wish to promote mutual information and contacts among prison officers. Recommendations by the C.o.E. Parliamentary Assembly or Resolutions by the biannual Conferences of European Ministers of Justice give considerable political support to these activities on crime policy.

2) As it is obviously not possible to summarize, in 30 minutes, all the many activities undertaken by the C.o.E. in the field of crime problems over the last 25 years - the mere reading of the 12 pages list of its publications in

this field would require half an hour - only a few past activities can be highlighted, as well as some recent trends in the four sectors of activity in the field of crime problems. It is assumed that the general context within which these activities take place, is fairly well known: like-minded Western European States which are more-over highly interdependent; considerable mobility of their people; inability of the criminal law to deal, on a purely territorial basis, with increasingly complex, organized international or transnational crime.

i) There are now 18 European treaties in the penal field, starting with extradition and mutual assistance in the late 1950s, developing new forms of inter-state cooperation (such as transfer of execution and transfer of prosecution) in several special and general Conventions in the early 1970s, and completing and amending these Treaties by various additional protocols or new special conventions, such as the one on transfer of foreign prisoners or that on offences relating to cultural property. Some 20 Resolutions or Recommendations on the application of these Treaties (which have been adopted over the years by the C.o.E.'s Committee of Ministers) have contributed to the establishment of this very elaborate system of inter-State cooperation, which member States are entirely free to accept - and be it only in part. With a view to making this system more generally applicable, last week's Conference on Crime Policy in Strasbourg endorsed the view that the CDPC might now usefully examine the simplification and consolidation of this system in the light of its eventual codification.

ii) The elaboration, conclusion and application of the European treaties - as well as the relevant provisions in the European Convention on Human Rights - have led to many adjustments in member State's legislations and practice relating to criminal procedure. In this field, a lot of attention was given in the past to problems such as remand in custody and the criteria governing proceedings held in the absence of the accused. At present, emphasis is given again to the need to lighten the task of the penal courts, by, for example, the elaboration of simplified and summary criminal procedures.

As far as the substantive criminal law is concerned, most of the CDPC's past efforts at adapting the criminal law to meet modern day requirements, have concentrated on very specific questions rather than comprehensive penal law reforms and harmonisation among member States (except for a comprehensive study on decriminalisation). In the form of Recommendations, member States have thus been invited to review their domestic laws, in the light of a common crime policy approach, on questions such as drug abuse, protection of the environment, economic crime, consumer protection, or legislation on firearms. Subjects still under study include extra-territorial jurisdiction as well as the

question of the possible introduction or extension, in the member State's criminal law, of the concept of criminal liability of corporate bodies.

iii) The prison sector has been given particular attention by the CDPC, as it appears from nearly 20 Resolutions or Recommendations of the Committee of Ministers on the status, selection and training of prison staff and governing grades thereof, on prison management and regimes on the treatment of young offenders, of short-terms, of dangerous offenders or of foreign prisoners, on prison leave, after-care, and in particular on alternative penal measures to imprisonment. The Standard Minimum Rules on the Treatment of Prisoners have been mentioned already - the main question under consideration being whether implementation can be improved and whether the rules need revising. The CDPC has always insisted that imprisonment be the very last resort, and, where a prison sentence is inevitable, that prison conditions be improved. Moreover, time in prison is to serve preparation for reintegration into society, though resocialisation will only "work" if the prisoner himself is motivated. Faced with the problems of over-crowding of prisons in many member States, the last Conference of Prison Directors, in early March, very much stressed the need for the CDPC to look anew at alternatives to imprisonment and to examine at the same time the opportunity of elaborating a new set of principles governing the execution of penal measures outside prison.

iv) The work of the CDPC in the criminological field is fairly well known - it might function both as a clearing-house (collection and dissemination of criminological research) and as a think-tank when, through criminological conferences and colloquies, it examines basic issues in the light of scientific research and penological and criminological theory prior to the elaboration of policy guidelines on these matters, addressed to the national legislature. Such an approach is indispensable if the common crime policy worked out is really to be coherent and rational, i.e. based on scientific data and taking into account the various interactions within the criminal justice system. Some of the conference themes have been very wide, such as the perception of deviance, violence, narcotics, public opinion in relation to crime and criminal justice, victimisation, prevention of juvenile delinquency; other questions, dealt with at the more technical Colloquies, included problems of the methodology of the evaluation of crime, of comparing crime trends in space and in time, the ill-treatment of children and the role of the police in crime prevention. The present criminology-oriented activities include juvenile delinquency, crime prevention, the position of the victim in criminal law and criminal procedure, and the relationship between economic crisis and crime.

3) In conclusion - the C.o.E. has already made a considerable contribution to the solution of the many problems connected with crime prevention and treatment of offenders. The Nordic States share in this effect has been of particular significance! The problem and difficulties with crime prevention and the treatment of offenders will neither disappear nor diminish in the foreseeable future - as, according to a recent study at the C.o.E., crime increases with economic and social development and growth. The CDPC will therefore continue its past activities also in the future although the accent or emphasis placed on the sectors in the field of crime problems might be slightly changed, such as more emphasis on situational prevention, on the role of the victim (possibly on reparation by the offender and conciliation with the victim outside court) and finally on alternatives to imprisonment.

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Interregional advisory services in the field of crime prevention and the treatment of offenders

A. Background and Mandates

In 1979, the Economic and Social Council, in its resolution 1979/20, expressed its concern about prevailing trends in criminality in many parts of the world and the impact of crime on the efforts of Governments to promote and sustain a better quality of life in their respective countries, especially in developing countries. Although Member States were evaluating the effectiveness of their criminal justice systems with a view toward restructuring them so as to ensure their capacity to deal with rising criminality, a growing number of countries felt that there was a lack of technical services to assist them in planning and implementing their criminal policies. The Economic and Social Council recognized the importance of co-operation among Member States and the efforts already made by the international community in the field of crime prevention and the treatment of offenders and the need to promote further collaboration in this field, at both the regional and interregional levels. The Council noted the importance of making technical advisory services available on a regular basis to Governments requesting them, especially developing countries. In that context, the Council requested the Secretary-General to restore and make available, through the United Nations Development Programme (UNDP), the services of an interregional and regional adviser in the field of crime prevention and the treatment of offenders to Member States upon their request. The Secretary-General was further requested by the Council to explore new formulae for providing developing countries with technical experts through the United Nations, under the auspices of the programme of technical co-operation among developing countries.

The Caracas Declaration, unanimously adopted by the Sixth Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 35/171 of 15 December 1980, stated the following:

"Having regard to the vital role played by the United Nations in encouraging international co-operation and the development of norms and guidelines in the field of criminal policy, it is important that the General Assembly and the Economic and Social Council should ensure that appropriate measures are taken to streng-

then, as necessary, the activities of the competent United Nations organs concerned with crime prevention and the treatment of offenders, especially activities at the regional and subregional levels, taking into account the specific needs of each region, including the establishment of institutes for research, training and technical assistance in those regions which lack such bodies, and the strengthening of existing institutes, and, further to give effect to the conclusions of the Sixth United Nations Congress, including those relating to new perspectives for international co-operation in crime prevention, and to ensure that all United Nations organs cooperate effectively with the Committee on Crime Prevention and Control in pursuance of the relevant resolutions of the General Assembly."

In the same resolution, the General Assembly urged the Secretary-General to implement the Caracas Declaration and the other recommendations of the Sixth Congress, especially those concerning the new perspectives for international co-operation with respect to crime prevention and criminal justice, and to prepare a report on the implementation of that resolution to the following session of the General Assembly.

In the report (A/36/442), the Secretary-General announced his intention to establish the post of interregional adviser in the area of crime prevention and criminal justice in order to provide Member States, upon their request, with short-term advisory services in this field. The General Assembly took note of the report and adopted resolution 36/21 of 9 November 1981, by which it urged the United Nations Department of Technical Co-operation for Development and UNDP "to increase their level of support to programmes of technical assistance in the field of crime prevention and criminal justice, and to encourage technical co-operation among developing countries". In the same resolution, the General Assembly requested the Secretary-General:

"to take the necessary measures for the fullest implementation of the Caracas Declaration and for the appropriate preparation of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in close co-operation with all the relevant United Nations bodies, in particular with the regional commissions and the United Nations training and research institutes in crime prevention".

In pursuance of these recommendations, the post of Interregional Adviser in the area of crime prevention and criminal justice was established in 1982, and an appointment was made in July of the same year.

B. Terms of reference of the interregional adviser

The Interregional Adviser is based in Vienna, Austria, and works under the supervision of the Under Secretary-General of the United Nations Department of Technical Co-operation for Development and in collaboration with the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs. He undertakes assignments, in response to government requests, and performs the following functions:

(a) Provides Governments of Member States with advisory services in relation to the assessment of crime patterns and trends in order to establish areas of priority for more effective utilization of national resources allocated to the criminal justice sector;

(b) Advises Governments on ways and means of orienting country programmes to include crime prevention and criminal justice policies in the context of overall social and economic developmental planning;

(c) Arranges for plans and programmes for the training of personnel in the field of crime prevention and the treatment of offenders, in accordance with the economic, social, cultural and political circumstances of countries concerned;

(d) Explores appropriate policies for co-ordinated activities between national institutions dealing with crime prevention and criminal justice and other developmental sectors, with the view to developing research and analysing data on the interrelationship between crime and socio-economic and cultural factors, such as unemployment, migration, urbanization, etc., in order to formulate policy options in the field of crime prevention and criminal justice;

(e) Assists regional institutes in their activities, e.g., organizing interregional training courses in the field of crime prevention and criminal justice in the context of national development;

(f) Suggests ways and means of promoting and strengthening regional collaboration in the field of crime prevention and criminal justice, particularly as regards exchange and dissemination of information activities.

C. Activities of the Interregional Adviser

Countries that thus far have requested the services of the interregional adviser in this field were: Algeria, Argentina, Bahrain, Barbados, Belgium, Bolivia, Burundi, Central African Republic, Chile, China, Colombia, Cuba, Cyprus,

Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Guatemala, Jamaica, Jordan, Liberia, Madagascar, Mexico, Nicaragua, Oman, Pakistan, Peru, Philippines, Rwanda, Saudi Arabia, Somalia, Thailand, Uganda, Uruguay, USSR, Venezuela, Yugoslavia and Zambia.

Thus far, the Interregional Adviser has visited the following countries, at their request: in 1982 - Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Jamaica and Venezuela; and through 1983 - Bahrain, China, Colombia, Ethiopia, Italy, Iraq, Peru, Phillipines, Spain, Thailand and Zambia. In 1984 he visited: Argentina, Barbados, Chile, Cuba, Cyprus, Egypt, Mexico, Pakistan, Saudi Arabia and the USSR. In 1985 he visited: Algeria, Bahrain, Jordan and Saudi Arabia.

D. Problems and experiences of countries visited by the Interregional Adviser

Requests for advisory services have been made in a variety of subject areas of criminal policy, including: crime prevention planning; juvenile delinquency; female criminality; training of criminal justice personnel; prison reform; penal reform; establishment of parole systems; establishment of crime research units and data bases; alternatives to imprisonment; reduction of prison population; treatment of and facilities and services for adult and juvenile offenders; criminogenic aspects of urbanization, industrialization, economic recession and social change; administration and co-ordination of criminal justice agencies; intersectoral co-ordination between the criminal justice system and other sectors; assessment of crime patterns; establishment of areas of priority for more effective utilization of national resources allocated to the criminal justice sector; and ways and means of strengthening regional collaboration in the field.

The problems and experiences of countries thus far requesting advisory services are briefly summarized below.

a) Crime prevention and intersectoral planning and co-ordination

Many countries were concerned with the escalation of criminality, especially in its new forms and dimensions, which are the result of such developmental factors as population structure and growth, unemployment, migration, urbanization, industrialization and housing.

Most of the countries visited required assistance in incorporating crime prevention and criminal justice policies into development plans so as to ensure more harmonious and integrated national development, on the one hand, and the effective and co-ordinated functioning of the criminal

justice system with full respect for human rights and fundamental freedoms, on the other. In many instances the Interregional Adviser recommended, among other measures to be simultaneously implemented at the local and national levels, the establishment of a planning mechanism or body that would ensure intersectoral coordination between the criminal justice system and other sectors.

b) Adequate statistics and establishment of crime research units to explore the potential interrelationships between criminality and various socio-economic issues of development

In many countries visited, the Interregional Adviser strongly recommended that further study and research of possible interrelationships between criminality and certain aspects of development (population structure and growth, urbanization, industrialization, housing, migration and employment opportunities) should be undertaken in order to increase the responsiveness of crime prevention and criminal justice policies, in dynamic ways, to changing socio-economic, cultural and political conditions. Such studies should be conducted, when possible, from an integrated and interdisciplinary approach and should be policy- and action-oriented.

c) Indigenous life-styles and traditions

In most instances, crime prevention required a comprehensive sectoral approach; the starting point was the need to reformulate and analyse existing legal codes and statutes that reflected foreign traditions and a colonial past. Careful study was required of legislation, often adopted many years ago, in view of the rapid changes taking place in contemporary society. In many countries it was seen that the capability of the criminal justice system to serve as an instrument for ensuring peace and social justice could be maximized only through a careful re-evaluation of the legal structure in relation to existing socio-economic, cultural and political conditions.

d) Training of crime prevention and criminal justice personnel

The important role of the United Nations research and training institutes for the prevention of crime and the treatment of offenders in the respective regions and of regional co-operation among developing countries - especially in the context of the Buenos Aires Plan of Action for Promoting and Implementing Technical Co-operation among Developing Countries - were given considerable attention in the recommendations of the Interregional Adviser. In that connection, the important contributions of the United Nations regional institutes in various aspects of technical co-operation activities were prominently highlighted in

reports to various countries.

e) De-institutionalization of offenders

As regards the correctional systems of countries, there appeared to be a great need for the de-institutionalization of offenders, while at the same time ensuring the protection of the fundamental human rights of the accused and the upgrading of the training and professional qualifications of correctional personnel. The need for de-institutionalization of offenders, in many countries, could be attributed to the problem of inordinate justice delay owing to, for example, complexities of and contradictions in the legal system, lack of alternatives to incarceration, population and prison growth, migration problems, lack of legal services etc. Another shortcoming of some correctional systems was the lack of diagnostic centres for observation and classification, a requisite for ensuring the progressive rehabilitation of offenders.

f) Juvenile offenders

In the area of juvenile delinquency, there was again a need for the co-ordination of crime prevention policies in the context of integrated, harmonious national development. An important element in that regard was the establishment and strengthening of full community participation and alternatives to and diversion from institutionalization for juvenile offenders. A number of measures with such objectives in mind were recommended by the Interregional Adviser.

g) Law enforcement

In many developing countries, technical and human resources of law enforcement and criminal justice are not keeping pace with the magnitude of means possessed by the new forms and dimensions of organized criminality. The situation is improving in many developing nations, but still strengthened efforts should be directed to training and technical co-operation in this area.

In addition, scientific equipment and laboratories are quite often insufficiently provided for a co-ordinated response at the national level to fight drug illicit traffic and drug abuse. In some countries, efficient laboratories are only existing in important cities and not in smaller urban centers and the hinterland. Sometimes even in the case of laboratories and equipment of excellent quality, they are not fully utilized to improve the training of law enforcement personnel. Moreover, lack of training of law enforcement personnel hampers adequate prosecution efforts, since these resources are not used in the opportune moment in efforts aimed at detecting and preventing illicit drug traffic and use.

On the other hand, in many development countries the behaviour of the police, aggravated by the influence of corrupt practices and human rights violations, have generated acute hostility among the public, resulting in lack of confidence and co-operation with law enforcement agencies.

h) Justice delay

Furthermore, justice delay is a grave problem in many developing countries of the world. So the certainty of punishment, so essential in the effective prevention of criminality, is only a theoretical presupposition without effective deterrent force, favoring thus those engaged in continuous criminal behaviour.

i) Changes in the patterns and manifestations of criminality

Moreover, successful international efforts in some geographical areas or sectors are determining swift changes in the patterns and manifestations of criminality, while lack of resources in many countries, both human and technical, have created a lag between these new manifestations and the adequate response needed from the crime prevention and criminal justice system. Finally, in many countries, national programmes of crime prevention and criminal justice have not been articulated or given maximum importance to sectoral and intersectoral co-ordination.

E. Activities of technical assistance and international co-operation

The exchange of information and experiences; joint activities for training and research; demonstration projects of a bilateral and multilateral nature; agreements governing the provision of human, financial and material resources; and regional and international seminars and technical co-operation - all of which fall within the context of the objectives of the Buenos Aires Plan of Action - were recommended by the Interregional Adviser in most of the countries visited. The important role and functions of the regional institutes, the regional commissions, other inter-governmental organizations and the various mechanisms available at the regional level were emphasized.

In some regions, steps had already been taken to strengthen regional and international co-operation activities. By way of example, in 1980 a meeting of experts of the Latin American and Caribbean region was held at ILANUD in order to discuss, inter alia, modalities of establishing and strengthening co-operation in that region. Taking into account socio-economic and political differences within the region, the experts discussed among other matters the implementation of criminal policies sensitive to social

justice and human rights issues. The Conference of Ministers of Justice of Latin America and the Caribbean, held at San José, Costa Rica, from 1 to 3 December 1982, used the deliberations of the 1980 meeting as a basis for its recommendations on ways of ensuring social justice in penal matters, for example, through: exchange of information and research; co-ordination of criminal justice reforms and priorities; technical assistance; professional and financial help; and centres for documentation, data banks and criminal statistics.

In line with the wishes of the General Assembly to have closer collaboration and a greater involvement of the regional commissions in the area of crime prevention and criminal justice, the Interregional Adviser has also undertaken missions to the Economic Commission for Latin America (ECLA), the Economic and Social Commission for Asia and the Pacific (ESCAP), the Economic Commission for Africa (ECA) and the Economic Commission for Western Asia (ECWA). The Interregional Adviser explored the possibilities of including crime prevention and criminal justice activities in the programmes of the regional commissions.

In reflecting on the enormous changes of all kinds that affect the problems of crime prevention and criminal justice in the context of development, regional, interregional and international co-operation in this field represents a central point of departure.

Furthermore, it is worthy of note that the existing needs and problems experienced by Member States in the field of crime prevention and the treatment of offenders, within the context of development and with full respect for human right and fundamental freedoms, were proven to exist, beyond a doubt, by virtue of the number, nature and range of requests for advisory services received thus far. Many more requests have been received by the Crime Prevention and Criminal Justice Branch and are now being processed.

F. Regional Institutes

The collaboration of the Regional and Interregional Institutes with the Interregional Adviser has offered reciprocal fertile ground for joint efforts.

For instance, UNSDRI has provided support for recommendations for fellowships and research recommended by the Interregional Adviser to various countries, and in due turn the Interregional Adviser has provided support for UNSDRI-UNDP country-oriented projects in crime prevention and criminal justice. The same has happened in the case of ILANUD, UNAFEI and HEUNI who have also been instrumental in recommendations for study tours proposed by the Interregional Adviser.

It is envisaged that in the future, this collaboration should be more intense and fruitful.

The Economic and Social Council in its resolution 1984/51 of 15 May 1984, welcomed later in operative paragraph 5 of General Assembly resolution 39/112 of 14 December 1984, recognized the increasing requests for advisory services by Member States and urged the Secretary-General to ensure increased support for these services also by providing additional interregional and regional advisers as quickly as budgetary resources would permit, especially with the view to serve the needs of those regions without regional institutes.

In this manner, urgently needed effectiveness will be introduced into the area of advisory services.

G. Conclusion

An important goal of the Interregional Adviser's work should be the strengthening of regional cooperation among developing countries and of interregional cooperation. In the case of regional co-operation, two or more developing countries may pool together their capabilities, experiences, skills and technical resources for the purpose of jointly assessing and comparing their problems and improving their systems. These countries may organize appropriate activities, using also the facilities of the institutes or the United Nations system available in the region. This co-operation may include all types of multilateral, regional, subregional, interregional and bilateral assistance. In the area of crime prevention and criminal justice, the countries may, if they so desire, make use of the resources allocated to each country under UNDP plans. The United Nations Conference on Technical Cooperation among Developing Countries, which took place at Buenos Aires in 1978, laid down, in the Buenos Aires Plan of Action, a series of principles governing activities of this kind. Such regional and international technical co-operation can help in overcoming the individual deficiencies of each country since it will make possible an exchange of technical and economic resources in crime prevention and criminal justice with a view towards improving the performance and functioning of the criminal justice system in each country.

SOMMAIRE

Services consultatifs interrégionaux dans le domaine de la prévention du crime et du traitement des délinquants

1. Activités du Conseiller interrégional

Il y a eu des demandes pour des services de consultation dans un éventail de sujets du domaine de la politique pénale, comprenant:

a) Prévention du crime, planification et coordination intersectorielles

Un grand nombre de pays étaient concernés par l'escalade de la criminalité, surtout dans ses nouvelles formes et dimensions, qui sont le résultat de facteurs de développement comme la structure et la croissance de la population, le chômage, la migration, l'urbanisation, l'industrialisation et l'habitat.

b) Statistiques adéquates et création d'unités de recherche criminelle pour explorer les corrélations potentielles entre la criminalité et les diverses questions sociaux-économiques du développementc) Modes de vie et traditions autochtones

Dans la plupart des cas, la prévention du crime a exigé une approche d'ensemble; le point de départ était le besoin de reformuler et d'analyser les codes et lois existants qui reflétaient des traditions étrangères et un passé colonial.

d) Formation du personnel judiciaire et de prévention du crimee) "Désinstitutionnalisation" des délinquants

En ce qui concerne les systèmes correctionnels des pays, il semble y avoir un grand besoin de "désinstitutionnaliser" les délinquants, et dans le même temps d'assurer la protection des droits fondamentaux de l'accusé et d'améliorer la formation et les qualifications professionnelles du personnel pénitentiaire.

f) Délinquants mineurs

Dans le domaine de la délinquance juvénile, il y a également un besoin de coordonner les politiques de prévention du crime dans le contexte d'un développement national intégré et harmonieux.

g) Application des lois

Dans un grand nombre de pays en voie de développement, les ressources techniques et humaines des services de l'application des lois et de la justice pénale n'arrivent pas à suivre l'amplitude des moyens dont disposent les nouvelles formes et dimensions du crime organisé. La situation s'améliore dans beaucoup de pays en voie de développement, mais des efforts renforcés devraient être dirigés vers la formation et la coopération technique dans ce domaine.

h) Retard de la justice

i) Transformations dans modèles et les manifestations de la criminalité

D'ailleurs, des efforts internationaux réussis dans certaines zones géographiques déterminent des changements rapides dans les modèles et les manifestations de la criminalité, alors que le manque de ressources techniques et humaines dans un grand nombre de pays a créé un décalage entre ces nouvelles manifestations et la réponse adéquate nécessaire de la part du système de prévention du crime et de la justice pénale.

2. Activités d'assistance technique et de coopération internationale

L'échange d'informations et d'expériences, les activités en commun pour la formation et la recherche, les projets de démonstration de type bilatéral et multilatéral, les accords gouvernant l'apport en ressources humaines, financières et matérielles, ainsi que les séminaires régionaux et internationaux et la coopération technique ont été recommandés par le Conseiller interrégional dans la plupart des pays visités. On a accordé beaucoup d'importance au rôle et aux fonctions importants des instituts régionaux, aux commissions régionales, aux autres organisations intergouvernementales et aux différents mécanismes disponibles à l'échelon régional.

3. Conclusion

Un but important du travail du Conseiller interrégional devrait être fortifier la coopération régionale parmi les pays en voie de développement, et la coopération interrégionale.

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Служба межрегиональных советников в области предупреждения
преступности и обращения с правонарушителями

Резюме

Деятельность и задачи межрегиональных советников

К службе межрегиональных советников отразились с просьбой
помощи в различных сферах уголовного права, в том числе

а) В области предупреждения преступности и межсекторского планирования и координирования

Во многих странах беспокоятся об эскалации преступности, осо-
бенно в ее новых формах и масштабах, которые являются послед-
ствиями таких факторов развития как структуры и роста насе-
ления, безработицы, миграции, урбанизации, индустриализации
и жилищных условий.

б) В области сбора адекватных статистических данных и осно- вания групп исследования преступности для изучения потенци- альных взаимных связей между преступностью и различными со- цио-экономическими результатами развития

в) В области изучения местных образов жизни и традиций
Во многих случаях предупреждение преступности требовало все-
стороннего секторского подхода; инходным пунктом служила
потребность переформулировать и анализировать существующие
правовые кодексы и статуы, которые отражали ненациональные
традиции и колониальное прошлое.

г) В области обучения персонала сфер предупреждения преступ- ности и уголовного права

д) В области проблем освобождения преступников из тюрем (проблемы деинституционализации)

Что касается исправительных заведений различных стран, ка-
жется, что существует большая потребность в деинституциана-
лизации преступников, а в то же время потребность в охране

фундаментальных прав человека обвиняемых и также в повышении квалификации и профессиональной подготовленности персонала, занятого в тюремных заведениях.

е) В области правонарушений несовершеннолетних

В сфере правонарушений несовершеннолетних существовала опять-таки потребность в координировании политик предупреждения преступности в контексте с целостным, гармоничным национальным развитием.

ж) В области контроля соблюдения законов

Во многих развивающихся странах технические и человеческие ресурсы контроля соблюдения законов и уголовного права не идут шаг в шаг со средствами того масштаба, которые возникли вместе с появлением новых форм и масштабов организованной преступности. Положение стало улучшаться во многих развивающихся странах, но все-же следовало бы направить больше усилий на обучение и техническое сотрудничество в этой области.

з) В области приостановок юстиции

и) В области изменений моделей и проявлений преступности

Кроме того в определенных географических областях или секторах удачные международные усилия вызвали быстрые изменения моделей и форм проявлений преступности, в то время как недостаток ресурсов, как человеческих, так и технических создали временное запаздывание между в.у. моделями и требуемыми адекватными ответными мероприятиями со стороны системы предупреждения преступности и уголовного права.

Деятельность и задачи технической помощи и международного сотрудничества

В большинстве стран, которые международный советник посетил, были предложены следующие мероприятия: обмен информацией и опытом; объединение усилий в обучении и исследовании; осуществление наглядных проектов двустороннего и многостороннего характера; соглашения обуславливающие достаток человеческих, финансовых и материальных ресурсов; региональные и международные семинары и техническое сотрудничество. Особое внимание было обращено на роль и деятельность региональных институтов, региональных комиссий, других межправительственных организаций и различных механизмов доступных на региональном уровне.

Заключение

Важной целью в деятельности межрегионального советника должно было бы быть усиление регионального сотрудничества среди развивающихся стран и межрегионального сотрудничества.

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The history of international collaboration in crime prevention and treatment of offenders - with special emphasis on the activities of International Penal and Penitentiary Foundation

1. Background for international collaboration in this field

1.1 Some general remarks

Crime is an international calamity, which among all peoples springs from the same sources and is essentially to be overcome by the same measures. Thus, it is natural that the prison reformers of all cultures and nations seek to establish contacts with one other and vividly exchange views. This statement was made by the German penologist Krohne in a famous book published nearly 100 years ago.

In this, Krohne was emphasizing one argument in favour of international collaboration in the field of crime. Other arguments of a more practical nature could be added to this principal one. At the time of the above quote, many countries had experienced a substantial increase in crime for a period of two decades, a phenomenon which was connected with a great increase in industrialization and urbanization.

During the mid 1800s many countries were considering the reform of their penal system, partly due to the increase in the prison population and partly due to a striving for more humane and rational treatment. Plans for new prisons were launched in many countries - new buildings would also give room for new systems of treatment. Hopes and confidence were attached to systems of reformatories and penitentiaries. As an element of endeavours for improvement of the prison-system many European countries sent observers to the United States to acquaint themselves with two systems then competing: the Philadelphia system (operating as a solitary confinement system) and the Auburn system (based on separation of prisoners during nights, and working in association under strict silence.) The common interest in setting up a new prison system gave rise to a need for exchange of views and of experiences.

1.2 The origins of world-wide Congresses

The first international congress on prison problems was held in Frankfurt am Main in 1846. It was attended by 75 persons, representing the United States and 12 European

countries. The congress brought together lawyers, physicians, prison chaplains, wardens and heads of correctional administrations. The discussions were concentrated on solitary or separate confinement as a matter of treatment of prisoners. Many considerations were brought up in the debate which also at the present time should be met with esteem and partly even with approval.

