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PREVENTION OF DELINQUENCY, JUVENILE JUSTICE AND THE PROTECTION OF THE YOUNG: POLICY APPROACHES AND DIRECTIONS

Implementation of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice

Report of the Secretary-General

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INTRODUCTION

1. The prevention of juvenile delinquency and the administration of juvenile justice were accorded high priority by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and by the General Assembly at its fortieth session. On the recommendation of the Seventh Congress, the General Assembly adopted resolutions 40/33 and 40/35 on the subject, and resolutions 19, 20 and 21, adopted by the Seventh Congress, 1/ were endorsed by the General Assembly in its resolution 40/32.

2. One of the prime achievements of the Seventh Congress was the adoption of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), contained in the annex to General Assembly resolution 40/33. By this resolution, the General Assembly, inter alia, invited Member States to adapt, wherever necessary, their national legislation, policies and practices to the Rules and to bring them to the attention of the relevant authorities and the public in general. The Assembly also requested Member States and the Secretary-General to undertake research and to develop a data base on effective policies and practices in the administration of juvenile justice; to ensure the widest possible dissemination of the Rules, including the intensification of information activities in the field of juvenile justice; and to provide the necessary resources to ensure the successful implementation of the Rules, in particular in the areas of recruitment, training and exchange of personnel, research and evaluation, and the development of new alternatives to the institutionalization of young persons.

3. By the same resolution, the Eighth Congress was requested to review progress in the implementation of the Rules and of the recommendations contained in that resolution.

4. The Economic and Social Council, in resolution 1986/10, section II, entitled "Juvenile justice and the prevention of juvenile delinquency", requested the Secretary-General to assist Governments, at their request, in adapting legislation, policies and practices to the Rules. Member States were invited to inform the Secretary-General every five years of the progress achieved in the application of the Rules. In the same resolution, the Secretary-General was requested to report regularly on implementation of the Rules to the Committee on Crime Prevention and Control, beginning with its tenth session.

5. In 1987, in order to achieve world-wide application of the Rules and to identify the most effective ways and means of implementing those principles, the Secretary-General commenced a dialogue with Governments, government-appointed national correspondents, intergovernmental organizations, entities of the United Nations system and experts concerned with children's rights and juvenile justice. The text of General Assembly resolution 40/33 and of the Rules was circulated in the six official languages of the United Nations. This wide dissemination drew attention to their importance as a basis for the development of juvenile justice systems and policies, and as a specialized international instrument for the protection of young persons.

6. The Committee on Crime Prevention and Control, at its tenth session, held at Vienna from 22 to 31 August 1988, examined the first report of the Secretary-General on the implementation of the Rules, incorporating 34 replies (E/AC.57/1988/11).

7. By Economic and Social Council resolution 1989/66, the Secretary-General was requested, inter alia, to submit an updated report to the Eighth Congress, for its consideration, on the progress achieved in the implementation of the Rules. The present report has been prepared accordingly.

I. JUVENILE JUSTICE ADMINISTRATION: TOWARDS THE IMPLEMENTATION OF THE STANDARD MINIMUM RULES

8. As of 20 April 1990, communications had been received from a total of 51 Governments: Algeria, Argentina, Austria, Bahamas, Belgium, Brazil, Burundi, Byelorussian Soviet Socialist Republic, Canada, Chad, China, Colombia, Cuba, Cyprus, Czech and Slovak Federal Republic, Finland, France, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Hungary, India, Indonesia, Italy, Japan, Jordan, Kuwait, Madagascar, Malta, Morocco, Netherlands, Nigeria, Norway, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Venezuela and Yugoslavia.

9. United Nations entities, including the Centre for Human Rights, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the various United Nations institutes for the prevention of crime and the treatment of offenders also made important contributions.

10. Information was received from the following intergovernmental organizations: the Arab Security Studies and Training Centre (ASSTC), at Riyadh, the Commonwealth Secretariat, the Council of Europe, the League of Arab States and the Pan Arab Organization for Social Defence against Crime. The non-governmental organizations providing information included: Child Hope, the Child Welfare League of America, Defence for Children International, the International Association of Judges, the International Association of Juvenile and Family Court Magistrates, the International Catholic Child Bureau, the International Commission of Jurists, the International Council of Psychologists, National Associations Active in Criminal Justice and Rädda Barnen International/Swedish Save the Children.

11. Additional information on this subject can be found in the report of the Secretary-General on the implementation of the conclusions and recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/45/-).

12. Among the Governments of States that already had a formal juvenile justice system, some noted shortcomings that needed to be rectified. As far as they were able in the intervening five years, those Governments had taken steps to align their juvenile justice administration more closely with the Rules.

13. Governments of States where there was no juvenile justice system expressed a strong commitment to the spirit and aims of the Rules, as well as a desire to bring about compliance with them in the near future.

14. A number of Governments, namely the Bahamas, Burundi, Chad and Peru, reported that implementation had been delayed or was not currently feasible owing to a lack of resources. They called on the United Nations and the international community to render technical and financial assistance to facilitate the process of reform.

15. Some Governments, among them Austria, the Byelorussian SSR, France, German Democratic Republic, Germany, Federal Republic of, Greece, Hungary, the Netherlands, the Ukrainian SSR, the United Kingdom and the Union of Soviet Socialist Republics, having studied the extent to which the Rules were incorporated in their laws, reported that all or some of the Rules were reflected in their national systems.

16. In France, the Ministry of Justice had completed a study in 1987 designed to guide the course of action for translating the Rules into domestic law. The study revealed, however, that in the main, French law already reflected the spirit and objectives of the Rules. France had a separate juvenile justice system, with specialized personnel and multidisciplinary counsellors. Juvenile justice in France was also aimed at the protection, guidance of, and assistance to juveniles in conflict with the law. Consequently, any disposition of a case had to reflect the special situation and circumstances of the young person concerned. All procedural safeguards were guaranteed, and juvenile institutionalization was used as a last resort. Such a penalty could only be imposed after consultation with the educational agencies, which proposed ways of avoiding institutionalization, such as community service. If institutionalization could not be avoided, juveniles were strictly separated from adults. Since 1 March 1989, detention pending trial was no longer allowed for young persons under 13 years of age, irrespective of the offences committed, or for juveniles under 16 years of age charged with lesser criminal offences. New provisions limiting the duration of detention pending trial for juveniles had entered into force on 1 December 1989.

17. The USSR, in a broad comparison between Soviet legislation on juvenile justice and the Rules, found that the former generally complied with the latter. Certain legal concepts and institutions referred to in the Rules could not, however, be incorporated directly into Soviet legislation, as they were not part of Soviet law or legal doctrine relating to juveniles. Reference was made, specifically, to the status offences mentioned in rule 3.1 and the probation system described in rule 18.1. The probation system was foreign to Soviet legislation, although some aspects of it were applied in practice. For example, social education advisers for juvenile offenders were appointed by the courts, and rules of conduct were imposed when court proceedings were discontinued or the sentence suspended.