The following year - 1847 - an international congress was arranged in Brussels. At this congress the focus was on the treatment of young offenders, and a system of correctional education was stressed. According to Krohne, this congress demonstrated that these kinds of discussions on prison matters had attracted attention not only within greater circles of professionals, but also within Governments. Some Governments manifested an interest in exchanging ideas on the treatment of offenders.

In the penological literature, these congresses have been characterized as "appetizers" - but bearing in mind that 25 years were to elapse before the next International Congress, it may be more appropriate to characterize them as a *ferme*.

1.3 The first outstanding world congress.

In the early 1870s the time seemed ripe for concerted action at the international level, and the great engineer in the work of international collaboration was the American prison reformer Enoch Wines. In 1871 he was appointed by his Government commissioner with the task of organizing an international Congress. The initiative taken by Wines was influenced by ideas given by a Russian colleague, Wladimir Sollohub, Governor of the penal institutions in Moscow.

Wines intended to give the international collaboration a wider scope than hitherto - also comprising "prevention of crime". The whole field for the combatting of crime should be founded on inter-governmental collaboration.

The outcome of Wines's efforts was a world congress held in London in 1872, with 400 delegates, one-fourth of whom represented governments. The agenda of this congress had practical features, pushing general, and more subtle, questions into the background.

The London Congress has in retrospect won admiration, both as a forum for discussions on important practical questions and for the inspiration which the congress brought forward. An American penologist has summarized the inspiration given by these first experts and idealists: "Marvellous were the visions they have seen". This hint of visions may remind us of the words of the Prophet: "Write the vision, and make it plain upon tables, that he may run that readeth it".

In this case the vision was really made plain and put upon tables. This task was entrusted to a permanent Commission set up in connection with the closing of the London Congress: the International Penitentiary Commission, which was formally organized at the following world Congress, in Stockholm.

1.4 The Congress in Stockholm

The next world Congress took place in the capital of Sweden in 1878. Based on experiences gained from the London Congress, this Congress was given a firmer structure. The work to be done was divided into three sections: the first one for legislative matters within the penal field, the second one for prison matters, and the third one for preventive measures. One of the main purposes was to gather world-wide authentic information on prison matters. Altogether 50 reports were sent in, from European countries, American states, and several countries in Africa, Asia and even Australia and New Zealand.

The Swedish penologist Torsten Eriksson has given this observation to the Congress in Stockholm: "Beginning with this congress, the governmental delegates dominated the discussions and ran the resolution machinery. The rest of the delegates were kept in the background, whether they represented international associations or themselves. They were not allowed a voice until after the official delegates had expressed themselves."

2. The organization and the activities of the International Penitentiary Commission up till the outbreak of the First World War.

The activities on the international level were for a long period directed by the International Penitentiary Commission. This organization consisted of delegates nominated by the governments of states which have joined the Commission. The number of member states increased after 1900, and at the outbreak of World War I about 20 countries had nominated delegates to the Commission.

The Commission met once a year, with one or two delegate(s) from each member state, discussing penal problems put on the agenda for the yearly meeting.

The headquarters of the Commission was in Berne in Switzerland with a Permanent Secretary General. It was here that the current work of the Commission was performed. It was also here that the regular periodical, "Recueil de documents en matière pénale et pénitentiaire" - "Select Papers on (penal and) penitentiary matters" - was published.

The structure of the Commission has briefly, but clearly, been described by the great English penologist Sir Alexander Paterson: "It narrows down to a smaller body called the Executive Committee, which carries on the business of the Commission, and every five years broadens out into the International Congress when some hundreds or thousands of international prison administrators, lawyers, and sociologists discuss all the problems cognate to the treatment of offenders".

Since its organization at the Stockholm Congress, the IPC arranged six further Congresses up to the outbreak of the First World War. The last one took place in Washington in 1910. All the other ones were arranged in European capitals - the Congress of 1890 in St. Petersburg.

3. The organization of an international Union for Criminalists.

The international collaboration was substantially broadened with the foundation in 1889 of the Union Internationale de Droit Pénale - a movement brought into existence by three prominent penalists, the German professor von Liszt, the Dutch van Hamel and the Belgian Adolphe Prins. These three distinguished scholars of penal law shared, in the words of professor Bassiouni, "the same values and concerns with respect to an emerging historical crisis at that time". These three scholars were deeply concerned about the increasingly repressive tendencies in penal law. They therefore decided to create a "forum which would permit scholars, academicians and practitioners of criminal justice to gather, exchange views and express their concerns, and ultimately to have a positive and constructive effect on the development of criminal justice policy".

It may be considered symptomatic for the work of this new organization that the agenda for its first meeting comprised the following topics: suspended sentences, other alternatives to short term imprisonment - among them a reform of the fine as a penal sanction - problems related to recidivists, and measures towards young offenders. The program of this new organization aroused attention in wide circles, and led in turn to the foundation of national associations for criminalists, for example in the Scandinavian countries.

4. Influence on legislation and criminal policy

Here it may be considered appropriate to try to give some reflections on the influence of the IPC and the new Union. Certainly it may be dubious to try to evaluate in a broad context the influence made by the two mentioned organizations. I will therefore restrict my observations to my own

country, which during the 1890s was working on a reform of criminal law and related matters. I do not hesitate to state that the elaboration of both penal law, and related laws, as well as penal policy to a high degree have been influenced by the work and by the inspiration given by these organizations. The leading person on the reform work in Norway - professor Bernhard Getz - joined the Union internationale and succeeded in introducing some of the ideas of the Union into Norwegian law. In the documents preparing the new laws many references have been made to ideas launched by the Union or by its most prominent members as well as to resolutions or proposals made within the IPC.

5. International collaboration in the period between the two World Wars

5.1 In the framework of the IPC (from 1929, the IPPC)

The World War, 1914-1918, brought an interruption of international collaboration in the penal field. The Secretariate of the IPC was, however, able to act as an efficient link, due to its active Secretary-General, Professor van der Aa (Groeningen).

In 1925 the IPC announced the ninth international Congress. It was stressed that in addition to official delegates, the following groups could participate: delegates, university professors, officials in ministries, in prison service or courts, lawyers, and well-known scholars.

The ninth Congress, held in London 1925, has been considered as the Congress that rejected the old concept of deterrence as the fundamental principle of punishment. At this Congress a differentiation of offenders was strongly advocated. This consideration was especially advocated in respect of young offenders. Special attention was also paid to other categories of offenders, such as recidivists, abnormal offenders, insane offenders, alcoholics, vagrants and sex offenders.

At the tenth Congress in Prague 1930, lengthy discussions took place within the Section dealing with young offenders. Special attention was given to the establishment of juvenile courts and their composition.

The 11th Congress, held in Berlin 1935, was coloured by contributions given by foreigners containing criticism of the penal philosophy set up by the new regime in Germany.

5.2 In the framework of the IAPL

In 1924 the International Association of Penal Law was founded, continuing in some respect the work of the former

Union. The first International Congress arranged by the new Association took place in 1926 in Brussels.

For several years, however, it was felt that the French/Italian/Spanish delegations were giving the Association its characteristic features - later on this picture changed in that delegates from other parts of Europe and outside Europe took a more active part in the work of the Association.

5.3 A new international association.

In the late 1930s the International Society of Criminology was founded. This new organization should further the development of scientific research on crime problems. The Society held its first International Congress in Rome 1937.

6. Development after the Second World War.

The International Association of Penal Law had its fifth international Congress in Geneva 1947, and the International Penal and Penitentiary Commission had its twelfth international Congress in the Hague 1950. The Congress in the Hague had about 300 delegates from 30 countries - a little more than 70 were official delegates. The number of participants was smaller than expected, probably due to political tensions that summer.

The Congress in the Hague was the last to be organized by the IPPC. The time had now come for the new giant on the international scene, the United Nations, to take the lead in this field.

Deliberations between the UN and the organizations mentioned above had gone on for some time, in meetings where also representatives from the Nordic Associations for Criminalists had taken part. From 1949 the former three large organisations, the International Association of Penal Law, the International Penal and Penitentiary Commission and the International Society of Criminology, were supplemented by a new organisation, founded in 1949, the International Society of Social Defence. This new movement is particularly engaged in developing a criminal justice policy divorced from the punishment-ideology, emphasizing means of treatment and preventive measures, which in a more direct way aim at real social defence.

This new Society has proclaimed a two-fold object: provide protection for society against criminals and safeguard members of society from falling into criminality. This two-fold aspect has been stressed in several respects in the Minimum Program, set up 1954.

These four associations are often called "the four major associations", or in more popular terminology "the big four associations", the big four NGOs.

After long-lasting deliberations between the UNO, the big four and other organizations, agreement was reached that the UNO should assume leadership in international collaboration in the criminal field.

Under the terms of the agreements "consultative groups" of experts should meet in different regions of the world at least once every two years, and the first such group to be set up should be composed of the former members of the IPPC.

The UNO declared its readiness and willingness to organize quinquennial Congress after the manner established by the IPPC and to publish regular Bulletins.

According to the Agreement, in 1955 the UNO held its first World Congress on the Prevention of Crime and the Treatment of Offenders. The main topic of the first United Nations Congress was the presentation of Standard Minimum Rules for the Treatment of Prisoners. This set of rules were adopted at the Congress.

It should not be considered inappropriate to recall that these Rules originally were elaborated within the International Penal and Penitentiary Commission. This organization presented the set of rules to the League of Nations which in 1934 recommended that member-states and non-member-states implement the minimum provision to the fullest extent.

On the request of the UNO the Commission had prepared a new Draft on the Standard Minimum Rules, a Draft which was approved by the Commission July 6, 1951.

7. The International Penal and Penitentiary Foundation.

Having agreed that the UNO should take over the tasks hitherto performed by the International Penal and Penitentiary Commission, this organization, having acted as an intergovernmental organization, held its last meeting in July 1951.

On this occasion the latest Secretary General of the Commission, and the first Secretary General of the Foundation, Professor Thorsten Sellin, gave the following message:

What the IPPC has achieved during the eighty years of its existence is in part recorded in its publications. Its congresses have brought together leading penolo-

gists and administrators from many countries in all parts of the world; its own sessions have been the occasion for cementing many international bonds of friendship and discussing professional questions; and its committees, working on specific problems, have produced useful and often important documents ranging from comparative studies in penal law to model statutes and standard regulations. Finally, its Bulletins have regularly, since 1925 at least, been a valuable source of information on new legislation, institutions and administrative practices in the treatment of offenders.

The Commission had at its disposal great funds, owing to the the custom that each subscribing government contributed annually 120 Swiss francs for each million of its population. The agreement with the UNO, resulting in the dissolution of the IPPC, did not require that the Commission should transfer its assets to the UNO. It was found to be impossible for that organization, under its statutes, to receive funds earmarked for a specific purpose, and because the Commission considered that its own Constitutional Regulations required that its funds be expended only for the purposes for which it was founded, the Commission decided to conserve its funds by creating a Foundation which would continue to expend the income from the fund for appropriate work in crime prevention and the treatment of offenders. The organization of the Foundation was completed at the final session of the IPPC in July 1951. The Foundation has been registered in Switzerland and is a non-governmental, private non-profit organization governed by the appropriate provisions of the Swiss Civil Code.

The Foundation shall continue the scientific work of the Commission in the prevention of crime and treatment of offenders. The work follows the line of conferences and of publications.

The Foundation has been given consultative status to UNO-ECOSOC. Also the other three major associations have consultative status to the UNO.

The countries which had representatives to the IPPC at the dissolution of the Commission, were member-countries within the Foundation - altogether 20 countries. Every country may have at most three members. Members having been elected within the IPPF may be approved by their Government as member of the Foundation.

With the aim of enlarging the scientific scope of the Foundation, it may appoint a total of 10 corresponding members, with only one corresponding member from each country not a member-state within the Foundation. The Foundation has an executive Committee consisting of a President, two Vice-Presidents, a Secretary General and a Treasurer.

During the five year period between two UN Congresses, the Foundation will arrange at least two international meetings - one for members only, the other as a Colloquium open for other participants. Within the period between Caracas and Milano the Foundation has arranged a great Colloquium in Siracusa 1982 on the subject of "New Trends in Criminal Policy", and a meeting in Kristiansand (Norway) on "Criminal Sanctions in the field of Economic Crime". The papers presented at these meetings are printed and published.

For many years the Foundation also arranged conferences for heads of prison administrations, partly as an element in the tradition of the Commission which had a large representation of prison administrators. The very important work within these special Conferences for Prison Administrators has later on, as mentioned by Mueller-Rappard, been taken over by the Council of Europe, which now arranges Conferences for Prison Administrators every second year. Here again, we see that the Commission, respectively the Foundation, has blazed new ways which later on will be used by other agencies: in respect of the quinquennial Conferences and the Standard Minimum Rules for the UN, and in respect of conferences of Prison Administrators for the Council of Europe.

8. International collaboration at present

8.1 Collaboration between the Associations

For a long period there has been extensive collaboration between the "four major associations". Since 1963 these four associations have met every five years at Bellagio in Italy. In a joint Colloque one of the main topics of the forthcoming United Nations Congress have been deliberated. During these Colloques every Association will give its contribution to the topic under discussion, and the proceedings of these colloques are published and distributed at the United Nations Congress, as a scientific contribution from the big four.

On the occasion of the tenth anniversary of the International Institute for Higher Studies in Criminal Sciences at Siracusa (1982), the four Associations established the International Committee for Coordination, consisting of the four presidents and the secretaries general. Since its establishment this Committee has met several times, and it may be right to say the creation of this Committee has furthered collaboration between the four major associations, for a great part due to the efficient work of the Secretariate of the ICC, within the Centro Nazionale di Prevenzione e Difesa Sociale, Milano, Italy. Let it be noted, however, that also formerly this collaboration has been close; as mentioned by Professor Bassiouni, many of

the board members and members of these four associations are board members or ordinary members of one or more of the other associations - "thus reinforcing institutional ties."

The collaboration between the four major associations has been especially strong and efficient in preparation for the seventh United Nations Congress. Topic 4 was thus the topic for the ordinary Bellagio Colloque, held last year. Topic 2 was discussed at a great meeting in Milano in June of 1983, arranged by the four associations in collaboration with the Centro Nazionale di Prevenzione e Difesa Sociale. This last mentioned institution celebrated on that occasion its 35th anniversary, and has later on published a book on this meeting. Earlier this month (March 1985) the big four arranged a great Conference in Saint Vincent, Italy, discussing Topic 1 of the United Nations Congress.

It may then be added that the ICC has brought forward a report on Topic 3 - Victims of Crime - and that the ICC also has been active in highlighting aspects of Topic 5. Seminars have been held for elaborating United Nations standards, and we are glad to report that through the ICC and the Institute in Siracusa we have succeeded in setting up a Model Agreement for Transfer of Prisoners, and we have started an important work on a Model Agreement on Transfer of Criminal Proceedings, work that for a great part is due to great contributions delivered by some experts within this audience.

8.2. Collaboration with the United Nations.

Since the first United Nations Congress in 1955, close ties have been established between the United Nations and the four major Associations - now strengthened through the link of the ICC.

I should also like to mention the important and valuable link between the big four and the United Nations, through the efficient Alliances of NGOs performing valuable work both in Vienna and New York.

Having this opportunity to comment on the collaboration between the big four and the United Nations, I would like to say on behalf of the ICC that we are glad to have established good relations and ties to the UN. We would welcome even stronger co-operation, an idea which has found its expression in the Siracusa declaration which will be presented to the Congress as part of Topic 1. I refer to Article 47, Scientific co-operation. I dare, however, say that there should be possibilities and room for co-operation also between the Associations and the United Nations institutes, collaboration which has found its way in connection with HEUNI. A widening of that collaboration should, however, be considered desirable and should be welcomed.

8.3. Collaboration with the Council of Europe.

Having considered collaboration in a world-wide perspective I would like to mention before concluding that the big four for many years have had close collaboration with the Council of Europe.

I can abstain from giving personal comments which would be of a very positive nature. Instead I will quote what the Council of Europe itself has said about the collaboration. I quote from the Report on Activities within the field of Crime Problems:

From the outset, the ECCP has established and maintained close and fruitful working relations with the International Association on Penal Law (IAPL), the International Penal and Penitentiary Federation (IPPF), the International Society of Criminology (ISC) and the International Society of Social Defence (ISSD).

These associations, whose aims and influence with competent national authorities need not be proved, participate in the activities of the ECCP by the sending of observers to the most important meetings, by the submission of working papers and by proposals, suggestions and advice. The associations thus contribute significantly to the ECCP's accomplishments.

The ECCP is usually represented by the Head of the Division of Crime Problems or other members of its Secretariat in conferences and congresses which are organised separately or jointly by these associations. The Council of Europe has always found a source of inspiration and encouragement in its working relations with the four associations and is grateful for the support which they have never failed to give to its activities.

Doctor Robert Linke (deceased)
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The cooperation between Non-Governmental Organizations and
the United Nations in the field of crime policy

I. The History of the Co-operation

The history of the co-operation between non-governmental organizations (NGOS) active in Vienna and the United Nations is marked by resolution A/Res 31/194 ("Utilization of the office and accomodation and conference facilities at the Donaupark-Centre in Vienna"), adopted by the General Assembly of the United Nations on 22 December 1976 at its 31st Session. In accordance with this resolution and following an invitation extended by the Austrian Government to the United Nations to make use of the facilities at the new Vienna International Centre (VIC), important units of the United Nations Secretariat were transferred from New York and Geneva to Vienna, among them the Centre for Social Development and Humanitarian Affairs with its Branch for Crime Prevention and Criminal Justice, the United Nations Division of Narcotic Drugs and the United Nations Fund for Drug Abuse Control.

Already in this early stage of its work in Vienna, representing now the third United Nations Headquarters, the United Nations Secretariat endeavoured to establish contacts with representatives of non-governmental organizations working in Vienna for their organizations.

On 22 February 1980 participants representing more than 120 non-governmental organizations in consultative status with the Economic and Social Council (ECOSOC) met at the Vienna International Centre (VIC). They were informed about the procedures to be followed in order to represent their organizations at Headquarters and office sites of the United Nations in accordance with the provisions of ECOSOC Resolution 1296 (XLIV). In addition, staff members of the branches of the Centre for Social Development and Humanitarian Affairs gave a survey of their wide ranging tasks and current work. A further meeting on 26 February 1980 was devoted to more detailed briefings on ways and means of NGO access to ECOSOC and its sub-bodies, to Secretariat offices and to U.N. documentation.

A third information day dealt with questions especially relevant for NGOs interested in the field of crime prevention. Members of the Crime Prevention and Criminal Justice Branch took the occasion to stress the importance of closer co-operation of NGOs in particular in this field and referred as an example to the already existing New York

Alliance of NGOs on Crime Prevention and Criminal Justice. It was agreed that there should be more effective communication and co-ordination between the United Nations and the members of the organizations represented.

The idea was taken up by the representatives of the International Police Association, of the International Prisoners' Aid Association and of the International Association of Jurists who formed the founding committee.

II. The Tasks of the Alliance

The Vienna Alliance on Crime Prevention and Criminal Justice was founded on 25 November 1980. On that day representatives of NGOs working in the field of crime prevention and criminal justice and the treatment of offenders met in Vienna following the invitation of the founding committee. They decided to create, on the basis of ECOSOC-Resolution 1296 (XLIV) on arrangements for consultations with non-governmental organizations, an Alliance in order to ensure increased co-operation among NGOs working in this field as well as between them and the United Nations Secretariat, in particular with the Vienna based Branch on Crime Prevention and Criminal Justice. As stated in the report attached to the founding protocol, the (Vienna) Alliance should be open for accession to all NGO representatives accredited at the United Nations office in Vienna. In addition, the Alliance should co-operate closely with the New York Branch of the Alliance of NGOs on Crime Prevention and Criminal Justice which has been working already for several years, pursuing similar goals. Moreover, informal participation, co-operation, exchange of information and contributions of other institutions and organizations working abroad in the field of crime prevention and criminal justice and the treatment of offenders should be welcome. The work of the Alliance should be as flexible and informal as possible. The Alliance should therefore not assume the juridical status of a corporate body according to Austrian Law. The treatment of questions of only temporary interest should be avoided.

The Alliance meets more or less regularly at the Vienna International Centre (VIC). Members of the United Nations Branch on Crime Prevention and Criminal Justice normally attend these meetings. In 1982 the two Branches of the Alliance, in a joint meeting in Vienna, discussed possibilities of future co-operative efforts. To this effect, the New York Alliance had sent their Executive Secretary to Vienna. There were similar contacts during the Eighth Session of the Committee on Crime Prevention and Control (1984) in Vienna. Representatives of the Vienna Alliance could participate, in the autumn of 1983 and in the spring of 1984 in seminars organized by the Helsinki Institute for Crime Prevention and Control (HEUNI), affiliated with the United Nations, on victim policy and on rationalization of

the criminal justice process. An exchange of information and publications is taking place between the Vienna Alliance and the Organization Arabe de Defense Sociale (OADS) in Rabat.

III. Results achieved

The working methods used helped the Alliance to achieve concrete results. The Alliance did not so much develop new strategies and ambitious programmes but rather concentrated its efforts on medium term projects already under consideration by United Nations bodies or otherwise having a realistic chance of a later follow-up in the framework of the United Nations. A good example for this step by step method are three seminars organized by the Vienna Alliance during the five years period of its activities which could provide a substantive input for further action of the Crime Prevention and Criminal Justice Branch, for the United Nations Committee on Crime Prevention and Control and, in the long run, for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1985) and its preparatory meetings. The subjects discussed and the resolutions adopted are all referring to items on the provisional agenda of the Congress:

1. An International Colloquium on the topic "United Nations and Human Rights" was held in Eisenstadt, Austria, from 16 to 18 September 1981 on the initiative of the Alliance in co-operation with the United Nations, the Regional Government of the Burgenland (one of the nine federal provinces of Austria) and the Lawyers' Association of the Burgenland. The conclusions of the colloquium, submitted under provisions of ECOSOC resolution 1296 (XLIV) to the Committee on Crime Prevention and Control, dealt with the draft Convention on the Suppression of Torture which, at the time, was under consideration by the competent organs of the United Nations, and with the Code of Conduct for Law Enforcement Officials and its implementation and dissemination. As far as the Code of Conduct is concerned, the colloquium was considered as a follow up of resolution 12 of the Sixth United Nations Crime Prevention Congress (1980).

2. The next step was the seminar on Transfer of Prisoners, organized at the Vienna International Centre on 3 February 1983 by the Alliance, again in co-operation with the Vienna based Crime Prevention and Criminal Justice Branch of the CSDHA. The participants of the seminar adopted the text of a "Draft Model Agreement on the Transfer of Prisoners" which was submitted through the Branch to the competent United Nations organs.

The item "transfer of foreign prisoners" was first taken up in a preliminary way by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

(1975) (A/CONF 87/8 para. 52) and by the Sixth Congress (1980) (A/CONF 87/14 Rev. 1 p.17). The text elaborated in conformity with these preliminary principles and adopted by the Vienna Seminar had an impressive follow-up: the Committee on Crime Prevention and Control at its Eighth Session (Vienna, 21 to 30 March 1983) discussed the text and adopted a decision entitled "Model Agreement on the Transfer of Foreign Prisoners" (E/AC 157/1984/L.5), recommending that the (broader) complex of questions pertaining to foreign prisoners, including their transfer, should be dealt with as a subtopic of one of the items on the preliminary agenda for the Seventh Congress (1985), entitled "Formulation and Application of United Nations Standards and Norms in Criminal Justice". ECOSOC at its spring session in 1984 has taken note of the "Model Agreement" and there is hope that the Agreement can be finally adopted at the Seventh United Nations Congress in 1985. In the meantime, regional and interregional preparatory meetings for the Congress had the opportunity to comment on the provisions of the Model Agreement as amended by the Crime Prevention Committee.

3. The third international seminar organized by the Vienna Alliance of Non-Governmental Organizations on Crime Prevention and Criminal Justice in co-operation with the Crime Prevention and Criminal Justice Branch and held on 21 November 1983 in Vienna, was devoted to violence in the family. The seminar focussed on three aspects of the problem:

- a) Situations of the family in a changing socio-economic and cultural context;
- b) Wife and child: battery and abuse;
- c) Possibilities of redress, compensation and assistance.

The reports submitted to the seminar, its conclusion and the resolution adopted by the participants are likewise suited as an input to the Seventh United Nations Congress in 1985, in particular in connection with the sub-topic on women as victims of crime as included in the provisional agenda of the Congress.

IV. Current Work

As far as future activities are concerned, the Alliance is now examining the possibilities of a transfer of criminal proceedings from one State to another State in order to ensure that prosecution can take place in the State better or best suited for trial. There is already encouraging experience existent in the practical handling of this relatively new form of international co-operation, in particular in the Nordic Countries, in Austria, Switzerland, in the Federal Republic of Germany and in the People's Republic of Hungary. The Alliance considered already some aspects of the transfer of prosecution and intends to submit the material so far obtained to an international seminar or

colloquy to be convened in the near future in Vienna for further consideration.

At present, NGO efforts concentrate on the preparation of the United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1985. This includes participation of NGO observers in regional and interregional preparatory meetings. The New York Alliance is about to arrange participation through NGO sponsorship of ancillary meetings at the Congress which would deal with items on the agenda of the Congress. Workshops will also be set up during the Congress. There are, of course, considerable financial problems implied, in particular as far as the costs of interpretation services are concerned.

Unfortunately, this is true for all the NGO work and might be one of the reasons why it did not seem possible to assemble representatives of all non-governmental organizations interested in the field of crime prevention to general pre-conference consultations in order to define issues of particular NGO interest and to promote joint or individual NGO contributions to the Congress.

The International Association of Penal Law, the International Society for Social Defense, the International Society of Criminology and the International Penal and Penitentiary Foundation, which have established mutual institutional links, have met since 1963 every five years in joint colloquium in Bellagio, Italy, to discuss and examine from their different perspectives one of the topics each of the respective United Nations Congresses. The proceedings of these colloquia are published and distributed at the Congresses as scientific contributions of what has become known as the "four major associations" in the field of criminal justice. For the Seventh Congress (1985) the topic Youth, Crime and Justice has been chosen.

V. The NGO Committee on Narcotic Drugs

Increasing NGO interest in the area of narcotic drugs and a closer co-operation with the Vienna based United Nations Division of Narcotic Drugs led, in 1983, to the creation of the Vienna NGO Committee on Narcotic Drugs. On 31 May 1983 representatives of NGOs, who were convened by the Vienna based representatives of the International Association of Penal Law, the International Catholic Child Bureau and the World Federation of United Nations Associations met in Vienna. The participants of the meeting, which was addressed by the Director of the Division of Narcotic Drugs, decided to constitute themselves as a committee which resumed its work in September 1983.

The committee co-operates, inter alia, with the Vienna Alliance on Crime Prevention and Criminal Justice in view of the fact that, in the field of drug abuse and illegal

drug trafficking, prevention in general and crime prevention (in the form of general and special prevention) in particular are of paramount importance. In connection with the item "rehabilitation in prisons", at present under consideration by the Committee, the Alliance made materials on drugs in prison available to the Committee.

In the meantime also in New York an NGO Committee on Narcotic Drugs was founded which held its first meeting in December 1984.

SOMMAIRE

La coopération entre les organisations non-gouvernementales et les Nations Unies dans le domaine de la politique pénale

La coopération entre les organisations non-gouvernementales (NGOs) et les Nations Unies a été assistée par la création de l'Alliance des organisations non-gouvernementales pour la prévention du crime et la justice pénale (Alliance of NGOs on Crime Prevention and Criminal Justice) qui travaille en ayant d'étroits contacts avec l'Organisation des Nations Unies.

L'Alliance de Vienne pour la prévention du crime et la justice pénale a été fondée en 1980, à la suite du déplacement à Vienne du Centre des Nations Unies pour le développement social et les affaires humanitaires. L'Alliance (Vienne) est ouverte à tous les représentants des organisations non-gouvernementales accrédités au bureau des Nations Unies de Vienne. Il y a également une branche de l'Alliance à New York.

L'Alliance recherche des résultats concrets dans le domaine de la politique pénale à travers une concentration de projets à moyen terme qui sont déjà à l'étude par des agences des Nations Unies, ou qui conviennent, sous d'autres rapports, comme éléments potentiels dans le cadre des Nations Unies. L'Alliance a organisé un colloque international sur "les Nations Unies et les droits de l'homme" (1981), un séminaire sur "le transfert des prisonniers" (1983), menant à l'adoption d'un projet de modèle d'accord devant être présenté au septième Congrès des Nations Unies pour la prévention du crime et le traitement des délinquants, ainsi qu'un séminaire sur la violence dans la famille (1983), également en rapport direct avec les points de discussion du septième Congrès des Nations Unies.

Un domaine spécial de l'activité des organisations non-gouvernementales est marqué par la fondation à Vienne, en 1983, du Comité des organisations non-gouvernementales sur les narcotiques. Un comité correspondant a été créé à New York en 1984.

Др. Роберт Линке
 Директор Союза внепарламентарных организаций предупреждения
 преступности и уголовного права
 Вена

Сотрудничество по уголовному праву между внепарламентарными
 организациями и Организацией Объединенных Наций

Резюме доклада на семинаре "Политика Организации Объединен-
 ных Наций по уголовному праву", 25-29 марта 1985 г., Хель-
 синки
 Доклад читает др. Хельмут Эпп

Сотрудничество между внепарламентарными организациями (NGO)
 - ВПО - и Организацией Объединенных Наций осуществляется с
 помощью основанного для этих целей Союза ВПО по предупрежде-
 нию преступности и уголовному праву, который работает в тес-
 ном сотрудничестве с ООН.

Венский Союз по предупреждению преступности и уголовному пра-
 ву был основан в 1980 г., после того как Центр Социального
 Развития и Гуманитарных Дел Организации Объединенных Наций
 был перемещен в Вену. Союз (в Вене) открыт для всех аккреди-
 тованных представителей ВПО органов управления Организации
 Объединенных Наций в Вене. Союз имеет филиал в Нью-Йорке.

Союз стремится к конкретным результатам в уголовной политике
 с помощью среднесрочных проектов, которые уже на рассмотре-
 нии в организациях ООН, или которые в другом отношении явля-
 ются подходящими с точки зрения структуры ООН. Союз организо-
 вал международный коллоквиум по теме "Организация Объединен-
 ных Наций и права человека" (1981), семинар "Передача заклю-
 ченных" (1983), на котором принимали проект соглашения, кото-
 рый предложат на рассмотрение Седьмого конгресса Организации
 Объединенных Наций по предупреждению преступности и обращению
 с правонарушителями, а также семинар касающийся применения
 насилия в семейных отношениях (1983), который также имеет
 прямую связь с темами обсуждения Седьмого конгресса Органи-
 зации Объединенных Наций.

Оснавание в 1983 г. Комитета ВПО г.Вены по наркотическим
 средствам характеризует еще одну сферу деятельности ВПО.
 Соответствующий комитет был основан и в Нью-Йорке в 1984 г.

Professor Peter Hünerfeld
Freiburg i.Br., FRG

L'Association Internationale de Droit Penal

J'ai l'honneur et le plaisir de vous transmettre tout d'abord les meilleurs voeux de la part du Président de l'Association Internationale de Droit Pénal. Le Président Jescheck a beaucoup regretté d'être empêché de se joindre à cette réunion. Aussi m'a-t-il chargé de vous assurer du plus grand intérêt qu'il attache aux travaux de ce cours sur la politique criminelle des Nations Unies et les sujets de son grand Congrès de cette année.

Mme Anttila a bien voulu me demander un petit exposé sur les activités de l'AIDP en relation avec la politique criminelle des Nations Unies. J'essayerai bien volontiers de correspondre à cette tâche en traçant quelques lignes à l'égard de ce sujet. Je commencerai par quelques indications qui se rapportent plutôt à l'établissement et à l'évolution des voies de collaboration pour aborder ensuite la question de quelques perspectives spécifiques de ces contacts dans le domaine du droit international pénal.

1. Il est bien connu que l'Association Internationale de Droit Pénal, héritière de la plus vieille Union Internationale de Droit Pénal de 1889, fut fondée en 1924. Sa vocation comme organisation scientifique à une échelle mondiale et son but de contribuer au progrès de la loi pénale ont alors aussi et surtout conduit à des efforts sur le domaine du droit international. Et si les contacts suivis avec la Société des Nations ne pouvaient pas se voir couronnés du succès espéré, il n'en est pas moins important de constater le fait de ces contacts et la conscience du besoin de collaboration.

Au lendemain de la seconde guerre mondiale les liens de collaboration entre les Nations Unies et l'AIDP sont bientôt serrés. L'AIDP (ainsi que le Bureau International pour l'unification du droit pénal) est vers la fin de 1947 appelée à fournir à la division des activités sociales de l'ONU sur la base d'un plan préliminaire et directeur du 13 septembre 1947 un rapport général sur la prévention du crime et le traitement des délinquants. L'AIDP, jouissant auprès des Nations Unies du statut d'organisation consultative non-gouvernementale de la catégorie B, prend aussi part à la conférence, convoquée par le Secrétariat Général de l'ONU et tenue à Paris en octobre 1948, conférence avec les principales organisations internationales capables de servir en quelque sorte d'experts pour la réalisation du vaste programme de prévention et de traitement de la criminalité. Le rapporteur général de cette conférence, qui devait mettre à point la collaboration avec l'organi-

sation des Nations Unies, était le professeur Bouzat, futur Président de l'AIDP. Quand les Nations Unies tiennent leur premier Congrès mondial sur la prévention du crime et le traitement des délinquants en 1955 à Genève le temps est venu pour une coopération accrue menée à bien par la participation de membres de l'AIDP aux travaux accomplis, par ses contributions à la préparation de futurs congrès, sa présence aux congrès et par l'orientation de son propre travail. A partir de 1963 les colloques de Bellagio, où l'AIDP se voit réunie avec les autres organisations intégrant les - comme on dit - quatre Grands Associations, ont été institués pour le traitement approfondi et préparatif d'un des thèmes du prochain Congrès des Nations Unies pour la Prévention du Crime. Rappelons seulement les colloques préparatifs du sixième et septième Congrès, le premier colloque traitant le thème "l'Abus de pouvoir et les personnes au-delà du contrôle de la loi" avec le Professeur Ottenhof en tant que rapporteur pour l'Association, le second, donc préparatif du Congrès de cette année, traitant le thème "Les jeunes, la criminalité et la justice", où le rapport pour l'AIDP a été confié au Professeur Schüler-Springorum.

Dans le but d'intensifier leur coopération les quatre Grandes Associations ont encore en 1982 constitué un Comité de Coordination. Cette mesure est d'importance aussi pour la collaboration avec les Nations Unies qui s'est une fois de plus manifestée dans le cadre du grand Congrès de Milan pour célébrer en 1983 le 35ième anniversaire du Centro nazionale di prevenzione e difesa sociale. La contribution au prochain Congrès de l'ONU se rapporte aux traitements du second thème sur "Processus et perspectives de la Justice pénale dans un monde en évolution". Le rapporteur pour l'AIDP a été son Secrétaire Général le Professeur Bassiouni.

Il faut aussi penser à l'Alliance des organisations non-gouvernementales, créée après le Congrès des Nations Unies de Kyoto (1970), où des membres de l'AIDP ont assuré leurs responsabilités. Le Comité pour la prévention et le contrôle du crime (ONU) est de même une institution avec la participation active de membres de l'AIDP. On peut ajouter l'exercice de fonctions d'experts dans des cadres divers, sans qu'il soit nécessaire d'en donner des détails.

Une observation particulière est pourtant due aux activités spécifiques de l'Institut Supérieur International des Sciences Criminelles de Syracuse qui travaille sous les auspices de l'AIDP. Fondée en 1972 cet Institut est devenu le lieu d'un grand nombre de rencontres scientifiques, entre autres de comités d'experts, dont la réalisation (avec le concours de différentes organisations) reflète une bonne part de la collaboration à l'égard de l'ONU. Le Secrétaire Général de l'AIDP et Doyen de l'Institut, Professeur Bassiouni, pouvait dans son récent bilan à l'occasion du

dixième anniversaire de l'Institut faire référence à différentes réunions, qui ont abouti à la présentation du résultat de ces travaux sous forme de projets de conventions internationales ou de projets de principes ou de normes internationales: projet de convention sur la prévention et la suppression de la torture (1978), projet de principes pour la protection des personnes souffrant de maladie mentale (1980), projet de principes pour la protection pénale de l'enfant (1979), projet de principes sur l'indépendance de la magistrature et sur l'indépendance de la profession juridique (1981), contrôle des expériences sur l'homme (1979/1980) et projet d'un Code pénal international (1978). Ajoutons encore que les publications de l'Association - en particulier la Revue internationale de droit pénal et les nouvelles études pénales (à partir de 1981) - ont largement contribué à la propagation de ces travaux et constituent ainsi également un instrument précieux de la coopération établie.

2. Le tour d'horizon des activités de l'AIDP en contete avec la politique criminelle des Nations Unies a déjà fait entrevoir quelques thèmes importants de telles activités. On pourrait encore se rendre compte de l'ensemble des matières traitées aux Congrès de l'AIDP pour en faire sortir un grand nombre de thèmes d'un intérêt immédiat pour la politique criminelle poursuivie à l'échelle des Nations Unies. Je veux pourtant me borner à une perspective spécifique du droit international pénal, qui a toujours mérité l'intérêt special de l'AIDP: L'établissement d'une juridiction criminelle internationale faisant ainsi appel à la création d'un Code pénal international et d'une Cour internationale respective.

Le projet d'une telle juridiction relève déjà des temps d'entre-guerre où les efforts surtout de la part du futur Président de l'AIDP, Pella, ne sont pas oubliés la reprise des questions après la seconde guerre mondiale a d'abord aussi trouvée un écho favorable de la part des Nations Unies mais les projets de 1951 et de 1953 ont été suspendus en raison du défaut d'une définition de l'agression et du Projet pour un Code des crimes contre la paix et la sécurité de l'humanité. Dans les années soixante l'AIDP s'est de nouveau avancée par la voie d'un nombre d'éminents experts qui ont rendu compte de l'état actuel du droit international pénal et des pas jugés nécessaires pour sortir de l'impasse. Mais à la différence des questions controversées à l'égard de l'imprescriptibilités des crimes de guerre et des crimes contre l'humanité, où l'AIDP s'était également engagée par des réponses à un questionnaire respectif, la question de la Cour pénale internationale, restait sans écho. Après que l'Assemblée Générale des Nations Unies eût adopté en 1974 la résolution portant sur la définition de l'agression, l'AIDP entreprit un nouvel effort à travers de deux contributions de Bassiouni. Le Code fut également transmis aux Nations Unies et étaient discutés dans une

réunion de l'AIDP à Caracas à l'occasion du 6ième congrès de l'ONU. Le Professeur Jascheck, Président de l'AIDP, présida à cette réunion, à laquelle il contribua encore par sa conférence sur "le développement, l'état présent et le futur du droit international pénal".

La collaboration de l'AIDP peut dans le domaine du droit pénal international se voir utile à l'égard de quelques conventions qui au cours de travaux des Nations Unies ont pu être conclues. Ses objectifs vont cependant plus loin et resteront attachés à une politique criminelle qui puisse dépasser ses obstacles.

Les activités de l'AIDP en relation avec la politique criminelle des Nations Unies sont de longue date et se sont depuis quelque temps intensifiées. Espérons une continuation sur cette voie pour le bien des intéressés.

Helge Røstad
Justice
Oslo, Norway

International Society of Social Defence

I have the honour and privilege on behalf of the International Society of Social Defence to bring compliments to HEUNI, for which the President of our Society shares great interest and openness, being a member of the Board of the Institute.

The International Society of Social Defence is the youngest among the four major associations. It was formally founded in 1949, on the occasion of the second International Congress dealing with problems related to social defence.

The Society considers itself as a movement whose aim is to influence penal policy. It adopted in 1954 a Minimum Programme, embodying ideas which the movement wished to see realized.

It is stressed in the Programme that the fight against criminality should be recognized as one of the most important tasks incumbent upon society. In this fight various means of action should be employed both before and after the commission of offences. Criminal law has to be considered as one - but only one - of the means available to society to reduce criminality. The means employed in this action must be regarded as aimed not only at the protection of society against criminals but also at safeguarding members of society from falling into criminality. "By its activity in these two fields, the Society should thus establish what may truly be called a 'social defence'". The Programme emphasizes that the rights of the individual shall be safeguarded in all aspects of the social organization.

In pursuing the aim of protection of society and its members against criminality, it is important to ensure the respect for human values. "Penal policy must be inspired by the humanist tradition, the base of our culture". It is thus important that criminal law, in the broad sense, guarantees human rights.

The Minimum Programme has recently got an important addendum, in an additional paper elaborated by the eminent President Ancel, who for many years has been a leading person in this movement.

The International Society of Social Defence is comprised of national groups, individual members and honorary members.

National groups are operating in many parts of the world - to some extent they have established collaboration in a very efficient way. Reference may be given to the Italian/French/Spanish interregional collaboration, as well as to groups within Latin America, and groups of socialist countries.

The organs of the Society are the General Assembly, the Board and the Bureau. The Board consists of about 50 members, including the President, a number of Vice-Presidents, a Secretary General and a number of Assistant Secretaries-General with regional functions. The Board will normally meet twice a year.

The Bureau is the executive organ of the Society. It consists of the President, the Vice-Presidents, the Secretary General, the Editor of the publication, the Assistant-Secretaries General and the Treasurer.

The Society has, as already mentioned, its own publication, "Cahiers De Defense Sociale", with its most recent publication from 1984. This paper contains chronicles and articles written by eminent authors, in English/French.

The Secretariate is attached to the Centro Nazionale di Prevenzione e Difesa Sociale in Milano, the very efficient Secretary-General of which is Dottore Beria di Argentine.

The President of the Society is Madame Rozes, First President of the Cour de Cassation, France (Paris).

President Marc Ancel, who for many years acted as President of the Society, has been appointed Honorary President.

The Society organizes many Colloquia on a national or regional basis. As an example, it can be mentioned that a European Symposium was arranged in Wuppertal, in the Federal Republic of Germany in 1984, on the topic "Social Sciences and Criminal Policy, Thirty Years of Social Defence".

In 1980 a great Colloquim was arranged in Moscow, at the Academy of Sciences, USSR, on the topic "Planification as a method of application of social defence measures".

The Society has arranged 10 International Congresses - the first one was held in San Remo in 1947, the last one in 1981 in Thessalonica, Greece, on "The city and criminality".

As already mentioned, the Society seeks to protect and ensure human rights. This point may be considered to have found room in one of the Caracas Congress Resolutions: "to affirm the right of every individual to be different, while remaining equal to others".

Professor Ezzat Fattah
Vancouver, Canada

The International Society of Criminology

The International Society of Criminology was founded in Rome in 1937 by Dr. Benigno de Tullio and in two years it will be celebrating its fiftieth anniversary. The seat of the society is in Paris, France. The society's aim is to promote, at the international level, the scientific study of criminal phenomena, by bringing together scholars and practitioners of all disciplines interested in such study. The Society co-ordinates its activities with that of other international societies, associations and organizations concerned with the prevention of crime and with social reaction to criminality.

The International Society of Criminology is run by a Board of Directors composed of twenty-four members elected for five years by the General Assembly. The Board elects from among its members a President, four Vice-Presidents, a General Secretary, two Assistant General Secretaries and a Treasurer. These constitute the Executive Committee of the Board. The current president of the Society is Dr. Canepa from Italy and one of its vice-presidents is our charming and distinguished host, professor Inkeri Anttila.

The Board of Directors is aided in its scientific work by a Scientific Committee of fifteen members elected by the Board and representing the different criminological disciplines and the different world regions. The official languages of the Society are English, French and Spanish.

The Society organizes an international congress of criminology every five years. The first was held in Rome in 1938. The Second World War interrupted the regular schedule and the second one was held in Paris in 1950. This was followed by seven other congresses in London (1955), in The Hague (1960), in Montreal (1965), in Madrid (1970), and in Belgrade (1973). The reason the Belgrade Congress was held in 1973 and not in 1975 was to avoid having both the International Congress and the United Nations Congress take place the same year. In 1978 the congress was held in Lisbon, and the last one was held in Vienna (1983). The location for the next congress to be held in 1988 has not yet been decided.

In conformity with article III of its Statutes and article VI of its By-Laws, the Society organizes jointly with universities and national associations of criminology, international courses in criminology. The function of these international courses is twofold:

- 1) to encourage existing institutes and orientate their teaching activity in new directions;
- 2) to introduce criminology in new countries and promote local initiative with a view to founding institutes and societies.

Up till now thirty four international courses have been organized in Europe, North America, Latin America, Africa and Asia. The last of these courses took place in Onito, Ecuador and the before last was held in 1983 in Vancouver, Canada, on the victims of crime. Planning is under way for other international courses to be organized in Brazil, the Federal Republic of Germany, Belgium, and Cuba.

The lectures given at most of the international courses have been published and the courses themselves have contributed to the establishment of various organizations active in criminology.

The Society publishes an international criminological journal under the title of "International Annals of Criminology". Volume 20 of the Annals is in press and contains a selection of the papers presented at the last Congress in Vienna. Articles are published in any of the three official languages of the Society.

Every five years, in conjunction with the International Congress, the society awards a prize to the author of the best book published in criminology. The prize is named after the former British criminologist, Dr. Denis Carrol, and is judged by an international jury of outstanding experts.

In fulfillment of its mandate, as specified in the statutes and by-laws, the Society is the mother organization of two international centres: the International Centre of Comparative Criminology (Montreal) and the International Centre of Clinical Criminology (Geneva). The first of these two centres was founded in the summer of 1969 by agreement between the International Society of Criminology, and the University of Montreal. The aims of the centre are:

- a) to undertake research work and studies in criminology in Quebec and in the rest of Canada with a view to carrying out comparative analyses,
- b) to organize, with the help of Canadian and foreign universities, regional seminars,
- c) to participate in the training of students, research workers, civil servants and administrative officers,
- d) to cooperate with foreign universities in the development of teaching and research work in criminology, and

- e) to collect scientific material relating to criminological research from all over the world and to prepare bibliographies on particular subjects.

The International Centre of Clinical Criminology was founded in September 1975 by agreement between the International Society of Criminology and the University of Geneva. It is attached to the Institute of Criminal Anthropology of the university and is located within its premises. As its title indicates, the aims of the centre are focused upon the teaching and research activity work in clinical criminology, that is the principles and methods of the individual approach to offenders, the appraisal of their personality and the choice and application of their treatment. This is carried out with an interdisciplinary orientation which calls upon the help and competence of specialists in different branches of criminological research, such as psychologists, sociologists and jurists.

As a non-governmental organization, with a consultative status with the United Nations, the International Society of Criminology regularly takes part in the activities of the United Nations as well as those of the Council of Europe and is represented by one or more of its members at each of the criminological meetings organized by these two bodies, or by the institutes and centres affiliated with them.

It goes without saying that the International Society of Criminology, being a scientific body, is not directly involved in activities aimed at crime prevention. It is obvious, however, that crime prevention efforts and programs in different parts of the world, indirectly benefit from the Society's scientific endeavours, and that some may directly get their inspiration or their impetus from the various scientific activities initiated or sponsored by the Society. The fiftieth anniversary of the International Society of Criminology two years from now is an excellent opportunity to draw the balance sheet of the Society's scientific contribution to the discipline of criminology during the first half century of its existence.

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On the expectations of the market economy countries of Europe

1. As we embark on our detailed preparations for the Seventh Congress, this is a useful moment to reflect on our aims for the Congress and on the United Nations' work in criminal justice as a whole.
2. The UN's work in this area is continuous and wide ranging, and at the quinquennial congresses the various threads are drawn together. The congresses provide an opportunity to review the work completed or in hand, and to set the course for future activity. A great deal of effort is invested in the preparations around the world.
3. I have been asked to indicate what the United Kingdom, as a representative of market economy countries wants from the Congress. We share the general hope that this Congress, like its predecessors, will produce tangible results in the form of agreed declarations, norms and guidelines. The general terms in which instruments intended to apply to nations with different political, social, cultural and legal traditions have to be framed will inevitably place some limitations on their effectiveness. But such instruments continue to have a value, in setting the standards by which our practices are judged, and in providing the basis on which more specific, regionally applicable guidelines can be built. Such instruments, then, are a priority.
4. We are also looking for less tangible results: an exchange of information and experience, and the opportunity to discuss matters of mutual concern to us all - developments in crime prevention, how best to make use of new technology, what scope there may be for greater international co-operation. It is also useful to see how other countries resolve the dilemmas arising from the need to balance various competing claims - inherent in any criminal justice system. We believe that, for the United Kingdom at least, this is the area in which some of the most valuable results are likely to be achieved.
5. Given that such congresses occur only once every five years, we need to be sure that we use our limited time in Milan in the most effective way. The very wide range of subjects raised for discussion by the documents circulated so far could endanger such effectiveness by requiring us to cover too much ground in a superficial way. Standard minimum rules for juvenile justice, a model agreement for

the transfer of foreign prisoners, guidelines for the independence of the judiciary, and discussion of the problems associated with criminal justice planning and the co-ordination of the different elements of criminal justice systems, are all specific and practical subjects on which we expect to have a profitable discussion. We are less confident about the discussion which is to take place on wider social, political and economic issues, going beyond what has traditionally been thought of as crime. These are certainly appropriate for international discussion, but not necessarily the most appropriate for the UN Congress on the Prevention of Crime and the Treatment of Offenders. We must focus our efforts carefully, and devote attention to those areas where delegates have substantial expertise. In addition, we should be aware of those topics already being considered in another international forum, and avoid unnecessary duplication.

6. Much of the responsibility for ensuring that the opportunities available in Milan are exploited effectively will lie with the delegates themselves. It might be helpful if rather less time was spent delivering prepared statements recording their countries activities during the past five years, and more to discussing the substantive issues, than seems to have been the case at some past congresses. It might be helpful, too, if delegates could be prevailed upon to be open about their country's disappointments, as well as successes, in their criminal justice policies. A great deal of wasted effort can be avoided if we are given the opportunity to learn from one another's mistakes. Frank exchanges of this sort are perhaps most likely to occur in the smaller meetings and workshops in Milan, where delegates may be less inhibited than in plenary session: and it is in such small gatherings that much of our most useful work will be done.

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Prevention is the main direction in crime combatting

1. All progressively-minded intellectuals of the past were of the opinion that it is much more valid to prevent crime than to prosecute an individual for its commission. This particular idea was precised by the classics of Marxism-Leninism.

In socialist society the prevention of crimes (as well as of other violations of the law) is the main guideline for the practice of crime combatting. Crime prevention is connected with the formulation of the goals and with their achievement at different levels: starting from the achievement of goals of general social and state problems of economic, socio-cultural, educational and legal character, up to the elaboration of concrete measures undertaken by different organizational facets of the state and public bodies, including the activities of law enforcement agencies (the Procurator's office, the Ministry of the Interior, courts, agencies of justice).

2. The essence of what we mean by general social goals is connected with the solution by soviet state and society of the tasks of economic development and the advancement of the material situation of our people, the raising of the level of their life and culture, the education of working people, including legal education. For all that achievement of these goals is not directly connected with crime combatting. These goals are far broader: they are aimed at the perfection of the whole system of public relations under socialism. Such a perfection of course produces its impact on the behavior of people in general and on anti-social, criminal behavior in particular. The experience gained by our society shows that the higher the level of people's life, their culture, good breeding, consciousness etc., the less offences (and moreover the less crimes) are committed.

But this is not one track and simple relationship. Hence it is not by chance that the prevention of offences and crimes in our country is based on the so-called complex plans of crime prophylactic which are incorporated into the plans of economic and social development of different territorial parts of the country (of the republics, districts, regions, towns) as well as into the plans of economic and social development of particular enterprises, institutions, organizations. Thus crime prevention turns into a general

state and social task.

3. A significant role in the process of regulation of crimes and offence prevention is played by the law. Here we mean not only criminal legislation, but laws regulating other spheres or relations, such as civil law, labour law, law on housing etc.

The principle according to which crime combatting and prevention of crimes and offences in socialist society are performed on the basis and in the framework of the law, is the crucial one. Observance of the law in all the spheres of life of socialist society, crime combatting as a manifestation of the struggle for legality, for security of soviet people's rights and for the interests of all the institutions, organizations and enterprises against criminal encroachments are considered to be the necessary condition of a successful solution of this very complicated social problem.

In the Soviet state, the highest supervision over observance of legality is vested with the special state agency - the Procurator's office; thus the unity of socialist legality and protection of citizens' rights is secured.

4. In the conditions of the development of socialist democracy during the years of soviet power in the country, the educational functions of law enforcement agencies considerably widened, their ties with public organizations improved and strengthened.

Experience shows that no achievements (even modest ones) in crime combatting are possible if the efforts of state agencies get no support from the population. In the Soviet Union there now exists the whole system of public organizations which are rather effective in their educative efforts with regard to unstable members of our society, and first of all to youngsters. This work is carried out in close contact with the Procurator's office, the Ministry of the Interior, courts (about which the participants of this meeting are very familiar). The idea behind this type of activities is as follows. First of all, not to let a person stumble and choose the wrong way. Even in the case of failure, the idea is to try to use educational key factors of the law first, and only after them - enforcement measures.

That is why soviet laws nowadays open the possibility for the law enforcement agencies in cases of commitment of less serious crimes to apply measures of rehabilitation with no isolation of the individual from the open society. But it should be emphasized once again that it is done on the basis and in the framework of the law.

5. Soviet legislators lately following the way of diminishing the deprivation of liberty widened the possibilities of using penalties involving no deprivation of liberty. While earlier the term of corrective labour whether at the place of work of the sentenced person or at the place fixed by correctional agencies could last up to one year and the sum of money extracted from his earnings was up to 20 per cent, nowadays the length of the term is prolonged up to 2 years. Thus the possibility of the resocializing effect produced by the working collective on an individual having committed a crime is enlarged without isolating him from the open society, from the normal milieu of the collective and conditions of work. By this very fact the legislator raised the preventive and educative functions of the punishment and reinforced responsibility of the labour collective for the rehabilitation of its member.

Having in mind that punishment under the conditions of socialist society means first of all resocialization of the person with the help of labour, the soviet legislator introduced to the list of penalties such a measure as the conditional sentence accompanied with mandatory labour of the offender. The place where he is to serve such a sentence is fixed by the organs executing punishment. Here economic needs and shortage of labour forces in different fields of national economy are taken into consideration. But even in such a case an individual who has committed a crime is not serving his sentence in extreme conditions of deprivation of liberty.

Thus in our country the legislator follows the way of intensification of the rehabilitative role of punishment and this fully correlates with the whole scope of activities on crime prevention.

6. In the Soviet state each law enforcement agency fulfills its prophylactic functions within the limits of its competence. In criminal codes of all soviet republics there is an article binding the prosecution and the courts in the process of investigation and during trials to expose causes and conditions conducive to crime commitment and to take measures for their elimination. All the agencies, enterprises, or institutions to whom particular recommendations of the investigator, procurator or of the court were made are obliged in a month term to take necessary measures to prevent new crimes. They should also respond to the agency which made the recommendation.

Agencies of justice (if we use the term in the wide sense) thus turn into a very important link in the general system of crime prevention. They become thoughtful not so much and not only about their duty not to leave a single crime with impunity, they first of all become thoughtful about crime prevention.

7. In the USSR a particular role is played by the procurator's supervision over observance of legality in all the spheres of state life, including the prophylactic work of law enforcement agencies. The Procurator General of the USSR puts into practice a very important and fruitful idea on the forestalling role of procurator's supervision, on raising its preventive and educative functions. It is very important not only to reveal violations of the law and prosecute the guilty, but it is also very important to prevent such violations as early as possible.

8. Finally some words should be said about the accelerated role of scientific comprehension of all the processes and stages of preventive activities of the socialist state, of its agencies and public organizations, for it is very difficult to get positive results without examination of criminality and its causes, without generalization of the experience of socialist state and society in this very significant sphere of public relations. Studies of soviet scholars are inseparable from practical activities of law enforcement agencies. Joint research groups of scholars and practitioners become more and more spread. This fact allows us to overcome the gap which sometimes occurs between science and practice. Moreover, it increases the effectiveness of both scientific studies and the work of practical organs.

9. In modern conditions the exchange of experience in the field of crime prevention acquires a special significance. Here naturally differences in socio-political systems should always be taken into consideration. Besides, these differences produce their impact on initial theoretical concepts, such particular ones as theories on the causes of crime, on the ways of its overcoming and on methods of the activities of the state and society, of law enforcement agencies, public participation and many others. Furthermore, the character of criminality is of greatest significance for forms and methods of crime combatting as well as the forms of prevention depend on it.