A. Dissemination of information

18. At the national level, nearly all Governments reported that the text of the Rules had been circulated to the competent authorities and ministries, agencies and individuals concerned. In the Czech and Slovak Federal Republic, the German Democratic Republic, Greece, Kuwait, Morocco, the Philippines, Portugal and Venezuela, they had been circulated to juvenile justice practitioners and decision-makers. Belgium, India, Italy and Switzerland had circulated them in connection with training activities and as a background for legislative reform. In Austria, France and the USSR, they had been disseminated with a view to ascertaining the extent to which the respective systems reflected the principles of the Rules. The Czech and Slovak Federal Republic, the German Democratic Republic, Germany, Federal Republic of, Greece and Italy reported that juvenile justice scholars were translating the Rules into languages other than those of the United Nations.

19. In most cases, the Rules were being disseminated among the professional community, including scientific, research and training institutions, universities and law schools. Czechoslovakia was also disseminating them to the public. In the Federal Republic of Germany, the Rules, together with

explanatory notes, had been widely distributed to persons involved in the administration of juvenile justice at all levels.

20. In the Philippines, the Rules, together with the Convention on the Rights of the Child (General Assembly resolution 44/25, annex), had been disseminated at the provincial, regional and national levels, through conferences involving the community, law enforcement agencies and non-governmental organizations concerned.

21. Venezuela reported that it had disseminated not only the Rules but also the findings on the procedures required for their effective implementation, as elaborated at the First Latin American Seminar on Training and Research on the Human Rights of Children vis-à-vis Juvenile Justice Administration, held at the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (UNLAI), San José, Costa Rica, in 1987. A substantial body of scientific literature and legal texts had been generated on the Rules, which figured prominently in juvenile justice articles and books, and which were stimulating scientific discussion among distinguished experts from various professions.

22. At the regional and interregional levels, the national correspondents, the United Nations institutes for the prevention of crime and the treatment of offenders and collaborating experts and organizations had been actively disseminating information and had been involved in related activities, particularly through regular publications. The United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) had been acting as a regional information clearing-house for data, reference material and literature on juvenile justice administration.

23. Intergovernmental organizations such as the Commonwealth Secretariat, the Council of Europe and the League of Arab States, as well as non-governmental organizations concerned with children's rights, particularly Child Hope, Defence for Children International, the International Association of Juvenile and Family Court Magistrates, the International Catholic Child Bureau, the International Commission of Jurists and Rädda Barnen International/Swedish Save the Children, reported that the Rules had been given wide distribution in the course of their regular activities, including meetings.

24. Special publications on the Rules had been issued by various organizations. For example, the Rules had been published in the special issue of the Journal of the Council of Arab Ministers of Justice of the League of Arab States, which is distributed throughout the Arab world, and brought to the attention of all Arab justice ministries. The Rules had been included in Human Rights: A Compilation of International Instruments, 2/ published on the occasion of the fortieth anniversary of the Universal Declaration of Human Rights, and in a compendium of United Nations crime prevention and criminal justice standards, issued by the Soviet Ministry of the Interior.

B. Promotion of the policy approach and principles of the Rules

25. Various organizations and institutions reported that different aspects of the Rules were being given special attention and were being promoted in the context of their regular programmes of work, and that activities were being undertaken and envisaged in co-operation with the United Nations Secretariat. Particularly noteworthy was the advocacy role of the non-governmental organizations, such as Defence for Children International, the International Association of Juvenile and Family Court Magistrates and the International

Catholic Child Bureau, which were fostering the application of the Rules in voluntary and community-based projects and services.

26. Among the prominent intergovernmental organizations that considered the Rules to be of direct interest to their work, and that reported efforts to disseminate them as widely as possible and to foster their implementation were the Commonwealth Secretariat, through its Commonwealth Law Ministers and Correctional Agencies; the Council of Europe through its Committee of Ministers and Select Committee of Experts on Juvenile Delinquency; the League of Arab States through its Council of Arab Ministers of Justice and Council of Arab Ministers of the Interior, and the Pan Arab Organization for Social Defence against Crime.

27. The Rules were reported to have been one of the main topics on the agenda of the Sectoral Meeting on the Development of Human Resources in the Arab World, held in August 1987 within the framework of co-operation between the League of Arab States and the United Nations, in pursuance of General Assembly resolution 41/4. The League of Arab States, particularly through the Council of Arab Ministers of Justice, was pursuing activities to unify Arab legislation and, in that connection, indicated a special interest in the Rules as a basis for the codification and harmonization of juvenile law and codes of procedure.

28. The Select Committee of Experts on Juvenile Delinquency of the Council of Europe had drawn up recommendations on social reactions to juvenile delinquency (Recommendation No. R(87)20) and on social reactions to juvenile delinquency among young people coming from migrant families (Recommendation No. R(88)6). The Rules were cited in the explanatory memoranda to those recommendations.

29. The implementation of the Rules also figured prominently in the work programme of various United Nations institutes. For example, UNLAI, in co-operation with Defence for Children International, the Inter-American Institute of Human Rights, the Organization of American States and the University for Peace, had established a special training programme to promote the implementation of the Rules in the Latin American and Caribbean region. A series of regional and subregional training and evaluation seminars had been held in Colombia, Costa Rica, Mexico and Uruguay in 1987 and 1988. The seminars had examined children's rights in juvenile justice administration and considered the justice infrastructure and machinery required for the effective and expeditious implementation of the Rules in the region.

30. UNAFEI had been directly involved in developing the Rules, having held a five-week international seminar on that subject at Fuchu, Japan, in 1983. The Institute had conducted an international training course on the effective administration of juvenile justice from 17 September to 7 December 1985, following the adoption of the Rules in 1985. The course had been attended by 26 practitioners from 16 countries, who had reported on the status of compliance with the Rules in those countries. The gaps between the principles contained in them and actual practice had been examined and concrete modalities proposed for their implementation. The course had served as a starting point for the development of guidelines and implementation modalities, using the Rules as a model.

31. The Institute had continued to help countries of the region to translate the international norms into practice and to establish effective implementation modalities, especially through the development of regular training programmes, seminars and workshops for juvenile justice practitioners and decision-makers.

UNAFEI had sponsored jointly with the Economic and Social Commission for Asia and Pacific (ESCAP) an Expert Group Meeting on Adolescence and Delinquency Prevention in the Asia and Pacific region, held in Tokyo from 3 to 10 August 1989. The Meeting, attended by 22 experts from 16 countries of the region, had been devoted to the discussion of the Rules from the standpoint of their implementation in each country. It had adopted, inter alia, a recommendation calling upon the countries of the region to make special efforts to incorporate the Rules in their respective legal, administrative and social development frameworks.

32. The African Institute for the Prevention of Crime and the Treatment of Offenders had held a seminar in 1988 for French-speaking government officials and practitioners from Africa. The seminar had been held at the headquarters of the Economic Commission for Africa (ECA) and had focused on strategies for the prevention of juvenile delinquency in the context of development and on the administration of juvenile justice with particular reference to the Rules.