It is evident that the character of public relations, liquidation of class and social antagonisms play the decisive role.

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United Nations Congresses on the Prevention of Crime and
 the Treatment of Offenders

I. The Origins

The United Nations Congresses on the Prevention of Crime and the Treatment of Offenders differ essentially from those organized in the past by international organizations and governments for the discussion of criminal policy matters. To begin with, they are the result of an international criminal policy officially declared by the Economic and Social Council (ECOSOC), one of the main policy-making bodies of the U.N.; secondly, they reflect an international cooperation the dimensions of which are expanding; thirdly, they do not impose a particular doctrinal approach on the handling of crime problems and almost from the beginning have considered them in the context of international-national development processes. About 160 countries may benefit from the Congresses and in addition there is a far larger audience of international and national organizations and institutions and professionals from many countries.

The assertion that the U.N. Congresses originated in those organized by the International Penal and Penitentiary Commission (IPPC) or are a continuation of them is an oversimplification. Already in 1946, during the discussions which took place at the Temporary Social Commission when the programme of social defence was discussed, the need for organizing U.N. Congresses in accordance with the Purposes and Principles of the Charter were stressed by several representatives. The need for such Congresses was again pointed out at the 1947 session of the Social Commission and reaffirmed during the discussions which led the ECOSOC to adopt, in 1948, its resolution 155 C (VII) by which the U.N. assumed international leadership in criminal policy matters which were enumerated in a wider and more systematic way than ever before.

Certain similarities between the IPPC and U.N. Congresses can be seen but from the Second U.N. Congress, 1960, they rapidly fade out. One of the main reasons for the evolution and differentiation is that the aims of the U.N. were different, partly due to the nature of the Purposes and Principles above mentioned and partly to the increasing number of countries to which U.N. leadership in criminal policy matters is addressed. In this respect it should be kept in mind that when the functions of the IPPC were transferred to the U.N. there were no more than 24 members, of which only six were non-European. When the above-

mentioned resolution was adopted U.N. membership was twice as many. In short, without minimizing in any way the valuable work done by the IPPC and the precedent that it constitutes, the fact is that already between 1946 and 1950 the discussions at the U.N. on criminal policy matters contain specific references to the need to organize regular international Congresses and to create groups of experts assisting the U.N., particularly the Secretariat, in the formulation of that policy. Its main features were: the convenience of combining international and regional aims, to bring in as much as possible the cooperation of international agencies and non-governmental organizations, technical assistance, to avoid theoretical causal approaches in accordance with any given thesis and to relate the organization of Congresses to the work done by the groups of experts. The first two groups were organized in 1948 and 1950 and were followed by others which, as an ensemble, form the precedent for the present Committee on Crime Prevention and Control (CPC).

In the discussions on U.N. criminal policy which took place before the transfer, the work done by the IPPC was taken into account but it suffices to read, among many other documents, the Report of the Social Commission, First Session 1947 (E/CN.5/3) to see that since 1946 the U.N. had already a criminal policy of its own. At the discussions two main possibilities were envisaged, one to transform the IPPC into an "appropriate organ" of the U.N. in charge of criminal policy, which was promptly rejected, and another to transfer its functions to the U.N., which was eventually adopted, the USSR among others, voting against it. The possibility that the IPPC should continue on its own was advocated by some Western European countries but opposed by the United States. After protracted negotiations the transfer was adopted by General Assembly resolution 415, V, December 1950. The plan approved actually embraced far more than a transfer: in some respects it was used to consolidate some of the already existing U.N. criminal policy activities. In sum, the transfer enlarged many of these activities, introduced new ones and recognized the praiseworthy work done by the IPPC, but it cannot be regarded as the origin of U.N. criminal policy or the Congresses. This is an error which was made, among other occasions, in G.A. resolution 35/171, February 1981, and should be avoided at all costs. Similar errors have been made concerning the origin of the CCPC.

II. The Congresses

Up to now the U.N. has organized six Congresses, one every five years: Geneva 1955, London 1960, Stockholm 1965, Kyoto 1970, Geneva 1975 and Caracas 1980. The seventh will take place in Milan in 1985. Their continuity confirms U.N. leadership in criminal policy which is not always matched by governments in implementing it. As one of the

main instruments of that leadership the Congresses are expected to offer practical guidance in national and international criminal policies and provide the bases for a real social criminal justice at both levels. Consequently, the larger their scope the greater the danger that the conclusions adopted may be too numerous, general or fragmentary and even repetitive, making it unnecessarily difficult to carry out what is recommended.

Within the limits of this exposé the work done by the Congresses may be described as follows.

1. The agenda of the First Congress, Geneva 1955, was: the Standard Minimum Rules for the Treatment of Prisoners; the selection, training and status of prison personnel; open penal and correctional institutions, prison labour and juvenile delinquency. With the exception of the latter all other items referred to treatment and reflect the penitentiary inheritance from the League of Nations and IPPC. In all 61 countries and territories were represented as well as the ILO, UNESCO, WHO, the Council of Europe and the League of Arab States plus 43 Non-Governmental Organizations (NGOs) and 230 individual professionals. The latter constituted almost 45% of the total attendance.

The summary records and the report of the Congress (A/CONF. 6/1, 1956) offer many good examples of pertinent remarks, comments and suggestions from developed and less developed countries. The Standard Minimum Rules are applied by many governments, even if in a limited way, and are one of the main achievements of the U.N. criminal policy which used as a basis what had been done by the League of Nations and the IPPC. The item juvenile delinquency attracted the attention of the majority of participants and the subject was discussed in accordance with the prevailing all-embracing Western concept in which maladjustment, abandonment, privation of maternal care, etc. were the main components.

2. The Second Congress, London 1960, discussed the new forms of juvenile delinquency, their origin, prevention and treatment, special police services for the prevention of juvenile delinquency; prevention of types of criminality resulting from social changes and economic development in less developed countries; the integration of prison labour with the national economy and pre-release treatment and assistance to dependents of prisoners.

The attendance consisted of the representatives of 70 governments and 50 NGOs. Besides the Specialized and other Agencies already mentioned in connection with the First Congress, the Commission for Technical Assistance in Africa South of the Sahara and 632 individual participants attended. For the first time the USSR and other socialist countries participated: Yugoslavia had already attended the First Congress.

Although still preserving a treatment trend the Congress introduced the innovation of relating the problem of crime to development. Reference was specifically made to less developed countries - a term which was rejected and replaced by developing countries, still widely used - but the summary records as well as the report of the Congress (A/CONF.17/20, 1961) show that the developed countries were also immersed in the question and participated actively in the discussions. Incidentally, after this Congress the practice of having summary records was discontinued for economy reasons and only the reports of the Congresses, not always in the extent and detail required, were published.

For the first time "crime in the context of development" was discussed and a series of pertinent remarks and conclusions made. The interest in the subject was maintained in the following Congresses and the "context" relationship is at present one of the main tenets of U.N. criminal policy. The validity of what was then said was reaffirmed at the Congress held in St. Vincent, Aosta, Italy in March 1985 on New Dimensions of Criminality and Crime Prevention in the context of Development.

In 1960 it was concluded that criminality is not necessarily a consequence of social changes or development, that the latter has an ambivalent condition, that programmes for crime prevention should be planned and coordinated and that in dealing with programmes and surveys compartmentalization should be avoided and an integrated approach maintained.

It was at this Congress that on the initiative of the Secretariat and a large group of countries, among them the delegations of the USSR and Ukraine, the all-embracing Western concept of juvenile delinquency was fortunately curtailed: it was recommended that "the term juvenile delinquency should be restricted as far as possible to violations of criminal law and that even for protection specific offences which would penalize small irregularities or maladjusted behaviour of minors but for which adults would not be prosecuted, should not be created". As pointed out at the Congress, juvenile delinquency cannot be considered independently of the social structure of the State. Unfortunately this sound guiding principle did not receive attention when the subject was again discussed at the Caracas Congress and the corresponding resolution adopted.

3. The Third Congress, Stockholm 1965, was organized under the slogan "Prevention of Criminality", an innovation criticized by some but maintained in subsequent Congresses. The items of the agenda were: social change and criminality; social forces and the prevention of crime; community preventive action; measures to combat recidivism; probation, especially adult probation, and special preventive and treatment measures for young adults. In all 74 govern-

ments and 39 NGOs as well as the already mentioned International Agencies participated. The number of individual participants was 638, more than 60% of the total.

Contrary to the requirements of GA resolution 415 (V), the Congress did not make any recommendation, which is to be lamented inasmuch as Congresses are the main instrument of U.N. criminal policy and as such are expected to offer guidance in the form of recommendations and conclusions. Although the discussions were often interesting, the vagueness of the terms social forces, social change, social impact, etc. often used explains the inconclusive character of some of the debates. By social change and social forces were understood urbanization, public opinion, education, migration and many other general factors. Far more constructive were the views expressed when some specific questions were discussed: among others, that greater attention should be given to the coordination and planning of prevention at present suffering from a serious lack in many countries, that provided they did not mechanically copy the Western countries the developing countries would perhaps be able to arrest by dynamic action in the mental health field a great many of the phenomena of mental disorders that beset the economically developed countries and that the unification of services dealing with criminal policy should be aimed at as much as possible. These and other statements still have a policy value and are applicable to many countries whether or not developed.

4. The Fourth Congress, Kyoto 1974, was organized under the slogan "Crime and Development" and the items discussed were: social defence policies in relation to development planning; participation of the public in the prevention and control of crime and delinquency; the Standard Minimum Rules in the light of recent developments in the correctional field and organization of research for policy development in social defence. In all, 85 governments were represented, 30 NGOs attended plus the Special Agencies already mentioned. The number of individual participants was 556, more than 50% of the total attendance.

The most significant conclusions referred to crime and development stressing again the need for planning and coordination, that social defence planning should not confine itself to criminal justice but also deal with the basic principles of the maintenance of law and order and that research into the causes of crime did not consist in identifying them in a narrow sense but as factors related to development, a remark also stressed by the first Committee or Group of Experts held in 1949. More than once it was stated that the term development referred to economic, social and other modalities and that crime possesses its own development which should in turn be considered by those dealing with all other development aspects.

5. The Fifth Congress was held at Geneva in 1975 under the slogan "Crime prevention and control, the challenge of the last quarter of the century". The items of the agenda were: changes in forms and dimensions of criminality, transnational and national; criminal legislation, judicial procedures and other forms of control in the prevention of crime; the emerging role of the police and other law enforcement agencies with special reference to changing expectations and minimum standards of performance; the treatment of offenders in custody or in the community, with special reference to the implementation of the Standard Minimum Rules, and economic and social consequences of crime and new challenges for research and planning.

Representatives of 101 countries, 32 NGOs and 240 individual participants attended, the latter making up 26% of the total number of persons present. The Specialized Agencies as well as Interpol, the IPPF, the Organization for Economic Cooperation and Development and representatives of the Palestine Liberation Organization, the African Congress of South Africa and the Seychelles People's United Party were also present.

The Congress made a series of recommendations of obvious importance and what is exemplary is that they were presented in a systematic way in the Report; for this the Secretariat should be congratulated. The salient matters were the adoption of a Declaration on the Protection of all Persons from being subjected to Torture and other Cruel, Inhuman or Degrading Treatment, later adopted by GA resolution 3452 (XXX), 1975, and the drafting of an international code of police ethics. The problems of violence, crime as business, organized crime, corruption and criminality, drug abuse and alcoholism and the need for social criminal justice which was regarded as the best means of preventing crime, received particular attention. It was stated that greater emphasis should be placed on social action than on criminal proceedings, that criminal policy should be coordinated and the whole integrated into the general social policy of the country and victim compensation schemes could serve as useful substitutes for retributive criminal justice. The importance attached to criminal justice was also one of the main characteristics of the Congress which, here again, should be commended.

The Congress was devoted mostly to prevention and criminal justice, reaffirming the trend towards a more ample conception of the crime problem in which victims and the abuse of power were already visible subjects of future criminal policy.

6. The Sixth Congress, Caracas 1980, had on its agenda crime trends and crime prevention strategies; juvenile justice before and after the onset of delinquency; crime and the abuse of power; offences and offenders beyond the reach

of the law; deinstitutionalization of corrections and its implications for the residual prisoner; U.N. norms and guidelines in criminal justice: from standard setting to implementation; capital punishment and new perspectives in crime prevention and criminal justice and development and the role of international cooperation. The representatives of 102 countries, the Specialized Agencies, the Palestine Liberation Organization, South Africa Liberation Organization, African National Congress of South Africa, Pan African Congress of Azania, the League of Arab States, Organization for African Unity, Organization of American States, Interpol, Council of Europe, Pan Arab Organization for Social Defence, 31 NGOs and 220 individual participants plus 30 U.N. consultants attended. For economy reasons the report of the Congress (A/COND.87/14/Rev.1, 1981) was excessively condensed and not printed but mimeographed.

The Congress adopted the Caracas Declaration, 19 resolutions and five decisions altogether involving more than a hundred requests for action from the U.N., Governments and International Organizations. The subjects covered were the promotion of broader public participation in crime prevention, the improvement of criminal statistics, the convenience of disseminating the nature and the causes of crime and measures to ensure prevention, the formulation of standard minimum rules for the administration of juvenile justice, research into the causes of juvenile delinquency, the condemnation of extra-legal executions as a particularly abhorrent crime, the prevention of torture and related practices, the prevention and prosecution of abuses of economic and political power, alternatives to imprisonment, that prison systems should be sufficiently differentiated to allow the assignment of inmates, the settlement of prisoners, etc. The Caracas Declaration was presented at the last plenary meeting and adopted by consensus without discussion. The question of capital punishment which, as an item of U.N. criminal policy was already recommended by GA resolution 1396 (XIV), 1959, was part of the item concerning U.N. norms and guidelines already cited. As the basis for its discussion the Secretariat submitted an excellent paper. Part of the problem were the questions of "disappearances" and "summary executions". There was little discussion of the subject and the resolution submitted by a group of countries on the gradual abolition of capital punishment was withdrawn.

The main points of the Declaration are: crime prevention and criminal justice should be considered in the context of economic development, political systems, social and cultural values, social change as well as in the context of the new international order; crime prevention and the treatment of offenders should take place in a climate of freedom and respect for human rights, continuous efforts should be made to seek new approaches and to develop better techniques for crime prevention and the treatment of offenders, the fami-

ly, school and work have a vital part to play in the prevention of crime and the activities of the U.N. in criminal policy matters, including research, technical assistance and training should be strengthened as well as international cooperation. It is a good summary of what has already been said or done as part of U.N. leadership in criminal justice.

7. The agenda of the coming Seventh Congress is: new dimensions of criminality and crime prevention in the context of development; criminal justice processes and perspectives in a changing world; victims of crime; youth, crime and justice; formulation and application of U.N. standards and norms in criminal justice and as a paramount annex the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order.

III. Final Remarks

The Congresses are the main expression of U.N. criminal policy and whatever their shortcoming they constitute the chief instrument of that policy and deserve the support, not only of governments and professionals, but of everybody inasmuch as they try to ensure the fundamental rights of equality, freedom, dignity and security. Governments, international agencies, non-governmental organizations, the CCPC, consultants and the Secretariat have always participated in their preparation and work. The Secretariat is the architect: not only the Crime Prevention and Criminal Justice Branch which plays the main role, but also many other units of the Secretariat among them the Division of Human Rights which has cooperated since 1946.

As policy makers the Congresses have passed from a treatment aim to that of the prevention of crime, victimization, criminal justice standards and the formulation of Guiding Principles the contents and aims of which reflect all aspects of criminal policy. Courageously and in full accordance with the Purposes and Principles of the Charter and to a great extent due to the initiative of the CCPC and the Branch, that policy has stressed that as a socioeconomic and political phenomenon crime embraces far more than traditional common crime. Non-conventional crime, to a great extent due to the varied modalities of the abuse of power, is now the most serious aspect of the growing problem of crime.

The fact that the recommendations of the Congresses are not always implemented by all governments in no way affects their legitimacy as a U.N. instrument for a better world. The GA and the Secretariat have repeatedly stated that the increase of crime in many parts of the world impairs the overall development of nations, undermines people's spiritual and material wellbeing, compromises human dignity

and creates a climate of violence and fear that erodes the quality of life.

From the operational point of view of the Congresses three things are necessary:

(1) Reinforcement of the staff of the Branch to enable it to face the increasing responsibilities assigned to it

(2) Governments should take advantage of the facilities provided by the U.N. Regional Institutes and those affiliated to the U.N. so that their representatives at the Congresses are fully acquainted with U.N. criminal policy, and

(3) To re-name the Congresses "Congresses for the Prevention of Crime and Criminal Justice". The change does not mean that treatment questions would be ignored but simply that the traditional XIXth century approach maintained by the League of Nations would be more in accordance with contemporary aims. The Branch is already called the Branch for Crime Prevention and Criminal Justice.

SOMMAIRE

Les congrès des Nations Unies sur la prévention du crime et le traitement des délinquants

Le ratio essendi des congrès des Nations Unies est l'adoption en 1946/47 d'une politique pénale dont la direction fut confirmée par la résolution 155 C (VII) du Conseil économique et social (ECOSOC), 1948. Les fonctions de l'IPPC furent transférées aux Nations Unies en 1950. Bien qu'il y ait un lien historique entre les congrès quinquennaux organisés par les Nations Unies et ceux précédemment tenus par l'IPPC - dont il est fait mention dans la résolution 415 (V) de l'Assemblée générale, 1950 -, le fait est que déjà dans les années 1946/47, Commission sociale provisoire (Temporary Social Commission), plus tard la Commission sociale (Social Commission), envisagea la nécessité d'organiser des congrès en tant que partie du programme de défense sociale adopté. Les congrès envisagés, ainsi que ceux tenus dans le passé par l'IPPC ont été mentionnés dans la session de la Commission sociale de 1948. Bien qu'il y ait un lien certain, il ne faudrait pas trop simplifier en affirmant que la politique pénale des Nations Unies, dont les congrès font partie, eut son origine dans la résolution 415 (V) mentionnée plus haut. Cette erreur a été malheureusement commise plus d'une fois par l'Assemblée générale ces dernières années. Un des cas les plus significatifs est la résolution de l'Assemblée générale 35/171, 1981, dans laquelle il est déclaré que la politique pénale des Nations Unies et la direction ultérieure eurent leur origine dans la résolution 415 (V), où il est fait spécifiquement référence aux congrès. (1)

Six congrès ont été tenus jusqu'à ce jour, et ils présentent dans l'ensemble trois phases d'évolution différentes: (1) la période de traitement pendant laquelle le délinquant est le bénéficiaire principal; (2) l'approche du développement du crime, d'après laquelle le crime devrait être considéré dans le contexte de cette dernière, une tendance qui a été occasionnellement exagérée en ignorant le fait que le crime possède son propre développement; et (3) l'équation crime-justice pénale dans laquelle la prévention du crime et la justice pénale sont considérées dans le cadre compliqué de facteurs économiques, sociaux, culturels, démographiques et parfois politiques. Sous ce rapport, le rôle des congrès de 1975 et de 1980 mérite une attention particulière.

L'avenir a été amorcé par l'approche du septième Congrès, au cours duquel on discutera des nouvelles dimensions de la criminalité, de la prévention du crime, des procédures criminelles, des victimes de la criminalité, de la jeunesse

et du crime et des normes des Nations Unies en matière de justice pénale. Ces cinq sujets reflètent le bon travail accompli par le Secrétariat et le Comité pour la prévention du crime et la lutte contre la délinquance. Ils ont tous deux mis en avant le fait - pas nouveau, mais souvent et délibérément mis de côté par des facteurs qui seront désignés - que l'étendue et les tendances du crime ne peuvent pas être limitées à quelques modalités de criminalité ordinaire; une approche que bon nombre de gouvernements préfèrent conserver.

La politique pénale des Nations Unies est déterminée, dans une grande mesure, par les congrès. Dans l'ensemble, ce qu'ils ont réalisé mérite une application beaucoup plus importante que celle menée par la majorité des gouvernements. Face à cette situation peu satisfaisante, les deux questions principales concernant l'avenir sont: en premier, l'attitude ambivalente de beaucoup de gouvernements dans l'adoption au niveau international de politiques et de programmes pénaux qui, au niveau national, reçoivent une attention limitée dans bien des cas; et deuxièmement, qu'à présent la question des dimensions du crime soit élucidée dans la mesure du possible, au lieu d'être exprimée par une diversité de généralisations abstraites. En d'autres mots, une des tâches principales du prochain Congrès est d'essayer de constater, dans des limites raisonnables, quelle est l'étendue de la criminalité. Autrement, l'expression répétée de "nouvelles dimensions" n'a pas beaucoup de signification.

D'après ma recherche personnelle, les dimensions à l'échelon mondial, en 1980, de sept types ordinaires d'actes délictueux: homicides, préjudices physiques, délits sexuels, vols avec effraction, vols qualifiés, larcins et fraudes, n'ont pas été inférieures à 1,067 million. En fait, dans dans un grand nombre de cas, ce que nous appelons à présent de nouvelles dimensions sont en réalité anciennes; dans d'autres cas, les diverses modalités de pouvoir ont joué un rôle dans les trente dernières années. En somme, s'il n'est pas oublié que la criminalité non-conventionnelle, qui est tout au plus une modalité de la criminalité ordinaire ou conventionnelle, est en augmentation dans la plupart des pays, la question est: quelle est l'étendue totale du crime à l'échelon mondial? Une autre question est de savoir comment on peut, au moyen des politiques généralement préconisées, éviter la progression de la criminalité non-conventionnelle à laquelle sont mêlés des gouvernements, des organisations, des mouvements divers, des multinationales, etc. Est-ce que les congrès peuvent s'occuper de ce sujet, en tenant particulièrement compte que leurs techniques et leurs approches nécessitent une réorganisation?

Il faut reconnaître que les congrès ne sont pas le seul instrument de la politique pénale des Nations Unies, mais

un des plus significatifs, et la question pratique est de savoir si oui ou non le septième Congrès prendra pleinement conscience que la croissance de la criminalité a transformé celle-ci en l'un des problèmes les plus graves à l'échelon mondial, et qui devrait être examiné parmi une diversité de contextes, mais également dans son contexte propre qui, jusqu'à ce jour, a été l'objet d'une très faible attention. A cet égard, les questionnaires, envoyés par le Secrétaire général invitant les gouvernements à fournir des données sur l'étendue de la criminalité nationale, ont été grandement décevants.

Quelles sont les difficultés impliquées? Quel devrait être le rôle des congrès dans l'avenir immédiat? Jusqu'à quel point le concept traditionnel de prévention du crime devrait-il être remplacé par la somme de crime qu'un pays donné peut supporter sans être gravement affecté dans son développement qui, soit dit en passant, ne peut pas être limité à ce qui se rapporte à l'économie? Quelles sont les méthodes technologiques et opérationnelles qui devraient être incorporées aux principes guides suggérés pour la prévention du crime et la justice pénale? Pouvons-nous nous référer à un nouvel ordre économique international qui n'a pas été encore élaboré? (2) Le fait est que les références au contexte de la NIEO ont très peu de valeur, si tant est qu'elles aient, jusqu'à ce que les principes de cet ordre n'aient été énoncés.

En ce qui concerne la justice pénale, très peu est réalisable aussi longtemps qu'elle n'est pas conçue et mise en oeuvre conformément à un but systémique.

On peut se demander si oui ou non l'étendue du crime, particulièrement d'en haut, est facilitée par la non-observation croissante du principe nullum crime sine previa lege. Ici encore, ma recherche personnelle montre que bien plus de 30 % de la population mondiale est soumise à une législation pénale qui ignore ce principe fondamental. La raison en est l'abus d'autorité qui, de plusieurs manières, sous prétexte de réprimer le crime, l'augmente. Le résultat est que la "victimisation" criminelle est devenue une des questions fondamentales de la politique pénale actuelle des Nations Unies, et que sans nier que parfois la question des victimes du crime a été exagérée, la vérité est que le besoin de saisir efficacement le problème ne peut pas être considéré comme une nouvelle mode criminologique, comme l'a été la réinsertion du délinquant et à présent le sont la déviance et d'autres approches du problème peu clairvoyantes.

Le Secrétariat et le CPCC ont tous les deux fait de leur mieux pour démontrer que le crime, en tant que problème global et complexe, réclame une approche différente, de plusieurs manières, de celle prédominant aux niveaux gouvernementaux et professionnels. Que peut-il être fait par

de futures congrès pour arriver à la réorientation demandée? Je suggérerai plusieurs façons, certaines d'entre elles provoqueront sans aucun doute des objections, surtout de la part de ceux qui sont encore retranchés dans des points de vue "modernes".

Opérationnellement, les recommandations adoptées par les congrès sont plus nécessaires que jamais. Ce qui est réclamé est qu'elles ne soient pas trop nombreuses ni trop répétitives comme ce fut le cas lors des congrès de 1980. Même en tenant compte que la même personne peut devenir victime plus d'une fois, et que la condition de délinquant peut se répéter chez le même individu, conformément, aux particularités données plus haut, le nombre des victimes et des délinquants devrait être, en 1980, au minimum deux fois aussi élevé que le nombre d'actes délictueux indiqué, qui concerne seulement sept crimes.

En bref, l'efficacité des congrès futurs ne réside pas seulement dans les congrès eux-mêmes, mais surtout dans les attitudes et les approches gouvernementales, et particulièrement dans le fait que le crime connu ou pas, est en augmentation partout, même si les attitudes permissives de certains pays donnent l'impression qu'il diminue. L'analyse du panorama existant montre que les crimes commis à l'abri de positions officielles, dans des desseins économiques, dans des buts idéologiques, comme suite à une action politique ou révolutionnaire, et le crime international jusqu'à aujourd'hui à peine touchés par les congrès, sont en augmentation dans la vaste majorité des pays; il est également montré que le fondamentalisme religieux ou des buts politiques contraires aux intentions et aux principes de la Charte ne peuvent pas remplacer la justice pénale préconisée par les Nations Unies dans certains de ses congrès passés.

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Конгрессы Организации Объединенных Наций по предупреждению преступности

Резюме

Начало (*ratio essendi*) для организации конгрессов ООН было положено в 1946/47 в политике по уголовному праву ООН согласно которой руководство было передано ЭКОСОКу согласно резолюции 155 С (VII), 1948. В 1950 г. задачи и обязанности ИРПС были переданы для ООН. Хотя существует историческая связь между пятилетними конгрессами организованными позже и прежними конгрессами ИРПС, на которые ссылается в резолюции Генеральной Ассамблеи 415 (V) от 1950 г., фактом является, что уже в 1946/47 г. Временная Социальная комиссия, переименованная позже Социальной комиссией, указывала на необходимость организации конгрессов в качестве части принятой программы социальной защиты. На сессии Социальной Комиссии в 1948 г. рассматривали вопрос касаясь конгресса, а также отметили те, которые были организованы ИРПС в прошлом. Существование определенной связи является фактом, но не следует понимать вопрос слишком упрощенно утверждая, что политика ООН по уголовному праву, частью которой являются и конгрессы, зародилась в в.у. резолюции 415 (V) Генеральной Ассамблеи. К сожалению эту ошибку повторяли в ГА в последние годы не один раз. Одним из наиболее выразительных случаев является резолюция ГА 35/171 от 1981 г., в которой утверждается, что политика по уголовному праву и последующее руководство ей было основано в резолюции 415 (V), в которой делается особая ссылка на Конгресс.

К настоящему времени состоялись шесть конгрессов и они представляют три разных фаз развития: 1. период обращения, во время которого правонарушитель оказался в центре внимания; 2. период подхода "развития преступления", согласно которому преступление следует рассматривать в контексте с прошлым, направления которое время от времени было взвинчено игнорируя факт, что преступление одержало над своим развитием; 3. отождествление преступления-уголовного права, согласно которому предупреждение преступления и уголовное право следует рассматривать в комплексе с экономической, социальной, куль-

турной, демографической структурой и иногда с политическими факторами. В этом отношении особое внимание заслуживают конгрессы 1975 г. и 1980 г.