33. ASSTC had continued to promote the development in the Arab world of juvenile justice systems based on the Rules, through its research, training, technical advisory services and publication programme. Regional and international seminars and expert group meetings had been held in recent years to discuss delinquency prevention, juvenile justice and alternatives to juvenile incarceration. In 1985, ASSTC had organized a regional seminar on the institutional treatment of young persons, with special reference to the Rules.

34. The Child Welfare League of America reported on its International Child and Youth Care Conference, held at Washington, D.C., in March 1988. The Conference had examined the impact of reforms in legislative and judicial systems designed to enhance child protection, in the context of international standard-setting. The International Council of Psychologists reported on the first symposium it had organized on the Rules from the perspective of child mental health, held at Singapore from 21 to 25 August 1988.

35. A sub-committee of the National Associations Active in Criminal Justice was formulating measures for the implementation of the Rules, after having examined them in the context of Canadian crime prevention policy and the Canadian Young Offenders Act. The twelfth Congress of the International Association of Juvenile and Family Court Magistrates, held at Rio de Janeiro from 24 to 29 August 1986, had adopted a resolution stressing, inter alia, the need to provide for and respect a minimum of rights and guarantees, consonant with the Rules, during juvenile justice proceedings in all countries.

36. Within the United Nations system, there had been various substantive activities and programmes concerned with different aspects of the Rules. The Centre for Human Rights was ready to provide advisory services to Governments wishing to implement the Rules as part of their efforts to promote human rights. It should be noted that the final text of the recently adopted Convention on the Rights of the Child (General Assembly resolution 44/25, annex) not only reflects the principles embodied in the Rules but also takes into account further developments related to the formulation of new standards, particularly in articles 37 and 40.

37. The Sub-Commission on Prevention of Discrimination and Protection of Minorities reported that it had been carrying out work on the human rights of detained juveniles, taking into account the relevant provisions of the Rules.

38. UNHCR was continuing to work towards providing international protection for all refugees, including juveniles and children. One of its main concerns was the detention of young refugees. It sought to ensure the application of the Rules and the implementation of General Assembly resolution 40/33 in order to meet those concerns.

39. A seminar on the prevention and treatment of juvenile delinquency through community participation had been held at Beijing from 19 to 24 October 1988, in order to promote the implementation of the Rules. The Seminar had been organized by the Crime Prevention and Criminal Justice Branch and funded by the Department of Technical Co-operation for Development, with the Ministry of Justice of China as host. Participants from 23 countries had attended the Seminar and adopted recommendations covering various aspects of juvenile justice.

40. In 1988, the Pan Arab Organization for Social Defence against Crime had held at Tripoli a symposium on the Rules for Arab States.

41. The eighty-first Inter-Parliamentary Conference, held at Budapest from 13 to 18 March 1989, had unanimously adopted a resolution on the protection of the rights of children, in which, inter alia, parliaments were urged to review national laws and practices concerning juveniles to ensure compatibility with the Rules.

C. Legislative reform: substantive and procedural law

42. Basing their action on the Rules, a number of Governments reported having enacted or initiated major legislative reforms in substantive or procedural law and having taken progressive measures to that effect. Intergovernmental conferences and organizations, such as the Meeting of Commonwealth Law Ministers, the Commonwealth Secretariat, the League of Arab States and the Pan Arab Organization for Social Defence against Crime, were promoting legal reform for juveniles with the Rules in mind.

43. In Argentina, draft national juvenile law codes were being studied and mechanisms for their proper legal implementation were being evaluated. Two drafts had been brought before the Chamber of Deputies for discussion, namely, "Establishment of a juvenile court under the judiciary" and the "Children's and Youth Code". The draft Code of Penal Procedure, currently under study, embodied provisions concerning special trial arrangements for young persons over 18 years of age.

44. In Austria, the most important elements of the Rules had been included in the new Juvenile Court Act, which had entered into force on 1 January 1989. A wide range of measures to divert juveniles from the justice system had been made available; detention pending trial had been further reduced; the age of criminal responsibility had been raised to 19 years; and, in compliance with rule 3.3, special provisions were made for the treatment of young adults up to the age of 27.

45. The Government of Belgium reported that a new bill had been introduced into Parliament in 1987 to bring existing legislation up to date in the light of developments in the theory and practice of juvenile justice administration and in relation to the Rules. The bill had been initiated by the Minister of Justice after a complete review of the juvenile justice system. The law of 1965 had, accordingly, been revised with regard to the right of appeal and right to counsel, the duty on the part of the judicial authorities to review their decisions at least every six months and the introduction of new

non-institutional measures. With regard to the right to counsel, for instance, the former law had made no provision for legal aid until the final stage of proceedings, depriving juveniles of adequate defence during the preliminary proceedings. The new bill provided free legal aid in cases where the juvenile court had issued temporary orders for the removal of the juvenile from the parents or guardians. Either the president of the Chamber of Advocates or the Legal Advice and Aid Bureau must appoint a lawyer to represent the interests of the young person.

46. In Cyprus, a special commission had been appointed by the Minister of Justice to review criminal policy, with particular reference to the treatment of juvenile offenders, in the context of the Rules. Also, an ad hoc committee had been appointed by the Council of Ministers in January 1986 to examine the treatment of juvenile delinquents under domestic law, and its recommendations had been adopted by the Council of Ministers in 1987. As a result, the law had been amended so as to abolish the institutional treatment of young offenders; the only exception was custody in a youth centre in cases of a serious offence and recidivism. Existing non-custodial measures, including probation and similar orders, had been strengthened, and new alternatives to incarceration, such as community service and the compensation of victims, had been introduced.

47. In Finland, the new Act on Pre-trial Investigation and the Act on Coercive Means, both containing provisions on juvenile offenders, had entered into force on 1 January 1989. There were special provisions for minors under 18 years of age and their treatment in pre-trial investigations: young persons under the age of 15 years were entitled to further safeguards when being questioned. Recourse to arrest or custody was to be avoided when those measures seemed excessive in relation to the circumstances of the case and the age of the offender.

48. In 1989, the Finnish Government had submitted a bill to Parliament, under which juvenile offenders under 18 years of age would not be sentenced to unconditional deprivation of liberty unless the circumstances were serious enough to warrant such action. Another bill had also been submitted, concerning the extension of the prosecutor's option to waive prosecution or to dismiss the indictement on grounds of the offender's youth. The two bills were currently under consideration.

49. In France, since 1 December 1989, whenever a court handed down a sentence of deprivation of liberty for not more than six months to be served in full, the judge responsible for the enactment of the sentence could refer the case back to the court with a view to its commutation to community service. The Parliament was currently working on the reform of the Penal Code and significant amendments to the penal legislation applicable to juveniles would be set forth in a draft law to be submitted by the Government. The proposals for the preliminary draft made specific reference to the relevant work of the United Nations.

50. In Hungary, the Minister of the Interior and the Minister of Justice had issued, in connection with the 1986 press law, a joint decree on information on criminal and judicial matters. In accordance with rule 8, the decree laid down, inter alia, rules governing the publication of information on court decisions and, in respect of juveniles, provided that the family name of a juvenile could be referred to only by the initial letter, except when a grave offence was involved. The features and voice of a juvenile could only be made public under conditions that would prevent identification, except in the case of grave offences, as specified in the criminal code.