В наступающем седьмом конгрессе положат начало будущего и в конгрессе будут обсуждены новые масштабы преступности, предупреждения преступности, вопросы процессов уголовного права, жертв преступлений, молодежи и преступлений и стандарты и нормы ООН по уголовному праву. Все пять тем отражают хорошую подготовку выполненную Секретариатом и Комитетом предупреждения и контроля преступности. Оба выдвигают факт, - который не является новым, но который часто намеренно не учитывают из-зи факторов, которые будут освещены, - что распространения и направления преступности нельзя ограничивать определенными модальностями обыкновенных преступлений, это подход, которого многие правительства придерживаются.

Политика ООН по уголовному праву была во многом определена конгрессами. Из всего что совершено им принадлежит намного больше совершенных мер чем большинству правительств. С точки зрения этой неудовлетворительной ситуации существуют два основных вопроса будущего, во-первых противоречивое отношение многих правительств в принятии на международном уровне программ и политик по уголовному праву, на которые на национальном уровне во многих инстанциях обращают мало внимания, и во-вторых, что в настоящее время следовало бы выяснить как можно подробнее распространение преступности в количественном отношении вместо того, чтобы говорить используя различные абстрактные обобщения. Другими словами, одной из главных задач будущего конгресса является попытка выяснить в разумных пределах, насколько широко распространены преступления. В другом случае часто используемое выражение "новые масштабы" оказывается не очень разумным.

Согласно моим собственным исследованиям в 1980 г. мировом масштабе количество преступлений - семи наиболее распространенных типов преступлений: убийства, телесного повреждения, сексуального преступления, кражи со взломом, грабежа, воровства и обмана составляло не менее 1,067 миллионов случаев. На самом деле во многих случаях, которые относят к явлениям "нового масштаба" речь идет о старом явлении; в других же различные модальности силы играют разную роль в течение последних тридцати лет. Коротко говоря, если мы помним, что не-конвенциональное преступление, которое является только модальностью обычного или конвенционального преступления, становится все более распространенным явлением в большинстве стран, ставится вопрос насколько широко распространены преступления в мировом масштабе. Другой вопрос - как с помощью общепринятых политик предупреждения преступности можно остановить рост преступности силами правительств, организаций, различного рода общественных движений, международных мер и т.д. Может ли конгресс рассматривать этот вопрос, особенно если мы учитываем тот факт, что это предполагает реориентацию подходов и способов рассмотрения.

Конгресс несомненно не является единственным орудием политики ООН по уголовному праву, но одним из наиболее значительных среди них, и то понимает ли седьмой конгресс в полной мере, что рост преступности стал одной из самых важных мировых проблем, которую следовало бы изучить в различных контекстах, но в том числе и как само явление, на что обращают пока очень мало внимания, ставится под вопрос. В этом отношении анкеты Генерального Секретаря направленные правительствам с просьбой сообщить данные о возрастании преступности в национальном масштабе оказались очень неудовлетворительными.

В сем состоят проблемы? Какова роль конгрессов в ближайшем будущем? В какой мере количество преступлений, которое какая-либо страна может выносить без того, чтобы оно повлияло серьезно на ее развитие, в данном случае не только на экономику, должно изменить традиционную концепцию предупреждения преступлений? В чем состоят те технологические, операционные методы, которые следовало бы включить в предложенные Руководящие Принципы предупреждения преступности и уголовного права? Можем ли мы сослаться на новый международный экономический порядок, который еще не формулирован?

Фактом остается, что ссылки на НИЭП маловажны или даже не имеют никакого значения пока принципы этого порядка не формулированы. Что же касается уголовного права в этом плане мало что можно предпринимать, пока не найдено согласия в установлении цели и - в систематическом ее осуществлении.

Можно еще спросить снижено ли количество преступлений, особенно сверху, с уменьшением внимания на принцип nullum crime sine previa lege. Здесь же мои собственные исследования показывают, что более 30 % населения мира подчинены уголовному законодательству, в котором этот фундаментальный принцип игнорируется. Причиной этого является злоупотребление властью, под тем предлогом, что это делается с целью подавления преступности, хотя это приведет к ее активизации в разных формах. Результатом является, что виктимизация преступлений стала одним из наиболее основательных вопросов современной политики ООН по уголовному праву и что время от времени вопрос о жертвах, несомненно, теряет свое значение, все-же надо сказать, что эффективные попытки рассмотрения этой проблемы нельзя считать новой модой в уголовном праве, как дело было с реабилитацией преступников и в настоящее время с девиацией и другими недалевидными подходами к проблеме.

Как Секретариат, так и СРСС делали все возможное, чтобы показать, что как глобальная и комплексная проблема преступление требует подхода, который во многом отличается от существующих в настоящее время подходов на правительственном и профессиональном уровнях. Что будущие конгрессы смогли бы делать для достижения требуемой реориентации? Я предлагаю различные пути, некоторые из них вызывают возражения особенно среди тех, которые еще защищают "модерные" взгляды. С оперативной точки зрения принятые конгрессом рекомендации являются важ-

нее чем когда-либо. Необходимо, чтобы их было меньше чем в конгрессе 1980 г. и чтобы они не повторяли друг друга. Если мы даже помним, что один и тот же человек может стать жертвой преступления не один раз и что один и тот же человек может стать преступником не один раз, то исходя из выше указанных данных в 1980 г. выходит, что количество жертв и преступников должно быть два раза больше количества преступлений, и данные касаются все-же только семи разных видов преступлений.

Коротко говоря эффективность будущих конгрессов не зависит только от них самих, а скорее всего от отношений и подходов правительств, и также от того факта, что во всяком случае количество преступлений возрастает везде, даже в случаях, когда либеральное отношение определенных стран дает представление о том, чтобы количество снизилось. Анализ существующей панорамы показывает, что преступления совершенные под покровительством официального положения, для экономических целей или исходя из политических соображений или в результате политических или революционных событий, а также преступления международного масштаба едва лишь затронуты в конгрессах, а их количество растет во многих странах, кроме того религиозный фундаментализм или политические цели противоположные целям и принципам Устава не могут заменить уголовно-правовые идеи которые были отстаиваны некоторыми из последних конгрессов ООН.

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Dimensioning the crime problem

Mr. Shikita has outlined the main issues of topic one with such expertise that there is little reason for me to go further in the subject matter of topic one. This topic is, anyway, altogether too vast to be dealt with in the short time available to us here.

So I shall take an altogether different approach. I understand that the organizers of this seminar do not mind if I try to stimulate the discussion with some subjective statements, providing you with a clearcut opportunity to either agree or disagree.

I shall thus inflict upon you some of my personal opinions on the way we are approaching the crime problem in general and at large international conferences and congresses in particular.

I use the word 'we' looking around in this room full of congress veterans and also because much of what I have to say can be understood as a kind of self-criticism: I have asked myself is there anything we could or should do differently when we present our public definitions and assessments of the crime problem.

Basically, there are at least three causes for worry in relation to this 'crisis-thinking'. Firstly, it blunts our appreciation of the nuances of the problem. If society always is threatened by a crime wave, are there any alarm signals left, any resources unused, if there one day is a truly serious deterioration of the crime situation? And how can we demonstrate the necessity for continued spending on crime prevention efforts, if the results of all our efforts up to now depicted in words of crisis and alarm?

The second reason for concern relates to the impact on crime control measures. A crisis provokes a reaction. Now, reacting against things can never provide a firm basis for policy. Rational policies must be based on long term planning, taking into account both direct and indirect effects and a broad spectrum of goals. Planning must also be alternative-conscious: that is, we must weigh all reasonable options in terms of their costs and benefits. Such rationalism is not possible in an atmosphere of crisis, because a crisis distorts perspectives: the attention is directed towards visible problems rather than to strategic

problems. Crisis-based reacting makes for shortsighted policies.

Finally I am somewhat concerned about the soul of the crime experts themselves. I find, looking back, that I and many of my colleagues tend to a defensive posture. When we realize that the public image of the crime problem is distorted, much of our energy is directed towards calming down and dedramatizing: the situation is not as bad as it seems, if the rising trend is divided with the population figures it evens out... Yes, these comments are necessary, but still I sometimes feel that we, too, have been forced into a role where we are primarily reacting on this or that outside stimulus.

These observations are primarily based on my experiences and observations of the shaping of the public image of the crime problem in the Scandinavian countries. I do, however, have the impression that all countries with a commercial press share similar experiences and I also have a definite impression that the sensationalist and alarmist approach has become more predominant in recent years. I have, as a matter of fact, on several occasions warned that we may soon be facing a surge of populism in crime policy, fostered by the confusion of the public in the face of the bewildering mass of conflicting advice on the crime issue and the evergrowing headlines of the newspapers.

Why am I bringing up these misgivings and complaints in this audience? Well, I think that the experts who take part in the shaping of the public image of the crime problem must share the responsibility of maintaining a balanced approach to the crime problem based on analysis and planning rather than crisis-oriented alarmism.

What can we then do to check this tendency to translate the crime problem into a series of acute crises? I suggest at least three remedies.

Firstly, efforts should be made to maintain a proper balance in the information provided to the public and to decision-makers. When you buy a car you would consider its price alongside its performance and its other properties. A sound crime control policy is always 'price-conscious'. It does not do to talk about crime trends only in one year and the next year lament about the prison overcrowding problem and other social costs of more extensive and intensive crime control. Choice of crime control policy is a choice which must be based on simultaneous weighing of all possible considerations, just as when you buy a new car or a house.

This has implications for the crime control surveys designed to serve policy planning. Such surveys should be based on an integrated approach, reporting social costs of

crime control alongside the traditional costs of crime (which traditionally are illuminated primarily by crime trend surveys).

Having had an opportunity to take part in the preparation and implementation of the Second United Nations world crime survey I am pleased to observe that the Survey has broadened its base in the direction suggested here. This is all the more important for a survey of this kind, where it is necessary to evaluate structures and profiles, rather than concentrate on single measures, which in a global survey perhaps never will be sufficiently accurate and reliable.

Another recommendation to researchers and policy makers would be to try to be more aware of the self-regulation mechanisms in the area of crime and crime control. I would base this recommendation on common sense thinking rather than on the few, somewhat controversial research findings available. We know from experience that not only material resources but also moral resources are limited: a given society can devote only so much of its resources and energies to crime control. If there are very strong upward or downward changes in the crime situation we can expect not only control practices but also the definition of crime to change. These self-regulation mechanisms, which of course operate on different levels in different types of societies, may to some experts promise reassurance (with automatic self-regulation things can never really go out of hand, or can they?), but other experts may be concerned about the realization that the operation of these mechanisms may make it difficult to establish whether we have been successful or not in our crime policies.

This is a complicated issue, which might merit a seminar of its own: I shall leave it and go on to say a few words about international cooperation in the field of crime control.

I know that I am not the only one who feels that the level of discussion at many international conferences, including the UN conferences, could be much improved. In this connection, I wish to emphatically make clear that this by no means is something for which the UN secretariat is responsible, indeed, the Secretariat and the hard-working staff of the Criminal Justice branch has done an excellent job in trying to maintain an informed and balanced treatment of the issues. But what can the Branch do when the national delegations at UN conferences and congresses insist on following the established practice of wasting much of the limited time of the conferences on denunciatory rethoric?

I am thinking of two things when I use the expression 'denunciatory rethoric'. On one hand I am referring to the unfortunate tendency to bring up, out of context, political

issues and international conflicts at specialized international conferences. Of course, some thin thread of logic can always be found to link current political issues to the agenda. But those crime experts and policy-makers who, for example, will take part in the Seventh United Nations Congress in Milan will hardly think that their time has been well used, if much of the discussion is devoted to the issue of who is to blame for the current conflict between Iran and Iraq or on similar issues. Let us hope that I am unnecessarily pessimistic on this point.

The tendency to denounce rather than analyze also has other manifestations. A perusal of the documents from past conferences reveals a dubious fascination with various evil phenomena, which are thought to be causes of crime. It is hardly necessary to look at the weather report to remind ourselves that negative and unpleasant events do not have to be caused by forces which in themselves are negative. Furthermore, this preoccupation with negative factors may make us forget the less controversial structural and definitional factors, which explain most of the variations over time in any given society. It is, of course, very human to use every least pretext to denounce things which we do not like, and if we do not like something it is tempting to assume that it no doubt also is a major determinant of crime.

Despite misgivings that you cannot change human nature, I suggest that it could be possible to somewhat raise the level of discussion at international conferences. After all, basically this issue deals with how the available resources can best be organized and experience indicates that with good will and determination all questions of organization can be solved.

I have faith in the UN secretariat, it has both good will and determination and I think that under its leadership the problems of organization can be effectively dealt with. In order to help the Secretariat and those who work for more effective use of the available resources, we need not only constant evaluation of what we are doing and frank discussions about the results of such evaluations but, above all, constructive ideas on how things could be done differently.

I shall put forward one such suggestion: the balance between large and small conferences could be altered in favor of the latter. This is not only the ancient issue of diplomatic congresses versus expert meetings: I have the impression that even if the qualifications of the participants is held constant, small meetings allow a more meaningful exchange of views.

If this is true, one big problem ahead of us is how to convince the big, decisionmaking congresses that "small is beautiful" and that a larger portion of the available

resources should be spent on regional meetings and small-scale conferences.

But as I said, I am an optimist, I think we already are moving in the right direction thus - I am finally returning to topic one - providing a chance to test my quite serious suggestion that the way we dimension our conference activities affects the way in which the crime problem is dimensioned.

SOMMAIRE

Détermination du problème de la criminalité

La situation concernant la criminalité dans beaucoup de pays semble toujours aller en empirant. Une image publique du problème de la criminalité, "tournée vers les situations de crise", est prédominante dans les médias et dans un grand nombre de conférences internationales.

Le problème de la criminalité est bien sûr très grave, mais une orientation vers les situations de crise qui se rapproche de l'alarmisme peut nous rendre insensible aux changements réels, et pourrait stimuler une pensée populiste, concernant la lutte contre la criminalité, fondée sur une réaction face à des manifestations visibles plutôt que sur une planification rationnelle à long terme.

Trois remèdes sont suggérés. Des enquêtes à orientation politique sur le problème de la criminalité devraient favoriser une approche intégrée dans laquelle les coûts sociaux du crime et les coûts de la lutte contre le crime soient considérés en tant qu'indicateurs valables du problème de la criminalité. Deuxièmement, les chercheurs et les responsables politiques devraient essayer de devenir plus conscients de mécanismes d'autorégulation qui imposent certaines limites à la fois au crime et aux efforts de la lutte contre le crime. Enfin, les structures et les pratiques actuelles, dans le domaine de la coopération internationale concernant la lutte contre la criminalité, éprouvent peut-être le besoin d'être repensées dans le but d'éliminer certaines pratiques dénonciatrices et de les remplacer par une action plus constructive.

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Определение масштабов преступности

Выступление на семинаре "Политика Организации Объединенных Наций по уголовному праву", 25-29 марта 1985 г., Хельсинки

Резюме

Во многих странах кажется, что ситуация в сфере преступности меняется с плохой к худшему. В публичных изданиях многих международных конгрессов преобладает некая "кризисная ориентация" рассмотрения проблематики преступности.

Проблема преступности является на самом деле серьезной, но кризисная ориентация, которая приближается к настороженности, может привести к тому, что мы окажемся нечувствительными к реальным изменениям, и может стимулировать популистический подход к проблемам контроля преступности, который предпочитает прямое реагирование на наглядные проявления вместо рационального длительного планирования.

Предложены три средств судебной защиты. Ориентированные на политику способы подхода к проблематике преступности должны бы предпочитать целостный подход, в котором социальную стоимость преступления и социальную стоимость контроля преступности считают действительными индикаторами проблематики преступности. Во-вторых, исследователям и активным деятелям политики следовало бы обратить больше внимания на саморегулирующие механизмы, которые налагают определенные ограничения как преступлениям так и контролю преступности. Наконец, может быть, что в сфере международного сотрудничества контроля преступности следовало бы переоценить взгляды и вместо определенных угрожающих мер перейти к пользованию более конструктивных методов.

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Criminal justice processes and perspectives in a changing world

Among the substantive topics included by the Committee on Crime Prevention and Control in the Agenda for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Milan, 26 August to 6 September, 1985), none seems as forbodingly amorphous as No.2, entitled "Criminal Justice Processes and Perspectives in a Changing World". At their meeting in Milan, 14 to 17 June, 1983, the four major NGOs (the International Association of Penal Law, the International Society for Criminology, the International Society for Social Defence, and the International Penal and Penitentiary Foundation -- the latter actually a type of IGO) had some difficulty with the topic. Some speakers considered the theme too vague and too vast. Indeed, the topic lends itself to an analysis of the entirety of criminal justice processes and issues, since the world has forever been changing and will presumably continue to do so. The five regional preparatory meetings yielded relatively little information, apart from general comments on the need to be attuned to change, in terms of legislation, research, contact with the community, training of staff, and systematic management, all subject to the Rule of Law and concern for human rights.

The inter-regional meeting of experts at Budapest, Hungary, 4 to 8 June, 1984 was confronted with a truly formidable task, namely that of concretely structuring, and providing input for, a topic rightly selected by the Committee, eminently worthy of attention, yet in danger of floundering precisely because it probes the limits of human experience. The report of that meeting is before the group assembled at Helsinki and will surely help to make this obstruse topic more concrete.

In my own analysis of the topic, under consideration of the wide divergencies of historical, cultural, economic, developmental, social, political, or educational nature, among nations, I would like to begin by positing certain common, self-evident propositions:

1. In the experience of humankind, the task of securing internal stability (including crime prevention), is a matter of social and economic forces ("social and economic justice").
2. To the extent that social and economic justice are inadequate to prevent crime -- and no system has been known to humankind in which there existed such a super-perfect

social and economic justice --, and given the fact that biological and pathological factors may lead some human beings to commit crimes anyway, it has been, and always will be necessary to maintain an apparatus of criminal justice, which, however, can always only be seen as an interlocked auxiliary organ to the primary means of crime prevention and criminal justice.

3. This apparatus of criminal justice, in every society, is a system composed of various segments or sectors, whether it be thought of as a system or not, and however little developed it may be.

4. Seemingly conflicting or contradictory functions have been assigned to this criminal justice system:

(a) to prevent crime;

(b) to dispense justice ;

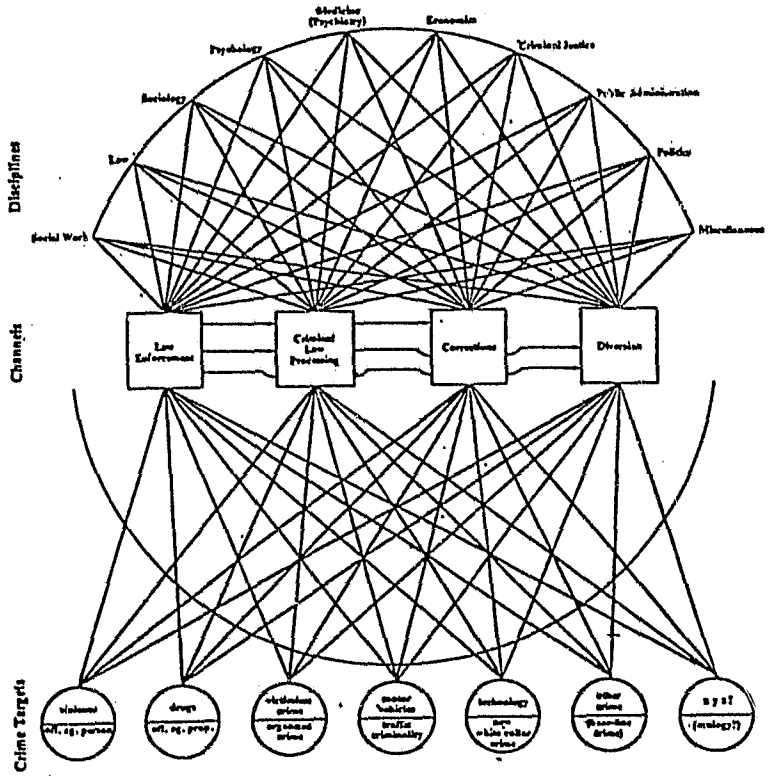
yet these goals are not in conflict, for crime prevention cannot be achieved without regard to justice, and that includes the upholding of the human rights of individuals and of society, including the right to live a life as free from crime as humanly possible.

If that much can be agreed upon, it will now be well to take a close look at a standard model of a criminal justice system, which may accurately reflect no society's system, but approximate that of all.

The four squares in the middle of the diagram denote the four major components of any criminal justice system, (from left to right):

1. The police, or law enforcement agencies in general, with their preventive and investigatory junction;
2. the court system with its task of prosecuting (and defending) an accused person, of trying and, if the facts so warrant, convicting the defendant;
3. Should the latter occur, and so box 3 indicates, the next sector of the criminal justice system takes over, namely the penal or correctional system;
4. The fourth and last box represents those official, or officially recognized, agencies of society which may deal with an offender (accused -- convict) in a diversionary manner, i.e., without the more formal processes and interventions of the other three sectors. As to "diversion", whether it takes the form of community disposition, "surveillance", probation, parole, work release, or whatever, there obviously are wide divergencies among societies as to the type and frequency of diversionary measures.

THE CRIMINAL JUSTICE SYSTEM



Adopted from Mueller, G.O.W. and Adler, Freda: National Manpower Mobilization for Criminal Justice in a Drug-oriented Society, 50 Denver L.J. 479, 491 (1974).

The four squares, or boxes, are connected by arrows, indicating the flow of the process through the system, from arrest to correction or diversion. But the alternate arrows also indicate that "diversion" may sometimes be achieved without flow through the entire system, i.e., the law may allow a diversionary disposition by the police, or by the prosecution or court (without trial), or by corrections (short of serving the entire sentence).

Who staffs the various posts in that system? The first U.N. world crime and criminal justice survey tells us that, for the world as a whole, and for each 100,000 of the population, this system is staffed by 331 law enforcement officers, 8.8 judges, 4.5 prosecutors, 28.7 corrections (or prison) officers, and 3.5 non-institutional correctional workers (like parole officers); or a total of 376.5 people. That, basically, is the criminal justice system. Obviously, one has to consider that the judges spend only part of their time on criminal cases, and the police spend much of their time on aid, rescue and traffic control -- although such duties may be indirectly helpful to their law enforcement function. It should also be considered that some additional personnel can be found in ministries or regional agencies, concerned with administration, supervision, or planning, although these additional numbers are probably negligible. Looking at the breakdown of personnel, in sheer numbers it is law enforcement, the police, which dominates the system, although in terms of the power of disposition, it may well be the judiciary. Yet that is doubtful, especially in developing countries, where the police-judge ratio is even more startling: there are 394 police officers, as against only 4.1 judges, for each 100,000 population. Can these few judges really "run" the system?

For that matter, is the system really only composed of the enumerated functionaries, or is the entire community "involved" in the system, whether indirectly, or more directly as volunteers?

Next it is important to look at the qualification of the functionaries of the "criminal justice system" (perhaps a euphemism!), -- mostly the police. Their functions depend on a certain amount of information, or knowledge of the informational reservoir of a variety of disciplines. Most certainly these disciplines include law, sociology (the interaction of human beings), psychology, the knowledge of deviance (psychiatry, a branch of medicine), economics (for much crime is determined by the motivation of gains and losses). Yet, criminal justice personnel is also governed by the precepts of its own discipline (we call it the repository of accumulated wisdom about "criminal justice"), by the principles of bureaucratic management (here called "public administration"), by the wisdom of politics (or the

precepts of political science), and possibly by the information base of various other disciplines (miscellaneous).

Now, in indigenous society, the wise men and women who impact on the daily life of society, are deemed inherently possessed by the basic skills of all the disciplines just mentioned. More complicated societies demand more individualized, separated, advanced, specialized skills. Socio-economic development, in other words, requires an ever increasing specialization of skills and information bases for the solution of problems, including, and especially those, relevant to the prevention of crime.

Let us pause for a moment. Are we to require criminal justice specialists (especially the police) to hold degrees in law, sociology, psychology, medicine, economics, criminal justice science, public administration, political science and what not? That would require a training period exceeding the life span of any individual, without hope of any such super-trained individual ever to be put into public service. No, but it does mean that any functionary of the criminal justice system must have a rudimentary information base and skill in all of these disciplines, and the capacity to interact with all other functionaries in the overall system, in order to function with maximal efficiency. Happily, the intensity and extent of the training required vary with the role and position of the functionaries within the system.

The training needs are demonstrated by the upper level of our graph. It simply identifies the skill-needs of all functionaries of criminal justice system, whether they be police officers on the beat, desk sergeants, prosecutors, judges, or corrections officers. For their function is not just to process a case from point A to point B! Their function must be viewed as preventing crime and administering criminal justice while processing a case from point A to point B.

At this point we must realize that the rudimentary overall knowledge of the basics of all these sciences, as possessed by the sages of indigenous society is no longer adequate to deal with the problems of an ever-complicated society, whether developed or developing. The complexities of socio-economic life -- and its consequent criminality -- naturally require specialized education of criminal justice personnel which has to match the skills of highly industrialized society and its criminals.

The facet of this thought process is self-evident. There must be an assessment of the needs, the problems (the criminological problems!) of any society, and the skills which that society must provide its criminal justice personnel -- ranging from patrol officers to judges and correctional officers. As yet, neither national nor interna-

tional governmental agencies have made a needs assessment which could provide a basic formula for the kind of training which nations must offer their criminal justice personnel, in order to cope with demands. Incidentally, I surmise that the demand is becoming rapidly more homogeneous for all societies, simply because of the accelerating dependency and relationship among all nations.

The lower third of my graph attempts to depict the crime problems which any given nation is likely to encounter in this day and age. It spans the range from offences against the person to ecological crimes. Obviously the problems vary from nation to nation. In one society the problem of crimes of negligence due to alcoholism ranks very high, in other countries it is the problem of theft from the unit of production, in others it is organized crime (for profit, of course), in some it is drug or alcohol related, in others it is escapism as such. Each society obviously will have to determine by itself where its problem lies. Nor are these problems fixed in time and space. They change; and one of the tasks of the criminal justice system is to forecast the development!

Forecasting is indeed one of the most important tasks of any criminal justice system. I remember well delivering lectures in various central European capitals in the early 1970's, warning of the drug wave that was to hit central Europe yet, my words were met with incredulity! This is not America - this is Europe!, that was the defensive answer. Yet I predicted that Europe's purchasing power (of the drug prone age levels) would soon be at a par with America's. And as soon as this par was met, the world's drug merchants diversified their drug sales to Europe and America alike. That proves that the economic base of major criminality permits economic-criminological forecasting.

Forecasting in the field of crime prevention and criminal justice is indeed a dependent variable of the economy of nations. Thus, as developing nations are increasingly dependent on the trade practices of developed countries, they should also be alert to abuses which international trade practices entail. My recent research into maritime criminality has provided me with numerous examples of developing countries becoming victims of commercial abuses in the delivery of goods, sometimes amounting to disastrous losses to the national economy. Yet, these developing countries were unprepared to counter and to deal with the criminal depredations inflicted upon them by "superior" trading partners. That demonstrates my point: the criminal justice system of any nation must be equipped to deal with the exigencies of its situation.

By now it should be clear that I am positing national criminal justice systems staffed by capable professionals who, by virtue of recruitment and training, can handle all

problems of crime prevention and criminal justice in a collaborative, effective, efficient and humane manner. The emphasis here is on "system". It will be recalled that at the outset I suggested that a system of criminal justice exists in all societies, whether designed as such, or thought of as such, or not. Differences exist, however, which depend not just on the amount of training, but particularly on the degree of interaction among the component parts of the system. When police officers think not just about law enforcement, and prosecutors and judges not just about adjudication, and correctional personnel not just about confinement or treatment, but when they all think about the common good, above all, about their interlocking relationship, then the system deserves that name and then it is likely to be efficient. This requires emphasis in the training process of all criminal justice professionals, on the flow of the criminal process, on the interdependency of decision making, and on devising means for co-ordination, whether through joint planning and evaluation exercises, or through a super agency representing all sectors.

Unfortunately, few societies have reached such a state of development. What we find most frequently is a police force composed of officers trained in drill and obedience (guard dogs have just about the same type of training!), prosecutors and judges law-school trained in substantive law and procedure, and correctional personnel trained in turning keys (hence the term turnkey). I recall visiting a country on behalf of the Secretary-General, at the request of the head of the government. It was a typical developing country which also had developed an enormous crime problem for a variety of politico-economic reasons. The population had armed itself heavily, violence was rampant, indeed, the government was on the verge of collapse. By decree the law was amended to provide for a life-sentence without parole for anybody found in possession of a gun. Trial was to be held within two days. The police rounded up a very large number of persons in violation of that law. Yet no provision had been made for the detention of this ever-growing number of defendants. Nor had thought been given to the need for additional (and perhaps specially trained?) judges, prosecutors and defense counsel to deal with the flood of cases. The correctional system simply had not been consulted. Where were all these convicts to be housed? The army was finally called in. But the soldiers had even less experience in dealing with a criminal justice system problem than the civilians. They could do little more than throw up barbed wire fences around the hordes of detainees and train machine guns on them.