51. Indonesia reported that a new law reforming the juvenile justice system was being drafted, taking the Rules into account. In the meantime, the Government had issued legal provisions concerning the administration of juvenile justice.

52. In Kuwait, the juvenile law had been amended to comply with the Rules. It currently contained a number of measures governing the care of juveniles in trouble and specifying the facilities and shelter to be provided.

53. Since 1985, 46 large-scale diversion programmes had been set up in the Netherlands. They had proved quite effective for offences such as vandalism, the graffiti-writing and aggressive acts. Their applicability was to be extended to shoplifting.

54. In Norway, authorities were revising the country's laws and procedures concerning juvenile justice.

55. Qatar reported that a bill on juvenile justice had been drafted and was under consideration.

56. In the Philippines, resolutions were pending in the Upper and Lower Houses, calling for the re-establishment of the juvenile and family courts to deal with all matters concerning juveniles in conflict with the law. The Department of Social Welfare and Development had endorsed the proposal and had also advocated the establishment of juvenile detention facilities to protect juveniles from the negative influence of adult offenders. The Department had also recommended the creation of a juvenile bureau in every police station.

57. In Portugal, a comparative study of the Rules in relation to the existing laws on the protection of juveniles, undertaken by the Ministry of Justice, had revealed certain shortcomings and the need for reform. The Government therefore envisaged a thorough revision of the existing laws to meet the universally accepted standards laid down in the Rules.

58. In Sweden, in accordance with rules 18 and 19, Parliament had adopted amendments to the Criminal Code introducing the new concept of "contract treatment", a form of civil commitment entailing individualized, non-institutional care. The treatment was designed for cases in which it could be assumed that drug and other substance abuse or other particular circumstances requiring attention were contributing factors in the commission of an offence. A sentence of contract treatment could be included in the probation order. The juvenile concerned would volunteer to undergo specific treatment and the institution or other body responsible must notify the prosecutor or probation officer if the treatment was not properly followed. In that event, deprivation of liberty would be substituted for the probation order. The court was empowered to order the person sentenced to contract treatment to be kept under supervision for a period longer than would be usual in a probation order.

59. In October 1989, the Swedish Government had submitted a bill to Parliament with proposals for experimental community service. The scheme was designed for young persons between 18 and 24 years of age and could only be applied to offences punishable by deprivation of liberty. Persons sentenced to community service would perform unpaid work in their leisure time for a number of hours, ranging from 40 to 200 hours, as specified by the court. Pilot experiments would be carried out in five places over a period of three years.

60. In 1987, Switzerland had undertaken a complete review of its legislation as it applied to young persons. The experts on the review commission had been provided with copies of the Rules as part of the background documentation. Representatives of the federal authorities had been appointed to monitor the commission's work and had been charged with drawing the members' attention to the Rules.

61. The Ukrainian SSR reported that new draft Fundamentals of the Criminal Legislation of the Union of Soviet Socialist Republics and Union Republics had been published for country-wide discussion. A special section of the draft set out provisions concerning the treatment of juvenile offenders, which for the minimum use of deprivation of liberty and maximum recourse to other disposition measures for young persons under 18 years of age.

D. Age of criminal responsibility

62. Many countries provided information on the lower age limit of criminal responsibility. Several noted that legal initiatives had been taken to raise that age limit and to commute the death penalty for young persons.

63. In Argentina, minors up to 16 years of age could no longer be charged under any circumstances. Minors between 16 and 18 years of age who committed a serious offence could be held criminally responsible, but a penalty would not be imposed unless absolutely necessary. Young persons between the ages of 18 and 21 who had been sent by the competent judge to institutions of the Federal Penitentiary Service received special treatment and were kept separate from adults.

64. Burundi had established the age of criminal responsibility at 13 years. Juveniles between 13 and 18 years of age were recognized as having diminished responsibility. For them, the maximum penalties of death and life imprisonment were replaced by incarceration lasting from 5 to 10 years.

65. In China, the age of criminal responsibility was fixed at 16, except for very serious offences, when the age was 14. Juveniles between the ages of 14 and 18 were given lesser penalties. The parents or guardians of young persons who were not punished because they were under 16 were ordered to subject them to discipline. When necessary, juveniles could be provided shelter by the Government.

66. Colombia reported that, with the new Juvenile Code, which embodied all legislation concerning juveniles, the age of criminal responsibility had been raised from 16 to 18 years. That limit could be raised further if the juvenile concerned was psychologically immature. Special procedural safeguards were available for juveniles between 12 and 16 years of age. Minors under 12 years of age were not subject to the criminal law. The Family Defence Counsel, who did not himself have the competence to administer justice, had cognizance of violations of the criminal law in which persons of less than 12 years were involved, in order to offer them the special protection they required.

67. In Cuba, minors under 16 years of age could not be tried by ordinary courts. The Penal Code of 1979 had been amended by Law 62 of April 1988, which provided that persons under 20 years of age should serve their sentence in special institutions or in separate sections of institutions from those in which adults were detained; similar provisions were made for persons between 20 and 27 years of age. Lesser penalties might be imposed on juveniles between the ages of 16 and 20 years. The death penalty was not applicable to persons under 20 years of age.

68. According to the Penal Code of Japan, minors under 14 years of age could not be held criminally responsible. Under the Juvenile Law, young persons under 16 years of age were not liable to any penal sanctions and no person who was under the age of 18 when the offence had been committed could be sentenced to death.

69. In Jordan, a juvenile was defined as any person, male or female, who had completed his or her seventh year and not attained the age of 18. Juvenile offenders could not be sentenced to death or to hard labour, and the sanctions imposed on them were considerably reduced. If a juvenile had committed a misdemeanour or a contravention, the court had discretionary authority to choose from a range of alternative sanctions, taking into account the immaturity and inexperience of the juvenile concerned.

70. In Nigeria, the Children and Young Persons Act contained provisions limiting the liability to penal sanctions of persons under 17 years of age, although the age of criminal responsibility was still, under a law dating back to 1878, fixed at 7 years, while children between the ages of 7 and 12 years were considered criminally responsible if they were found to be capable of discernment. Those provisions were no longer applied, having been superseded by the Children and Young Persons Act.

71. Under the laws of Portugal, juveniles under the age of 16 were not held criminally responsible, although they were subject to juvenile courts and measures designed to protect, educate and assist them under circumstances specified in the law on the protection of juveniles.

72. In Romania the age of criminal responsibility was fixed at 16. In practice, but only in cases where juveniles were found to have been capable of discernment and of understanding their behaviour, whether act or omission, the limit might be lowered, but not below the age of 14. Since the law provided exclusively for educational measures, under no circumstances could fines, prison sentences or the death penalty be imposed. The law permitted juvenile offenders between the ages of 14 and 18 to be placed in the care of fellow workers and students.

73. In Rwanda, the Penal Code fixed the minimum age of criminal responsibility at 14. Juveniles between 14 and 18 years of age were looked upon as having diminished responsibility: they were entitled to lesser penalties and could not be sentenced to capital punishment.

74. In the Ukrainian SSR, persons who were at least 16 years old at the time of the commission of the offence could be held criminally responsible. Young persons between the ages of 14 and 16 could be held responsible only for a strictly limited list of serious offences. An educational measure not representing a criminal sanction could be imposed on a young person if his or her offence did not represent a great danger to society.

E. Juvenile courts

75. Most of the reports received noted that separate juvenile courts had been or were being established to deal with juveniles in conflict with the law. In Argentina, a minor of 18 years of age who committed an offence prosecutable under a criminal statute fell under the jurisdiction of the juvenile justice system, which was required to monitor any ensuing supervision or custody.

76. During the period between the end of 1984 and the time of writing, in more than 100 Chinese lower people's courts, special tribunals - juvenile

courts - had been established to consider cases of offences committed by minors between the ages of 14 and 18. In eleven middle-level people's courts, special tribunals for the review of the proceedings of the juvenile courts had been set up. In the adjudication and disposition of criminal cases involving the young, the juvenile courts complied strictly with the special procedures specified by the Chinese Code of Penal Procedure.

77. In Colombia, juvenile courts were composed of interdisciplinary teams, which included at least one physician, one psychologist or psychological teacher and one social worker.

78. In Indonesia, which did not yet have any juvenile court structure, the Penal Code, in the meantime, granted certain privileges to juveniles within the framework of the adult criminal justice system.

79. In Morocco, in order to minimize the psychological impact of the legal proceeding on the juvenile, hearings were held in ordinary offices without a formal set-up. Juvenile judges were selected members of the judiciary, including women.

80. In Nigeria, juvenile courts were constituted by a magistrate, either sitting alone or with assessors. The magistrate was usually a lawyer or social worker with long-standing experience in the field of juvenile justice and the protection of youth.

81. In Poland, all cases involving juveniles were under the jurisdiction of family courts, which investigated the family situation and social background. Special provisions were in force for the hearings of these Courts. Penal procedure was applied to juveniles only if they committed extremely grave offences.

82. In Sri Lanka, there was one juvenile court in Colombo, with jurisdiction over two judicial divisions. In all other judicial divisions, a magistrate sat as the Juvenile Court Magistrate in all matters pertaining to young persons. Conviction or being found guilty should in no case be regarded as a criminal sentence for the purpose of disqualification.

83. In Spain, the General Council of the Judiciary had adopted a number of agreements in 1986, with a view to organizing the juvenile justice bodies in accordance with the principle of exclusivity of jurisdiction and the criterion of specialization of those exercising it. A training programme had been established, in accordance with the Rules, to ensure that the judges working in the new juvenile courts were specialized in juvenile justice. The proceedings of those new courts complied with the guiding principles on adjudication and disposition set out in rule 17 and the basic procedural safeguards called for in rule 7.

84. Thailand reported that cases involving offences committed by a child between 7 and 14 years of age, or a young person between 14 and 18 years of age, fell under the jurisdiction of a central juvenile court and several provincial juvenile courts. Those courts were specialized and their proceedings differed from those of other courts, the best interests of the minor being the paramount consideration in adjudicating the case.

85. In Yugoslavia, all the courts of the republics and the autonomous provinces had juvenile boards. All regular courts had one or more juvenile judges. The juvenile board operating within courts of the first and second

instance was composed of a juvenile judge and two jurors. The jurors were professors, teachers, educators and other persons with relevant experience.

F. Custodial facilities, treatment and care

86. Many Governments indicated that, in compliance with rule 19, the deprivation of a juvenile's liberty was a measure of last resort. Various dispositions were often used as an alternative to institutionalization. Argentina reported that, in the last quarter of 1989, alternative programmes to avoid institutionalization by supporting the natural or substitute family had increased by 50-100 per cent, both in terms of goals and services.

87. Belgium reported that discussions were taking place between the Youth Protection Office and the Ministry of National Education to ensure that the education and vocational training of juveniles in closed institutions, which had not previously been recognized by the Ministry of National Education, would be recognized in future.

88. In Cuba, juvenile offenders were not subject to penal sanctions; an educational rather than punitive system of evaluation and treatment had been established. The education task was imparted in "schools of good conduct", directed by the Ministry of Education, or in re-education centres under the supervision of the Ministry of Interior.

89. Indonesia reported mixed occupancy of penal facilities by males and females, as well as by juveniles and adults, in cases where the incarceration of juveniles could not be avoided. Mixing groups of females up to 18 years of age and males up to 14 years of age had been successful because it offered interpersonal contacts approximating those of everyday life. Mixed groups of juveniles and adults, however, had been found to be counter-productive because they often led to violence.

90. In translating the norms of the Rules into practice, Kuwait had established a juvenile "complex" on 4 March 1987. The complex included a juvenile court, the Juvenile Prosecutor's Office, the Juvenile Police and the Department of Juvenile Care, which housed special workshops for training, sport, medical, educational and religious facilities. It also comprised field institutions affiliated with the Department of Juvenile Care, including a reception centre that dealt with young persons who were brought before the juvenile care authority; social-care homes; a monitoring office for the study of juvenile delinquents and those in trouble or at social risk; and an office responsible for submitting case reports to the competent authorities.

91. In Malta, the juvenile justice system provided a wide spectrum of disposition measures. Although community service orders were not specifically mentioned, a requirement that a person perform some sort of supervised community service had occasionally been appended to a probation order. The introduction of suspended sentence supervision orders was being considered.

92. In Morocco, educational rather than punitive measures were imposed on juvenile offenders. The relevant legislation, entitled "Protection and Reform Measures", was aimed at rendering assistance and fostering social integration. Deprivation of liberty was a measure of last resort, and the minimum and maximum terms provided for by law were reduced by one half for juveniles. Capital punishment and life-term sentences were totally excluded by the law.

93. In the United Kingdom, the practice of separating juvenile offenders from adults varied according to sex. Most young males were kept in separate young offender accommodations. When that was impossible, they might mix with carefully selected adults under close supervision by the staff. Young and adult female offenders were mixed in order to allow flexible use of limited accommodation.

94. In Yugoslavia, juvenile offenders were usually given educational treatment. The Penal Code contained provisions restricting the application of the deprivation of liberty to juveniles who had committed very serious offences, and only when their criminal responsibility could be ascertained.

G. Professionalization of juvenile justice personnel

95. The numerous changes taking place in various systems are enhancing professionalism in the administration of juvenile justice, either directly or indirectly, in all sectors and at all levels. The great importance accorded to enhancing the professionalism of personnel, as well as to the level and quality of the services provided, as called for in rule 22, is given prominence in the reports of most countries, namely Argentina, Austria, Belgium, China, Cuba, France, Ghana, India, Indonesia, Italy, Japan, Kuwait, Madagascar, the Netherlands, Peru, the Philippines, Portugal, Rwanda, the USSR and the United Kingdom.