But developed countries encounter the same problem. Vide the drug smuggling situation, entailing large scale importation of cocaine and marijuana from Colombia (Bolivia and Peru) to the U.S.A., by plane or ship. With the establishment of a task force concentrating on the drug trade, the

number of arrests by the U.S. Coast Guard, the Customs Service, the Border Patrol and other police agencies, increased to such an extent that the judiciary and the jail and corrections services were incapable of handling the case load. All but the most serious smuggling cases resulted in dismissals or token sanctions. In short, there had been inadequate system thinking.

Every nation had that type and amount of crime which its socio-economic-political system invites and tolerates, and which its crime prevention system cannot prevent. On my graph I have singled out six specific crime problem areas which, according to the first world crime survey, are fairly common in many regions of the world. These include the problem of violence and consequent offences against the person; the problem of narcotics and related offences against property (thefts, etc., to feed the drug habit); the interrelated problem range of victimless crimes, so called (including gambling, prostitution, alcohol criminality, etc.), and of organized crime (which is usually the provider of services covered by victimless crimes.) The problem range of motor vehicle criminality, consuming the greatest share of police time in developed countries, and increasingly so in developing countries; "other crime" by which I mean the whole range of penal code offences not covered heretofore, some of which may surface forcefully in one or the other society, depending on circumstances. Lastly there is the range which in 1974 I could identify only as x y z, since no official term had been invented, but which closely related to the ecology or ecostructure of nations and which, above all, is development related. Topic 1 of the Seventh United Nations Congress, 1985, addresses itself to that problem range. Now then, when we speak of the activities of officials in the various sectors of the criminal justice system, cooperating with each other in the common effort to prevent and control crime, we mean not just crime in general, but we mean those problem crimes or crime problems, in particular, with which the community is currently confronted or predictably will be confronted in the foreseeable future. What these specific crime problems are, any nations or community can determine by survey and forecast. The challenge then is to mobilize the requisite skills, expertise and mechanism for dealing with those problems in particular. Drill-trained police officers, law trained prosecutors and judges, and turnkey jailers cannot cope with those problems. These are the crime problems of a "changing world", to quote from the title of our topic. And just as the crime problems are constantly changing, so must the skills, expertise and mechanism for dealing with them change accordingly, and not just reactively after a new crime problem has developed, but proactively in anticipation of a problem yet on the horizon.

This requires elaborate planning exercises by criminal justice professionals, of which only the most advanced

societies are capable - but even there such exercises are in their infancy. The alternative to national exercises (or their absence) is of course planning on the international level. And precisely that is the task of the Crime Prevention and Criminal Justice Branch of the United Nations, a unit uniquely capable of receiving and reviewing world-wide data from which inferences can be drawn, needs assessed and crime prevention and control goals and policies formulated, on which nations may wish to rely in building and enhancing their crime prevention systems and strategies.

The following conclusions can be drawn:

(1) "Criminal Justice Processes and Perspectives in a Changing World" would require us to survey and assess the crime problems of nations and of communities, on a permanent basis, to detect the nature, frequency and impact of major problem areas, and to ascertain their relationship to socio-economic and political decisions and developments. The first and second world crime surveys have begun to implement this demand.

(2) These results would have to be compared world-wide, so that all nations may benefit from the experiences of all other nations. This remains yet to be done.

(3) Criminal justice systems, nation-wide and community-wide, would have to be perfected, with the understanding that any decision within any sector of the system affects all other sectors. This requires a certain degree of joint training of all personnel in all sectors, as well as joint and permanent liaisons, commands and planning and evaluation exercises. The world is far from reaching this level of perfection.

(4) Due to ever rapidly changing conditions, marked by extreme sophistication in criminal activities, the training of all criminal justice personnel must be considerably upgraded and should extend not just to those subjects traditionally deemed significant to the various professions, but also, and in particular, to the areas of expertise and sophistication inherent in today's and tomorrow's criminal activities. The pedagogical, financial and employment implications of such a policy are vast and uncharted.

(5) Neither international nor national agencies are as yet capable of addressing the crime problem in the manner here suggested. Yet the piecemeal, fragmented, unsystematic and naive approach of the past no longer suffices. Our choice lies in giving in to crime, or finding the funds and the will to control it. Perhaps ten percent of each nation's arms budget might suffice to achieve the end which I call

the human right to be as free from crime as humanly possible.

SOMMAIRE

Le sujet "Fonctionnement et avenir de la justice pénale dans un monde en évolution" apparaît vague et sinistre, surtout si on le compare aux sujets à question unique, concentrés sur la loi, orientés vers les pays développés, des Congrès précédents de l'O.N.U. Cependant, il reflète les développements dans ce monde en transformation rapide de la prévention du crime et de la justice pénale. Il envisage une recherche pour des solutions qui transcendent le judiciaire, et incluent chaque discipline humaine. Par dessus tout, il considère le crime comme étant intimement lié au processus de développement socio-économique, que ce soit un bien ou un mal. Le "bien" s'applique au potentiel que la planification de développement multisectorielle peut apporter pour conserver un taux de crime bas; le "mal" s'applique au potentiel criminogène malencontreux qui est inhérent à un problème de développement débridé oubliant des considérations de prévention du crime.

Une planification socio-économique intégrée éveillée aux questions du crime doit reconnaître les domaines spécifiques dans lesquels des augmentations de la criminalité sont susceptibles de se produire, et doivent par conséquent concentrer la formation des agences d'application de la loi, de telle manière qu'elles se chargent de ces problèmes, qui ne peuvent pas être évités par des stratégies de planification appropriées.

Il n'y a aucun rapport historique d'une société totalement libre du crime; et l'étendue du crime est essentiellement une question de choix communal, dépendant du niveau de tolérance de la société envers, d'un côté, la lutte contre la délinquance, et de l'autre, le crime.

En raison de l'interdépendance du destin et de la crime des nations dans le monde d'aujourd'hui qui est intimement lié par des réseaux de communications et de transport, les problèmes de la criminalité des nations - jadis totalement orientées vers une culture unique - adoptent de plus en plus une caractéristique commune. Ainsi, on doit compter, pour lutter contre le crime, sur la même unité du monde qui le favorise. Les Nations Unies sont ainsi appelées à jouer un rôle central dans l'assistance apportée aux Etats membres pour bénéficier des expériences les uns des autres, et dans la conception des solutions appropriées d'une manière interculturelle, et qui sont capables d'être ajustées pour tenir compte des différents besoins inhérents aux traditions culturelles et sociales de chaque nation. Il y a une obligation spéciale de la part des pays développés pour mettre leurs méthodologies avancées à la disposition des pays en voie de développement traversant actuellement des processus de développement que les pays développés ont connu précédemment; il y a quand même un besoin égal pour

les pays en voie de développement de préserver leur capacité traditionnelle à s'occuper du crime et de retransférer une telle capacité aux pays développés qui ont perdu la leur lors du processus de l'industrialisation et de l'urbanisation.

Профессор Герхард Мюллер

Практика и перспективы уголовного правосудия в условиях
изменяющегося мира

Резюме

Тема "Практика и перспективы уголовного правосудия в условиях изменяющегося мира" кажется неопределенной и сомнительной, особенно, если ее сравнивают с однозначными, сосредоточенными на юридические аспекты, ориентированными на проблемы развитых стран темами предыдущих конгрессов ООН. Все-же она отражает события в этом быстро изменяющемся мире предупреждения преступности и уголовного правосудия. Она рассматривает попытки нахождения разрешений, которые переступают пределы правосудия, и охватывает все отрасли человеческого знания. Прежде всего, она рассматривает преступление как процесс - тесно связанный с социо-экономическим развитием, в хорошем и в плохом. "Хорошее" указывает на потенциал, который планирование мультисекционного развития может нам предоставить задерживая темпы роста преступности; "плохое" указывает на несчастный криминогенный потенциал, который свойственен неразрешенным проблемам развития, на что не обращают внимание в рассмотрении предупреждения преступности.

Компетентное социо-экономическое планирование, которое осознает последствия преступности, должно наметить специальные области, которые наиболее вероятные с точки зрения возрастания преступности, и оно должно, следовательно, направить внимание на обучение осуществляющих правосудие органов для того, чтобы они смогли справиться с теми проблемами, которые не устранимы с помощью соответствующих подходящих методов планирования.

В истории не найдено ни одного полностью свободного от преступности общества, степень распространения преступности является, на самом деле, вопросом общественного выбора, который зависит с одной стороны от уровня общественной терпимости в отношении к контролю, а от преступления, с другой стороны.

Из-за взаимной зависимости судеб различных наций в современ-

ном мире, который тесно связан средствами коммуникации и транспортировочными системами, преступления, которые когда-то отличались тем, что были характерны какой-либо нации в отдельности, приобретают все больше и больше общий характер. Таким образом, то же единство мира, которое поощряет преступления, должно уверять нас и в возможности контроля преступности. Поэтому, Организация Объединенных Наций должна играть важнейшую роль в предоставлении всем странам-членам помощи, для того чтобы они смогли пользоваться опытом друг друга, а также в планировании межкультурных подходящих мер, которых можно видоизменять для того, чтобы они подходили для удовлетворения разных потребностей исходящих из собственных разных нациям культурных и социальных традиций. Развитым странам возложена со стороны развивающихся стран особая обязанность, которая заключается в том, что они должны предоставить свои современные методологии развивающимся странам, которые находятся на той стадии развития, которую развитые страны уже проходили; все-же существует, соответственно, потребность в том, чтобы развивающиеся страны сбережили свою традиционную способность справиться с преступностью и передали этот свой опыт развитым странам, которые теряли эту способность в процессе индустриализации и урбанизации.

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Topic III of the tentative agenda of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders: Victims of crime - the needs of victims and priorities in victim policy

1. The concept of the victim

Benjamin Mendelsohn, who used the term "victimology" in a lecture delivered in 1947 in Bucharest, understood it to cover victimization by nature, society, energy supply, motorization, the victim himself, and - as just one category - criminality. In practice, however, most victimologists are at the same time criminologists, and concentrate on the victims of crime.

However, it has been recognized that "crime" is an arbitrary concept. While the legal definition of crime is generally used as a convenient frame of reference, the dominant view in criminological research long ago rejected the view that it should only deal with offences specifically mentioned in the law of the country in question: circumstances change, attitudes change, laws change, and consequently so does the scope of offences. For example, it was only after criminologists began focusing on white-collar crimes that the laws of many countries were amended to include specific provisions on such modern offences.

Increasing attention has been focused, therefore, on the plight of victims of acts which cannot be brought before the courts with the same ease as "conventional" crimes, and for which the victims have no simple channels of recourse. In many cases, the dark figure for these nonconventional crimes is even larger than for conventional crimes - that is, to the extent that conventional and nonconventional crimes can be said to be commensurable at all. Examples of nonconventional crimes range from consumer fraud, pollution and violations of labour safety to abuses of political power, even torture and genocide. In the views of many, it is in the case of such crimes that the United Nations should take a leading role in coordinating regional and interregional attempts to prevent victimization and help the victim.

It was very much with such considerations in mind that, having considered the topic of "Crime and the Abuse of Power: Offences and Offenders Beyond the Reach of the Law", the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders "with special concern for the needs and interests of developing countries",

called upon the United Nations to "continue to gather, analyse and disseminate to Member States information ... concerning abuse of economic and political power" (Resolution 7). The United Nations was further urged to "continue its present work on the development of guidelines and standards regarding abuse of economic and political power".

Against this background it is understandable that, while the scientific and practical interest in victimology has remained very clearly within the confines of conventional crime (and, particularly, offences with directly affected individual victims), the preparations for the Seventh Congress have attempted to strike a balance between victims of conventional and nonconventional crime. The Committee on Crime Prevention and Control, at its Seventh Session in March 1984, emphasized that, in considering the victims of crime, "while major attention should be paid to victims of illegal abuses of power, consideration should also be given to victims of traditional crimes, particularly offences involving violence and brutality".

The interregional preparatory meeting of experts in Ottawa adopted the working definition that a victim is an actual or legal person suffering a loss, damage or injury as the result of conventional or non-conventional crime. At the same time, the meeting noted that the definitions and terminology in the field should be developed.

2. The extent of victimization

During the 1960s, four tendencies combined to return the victim to the centre of attention. First, many countries saw an increase in crime, which consequently affected more and more people. More importantly, as Mr. van Dijk noted at a conference arranged by the Council of Europe in November 1984, it affects an increasing number of influential people in society. Second, victimization studies and other research showed that victimization is even wider spread than what had generally been believed. Most offences in fact are not even reported to the police, to say nothing of leading to a judgment of the court. Third, activist movements, primarily the feminist movement, drew the attention of the public to special forms of victimization that up to now had remained hidden. Their focus was first on battered women and rape, and soon spread to domestic violence in general, and the special problems that the victims of such violence must face. A fourth feature which has influenced the increase of interest in the victim is a disillusionment by many with the effectiveness of the criminal justice system.

To deal quite briefly with the results of the many studies on victims of crime (which, understandably, only deal with the victims of conventional crimes) I will only mention some of the most important findings.

- 1) The actual victimization rate for most conventional offences involving individual victims (such as assault and theft) is far higher than the rate noted in the police statistics. Serious offences, however, are rare, and are generally reported to the police.
- 2) A large proportion of these personal offences are attempts only, and generally involve no loss or damage. It is generally these attempts which are not reported, as the victims consider them to be too trivial, or to be events that the police cannot do anything about.
- 3) Those most at risk in connection with personal offences are young, single males in urban areas, and those in certain high-risk occupations such as policemen or taxi drivers. The risk of victimization appears to be closely connected with the concept of "lifestyle", in other words with the characteristic manner in which individuals work and play. It might be added that the border between "lifestyle" and "victim culpability" may be very thin, indeed.
- 4) A related, but distinct conclusion on the basis of the research is that victimization often strikes hardest at the disadvantaged groups. Property loss has a greater effect on the poor and those with no insurance; injuries have a greater handicapping effect on the elderly; emotional distress has a cumulative effect on those who already have other difficulties, for example the widowed; and finally, the disadvantaged may have the greatest difficulties in obtaining recourse through the courts.
- 5) Fear of crime is not necessarily linked to the actual risk of victimization. Fear of crime is especially prevalent among the aged, women, people who live alone, people with a low socio-economic status, and those who live in large cities. Understandably, it is also connected with having already been the victim of a personal offence - however, it is not an invariable consequence of victimization.

3. The needs of victims

The Ottawa meeting noted that the needs of victims can be financial, medical, emotional or social.

Financially, the victim may require compensation for property loss or injuries directly resulting from the offence, or for example for his legal expenses. The European countries in general have been in the vanguard in providing both comprehensive social insurance schemes, and in many cases also systems of State compensation for violent offence, which ease the financial burden on the victim.

Medically, victims may require immediate treatment or, in some special cases, long-term therapy to cope with post-trauma shock.

Emotionally, the victim often needs comforting, and quite simply even assurance by his acquaintances or by the police that what happened to him was something that should not have happened, it was something for which he was not to blame. Victimization can be followed by shock, anger, fear, shame and depression. If the victim does take the matter to the police and to court, he would want them to take the matter seriously. If this is not the case, he may suffer from what is known as "secondary victimization": the criminal justice system itself (and possibly also others, such as the media) may subject him to injustice and indignity.

The wish of some victims to take the matter to court, however, does not mean that the victim is particularly punitive; according to research, what the victim usually considers most important is that the offender provides him with restitution for his loss, and that the wrongness of the offender's conduct be acknowledged.

Socially, it is not only the offender who needs resocialization - also the victim needs the support and sense of solidarity that only his immediate environment can give. Emotional and social help is of particular importance immediately after the victimization, although in cases involving delayed shock, it may be needed for years.

Other needs which could be present include legal assistance and information on what the victim should do. This information may vary from the various services available to the victim, the progress of the case through the criminal justice system, to crime prevention measures. It can be understood that the role of the police is especially important in providing such information.

It is difficult to estimate the needs of victims in advance, and stereotypes should be avoided. Generally, victimization does not considerably inconvenience the victims, and simple practical assistance and moral support may be sufficient. However, even in cases which, objectively speaking, are relatively trivial, an individual victim may require considerable emotional and social help.

One further observation about the needs of victims. The focus in Topic III of the Congress is on the victims of crime. Such a focus must neglect some more general features of the victim in today's society. For example, when speaking of the needs of victims, perhaps too little attention is paid to the fact that to a large extent, the needs of victims are the same as the needs of society in general: we all wish to live in a society which is as crime-free as

possible. Perhaps the most important need of a victim is not to become a victim: crime should be prevented.

4. The United Nations Declaration on Justice and Assistance to Victims

The interregional preparatory meeting of experts in Ottawa in July 1984 on Topic III, the Victims of Crime, strongly underlined the need for an international "Magna Carta" for victims. During the meeting, a drafting group was convened to draft such a document. The resulting "Declaration on Justice and Assistance to Victims" is a broad document, intended both as a guide to Governments anxious to help victims, and as a catalyst in fostering more effective transnational cooperation. The Declaration will be submitted in an edited form to the Seventh Congress for adoption.

The construction of the draft Declaration, as prepared in Ottawa, is fairly straightforward. After outlining the purpose and scope, and defining the concept of "victim", the Declaration lists 15 general principles. These principles are then enlarged upon in the following articles which deal with reparation from the offender, compensation from the State, services to victims, access to justice and fair treatment, international co-operation, prevention and implementation.

There are a number of points in the Declaration which might give rise to interesting discussion. I would like to call the attention of the meeting to only two of these. Even so, I believe that these points are of essential importance in ensuring the adoption of such a basic document in a form which will truly contribute to ensuring justice and assistance for victims.

First of all, it should be noted that the document in question is entitled a draft Declaration, and not, for example, minimum standards, much less a draft agreement. The importance of this distinction lies in the fact that the document should primarily lay down the basic guiding principles to be applied when dealing with the victims of conventional and nonconventional crime. I would suggest that the document has become overly detailed and lengthy, and could only benefit from pruning. In its present form, the more important principles risk becoming lost amongst a mass of practical suggestions.

Second, a critical issue which will undoubtedly be raised at the Congress is the inclusion of victims of conventional crime, and of non-conventional crime (i.e. of the abuse of power) in one and the same document. I have already indicated the rationale for this: the needs of, and mechanisms that should be provided for, both categories of victims have considerable similarities. One difficulty lies in the

definition itself. However, the primary difficulty in this combining of topics, as I see it, lies in the attempt to assign the victims certain rights in respect of the State (such as the right to reparation and even State compensation, the right to services and the right to access of justice). I trust that if the Declaration could be condensed, as I suggested, this lack of balance could be remedied, and both categories of victims can successfully be covered.

5. Priorities in victim policy: national, regional and international

Both the discussions at the preparatory meeting and the draft Declaration call attention to the priorities in victim policy. On the regional and international level, they include the following:

- concerted international action with regard to research, training of personnel, provision of mutual assistance and the establishment of other practical arrangements for cooperation in preventing victimization and in providing remedies;
- collaborative action-oriented research, with special reference to traditional and customary systems of justice and on the assessment of the success of programmes for victims;
- a better information basis on victimization and victims, including statistics, the results of victimization studies, and the use of modern technology and innovative techniques;
- data collection, and information sharing and exchange, with special reference to the role of the UN institutes for crime prevention and control;
- technical assistance to Governments, such as that provided by the United Nations interregional adviser, and
- the establishment and strengthening of international funds for the assistance of victims.

SOMMAIRE

Sujet III: Les victimes de la criminalité

Les besoins des victimes et les priorités dans la politique les concernant. Déclaration préparée.

Le concept de victime

Une victime doit être ici comprise en tant que personne réelle ou légale subissant une perte, des dommages ou un préjudice par suite d'un crime conventionnel ou non-conventionnel. Le terme crime "non-conventionnel" est utilisé pour élargir la portée au-delà de la définition donnée à un délit par le droit positif.

Besoins des victimes

Après avoir traité des données empiriques sur l'étendue et les résultats de la "victimisation", la présentation traite des divers besoins potentiels des victimes. Financièrement, celles-ci peuvent réclamer par ex. une indemnisation pour la perte de propriétés ou le traitement de préjudices. Du point de vue médical, elles peuvent réclamer des soins immédiats ou, dans certains cas spéciaux, une thérapie à long terme. Emotionnellement et socialement, la victime a souvent besoin de l'expression de la solidarité de son entourage immédiat. Peut-être qu'un des besoins de la victime les plus sous-estimés concerne l'information sur ce qu'elle pourrait faire tant légalement que pratiquement.

La déclaration des Nations Unies concernant la justice et l'assistance aux victimes

La réunion préparatoire interrégionale pour le septième Congrès des Nations Unies, sur le sujet III, "les victimes de la criminalité", a préparé une déclaration sur la justice et l'assistance aux victimes. Son but est de servir de guide aux gouvernements qui sont soucieux d'aider les victimes, et de catalyseur dans le développement d'une coopération transnationale plus efficace. La déclaration, sous forme éditée, sera présentée à l'adoption du septième Congrès.

La déclaration expose les principes qui devraient être suivis pour décider de la réparation de la part du délinquant, de l'indemnisation de la part de l'Etat, des services aux victimes, de l'accès à la justice et d'un traitement équitable, de la coopération internationale, de la prévention et de la mise en oeuvre.

Priorités internationales

Les réunions préparatoires régionales et interrégionales ont discuté de plusieurs priorités pour l'action nationale, et l'action et la coopération régionales et inter-régionales. Les thèmes principaux pour l'action internationale ont été concentrés sur le besoin et la base de la recherche, la formation du personnel, la prise de dispositions pour l'assistance mutuelle et l'établissement d'autres dispositions pratiques concernant la coopération pour éviter la "victimisation" et fournir des remèdes.

Ст.сотрудник по исследованиям
Матти Бутсен
ХЕУНИ

Тема III: Жертвы преступлений

Подготовленное выступление
"Потребности жертв и приоритет в виктимной политике"

Резюме выступления на семинаре
"Политика Организации Объединенных Наций по уголовному
праву"
Хельсинки, 25-29 марта 1985 г.

Понятие жертвы

Под "жертвой" мы должны при этом понимать действительное или юридическое лицо, которое страдает от утраты, повреждения или вреда в результате конвенционального или неконвенционального преступления. Понятие "неконвенционального преступления" применено с целью расширения грани "преступления" описанного понятиями обычного права.

Потребности жертв

После рассмотрения эмпирических данных о распространении и результатах виктимизации, данное выступление рассматривает различные потенциальные потребности жертв. Жертвы могут нуждаться в компенсации напр. утраченной собственности или в уходе за повреждениями. С медицинской точки зрения жертвы могут нуждаться в скорой помощи или в определенных случаях в оказании долгосрочного лечения. В эмоциональном и социальном плане жертвы нуждаются часто в оказании чувства солидарности со стороны ближайшего окружения. Может быть наиболее недооцененной потребностью жертвы является ее потребность в получении информации о том, что следовало бы делать как в юридическом так и в практическом отношении.

Декларация Организации Объединенных Наций по правам жертв и помощи им

Межрегиональное подготавливающее Седьмой конгресс Организации Объединенных Наций по теме III заседание "Жертвы и преступления", подготовило декларацию касаясь прав жертв и оказания им помощи. Целью является предоставление ориентира правительствам беспокоящимся об оказании помощи жертвам, а также содействие укреплению более эффективного межнационального сотрудничества. Декларацию предоставляют в отредактированной форме Седьмому конгрессу для принятия.

В Декларации изложены принципы, которые следовало бы соблюдать при решении вопросов требования компенсации от преступника, от государства, оказания услуг жертвам, при поиске справедливого и законного обращения, международного сотрудничества, предупреждения и осуществления решений.

Международные приоритеты

Региональные и межрегиональные подготовительные заседания рассматривали различные приоритеты национального характера, но и регионального и межрегионального характера, а также сотрудничества. Главные темы интернационального характера обращают внимание на необходимость и основу исследования, на обучение персонала, оказание совместной помощи и на создание других практических мер сотрудничества в предупреждении виктимизации и в предоставлении средств судебной защиты.

Professor F.H. McClintock
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Youth, crime and justice

Introduction

1. On the basis of the proposals contained in the note by the Secretariat on the substantive issues for the elaboration of the provisional agenda for the Seventh Congress (E/AC 67/1982/3 and Corr 1), the Committee on Crime Prevention and Control decided at its seventh session (E/1982/C2) to recommend to the Economic and Social Council the approval of five main substantive topics for inclusion in the agenda of the Seventh Congress. One of those substantive topics was "Youth, Crime and Justice".

2. In accordance with General Assembly resolution 32/21 on 9 November 1981, the Committee's recommendations on the subject were taken into account by the Secretary-General in his report on preparations for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders submitted to the Economic and Social Council at its first regular session of 1982 (E 1982/37) and were endorsed by the Council in its resolution 1982/29.

3. The scope, approach and subdivision of the proposed agenda item on "Youth, Crime and Justice" was considered by the Committee on Crime Prevention and Control. This resulted in the preparation by the Secretariat of the "Discussion Guide for the Regional and Interregional preparatory meetings for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF 121/PM 1, April 1983)". In utilising the Discussion Guide several Reports were prepared as a result of regional meetings: the European Regional Preparatory Meeting (A/CONF 121/RPM/1, July 1983); the Asia and Pacific Preparatory Meeting (A/CONF 121/RPM/2, July 1983); the Latin American Regional Preparatory Meeting (A/CONF 121/RPM/3, December 1983); the African Regional Preparatory Meeting (A/CONF 121/RPM/4, December 1983); and the Western Asia Regional Preparatory Meeting (A/CONF 121/RPM/5, January 1984). These Regional Reports, together with additional Expert Papers which had been specially commissioned by the United Nations, the Sixth Joint Colloquium on Youth, Crime and Justice (Bellagio, Italy 1984), and the Draft of the Standard Minimum Rules for the Administration of Juvenile Justice constituted the main documents considered at the Interregional Preparatory Meeting on the topic "Youth, Crime and Justice" held in Beijing, China in May 1984 (A/CONF 121.IRM/1, July 1984).

4. In endorsing the topic on Youth, Crime and Justice for the provisional agenda of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Committee on Crime Prevention and Control noted that the year 1985 has been proclaimed International Youth Year by the United Nations. Member States have committed themselves to focus their attention on the particular situation of youth, and to concentrate and collaborate in their efforts to ensure that youth will obtain and retain the right to full participation in national development and be entitled to the benefits accruing from it. It was also noted that, as the Seventh Congress coincides with the International Youth Year, there is clearly a unique opportunity of contributing to the achievements of its goals and objectives.

5. Among the reasons which have led to the strong emphasis placed by the United Nations on the problems of youth in the contemporary world, especially within the realm of crime and justice, the committee singled out the following:

- (a) the proportion of youths among the population will continue to increase for decades to come;
- (b) contrary to the growing expectations of fuller participation by youth in the political economy, their employment opportunities are declining in many parts of the world due to economic depression, recession and inflation;
- (c) youth are particularly vulnerable to maltreatment, exploitation and neglect, as well as to the undesirable consequences of economic changes;
- (d) youth appears to constitute the most crime-prone age group. Furthermore, crime committed by youth seems to be increasing disproportionately;
- (e) the indications are that serious manifestation of youth drug abuse and serious criminality, especially crimes of violence, are becoming more widespread; and
- (f) the increasing recognition that juvenile justice requires greater attention on the national and international levels;

6. The Committee also recommended that in considering youth, crime and justice due regard should be given to the following issues:

- (a) the movement of the young without employment opportunities or prospects from rural areas to cities;
- (b) the interrelationship between urbanisation, drug abuse and youth criminality and deviance;
- (c) the use of free leisure time and the problem of entertainment;
- (d) the impact of mass media on the young;
- (e) the specific problems of children and youth belonging to minorities, such as foreigners, migrants, ethnic or religious groups; and

(f) the special training of social workers and criminal justice practitioners, including the police.