96. For example, Argentina reported that, for the first time, a process of evaluation and rating of personnel concerned with juveniles was being carried out and would be completed in November 1990 by the Ratings Board. In China, personnel dealing with young offenders participated in regular specialized training courses. In Peru, professional training courses were held regularly for personnel dealing with juveniles in custody. Portugal had taken steps to improve the technical training of judges who presided over juvenile cases and special courses and seminars were also offered to the staff of service-delivery agencies. In the United Kingdom, women and members of ethnic minorities in the juvenile justice system were being better represented. Venezuela was according high priority to training: all law enforcement officers engaged in juvenile justice administration were given specialized training; and juvenile justice personnel were selected on the basis of their knowledge, experience and commitment.

H. Community involvement and prevention of delinquency

97. Many Governments reported an intensification of community involvement in juvenile justice administration, in line with rule 25. In China, emphasis was placed on the involvement of the community in juvenile justice administration and prevention of delinquency. Minor offences were handled by local districts and units responsible for organizing direct community-based assistance, involving the services of educators, representatives of neighbourhood committees, law-enforcement personnel and parents or guardians. The Government reported on the extensive measures taken for juvenile delinquency prevention in the political, economic, cultural, health and educational spheres.

98. In Cuba, a law enacted in 1986 had set up the Social Prevention and Care Commission, one of the priorities and functions of which was the prevention of juvenile delinquency.

99. The rehabilitation of young offenders through community-based action was given high priority in Indonesia and was promoted at the informal level by existing social agencies.

100. In Japan, the programme for the rehabilitation of juvenile offenders was based on close teamwork by government agencies and volunteer organizations. With a view to increasing public awareness of the programme, a nation-wide comparison for the prevention of delinquency, the "Brighter Society Campaign", was organized every year under the auspices of the Ministry of Justice.

101. In Madagascar, special attention was being paid to community participation in the social integration of young offenders. Volunteers were involved in the work as much as possible.

102. In the Netherlands, the collaboration of a great number of non-profit-making organizations, as well as of members of the public at large, had been an important element in the successful development of more community-based alternative sanctions.

103. In the Philippines, high priority was given to the community-based rehabilitation of juvenile offenders, through which they were encouraged to interact with the social environment and support systems, with a view to being completely reintegrated into society.

104. In the USSR, social and legal means of prevention were concerned with offsetting the negative factors that caused juvenile crime and delinquency (e.g. substance abuse). The country also reported having successfully intensified its preventive programmes, with emphasis on education. In 1985, for example, a graduate programme of universal pedagogical education for parents of children of all ages had been introduced. Consultation centres had been set up, where parents received psychological and pedagogical assistance, as well as legal counselling. Over a hundred tasks had been formulated, including the building of new and improving old equipment and facilities, enhancement of the professional standard of the personnel, and proposals for enacting new legislative measures.

105. The United Kingdom reported that great emphasis was placed upon the need for juvenile offenders to be dealt with in the community wherever possible. Many facilities offering intermediate treatment programmes were run by voluntary organizations.

106. Yugoslavia reported that assistance programmes, organized by the appropriate social services and involving various socio-political bodies, such as youth and school organizations, contributed to the reintegration of juvenile delinquents into society.

I. Research

107. Many countries noted that evaluative research was being carried out on different aspects of the prevention of juvenile delinquency and past and current juvenile justice operations, as a basis for reforms that would accord with the Rules. Forward-looking research was also being undertaken as a foundation for effective and viable short-term and long-term policy and programme development and planning.

108. In Canada, the National Association of Friendship Centers was planning to introduce a comprehensive and broadly accessible computer-based data-collection system throughout the country to facilitate the exchange of data and research findings on juvenile justice.

109. In China, in May 1988, the Supreme People's Court had convened the National Conference on the Adjudication and Disposition of Criminal Cases

Involving Juveniles, at which discussions were held, inter alia, on the guidelines and principles for establishing juvenile courts in China, methods of adjudication in juvenile courts and ways to establish a juvenile justice system within the framework of the Chinese legal system.

110. In the Czech and Slovak Federal Republic, research on juvenile delinquency and crime had begun in 1987, as a basis for further multisectoral action. Priority concerns included relatively specific causes, such as alcoholism among young people and abuse of narcotic drugs and other substances by the young, as well as more general causes, to be determined by a thorough examination of cases.

111. In Ghana, the research unit of the Department of Social Welfare had been re-organized and efforts were being made to promote the necessary research programmes as a basis for effective planning and policy formulation. A system for the collection and evaluation of statistical data on the administration of juvenile justice was being established.

112. The Pan Arab Organization for Social Defence against Crime reported that it planned to carry out studies against Crime on legislation and practices in the Arab world in relation to the Rules.

J. International co-operation and co-ordination

113. Many Governments expressed a strong interest in regional and international co-operation in juvenile justice on the part of practitioners, experts and decision-makers. They stressed the central role of the United Nations Secretariat as a co-ordinating body and clearing-house for efforts to use the Rules as an instrument for the development of juvenile justice systems. The importance of the United Nations was emphasized in monitoring and assisting in the application of the Rules, in long-range planning activities, and in the implementation of joint model projects and programmes.

114. The Government of the USSR, for example, expressed its commitment to scientific co-operation and collaboration on the prevention of juvenile delinquency with criminologists of other countries. Such co-operation could, in its view, include the systematic exchange of information, research and methodology and the organization of conferences on specific questions.

115. The Governments of the Bahamas, Burundi, Chad and Peru stressed the urgent need for United Nations technical assistance and funding in order to translate the principles of the Rules into practice.

116. Proposals were made for close co-operation by the United Nations Office at Vienna in the activities of the Council of Arab Ministers of Justice aimed at implementation of the Rules. They included: (a) seminars for Arab experts on Arab legislation and international standard-setting and norms concerning juveniles; (b) courses for Arab juvenile justice practitioners with a view to familiarizing them with the basic principles and philosophy of the Rules; and (c) exchange of information, research and studies on internationally adopted policies and procedures followed in the administration of juvenile justice, pursuant to General Assembly resolution 40/33 and the Rules.

II. MAJOR INSTITUTIONAL REFORM

117. Broad and far-reaching measures and major institutional reforms have been undertaken by many Governments. The very comprehensive replies provided by the Governments of Canada, India and Italy, which illustrate the importance

and level of efforts undertaken by Member States in general, are summarized below.

A. Canada

118. To bring the existing juvenile justice system up to date in the light of the latest research findings at the national and international levels, and in anticipation of the Rules, which it had helped to formulate, Canada enacted the Young Offenders Act in 1984. The Act subscribes to the view that intervention by the juvenile justice system should be reduced to a minimum (rule 1.3) and that the use of institutionalization should be used only as a disposition of last resort (rules 13.1 and 19.1).

1. Age of criminal responsibility

119. Before enactment of the Young Offenders Act, juvenile justice was administered under the Juvenile Delinquents Act, under which the minimum age of criminal responsibility had been set at 16, and the provinces had been allowed to set different minimum ages for female and male juveniles. To unify the legislation and raise the age of criminal responsibility, the Young Offenders Act distinguishes children from juveniles. Children, defined as persons under 12 years of age, are regarded as incapable of criminal intent and thus not responsible for their behaviour. Juveniles, defined as persons 12 years of age or more but under 18 years of age, are considered to be capable of criminal intent and are thus criminally liable. The Act establishes a new régime for youthful offenders, ensuring due process rights and protections and mitigated accountability.

120. It gives juveniles the right to be heard and to participate in the processes that led to decisions affecting them. In view of their usually limited economic resources and the state of their emotional and intellectual development, juveniles should have special guarantees of their rights and freedoms. The Act provides safeguards and procedures that meet the various special needs of juveniles.

2. Status offences

121. A major feature of the Young Offenders Act refers to rule 3.1. Under the old Act, children were charged with the offence of delinquency for infractions of federal statutes and regulations, provincial statutes and municipal by-laws. They were also subject to proceedings for status offences of "sexual immorality or any similar form of vice", and the statutes of some provinces included conduct labelled "incorrigibility", "truancy" and "unmanageability". Such broad jurisdiction was considered to be discriminatory against juveniles, as it criminalized behaviour that was not considered illegal or punishable when committed by adults. Status offences are no longer used in the current legislation.

3. Diversion

122. The use of diversion has been strengthened by the Young Offenders Act. It gives investigative and prosecutorial authorities the discretion to determine whether or not criminal proceedings should be initiated. Police and prosecutors may exercise their discretionary power and refrain from pressing criminal charges where non-intervention, for reasons other than the insufficiency of evidence, would not jeopardize the overriding requirement of protecting society. Such non-intervention may take the form of discontinuing an investigation or prosecution, for example when family members are able to

assume supervision or when it is apparent that the interests of all concerned would be better served by referral to child care, health, treatment or other services. Intervention by the justice system is reserved for only the most difficult cases, and the notion of last resort is being applied increasingly to the use of institutionalization (rules 13.1 and 19.1).

4. Juvenile detention

123. The Charter of Rights and Freedoms guarantees the right to reasonable bail and to a speedy trial, and the Young Offenders Act incorporates the judicial interim release provisions of the Criminal Code.

124. With respect to restrictions on the placement of juveniles in detention facilities (rule 19.1), it provides for a full range of alternative measures (rule 25). It also emphasizes restitution and the compensation of victims. It encourages community-based dispositions, such as community service orders, and it considers measures of restraint, such as custodial disposition, as remedies of last resort. If a custodial order is issued, the youth court must decide whether open or secure custody is appropriate.

B. India

1. Law reform

125. India enacted its Juvenile Justice Act in 1986 and Model Rules in 1987 in direct response to the Rules and in order to integrate them into the national legislation. The Juvenile Justice Act focuses on juvenile delinquents, defined as males under the age of 16 and females under the age of 18. It establishes a juvenile justice system completely separate and distinct from the system for adults. The Model Rules of 1987, which were developed by the National Institute for Social Defence of the Ministry of Welfare, are intended to transfer the powers conferred by the Juvenile Justice Act to the state governments and administrations and are thus subject to adoption in the individual states of India. They contain detailed provisions governing, inter alia, the qualification, training, organization and supervision of staff, the overall management of juvenile institutions, and the handling and treatment of juveniles in trouble and in conflict with the law.

2. Organizational reform

126. The juvenile justice system governed by the new Model Rules designates the Board for Neglected Juveniles whose members should be qualified magistrates with a special knowledge of child psychology and child welfare, as the competent authority, and the Juvenile Court. Its magistrates are appointed by the Government and are assisted by a panel of social workers, appointed by the state governments. The latter are empowered to create new boards and courts, and where no such boards or courts exist, any other court may be empowered to deal with juveniles. To maintain their complete separation from adults, proceedings involving juveniles must be conducted either in a building or room separate from that in which adult proceedings are held, or on different days or at different times from those scheduled for adults.

3. Procedural reform

127. Rule 20 stipulates that juvenile cases shall be handled without unnecessary delay. Accordingly, the Juvenile Justice Act states that neglected juveniles, as determined either by the police or by other persons or

organizations, have to be brought before a board within 24 hours. Delinquent juveniles are to be released on bail, and may be sent to an observation home as an alternative to pre-trial detention. When a juvenile is arrested, the parents or guardians and the probation officer must be informed of the action.

128. As a rule, the parents or guardians must be present at subsequent inquiries. If, however, the competent authority considers it to be in the interest of the juvenile, any other participant may be excluded at any stage of the inquiry.

129. Rule 17 requires that any action taken shall be in proportion to the circumstances and gravity of the offence and that special consideration be given to the well-being and interests of the juvenile. The Juvenile Justice Act accordingly stipulates that the age of the juvenile, his or her health and the circumstances in which he or she was living, together with a comprehensive report by the probation officer, have to be taken fully into account before any disposition is made.

4. Disposition measures

130. Under the Model Rules, there is no death penalty for juveniles. Neither can juvenile incarceration be used. Instead, a range of discretionary disposition measures is provided for: a juvenile court may allow the juvenile to go home after advice or admonition; it may direct the juvenile to be released on probation of good conduct and placed under the care of parents, guardians or other fit persons; or it may impose a fine or community service order.

131. Incarceration is used as a very last resort, and limited to exceptional cases. Only when the juvenile court is convinced that no other measure is suitable may it order the juvenile to be kept in custody in a facility. Such a decision must, however, be submitted to the state government, which is empowered to modify the order for the rest of the period of sentence. In such cases, the Juvenile Justice Act makes it clear that neither police lock-ups nor jails are considered suitable to receive juveniles considered as neglected or delinquent. For this purpose, different types of facilities have been established. The observation home provides an alternative to pre-trial detention, when it is not possible for the juvenile to remain with the parents or guardians. The juvenile home is a more permanent solution for juveniles whose well-being and interests cannot be ensured if they remain in their ordinary environment and for whom no other suitable custodial arrangement can be made.

5. Prevention

132. To protect juveniles from victimization, an entire chapter of the Juvenile Justice Act is dedicated to the definition of special offences against juveniles, such as cruelty, their employment as beggars, the provision to them of intoxicating liquor, narcotic drugs or other substances, and the exploitation of their labour.

6. Community involvement

133. The involvement of non-governmental organizations is a striking feature of the Juvenile Justice Act and the Model Rules. Both take great care to involve the community in many ways and at all levels. Organizations and individuals are called upon to assist juveniles in need of care and protection. Honorary social workers play an important part in procedures before the boards

for neglected juveniles and before the juvenile courts. Community access to institutions is ensured, that is, the young detainees may have visitors, and inspectors check on the conditions under which they are detained. Such access is intended to offset a young detainee's isolation from society. Also, voluntary organizations are actively involved in follow-up and after-care activities. To help state governments overcome the financial burden of implementing the Act, the Act empowers them to create special funds for juvenile welfare.