7. The committee on Crime Prevention and Control also emphasised that juvenile justice and youth was one of the main priorities of the Specific Programmes and activities for the preparation and observance of the International Youth Year, and provided the following guidelines for long-term action:

- "(i) At the national level: Governments should be encouraged to accord high priority to the problems which cause juvenile delinquency and youth criminality within the framework of planning for youth, in close co-operation with all relevant authorities and within the broader context of national development plans.
- (ii) At the regional level: Regional commissions, in co-operation with Governments, national organisations and the United Nations Regional Institutes on the prevention of crime and the treatment of offenders, and with the relevant research centres, should conduct research and organise training courses on the problems which cause juvenile delinquency, on the relationship between development, youth and crime, and on effective solutions to deal with these problems, including juvenile justice administration.
- (iii) At the international level: Agencies and bodies of the United Nations system should provide technical assistance to Governments in the development of effective programmes aimed at the causes and prevention of youth crime and juvenile delinquency, and of standard minimum rules for the administration of juvenile justice."

8. In connection with the developments at the International level, the Committee on Crime Prevention and Control noted that under resolution 4 of the Sixth Congress it had been recommended that they should be directed to develop standard minimum rules for the administration of juvenile justice and the care of juveniles which could serve as a model for Member States. Furthermore such rules should reflect four basic principles:

- "(1) the provision of carefully defined legal protection for juveniles in conflict with the law;
- (2) the use of pre-trial detention only as a last resort, and with special institutional arrangements for confinement, taking always into account the needs particular to their age;
- (3) the use of institutionalisation only after adjudication for very serious offences; and
- (4) the responsibility of the international community to ensure opportunities for a meaningful life for the young as fully participating members of society."

Taking fully into account the directives of the Sixth Congress, the Committee emphasised that, in formulating the set of rules, attention should be given to the interrelationship between the needs of children and youth, because of their early stage of development on the one hand, and the needs of society and the family on the other, and that these rules should be flexible enough to be applicable in different social and cultural situations.

9. The present Paper considers the issues that have been raised under topic 4 of the Provisional Agenda for the Seventh United Nations Congress under the three broad headings of Youth, Crime and Justice. In the first section the issues relating to youth in the contemporary world are considered; in the second section consideration is given to the dimensional characteristics of youth crime in the context of changing socio-economic conditions; while in the third section the various aspects of justice for juveniles are considered with respect to youth crime prevention and control programmes, social justice for the young, juvenile justice systems and the draft standard minimum rules for the administration of juvenile justice.

I Youth in the Contemporary World

A. Youth Participation in Social, Economic and Cultural Life

10. The five Regional Reports clearly indicated that all countries attach great importance to their younger sections of the population. Youth "is the flower of today and the fruit of tomorrow" was the picturesque description in one regional report. Most countries also expressed the need to develop or maintain appropriate structures so that young people can play a full part in the social, economic and cultural life of the country. While issues relating to youth criminality and those in conflict with the law or in need of care and protection were necessarily central to the deliberations at most of the preparatory meetings, it was also stressed that the majority of young people take a positive and constructive attitude to life and make valuable contributions to the well-being of their countries. Furthermore, such a valuable resource should not be overlooked in dealing with those segments of the youth population that cause serious concern to the society.

11. The Discussion Guide (A/CONF 121/PMI, page 24) posed the question as to providing contemporary profiles with respect to the youthful population and their degree of participation in the social, economic and cultural national life. The Regional Reports provide little information of a detailed character, but the responses indicate a tremendous diversity from nation to nation and from one region to another. There are on the one hand issues relating to the

predominantly rural populations in a third world country and on the other to those of large urban areas in highly industrial countries in the West. For a comprehensive study of youth criminality and justice at the international level comparative work in this sphere is urgently needed. However, from the different cultural contexts a number of common issues can be singled out from the preparatory reports from the five regions, together with the reports of experts. Firstly, there was general agreement as to the importance of maintaining and fostering the positive role of the family in protecting or extending the quality of life of its younger citizens. Secondly, emphasis was placed upon the need to provide a comprehensive educational system which was meaningful to the young and their needs within the national and cultural context. Thirdly, there was the necessity of protecting and developing the neighbourhood community so that young people could experience meaningful participation in everyday life.

12. On the negative side - militating against this full participation of youth in the social and cultural life of the community - it was pointed out that in large sections of the world the youth population lived in extreme poverty, often near to or at starvation level. This, coupled with illiteracy, undermined any positive contribution that youth could make to society and increased their danger of becoming victims of economic or sexual exploitation or of becoming involved in criminal and other deviant behaviour. On a worldwide basis serious concern was expressed over the widespread growth in structural unemployment and underemployment to which young people are deemed to be particularly vulnerable. Chronic unemployment produces an apathy and alienation among youth and militates against their full participation in the life of their country.

B. The Concept of Youth

13. It has been agreed that as the basis for deliberations at the forthcoming Seventh United Nations Congress the term "youth" will apply to persons between 15 and 24 years of age, thus relating to the span of years covered by the plans for "The International Youth Year". If children are regarded as those up to 15 years of age, then the category of "young people", i.e. all those up to 24 years, needs to be sub-divided when considering the socialising processes relating to the family, to the educational system and to the wider community. However, there is no universal agreement upon the definition of youth. While it can be defined as "the early part of life between childhood and adulthood" - a period between the onset of puberty and full physical maturity - even from this rather limited biological point of view the age span cannot be defined precisely. It is generally accepted that the concept of "youth" relates primarily to social and cultural factors. Furthermore, the

term "youth" contains an important subjective element. How it is defined legally, educationally and socially by the adult population varies from one country to another. Also the meaning of "youth" to young people themselves, in their everyday lives in differing cultures, should be taken into account. Leaving aside those issues, it has been decided that the term "juvenile", for the purposes of the deliberations on juvenile justice, is left flexible so as to include only those young people who come within the age range defined by each particular national system.

C. The Role of the Family

14. In considering the well-being of young persons in relation to the family, differing types of family must be recognised. In some countries the extended family of three generations and many relatives still exists, but in the industrial countries and in large urban areas elsewhere the nuclear family consisting only of parents and children tend to prevail. The quality of life and the vulnerability of the family would appear to be influenced by several factors, such as the situation in which both parents are working outside the home, the increase in divorce or legal separation of parents (which is probably related to the self-centred concept of "self-fulfilment"), and the growing trend towards one-parent families. However, it also has to be noted that in some forms of extended families, e.g. polygamy, there can be internal rivalries and stresses in the parental group which produce adverse effects on siblings.

15. In many of the reports considerable emphasis is given to the need for strengthening the family in the contemporary world through the provision of resources for family life and through the emphasis on the importance of the relationship between parents themselves and between parents and children. Some have suggested that this could be brought about by providing specific education in family life for those who wish to become parents. Others have stressed the need, particularly in urban society, to develop neighbourhood groups to give support to the family in the community context. It should also be noted that in urban society the nuclear family may often be isolated, having to rely entirely on social services of a professional when crisis occurs. Such families are extremely vulnerable when it comes to safeguarding the quality of life of children and youth. The importance of the family in reducing the social significance of the so-called "generation gap" also needs to be considered. Many parts of the world have been undergoing rapid social and technological change, and youth have in many instances developed a social milieu from which parents and other members of that older generation have come to feel isolated. It is necessary to emphasise the need for understanding and communication to be de-

veloped across such a gap to avoid rapid social alienation of the young from their parents. Parents have to be encouraged to make an effort to understand the young, for the problems of the young are not generated solely by the young themselves, but can also be contributed to, if not indeed created by, adults.

16. In discussing the role of the family it must be recognised that the influence of the family varies according to the age of the young person: for the very young it embraces their entire life, for the school child it is usually the most important primary influence, whereas for the older adolescent it tends to become merely a reference group. Clearly, where the family has a severe crisis or completely disintegrates, the young people involved become most vulnerable to adverse influences in their earlier years: their quality of life is often drastically affected. In some societies such children end up in orphanages and become completely institutionalised; in other societies they become "the street children". Without family support they may become the victims of exploitation on the one hand or social deviants in conflict with the law on the other.

D. The Role of Education

17. The period of compulsory formal education varies significantly from one country to another. It can be seen as a period of learning leading to full social maturity. It can also be seen as a period of preparation to become a full working member of the community. In many parts of the world young people receive little, if any, formal education, and the problem of illiteracy is paramount. There is general agreement as to the importance of education in improving the general quality of life of young people and increasing their socialisation into the communities in which they live. It has been stressed that in addition to providing them with basic skills, the education system should also help them to a better understanding of the contemporary world and their social responsibilities in it. Many stress that education needs to be more closely related to future work and social situations and to concentrate less on purely academic subjects. It is contended that large sections of the youthful population obtain little, if any, satisfaction or benefit from the present formal educational systems.

E. Rural to Urban Migration

18. The general migration from rural settings to the urban centres which was a characteristic of the developments of industrial countries in the eighteenth and nineteenth centuries has become a worldwide phenomenon which is growing particularly rapidly in third world countries. Young

people migrate in this way on their own, leaving their families in the process. Attracted by the prospects of work, they also hope for a more varied lifestyle when they follow the lure of "city lights". Often mass media stress the advantages of the urban life without indicating its difficult and negative features. In reality it is often found that young people have little prospect of employment, and, after their ties with family, friends and relatives have been broken, they become particularly vulnerable to exploitation or conflict with the law. On the whole, civic authorities in the cities do not have the resources to cope with such migration on a large scale. The quality of life of these young people tends to decline and they become frustrated and alienated in the "urban jungle". While it can be argued that social change, as such, does not of itself create youth problems, it is unplanned, segmented change, which frequently gives rise to the problems of youth in contemporary urban society. It has been said that both the State and the Civic authorities should bear a direct responsibility for trying to mediate and control this type of unplanned migration, especially when it involves young people.

F. The Use of Leisure Time and the Problem of Entertainment

19. Most reports on youth in contemporary society stress the impact of mass media, particularly television, on changing the quality of life and the use of leisure time. This change is frequently seen as related to the move away from rural society and so from the more traditional uses of leisure time and entertainment. The passive nature of modern urban entertainment is often stressed, particularly in relation to mass spectator sports. In the family the television set is seen as replacing much of the previous meaningful contact between members of the family. Outside the home, young people tend to spend their leisure time more with peer groups than with members of their own household. Leisure pursuits therefore tend to become a socially disintegrating rather than a socially integrating process. Some suggest that fostering active participation at the neighbourhood level within the urban setting could be one way of counteracting this negative trend. It is also pointed out that in most societies there is a trend to produce more and more material temptations for youth, through advertising and the use of the media. Young people experience the desire for such goods and this contributes to stresses that have been termed "relative deprivation". Some emphasise the need to develop and foster a society that has greater concern for its members based upon respect and affection: "If there was more love and affection in society, there would be less need for so much law enforcement, especially against the young". It is also suggested that such positive developments in relation to education,

work and leisure can only be properly developed when these activities are fostered by the state at the local level rather than being centrally organised.

II Dimensions and Characteristics of Youth Criminality

A. The Extent of Youth Criminality

20. The accuracy and usefulness of official national data on recorded crime has been the basis of much discussion and research in recent years. Often such crime data conceal more than they reveal. They usually give information according to legal categories only and it is not therefore possible to assess the social significance or context in which the crimes occurred. It also has to be pointed out that most "hidden" crime and "victimisation" surveys show that only a small proportion of the conduct that could have been labelled criminal was, in fact, reported to the police or other comparable recording agency. It is generally agreed that the "dark" figure of crime is very large. However, there are some indications that the proportion not recorded was less for youth criminality than for crimes involving older age groups in the population. But it also has to be stressed that the proportion of "hidden" youth delinquency varies according to the kind of socio-legal system and cultural context, especially in some countries where informal processes of social control are applied to deviant behaviour among the young. No detailed comparative studies have been undertaken, although an UNSDRI study provides some useful information in this respect. There are many difficulties in the task of making meaningful international comparisons based upon official statistical data on youth criminality and clearly the necessity of making further research efforts, particularly at a regional level, should be encouraged.

21. The official data on youth crime indicate that in many countries over the last twenty-five years there has been an increase in recorded crime. The major part of recorded youth crime can be classified as "conventional" crime - crimes against property (such as theft and breaking into premises), criminal damages to property, violent street crimes and sex crimes, the vast majority of such crimes involving theft. It should be noted that such crimes usually become known immediately to the community, and receive public attention, particularly through the media. This is in contrast to a whole segment of "non-conventional" crimes by adults, such as white collar crime, fraud, tax evasion, and health and safety laws applicable to factories and offices, about which neither the victim nor the community are usually aware until after the discovery of the perpetrators. Thus it is clearly difficult to ascertain the magnitude of youth crime in relation to that of other age groups.

22. A substantial body of research indicates that the phenomenon of the breakdown of the family resulting from divorce or from severe family conflict is a primary factor in the occurrence of youth criminality. In this connection the "street child" phenomenon should be noted: in a number of large urban areas there are large populations of abandoned children without community ties or resources. They are frequently found to be involved in street theft and violence as well as some of them being the victims of sexual exploitation. They are the negative consequences of the disintegration of family life and of the inability of society to provide comprehensive care and assistance. Furthermore, social and political institutions have failed to provide an acceptable life-style for youth, family relationships are weakened, and often the educational system is inadequate to meet the needs of youth, especially in the social and economic deprivation of the urban environment. The result has been the formation of subcultures, or contra-cultures, "alternative" life-styles, "drop-out" societies, gangs and protest groups by young people instead of them being an integral part of society, so better enabling them to contribute to positive developments and social change. Such groups are particularly prone to youth criminality. It may be that long-term solutions to such problems will only be possible through fundamental economic, social and cultural change and not through the application of legal sanctions.

B. Youth Drug Abuse and Criminality

23. The seriousness of youth involvement in drug offences which are occurring in many countries needs to be emphasised. The extent to which there was an increase in the use of hard drugs by the young varies from one country to another, but generally speaking there appears to be an upward trend. There are two related aspects to the drug problem:

- (1) the suppliers; and
- (2) youthful users.

Supplying drugs is an economic crime involving organised networks. The prevention and control of such activities requires considerable efforts on the part of law enforcement agencies. Young people are involved in the supply of drugs at the street level, and are, in fact, the primary users of drugs. The imposition of harsh sentences on young offenders has not achieved successful results.

24. Drug taking by the young could be a symptom of a larger problem relating to the situation of youth in modern, urban society, which would indicate that the problem can only effectively be dealt with through bringing about structural changes relating to the economic and social situation of the young in contemporary society. The need for better education of the young with respect to the use

of drugs, their effects and their potential dangers is emphasised. It needs to be recognised that the use of different kinds of drugs for recreational purposes varies from one culture to another: alcohol and tobacco is accepted in some cultures, while cannabis is accepted in others. No drug is harmless if used in large quantities. It is suggested that the issues relating to youthful involvement in drug-taking should be studied in a wider context.

25. Examples can be given of the ways in which property crimes, e.g., theft, burglary, robbery, are committed by young offenders in order to provide the funds to purchase drugs and enter the network of suppliers. It is also pointed out that alcohol (as an accepted drug in many societies) was causing considerable concern with respect to its excessive use among young people. Alcoholism among those under 20 years of age is a growing problem in many countries. Also, heavy drinking by the young is often associated directly or indirectly with various forms of crime and especially those of violence.

C. Youth Violence in the Urban Environment

26. Generally there appears to be a growing concern about youth violence. Robbery is a particularly disturbing phenomenon. This is especially the case in the economically and socially deprived sectors of large urban areas. Examples of the prevalence of this crime, especially street robbery, can be given from both developed and developing countries. In many countries the bottom of the socio-economic pyramid is often very wide and it is here that so much of the violence occurs. In this connection, it should be noted that "street children" often resort to violence in small groups.

27. Although repressive measures might be applied in the immediate situation, they provided no long-term solution. Constructive solutions involve changes in the social and economic structures and the need to have planned growth with respect to urban development. One cannot stop city growth so it is necessary for it to be planned so as to provide proper educational, social, cultural, and recreational resources and facilities. An integrated approach to the planning of the urban environment is recommended.

28. Other forms of inter-personal violence also occur predominantly among the same urban population and similar explanations and solutions are suggested. Violent youth are often the 'drop outs' from school, family and work. Their primary socialisation from the family is frequently inadequate and their basic education is poor. Remedial action of a social and educational nature must form part of a constructive approach to dealing with this problem. Vio-

lent youth today, in some countries, is less often in organised groups with clear leadership. There is a growth in violence by causal or informal "gangs" of youth with a temporary leader only. Such violence is often without specific motivation but seems to be committed to make a sensational impact on the local community or to the very young and that committed by older youths is a quite distinct phenomenon and requires separate in-depth study. Student protest can lead to violence as a result of police tactics of an overtly repressive nature, rather than as a planned part of the protest. This could apply to other kinds of youth violence which have important implications with respect to police.

29. In modern urban society, youth often feel alienated from their parents and other adults in the community and receive no clear guidance for their future. They are in search of an identity, and violence then becomes part of an ideology of protest. It is clear that there is no simple cause or solution to the problems of youth violence. Youth criminal violence manifests itself in many different social and political contexts and should not, therefore, be treated as if it were a homogeneous phenomenon. There is evidence to suggest that in some industrial societies youth may be under-represented in terms of the incidence of registered crimes of violence.

30. It is suggested that in giving further consideration to issues relating to youth violence some attention should be given to the following aspects:

- (1) youth robberies against ordinary citizens, so-called "muggings";
- (2) youth violence associated with heavy drinking or drunkenness;
- (3) youth and violent sex crimes;
- (4) youth violence involving minority groups;
- (5) youth violence associated with drug abuse and drug trafficking;
- (6) apparently unmotivated destructive violence to persons and property by youths in public places; and
- (7) political and other forms of public protest involving violence by young people.

It should be noted that frequently youth are the victims of violence and not only the perpetrators.

D. Sex Crime and Youth

31. As with criminal violence, a very substantial proportion of sex crime is committed by youths on other young persons. This applies both to consensual sex crime and to violent sex crime. It has also to be noted that child

victims of sexual offences frequently come from the deprived urban areas and in some cultures they are predominantly street children who are particularly exposed to sexual exploitation in its most serious and deviant manifestations. The "dark figures" of these types of sexual crime would appear to be enormous and there is a great need for more information on such manifestations of criminal behaviour. More concentration on cross-cultural and comparative socio-legal research is required in relation to these forms of sexual crime.

E. Young Females involved in Crime

32. There appears to be a general trend for a larger proportion of females to be involved in crime. Along side greater economic and social equality for females seems to be an increased proportion of young females taking over similar criminal activities to those of young males, particularly in the larger urban areas. Although young females are still predominantly involved in property offences, particularly in theft from shops and stores, there is an increasing number and proportion involved in violence, including gang violence and robbery. As regards sex crime, young females constitute the vast majority of victims; whether the incident be violent or consensual.

F. The Impact of Mass Media on Youth Criminality

33. A growing number of programmes on television appear to portray the crude and more sordid side of human nature and of social life, especially with respect to sex, violence and greed or commercial gain. There is need for some form of control in order to protect the young from disturbing influences. Television programmes, particularly as regards entertainment, are produced mainly in the industrialised countries, thus having a disturbing influence on their young people. In this respect television could be seen as a new form of colonialism or imperialism, imposing the attitudes and standards of behaviour of industrialised countries - whether capitalist or socialist - on the Third World countries. There is need to protect the cultural health and traditions of the smaller countries from alien values and beliefs. Complex issues of accountability and control had been the subject of much controversial discussion, especially at UNESCO, but little progress has been made in reaching agreement at the international level.

34. The direct evidence as to the extent to which television has an influence on violent conduct or other forms of criminality has been the subject of research but no firm conclusions can be drawn from such research as regards negative influences. Some have suggested that this was the shortcoming of the research methodology and that one could

see the adverse effects of such programmes in the everyday life of the young. Research of an experimental nature might produce harder evidence of direct causal connection between the media and forms of youth criminality, and more recent research has indicated the necessity of studying the influence of the media as a two-way process. There is what is produced on the one hand, and what is selected by the audience on the other; but there is also the intervening variable of the interpretation of what is seen, based upon the perceptions of those exposed to the media. In a general way the media influence the attitudes and behaviour of the young in family life, in their attitudes towards work, and by raising their expectations, especially with respect to material goods and living standards. The precise nature of the long-term effects of the media are difficult to ascertain; but it can be noted that a false fear of the extent of violence or other forms of criminality can result from the media, and that even the views of policy-makers and practitioners are probably partly the result of indirect knowledge of youth criminality and social behaviour obtained from the media.

G. Cross-cultural Influences on Juvenile Delinquency

35. The various cross-cultural influences on youth are largely of a general character and vary according to stages of economic growth in different countries and their influence on juvenile delinquency is largely indirect. There are cross-cultural influences between industrialised countries and between developing countries, but the issue is not only related to the influence of industrial countries on developing countries. There are other aspects and, in particular, the significance of cross-cultural influence on indigenous people in developed countries should be closely examined.

III Justice for Juveniles

36. It has to be emphasised that the juvenile justice system cannot be comprehensively considered in isolation from issues relating to criminal justice systems in general and from other formal and informal systems of social control, although a number of important issues can be singled out for special comment.

A. Youth Crime Prevention and Control Programmes

37. In a number of countries there are specific programmes which have been developed with the immediate aim of prevention and control of youthful offending. However, very frequently the approach is piecemeal and compartmentalised between the various ministries responsible for different

services; programmes are developed by the police and the prosecuting services, by the social services, by the educational authorities, by the medical and health services, by the juvenile justice organisations and by those responsible for the penal system. It is suggested that there is need for a more integrated approach to the prevention of crime among the young, so as to maximise the use of resources available. Also, those involved in these tasks ought to have training in skills relating to management. It has, however, to be recognised that the extent to which specific programmes can be developed varies according to economic development in different countries; often there are gaps in the basic facilities and services available, and no resources to provide for them. In some countries, religious organisations play an important part in the positive approach and they are integrated with the private approach through the family, school and the State for the prevention and control of crime among the young. The family and schools must be considered in relation to the local community in any co-ordinated approach to positive prevention programmes. Also, considerable attention must be given to the resources available for leisure activities for the young at the local level.

38. Consideration should be given to the development of comprehensive policies and programmes for dealing with the young as has happened in a number of countries. The emphasis in some is to have one authoritative organ to cover all of the services dealing with youth and to co-ordinate activities at the local level, so as to deal with the biological, economic and cultural dimensions of the problems of youth. In other systems central government co-ordinates the activities both centrally and locally. Comprehensive programmes deal with positive prevention and co-ordinate these with the formal system of juvenile justice. The comprehensive approach deals with crime and the individual delinquent in a total context, where attempts are made to deal with the fundamental issues relating to delinquency rather than merely reacting to its individual manifestations. Basic to such an approach is the application of educational measures for the socialisation or re-socialisation of the young.

39. It is necessary to note that, in all situations, the introduction of formal or institutional measures of prevention and control should have due regard to the maintenance and development of informal processes of social control at the primary level. Also, prevention programmes are necessarily related to the kind of juvenile justice system that exists at the judicial or tribunal level.

B. Social Justice for the Young

40. Attention should be given to the importance of comprehensive measures to prevent child abuse, maltreatment and exploitation inside and outside the home as well as in institutions. Courts intervene only after some serious event has taken place and it is important to develop preventive strategies at an earlier stage wherever possible. The courts in some instances are able to use volunteer assistance to augment professional workers and this development should be encouraged, not only because it helps with the resource question, but also because it encourages the participatory process of members of the community at the local level.

41. Young girls and boys are exploited for prostitution and immoral purposes. Child labour, while necessary for family survival in some social contexts, could also lead to exploitation or ill treatment. Adequate safeguards are necessary, including the appropriate procedure to ensure that legal requirements are enforced. Parents who force their children to beg constitute another social problem in this respect.

42. Abandonment of children in urban areas, resulting from rapid industrialisation and consequential socio-economic inequalities, which marginalise large sectors of the youth population, is a major problem in some countries. The abandonment of children has moral consequences with respect to the socialisation process which normally takes place initially through the family; and material consequences as regards their behaviour and victimisation. Such consequences are related to the only possibility of survival in a socially and economically deprived environment. While in the short run legal remedies might have some impact in individual cases, any positive long-term solution would involve a transformation of the economic and social structures which provide resources and services for economic survival.

43. In some countries, special centres for juvenile care have been established in the larger urban areas, where it is found that both material resources and psychological care are important aspects of the problem. Abandoned, exploited, neglected or abused children have a very high risk of becoming delinquent: more so than those from ordinary home backgrounds. Some centres for juvenile care emphasise the need for treating the family as a whole and not just the problem of the child. Often the parents as well as the child may be in need of psychological or psychiatric help and the mental health problem requires special consideration. Family or juvenile courts are usually concerned with avoiding the use of institutional measures wherever possible, and instead develop the use of foster care and foster-parent homes as a more constructive alter-

native. Most would agree that such developments are to be encouraged. In that connection, the establishment and promotion of "permanency for children" who have been separated from their parents for any reason is considered necessary. Projects in this sphere need to be properly monitored and evaluated and guidance provided for the handling of individual cases.

44. The concepts of "exploitation", "neglect" and "maltreatment" are relative to the cultural and socio-legal situations in different countries. Nevertheless, it is still important to formulate basic international standards for the care and protection of the young. However, such issues should not be viewed exclusively in terms of the criminal justice process. There are considerable dangers of repressive action against neglected, abandoned or maltreated children if they are dealt with primarily within the criminal justice process, even when this is modified into a juvenile justice system.

C. Juvenile Justice Systems

45. It can be generally agreed that there is a fairly clear understanding as regards three perspectives or models of juvenile justice. These have been the basis of contemporary criminological approaches to the various ways in which juvenile offenders might be dealt with, namely:

- (a) the due process model;
- (b) the social welfare model; and
- (c) the participatory process model.

The first model is based upon the concept of legality, the rule of law and due process, with professional lawyers making the main decisions. The second one is based upon notions of economic and social justice through State planning and welfare, with administrators and professionals from the "helping services" making the main decisions. The resolution of the issues with respect to these competing models is claimed to be essential for the proper development of the control and protection of the young. A different view is that, although this debate may be regarded as important in terms of the immediate situation in industrial countries, these issues with respect to legality and welfare are derived from two models which arose in specific historical contexts and are not necessarily centrally relevant today. It is further being suggested that the resolution of this issue could more meaningfully take place at the macro-level through a model which involve the greater active participation of citizens at the local level in the resolving or containing of conflict, with a minimum of intervention of the centralised power-structure of the modern state. This leads to the development of the third perspective, namely, a participatory model. This model

existed and still exists in pre-industrialised countries and is still applied to youth delinquency in the developing countries.

46. There are, in fact, few, if any, countries in which juvenile justice systems could be entirely described in terms of one of these models. Most juvenile justice systems have elements of each model to a varying degree. The question to be raised is the possible ways in which a balance between the three perspectives could be achieved. This might differ according to the cultural context and the stage of development of a country. However, it should be stressed that the participatory processes are not confined to developing countries, but are, in fact, being fostered or re-created in industrial countries, often through the processes of diversion from one of the other systems. In the developing world these kinds of participatory processes, often local and informal, should be protected, especially where rapid industrialisation is taking place. It should also be noted that the kind of juvenile justice system that exists is normally related to the historical and cultural context of the country, especially in relation to its criminal justice system for adults, as well as other social institutions. In some countries, evidence suggests that "welfare justice" has not been successful and that considerations are being given to a return to the "due process" model for dealing with the more serious delinquents with the aim of using punishment as the main form of social control. However, the kind of justice model to apply is likely to be related to the age group of the offender and a particular model is hardly likely to be applicable to all young persons under 24 years of age.

47. It should be noted that most of the aspects relating to the three models, such as legal protection and guarantees for the young in conflict with the law, governing policies for adjudication, handling and treatment of young offenders, the role of criminal and juvenile justice personnel in the handling and treatment of the young, diversion from the formal system, and the use of custodial sanctions, are all covered by the proposed Standard Minimum Rules for the Administration of Juvenile Justice.

D. The Scope and Purpose of the Draft Standard Minimum Rules for the Administration of Juvenile Justice

48. The Sixth Congress set out four basic principles which they recommended should be reflected in the Rules (see para. 8 above). The first three principles are concerned with the formulation of guidelines and procedures for the appropriate handling of the young in conflict with the law, and aim at diminishing any adverse impact of the criminal justice system upon them and at fostering the process of their integration in national development. The fourth

principle is specifically aimed at ensuring for the young a proper development and integration into the mainstream of social, economic and cultural life of their societies. The Rules, which are set out at the end of this paper, have been drawn up to elaborate in specific detail upon those four basic principles.