C. Italy

134. In February 1987, the Italian Parliament issued a legislative authorization to the Government to draft a new Code of Penal Procedure. Article 3 of this law lays down the fundamental principles of the new provisions governing proceedings involving defendants who were under 18 years of age at the time the offence was committed. A special board of experts was appointed in 1987 to translate the principles into procedural norms. The new provisions of the juvenile penal procedure came into effect on 24 October 1989. These provisions, which are well in line with the Rules, were established in accordance with the general principles of the new penal procedure and with the changes and additions made necessary by the special psychological conditions of juveniles, their degree of maturity and their educational requirements. In addition, two draft laws referring to juveniles have been submitted to Parliament, one on the reform of the juvenile justice system, and the other containing norms governing legal sanctions imposed on juveniles.

1. Law reform

135. The power of arrest can be optionally exercised when the individual is caught in flagrante delicto. Preventive detention is limited to serious offences and other precautionary measures against the individual are optional. Pre-trial detention is ordered only for the most serious offences or for cases where there are important and compelling reasons for so doing, involving the inquiry itself or the protection of the community. The maximum duration of restriction of liberty for juveniles has been reduced and, for those below the age of 16, a further reduction has been introduced. Juvenile court judges are requested to evaluate the personality and the psychological and social situation and background of the minor, with the option of suspending the trial until the evaluation has been made. The judge may order the provision of support services for the juvenile. In addition, the application of alternative measures in lieu of detention has been extended and greater attention is being paid to the adverse effects of contacts between the minor and the justice system. Greater emphasis has also been placed on the protection of minors charged with an offence, and the secrecy of the records of proceedings involving juveniles has been guaranteed. A provision has also been included to expedite juvenile justice proceedings.

136. A law passed in 1986 introduced greater latitude for the probationary referral of juvenile offenders to social services and for their referral to a régime of semi-liberty. The law also instituted the practice of home detention for juveniles below the age of 21 "for demonstrated or compelling reasons of health, study, work and family considerations".

137. In the interest of reducing detention pending trial, some regions are experimenting with non-custodial reception centres to which juveniles may be brought following their arrest. In addition, there are also semi-free houses, operated in concert with the local community services, located on normal

residential premises and thus totally removed from an institutional environment. Recently, day centres have been established, which offer vocational training courses, school counselling services and supervised activities. A judge may refer a juvenile offender to such a centre under an order requiring his or her attendance.

138. Interventions have been intensified vis-à-vis those juveniles who, although bound by the orders of a juvenile court judge, are not deprived of their liberty.

2. Organizational reform

139. At the organizational level, the Office of Juvenile Justice was established under the Ministry of Justice. It is responsible for the educational services for juvenile delinquents; the recruitment and the basic and advanced training of specialized personnel; liaison with the local community to promote community involvement in endeavours to reduce juvenile delinquency; the formulation, implementation and monitoring of programmes designed to deal with juvenile delinquency; and research.

140. The Office of Juvenile Justice has undertaken an intensive programme of technical, operational and promotional activities, with a view to promoting the Rules within its jurisdictional area. They have been included in the training programmes for Ministry of Justice personnel, social workers, educators, institution directors, psychologists and other professionals whose work brings them into contact with juveniles. Magistrates attached to juvenile courts have participated in refresher training courses organized at the request of the Supreme Council of the Judiciary, the aim of which is to keep court officials abreast of the latest developments in this field. Special experimental programmes were initiated in 1987, in co-operation with the police, for the basic and advanced training of law enforcement officials.

III. CONCLUSION

141. Less than five years have passed since the Seventh United Nations Congress and the General Assembly indicated the scope and direction of the work to be undertaken in the administration of juvenile justice. The Rules are gaining world-wide recognition as a useful tool by which to promote and protect the rights of young persons within the context of juvenile justice systems, while at the same time making a positive contribution to the prevention of juvenile delinquency.

142. It is clear from the information contained in this report that the Rules have already inspired and brought about encouraging and significant changes and reforms in Member States that seek to incorporate them in their philosophy, approaches and objectives, as well as to apply them in their systems, institutions, substantive and procedural law, and practices relating to juvenile justice.

143. In a very short period of time, the Rules have been instrumental in introducing significant changes in juvenile justice systems in many countries around the world. They have served as a catalyst for reform, as is illustrated by the fact that many Governments have brought their legislation into line with the concepts reflected in the Rules. In this respect, the information provided by Governments is for the first time affording a considerable insight into national juvenile justice operations and trends in different parts of the world.

144. The present momentum for reform in the field of juvenile justice and delinquency prevention makes this an opportune time to encourage Governments that have not yet done so to review their legislative procedures and establish separate juvenile justice systems. They should also be encouraged to provide the United Nations with information and data on the progress achieved in effecting desirable changes in their policy and practice.

145. Some Governments have pointed out that a lack of funds has hindered implementation of the Rules in their legal systems and additional efforts should be made to render assistance. The United Nations can provide technical advisory services and support activities to Governments upon their request, within the regular programme resources of the Department of Technical Co-operation for Development. These services are available to develop projects and programmes on, for example, the application of the Rules, personnel training, and the establishment of separate systems for juveniles, to assist those Governments to overcome obstacles encountered in their efforts to implement the fundamental principles of the Rules.

146. Furthermore, in the light of the information at hand, and in view of the fact that juvenile justice standard-setting has proved capable of making a positive impact, it would also be useful to continue to study and monitor the implementation of the Rules and developments in the administration of juvenile justice. It is important to measure the success of the Rules in terms not merely of the whole package but also of the standards laid down by specific Rules. In particular, in-depth reviews and analytical studies should be undertaken on issue-oriented matters such as the age of criminal responsibility, diversion mechanisms, non-institutional disposition measures, community involvement in the rehabilitation of juvenile offenders, circumstances of juvenile detention and management of juvenile facilities, treatment and aftercare of juvenile offenders, definition of juvenile delinquency and the scope of programmes for the prevention of delinquency, especially early preventive measures and prevention of relapses.

147. Another subject that requires further research is net-widening. Rules 18 and 19 stress the need for graduated treatment short of institutionalization. Yet research shows that the availability of intermediate treatment régimes (see rule 18.1 (e)) tends to bring juveniles who would otherwise have been dealt with in a completely non-custodial manner into a quasi-institutional setting. In this connection, consideration might be given to seeking regular information on the types of intermediate treatment available in Member States and the number of juvenile offenders undergoing such treatment.

148. This report contains information on the extent to which the Rules have, in fact been implemented. It is encouraging to note that some Member States whose systems are in broad conformity with the Rules have further refined their current laws and practice; that States whose juvenile justice systems were simply dependent limbs of their adult justice systems have begun to develop separate juvenile justice systems; and that States whose existing legislation seems to contravene the Rules have started reforms aimed at implementing them.

149. The Rules do not constitute a self-executing instrument. Nevertheless, Member States representative of every cultural, political and geographical background have actively responded to the Rules. Evidently they are perceived as helpful rather than confrontational, as representing the distilled wisdom and experience of the international community rather than the élitism of a minority of Member States. A relevant aspect of this acceptability is that,

at a time when there is widespread concern at crime problems and when people in all parts of the world seem to be becoming more punitive in their attitudes towards crime, an international instrument, the philosophy of which is one of graduated and moderate responses, is providing the backdrop for national policy developments.

Notes

1/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

2/ United Nations publication, Sales No. E.88.XIV.1.