49. It is hoped that when adopted these Rules will serve as a model for Member States, and that affirming the Standard Minimum Rules for the administration of juvenile justice will have an important role in protecting the fundamental rights of juveniles in conflict with the law or in need of care.

IV CONCLUSIONS AND RECOMMENDATIONS

50. At the end of the Interregional Preparatory Meeting for Topic IV (Youth, Crime and Justice), for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Beijing, China, May 1984 (A/CONF 121/IRM/1, July 1984) certain conclusions and recommendations were approved based upon the deliberations at that meeting, the work of the five Regional Meetings, and the reports of experts. These are set out below:

- (i) Every effort should be made to ensure that youth have the rights and facilities for full participation in national development, in particular, with respect to work, education, political participation, legal facilities and cultural activities.
- (ii) The family should be supported and strengthened in its role in the socialisation of the young and the primary prevention of juvenile justice.
- (iii) Educational systems should be reconsidered with respect to the extent to which their organisation and programmes are relevant to the emotional and social needs of youth and for the needs of the young in relation to work and leisure activities.
- (iv) Special attention should be given to the needs of youth and the prevention of delinquency in the urban setting, and urban planning should ensure that youth have adequate social and recreational activities, as well as proper resources for integrated community life. In adequate urban planning contribute to atrophied relations and could be assessed as being related, for example, to the occurrence of sex crime.
- (v) While precise data on youth criminality and delinquency are difficult to collect and in some countries there appears to be no marked recorded increase, youth criminality, nevertheless, constitutes a ser-

ious problem particularly in urban areas, requiring special attention by policy-makers and research workers at the national, regional and international levels. Also, the nature of youth criminality in rural areas, especially in developing countries should not be overlooked.

- (vi) The measurement of youth criminality for comparative purposes is thus far insufficiently developed to be used as a basis for policy-makers. New methodological approaches are required, in addition to those relating to "hidden" delinquency studies, in order to provide the information for effective planning in crime prevention. Analysis of the nature and extent of youth crime and delinquency at the international level utilizing such approaches, although a difficult endeavour, is considered necessary.
- (vii) Illegal drug taking among the young is an important problem in many countries, especially in the larger, urban cities. Juvenile justice systems do not as yet appear to have contributed positively to solving the issues of concern. Greater emphasis should be given to educating the young as regards the danger of both illegal and legal drugs. Alcohol among the young has become a serious problem. These issues should be tackled in a much wider context, including both legal and illegal drugs and the growing recreational or non-medical use of drugs.
- (ix) There is evidence of an increase in crime relating to illegal drug taking, but this might be due to the issue of illegality rather than to the substance of the drug. More research is required with respect to this issue, at the international level.
- (x) Further consideration should be given to specific manifestations of youth violence, especially in the urban environment, such as muggings, violent sex crime, street gang violence, violence involving minority groups, and violence associated with heavy drinking and drug abuse and trafficking.
- (xi) The influence of the mass media on the young is all pervasive, both in positive and negative ways. The precise role of the mass media in the causation of crime remains unclear and further research is required. Some measure of regulation or control might be considered with respect to programmes that are regarded undesirable per se and to encourage such programmes as have positive value. It is also recommended that studies and research of an experimental nature on the interrelation between media and youth crime should be carried out.

- (xii) The influence of the mass media on policy-makers and practitioners dealing with youth criminality needs further study.
- (xiii) Criminal violence involving youth is not a homogeneous phenomenon. Policy-makers need to distinguish between types of youth violence, whether committed by individuals or in "gangs", especially in the urban environment. Attention and research need to be focused on the social, economic, educational, political and cultural factors associated with different kinds of violent events if constructive solutions are to be found, rather than applying repressive measures to the events as they occur.
- (xiv) The negative aspects of external cultural influences on the young in developing countries and in relation to indigenous people in developed countries requires special attention as they contribute to stress and conflict among the young and are, therefore, indirectly related to youth crime.
- (xv) There should be developed a greater awareness of the need for integrating various measures for the prevention of youth criminality and the co-ordination of those involved in prevention programmes. The "comprehensive approach" is regarded as a most effective way in which this would be brought about. More effective linkage should be established between the programmes for the prevention and treatment of youth criminality with other public structures, especially those relating to health, education and social welfare.
- (xvi) The need for special provisions to provide care, protection and support to children, especially those who are maltreated, exploited, neglected or victimised should be emphasised. Care and support has to be both physical and psychological, direct or through the family. More research in this is required.
- (xvii) In the juvenile justice processes, due consideration should be given to the development of participatory processes for solving youth conflicts wherever possible.
- (xviii) Educative rather than punitive measures should normally receive priority when considering the prevention and control of youth criminality. Special attention should be given to psychological problems and to the mental health of abandoned, exploited, neglected or abused children. Effort should be made to identify the relationship of problems to delinquent behaviour and also to the requisite care-services for such children who come to the attention of

criminal justice systems.

- (xix) The draft United Nations Standard Minimum Rules for the Administration of Juvenile Justice are regarded as providing a proper balance between the concern for the young and the interest of society and provide basic, minimum legal guarantees for the fair and humane treatment and handling of the young in conflict with the law. The Rules are considered as providing the degree of flexibility to be applicable to all Member States. Their adoption by the United Nations would be an important step forward in the international concern for promoting juvenile justice and improving the "quality of life".
- (xx) The Rules should be referred to as the Beijing Standard Minimum Rules for the Administration of Juvenile Justice.

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Formulation and application of United Nations standards and norms in criminal justice

Before I begin my lecture, let me take advantage of the opportunity and express my thanks for the honor and distinction which have been awarded me by the Helsinki Institute for Crime Prevention and Control, which entrusted me with the delivery of a short lecture on the Formulation and Application of United Nations Standards and Norms in Criminal Justice.

The task entrusted to me by HEUNI is to discuss Topic V of the VII United Nations Congress. It would be obviously impossible to deal with this subject, so wide and important, at length within the short time allotted to me - so I will try to present in brief some of the most important features, and hope that the discussion will broaden the analysis.

Topic V deals with United Nations standards and norms - so it would be advisable, I believe, to give some thought to what this notion in fact means. I suggest to understand the international standards and norms as general guidelines gained from different historical and present experiences of various countries given the shape of United Nations recommendations to better serve the goals of this most universal world organization aiming at making our planet a more safe, more pleasant and more humane place to live in.

There is a need, I think, to consider what was the reason that the necessity and the possibility of creating international norms and standards influencing the shape of national solutions arose just in our time; why the period of their intensive growth coincided with the period after the II World War. I believe there are several reasons. First, there is the tragic experiences of this war in which fascism trampled down the most fundamental human rights. The paramount importance of protecting humans against abuse became clearly visible. Second, the birth of the United Nations which made the protection of human rights one of its most important tasks. Hence the most salient documents in this field - the Universal Declaration of Human Rights 1948, the Standard Minimum Rules of 1955, the International Covenants of Human Rights of 1966. Third, the process of gaining independence by nations hitherto under colonial domination, which necessitated the creation of new legislations that had to utilize the experiences of other countries. They had to be generalized so as to make them accessible to those new states, to help them to overcome

the understandable difficulties in organising the life of their societies. And fourth - last but not least - the peaceful - at least in Europe - cooperation and aspirations of people to solve all conflicts by peaceful means.

The way to this possibility of preparing international norms and standards had been a long one; it was marked by numerous efforts in many different countries, by works of many outstanding scholars and practitioners - as for example Cesare Beccaria, John Howard, Julian Ursyn Niemcewicz - to quote a Polish name and many, many others. The process is not finished yet - we are only at the beginning of the strenuous way.

By its nature, topic V deals with problems which are considered within the four remaining items of the Congress. They may be called the substantive topics. So topic V may be called a formal one, in some way, and an all-encompassing one. But, it is specifically topic V which has a great significance for the success of all the others and the whole Congress. Let me say even more - it has a great significance for the whole United Nations' activity in the field of crime prevention and control. Topic V deals, as a matter of fact, with the problem of how to implement the results elaborated within the remaining topics. The realisation, that is to say the dissemination and implementation of the Congress' achievements, depends on the success in solving the problems covered by topic V.

I propose the following order of my lecture:

- in the first part I will present briefly those United Nations standards and norms which have been already adopted,
- in the second part I will discuss those standards and norms which are under preparation now, quite particularly those which are expected to be finalized at the VII Congress,
- in the third part I will try to present the problems arising during preparations of norms and standards, and
- in the fourth part I will try to present the influence of the United Nations standards and norms on the criminal justice system in my country, in Poland.

A. Standards and Norms Already Adopted

Here are the most important of them, which have already entered the international practice. Some of them, like the Universal Declaration of Human Rights, already quoted, became the basis of the development of all the humanitarian international activities, directly including their so important item - criminal justice.

Chronologically there follow the Standard Minimum Rules for the Treatment of Prisoners elaborated at the First United

Nations Congress on the Prevention of Crime and the Treatment of Offenders - also a fundamental achievement of the international cooperation.

The next important step are the International Covenants of Human Rights, two international conventions adopted by the General Assembly on 16 December 1966. It is impossible to overrate the significance of this document.

The Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly on 9 December 1975 is the next step in that field.

Four years later the General Assembly by its resolution of 17 December 1979 adopted the Code of Conduct for Law Enforcement Officials. Its implementation is important for the due realization of rights vested in persons who come into contact with the criminal justice in its widest meaning.

The list of functioning standards is closed by the General Assembly resolution of 18 December 1982, adopting the Principles of Medical Ethics Relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, called in short the Code of Medical Ethics.

Such is the presentation in brief of the set of the most essential norms, already adopted, in criminal justice.

To make the picture more complete, it should be mentioned that there of course exists a number of other international norms which seem to come close to the problems of United Nations Congresses on the Prevention of Crime and the Treatment of Offenders. The agendas of the Congresses cover, as a matter of fact, an ever wider range of questions.

When we discuss the control and, above all, the prevention of crime, there is no way of avoiding mention of such an important question as activity in the field of promotion of legal consciousness and culture in the society being an important basis for any activity in crime prevention.

The new approach to the problem of crime control was expressed in the Caracas Declaration adopted by the previous Congress. The importance of that Declaration consists in stressing the necessity of a complex approach to the crime problems. It means that the activities in this field shall be based not only on the legal criteria but also on considering the economic, social and cultural development. The Caracas Declaration has its continuation and development in the draft resolution on Guiding Principles for Crime Pre-

vention and Criminal Justice in the Context of Development and a New International Economic Order. That resolution already adopted by the Economic and Social Council will be submitted to the VII Congress for adoption. If adopted, it will be the guideline for the future.

B. New Standards and Norms under Preparation

Allow me to say that the order of discussing those draft norms is not an evaluation of hierarchy of the degree of their importance.

I will begin with the Model Agreement on the Transfer of Foreign Prisoners. I may quote the relevant fragment of resolution No.13 of the VI Congress held in Caracas: "Bearing in mind the fact that work on the development of standards for the transfer of offenders was identified as a priority by the Committee on Crime Prevention and Control at its fourth session /.../ Congress requests the Committee to give priority to the development of a model agreement for the transfer of offenders with a view to presenting it to the General Assembly for consideration as soon as possible."

During the time which passed since the VI Congress and the adoption of the resolution quoted, most intensive work in this area has been under way. I may refer here to the meeting of the Alliance of non-governmental organizations on crime prevention and criminal justice held in Vienna in the spring of 1983 and the meeting of experts in Siracusa in January 1984. These preparations made it possible for the Committee on Crime Prevention and Control to recommend the draft of a model agreement to the Economic and Social Council with the request that it be submitted to the VII Congress. The draft resolution adopted by the Economic and Social Council in May 1984 contains beside the "Model Agreement" also the "Recommendations on the Treatment of Foreign Prisoners".

The next United Nations standards under preparation are the guidelines on the independence of the judiciary.

The problem of the independence of the judiciary is, according to resolution No.16 of the VI Congress, also a priority item like the transfer of foreign prisoners of which I spoke earlier. The work was undertaken on a wide scale, and it was conducted by United Nations bodies and by numerous other organizations also. The cooperation of different international associations had been invited. The scope of the work had been indicated in the General-Secretary's report submitted to the VIII session of the Committee on Crime Prevention and Control (Doc. E/AC.57/1984/CRP.1 of 3 January 1984). The Committee decided to recommend to the Economic and Social Council the

adoption of the guidelines presented in the report mentioned. The final works have been undertaken during the interregional preparatory meeting on topic V held in Varenna, Italy in September 1984. The experts who met in Varenna accepted the revised text of the guidelines with a recommendation for the VII Congress to consider the question of the independence of the judiciary as a priority.

The next United Nations standard is the Procedure for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners.

As we know, the history of that norm lies as far back as the V Congress. By its recommendation, strengthened afterwards by the Economic and Social Council's resolution of 12 May 1976/1993/LX/, the Congress put an obligation on the Committee on Crime Prevention and Control to analyze the degree of application of the Standard Minimum Rules and to prepare a set of principles for their more effective implementation. The VI Congress recommended the finalization of the work. At its VIII session the Committee prepared the final draft, accepted by the Economic and Social Council.

The next standard to be submitted to the VII Congress are the Safeguards guaranteeing protection of the rights of those facing the death penalty.

The premises to begin work on that problem had been the General Assembly's resolutions and the VI Congress' resolution No.5. On the basis of the report prepared by the Secretariat the Committee on Crime Prevention and Control prepared a draft resolution. The draft has been accepted by Economic and Social Council but a further study has been recommended. At its VIII session the Committee has prepared the next draft resolution containing a set of guarantees for protection of persons facing the death penalty. The resolution accepted by Economic and Social Council in May 1984 is expected to be submitted to the VII Congress.

During the interregional preparatory meeting in Varenna, the representative of the Center for Human Rights informed the experts of the progress achieved on the draft convention against torture and other cruel, inhuman or degrading treatment or punishment and on the draft principles for the protection of all persons under any form of detention or imprisonment. Work on both of these United Nations standards is well advanced. A consensus on many provisions of the draft has been achieved.

Work is also under way on the norms concerning the alternatives to imprisonment, the rehabilitation of offenders, rights of prisoners and the independence of lawyers.

I do not mention some other standards, e.g. Standard Minimum Rules for the Administration of Juvenile Justice, be-

cause some of the United Nations standards and norms will be considered under other topics of the VII Congress.

C. The Problems Connected with the Implementation and Preparation of the Already Existing United Nations Standards and Norms

Quite a lot of problems are common for all standards but some are individual, so let me discuss them one after another.

Let me begin with the Standard Minimum Rules of 1955. Of course, the fundamental question here is if, or to what extent, they are applied all over the world. Speaking "all over the world" we have to realize the great variety covered by that term. As a matter of fact, it is one of the characteristic features of United Nations activity in general. The United Nations standards, being prepared for all states, have to be so flexible as to be adaptable to sometimes quite different social and political conditions. Such flexibility, though indispensable, poses a second problem, that of the possibility of different interpretations of norms by various countries. Both problems are most visible in the case of the Standard Minimum Rules. We are not to forget that in 1955 when the Standard Minimum Rules were adopted the United Nations was quite a different organization than it has now become. Since 1955, many states appeared and became United Nations members, especially those with culture and traditions different from European countries. Thus a certain maladjustment of Standard Minimum Rules to the existing circumstances in those newly founded states arose, which lead to difficulties in their implementation.

In some countries, where the local inborn tradition of reaction to crime is based on the principle of compensation the very idea of imprisonment as a punishment is not always comprehensible. In some other countries difficulties arise because of a large independence of local authorities overseeing the prisons, from the central authority. Those barriers can be overcome by the agreements between central and local authorities and joint programs concerning e.g. the construction of prisons and training of staff.

Many countries suffer from overcrowding in prisons. It is an urgent problem, for as the research conducted by the regional United Nations Institute ILANUD pointed out, sometimes the majority of the prison population consists of persons deprived of liberty without sentence; e.g. waiting for a trial.

The lack of necessary financial means, lack of trained staff and lack of comprehension among society were very frequently mentioned as important obstacles to the United

Nations research on the implementation of the Standard Minimum Rules. Such research was conducted several times before the IV, V, and VI United Nations Congresses. More extensive assistance of the United Nations has been requested, among others in the training of the prison staff.

But not only the developing countries have difficulties with the full implementation of Standard Minimum Rules. The postulates of supplementing and modifying them are made to consider the development of alternatives to imprisonment. As a remedy, the preparation of regional commentaries has been proposed, as well as the Procedures for The Effective Implementation of the Standard Minimum Rules expected to be adopted by the VII Congress.

I am not going to dwell at length on the problems connected with the implementation of the Code of Conduct for Law Enforcement Officials. Till now, only a small number of countries sent information about the implementation of the Code. The Committee on Crime Prevention and Control suggested through the Economic and Social Council that the Secretary-General ask the member states to send relevant information. On the basis of that information a report to the VII Congress will be prepared.

Now, I will pass to the problems connected with the standards still under preparation.

During the recent decades the great increase of migration for tourist and economic purposes may be observed. That migration results also, unfortunately, in cases of breaking the law. The most common, I think, are traffic accidents and offences against property. It has posed a problem, till now unknown on such a scale. A considerable number of foreigners stay in the prisons of various countries. Such international norms like the Universal Declaration of Human Rights or the International Covenants of Human Rights forbid any discrimination. In that case it means that the foreign prisoners have to be treated like the prisoners who are citizens of the country. But the linguistic barrier and the cultural and religious differences very often result in the practical discrimination of foreigners. There arises different specific problems, e.g. how to assure the medical assistance when there is no understanding between the medical personnel and the patient; how to exact from a foreigner the observance of prison discipline; how he can exercise his rights as a prisoner being unable to speak the language of the country.

It should be added still that judges are more inclined to sentence the foreigner to the prison than their own citizens. This is because of lack of guarantees, in the foreigners' cases, to execute a non-custodial sentence.

One of the ways to avoid these problems is the transfer of foreign prisoners to their countries of origin. A number of bilateral and multilateral agreements in that field have already been concluded. To facilitate those trends the adoption of relevant Model Agreement at the VII Congress has been envisaged.

But we must be aware of the fact that even a wide practice in that field does not liquidate the problem as a whole. That is why it seems advisable to adopt the proposed Recommendations on the Treatment of Foreign Prisoners.

A number of problems concern the proposed standard on the independence of the judiciary. One of the remedies, which can protect the independence of the judiciary is to promote the awareness of the public that only an independent judiciary is able to guarantee the citizens' rights. Citizens should have an awareness of the role of judiciary, their competence and the ways to claim their rights.

The problem of independence of individual judges is, among others, a problem of appropriate recruitment of candidates to the post of a judge. The criteria have to be objective, founded on the knowledge useful for the practice. Next, the stability of tenure, irremovableness from office except in cases provided by law, and a salary adequate to the importance of function are among the fundamental guarantees of the independence of an individual judge. The proposed Guidelines on the Independence of the Judiciary have to facilitate the dissemination of those principles.

It remains to discuss the death penalty and the arbitrary and summary executions. They are connected with Safeguards guaranteeing Protection of the Rights of Those Facing the Death Penalty, proposed to be adopted at the VII Congress.

In recent years a change may be observed in the United Nations approach to the issue: from the position of an observer to an active involvement towards limitation and eventual abolition of the capital punishment. Nonetheless, the VI Congress demonstrated a great difference of opinion in that field. The research of the Special-Rapporteur Mr. S. Amos Wako indicated the evident changes in this respect in various parts of the world. The death penalty is being restored in a number of abolitionist countries and the list of offences punishable by this penalty is being extended. Research indicated also the discriminatory character of the application of this punishment. This means that the death penalty is applied more often to some groups of people than to others.

D. The Reflection Which United Nations Standards And Norms Have In Poland

I will begin with implementation of Standard Minimum Rules. Formulated at the First United Nations Congress, the Standard Minimum Rules have been translated into Polish and published in an expert's periodical already in 1958. It was one of the five first translations of the Rules into the national languages. The Rules were disseminated widely - their contents were included in schools and training programmes for the staff of the penitentiary institutions. They were also included in the university textbooks on penitentiary law and policy. The subject has also been dealt with widely in many scientific studies and articles in various newspapers and periodicals - not only professional ones - but also those read by general public. But, most of all, they have been considered in the modifications of the Polish legislation on the execution of the penalty of deprivation of liberty. It has to be mentioned that as early as before the II World War, the Polish theory, law and penitentiary practice were most actively engaged in the preparation of the later Standard Minimum Rules. Since 1925 Poland has actively participated in the international criminological and penitentiary movement, taking part in the penitentiary and penal congresses in London 1925, Prague 1930, and Berlin 1935.

In Poland, the execution of the penalty of deprivation of liberty is founded on the provisions of the Penal Executive Code in force since January 1970, and the Regulations of the execution of that penalty. The Regulations on provisional detention was enacted separately, as it has been assumed that provisional detention was so different from the penalty of deprivation of liberty that it required different regulation.

The ideas comprised in the Standard Minimum Rules have been fully considered during the work on new regulations. The great significance of the Rules has been emphasized also by the penitentiary science in Poland.

Now, I would like to say a few words about the reflection in Poland of the Code of Conduct for Law Enforcement Officials.

The Law Enforcement Officials are chiefly the four following categories of public servants: the civic militia officers, security service officers, penitentiary staff and public prosecutors. All of them have their regulations in legal norms of highest rank - I mean in bills of Parliament containing principles of their official and private conduct.

In the Parliamentary Law on the Office of the Minister of Interior passed in 1983 the provisions have been included

concerning the use of direct coercion and fire arms by the militia and security service officers. This has happened for the first time in Polish practice in a law of such a high rank.

The Law on the penitentiary staff requires the officer to be a Polish citizen with a flawless past with appropriate educational background and adequate psychological, intellectual and physical abilities. The officer is expected to constantly improve his educational level and to see to it that the liberty punishment is correctly executed.

The Law on Public Prosecution states that to the office of the public prosecutor may be appointed a Polish citizen who can guarantee the proper accomplishment of prosecutor's duties, who holds adequate moral qualifications, has completed studies at a faculty of law, undergone training and passed an examination, and is at least 25 years of age.

All public servants and among them those mentioned above are bound by the general provisions contained in the Law on public servants.

Judges are not strictly the law enforcement officials in the above meaning, but they decide about the enforcement of law, so, let me say a few words about them too. According to law, to the office of a judge may be appointed a Polish citizen who guarantees proper accomplishment of duties, has a flawless character, has completed studies at a faculty of law, undergone training and passed an examination, has served one year as an associate judge and is at least 26 years of age.

Speaking of the Model Agreement on the Transfer of Foreign Prisoners I mentioned that there already exists such an agreement. Saying that, I meant, among others, the multi-lateral convention on the transfer of prisoners to serve their penalties in the countries of their citizenship, to which Poland is a party. This convention has been signed in Berlin on 19 May 1978. It was one of the first multi-lateral conventions on the transfer of prisoners. This convention, known under the name Convention of Berlin, is the result of consultative meetings of the Ministers of Justice of the Council of Mutual Economic Cooperation. The convention was meant for the socialist countries, but it is open for any country which would wish to accede, provided that all parties to the convention agree to it.

The Convention of Berlin regulates various problems connected with the transfer of prisoners. The proceedings are not very complicated. As a rule, the party in whose territory sentence had been pronounced may request the transfer. The same right is enjoyed by the country of the prisoner's citizenship, as well as the prisoner himself and his relatives. Those may address themselves to the authorities of

both countries. After transfer, the court of the receiving country pronounces a sentence based on the sentence of the court of the delivering country. Since that moment the offender is treated as if he were sentenced in his own country. The amnesty is an exception, because it concerns him no matter in which country it has been pronounced.

The Convention also regulates questions arising from the differences between legal systems of parties and a number of others.

Under the terms of the convention several score (30) of Polish citizens sentenced abroad have been transferred to Poland to serve their sentences.

Now, a few words about the problem of the independence of judiciary in Poland. Their independence has been laid down in the act of highest rank - that is in the Constitution. Regulations concerning the independence are included also in the Parliamentary Act on Supreme Court and the Act on the structure of common courts.

The Supreme Court as the highest court exercises the supervision over all other courts in the judicature. The administrative supervision over courts is exercised by the Minister of Justice. Judges in Poland are appointed without time-limit. Judges of the Supreme Court are an exception here. Their term is five years and they can be re-elected. All judges are appointed by the Council of State.

An important guarantee of the independence of judges is their immunity. Under this immunity the judges may not be detained or tried without consent of a special disciplinary commission for judges.

In the Judicial Law Research Institute where I work, and which is attached to the Ministry of Justice, research is conducted now on the independence of judges. We want to examine, among others, the individual feelings of judges on the independence granted to them.

Lastly, some words in brief on the problem of the death penalty in Poland.

In the Polish Penal Code in force since 1 January 1970, capital punishment is considered a measure of exceptional character provided for the most dangerous crimes. The Penal Code has fixed 9 types of offences punishable by death. These are crimes against the fundamental interests of the State, murder, armed robbery and refusal of a soldier to obey an order in a battle situation.

Capital punishment always has an alternative: a punishment of 25 years of deprivation of liberty. These 25 years of deprivation of liberty is also an exceptional penalty which

replaced the abrogated life sentence. We consider the life sentence as a non-humanitarian and a non-pedagogical measure, because it doesn't offer any perspectives of rehabilitation.

The rights of the person sentenced to death, and after the sentence became valid, are safeguarded by various measures. There is above all the principle that even if the sentenced person or his lawyer have not submitted a plea for clemency, the case has to be considered by the Council of State, ex officio, as to the advisability of commuting the death sentence into another punishment.

The exceptional nature of the death penalty is confirmed by the fact that it is applied but seldom - in 1983 that penalty was pronounced finally against 9 and in 1984 against 12 offenders.

Capital punishment has been maintained in Poland but among lawyers and not only among them the problem of abolishing it has been discussed. The actual state can be named as considering the abolition of this penalty in future while limiting its application in the meantime. The tendency to limit it finds its expression in the exceptional nature of this penalty I mentioned. In the legal system in force before the Penal Code of 1969 the possibility of using capital punishment had been considerably wider. Thus the Polish legal system follows the way proposed by the United Nations - to gradually limit the death penalty.

In the Polish legal system there is a wide possibility of alternatives to imprisonment. These are, before all, the penalty of the limitation of liberty and, to some extent, the penalty of deprivation of liberty pronounced with suspension of its execution.

Coming to the end of my lecture I would like to stress that the United Nations standards and norms fulfill an eminent role in the development of guarantees of human rights. They are of a great assistance in introducing the changes in legislation, particularly to those states which only now form their legal systems. The periodical information on the implementation of various United Nations standards and norms have it, that they are a factor to be considered by all states.

I want to stress particularly the fact that the formulation of United Nations standards and norms is based upon long preparatory work, numerous meetings of experts from various regions of the world with the support and cooperation of the specialized organizations. This work is of great significance for the quality of norms under preparation and make it possible to formulate them in a manner better accommodated to real needs and conditions of various states.

We attach a great importance to such international cooperation. In the Polish Ministry of Justice, and more precisely in the Judicial Law Research Institute which is attached to the Ministry, a group of 3 persons act as the United Nations national correspondents. That group maintains a rather active cooperation with the United Nations, namely with the Center for Social Development and Humanitarian Affairs in Vienna. Recently we have prepared, among others, the answers to the questionnaire on redress, assistance and restitution/compensation for victims of crime and the abuses of power, and two draft reports about the implementation of provisions of Convention on liquidation of all forms of discrimination of women and on racial discrimination. The Judicial Law Research Institute works on the preparation of reports on all five items of the agenda of the VII United Nations Congress for the Polish official delegation which will attend this important international meeting.

The participation of Polish representatives at the regional preparatory meeting in Sofia and interregional preparatory meetings in Ottawa and Varenna have also served the exchange of experiences.

Our relations with UNSDRI in Rome are not very intensive at the moment, unfortunately. But on the other hand, we have active cooperation with the Institute in Helsinki which I have the honor and pleasure to be the guest of. The representatives from Poland have taken part in all significant meetings convened by HEUNI. The researchers from Helsinki Institute have visited Poland. I am convinced that these relations which we very much appreciate, will continue to develop.

While thanking you all for your attention, I would like to express my deep wish, that both our present meeting in Helsinki and the entire preparatory work will contribute to the success of the VII United Nations Congress.

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