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Item 5 of the provisional agenda\*

CONTINUATION OF PREPARATIONS FOR THE EIGHTH UNITED NATIONS  
CONGRESS ON THE PREVENTION OF CRIME  
AND THE TREATMENT OF OFFENDERS

Addendum

Recommendations on item 5 (topic 2) of the provisional agenda  
for the Eighth Congress: Criminal justice policies in  
relation to problems of imprisonment, other penal  
sanctions and alternative measures

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The following text is a revised version of the recommendations proposed by the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, on topic 2: "Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures", held at Vienna from 30 May to 3 June 1988 (A/CONF.144/IPM.4). The recommendations were reviewed by the Committee on Crime Prevention and Control at its tenth session and endorsed by the Economic and Social Council in its resolution 1989/69 of 24 May 1989, paragraphs 5 and 11. The revised text reflects the comments of the Committee (E/1988/20, annex IV), as well as observations made at the five regional preparatory meetings for the Eighth Congress (A/CONF.144/RPM.1-5).

DRAFT RESOLUTION I

The management of criminal justice and the development  
of sentencing policies

The Eighth United Nations Congress on the Prevention of Crime and the  
Treatment of Offenders,

Recalling that the Milan Plan of Action, 1/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, recommended that continued attention should be given to the improvement of criminal justice systems so as to enhance their responsiveness to changing conditions and requirements in society,

Taking into account the fact that the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 2/ adopted by the Seventh Congress, emphasized that crime prevention and criminal justice should not be treated as isolated problems to be tackled by simplistic, fragmentary methods, but rather as complex and wide-ranging activities requiring systematic strategies and differentiated approaches,

Aware that the Seventh Congress, in its resolution 8 on criminal justice systems - development of guidelines for the training of criminal justice personnel, 3/ recommended that Member States should develop and implement adequate training programmes for criminal justice personnel and requested the Secretary-General to develop guidelines for the establishment of training programmes in all parts of the system for criminal justice personnel,

Mindful that the Seventh Congress, in its resolution 9 on the development of crime and criminal justice information and statistical systems, 3/ requested the Secretary-General to initiate work on the use of information systems in the administration of criminal justice and invited interested Member States to provide for proper measures to enhance the transfer of information within the agencies of the criminal justice system,

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1/ See 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. A.

2/ Ibid., sect. B.

3/ Ibid., sect. E.

Considering that the Seventh Congress, in its resolution 10 on the status of prisoners, <sup>3/</sup> bore in mind that the Standard Minimum Rules for the Treatment of Prisoners <sup>4/</sup> inspired the policies of Member States to the benefit of prisoners,

Taking into account Economic and Social Council resolution 1986/10, section XI, of 21 May 1986, in which, inter alia, the Council requested the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider questions concerning alternatives to imprisonment,

Convinced that criminal justice management is a matter of concern for States Members of the United Nations for a number of reasons, including the following:

(a) Only if the criminal justice system is well managed can rational changes be made to improve the situation;

(b) Inadequate management of the criminal justice system can result in certain practices, such as long delays before trial, that may create injustices for persons whose cases are being processed by the system;

(c) Inappropriate management can lead to inappropriate allocation of resources,

Emphasizing that the Standard Minimum Rules for the Treatment of Prisoners establishes a basis for considering issues related to the management of imprisonment,

Convinced that information systems are essential instruments of efficient management and that, in many circumstances, the computerization of such systems can enhance their overall effectiveness,

Bearing in mind, however, that there are both costs and dangers involved in almost every aspect of the computerization of a part of a complex organization,

Emphasizing that Member States can learn from successes and mistakes made in other jurisdictions and can help each other by sharing information concerning software and hardware,

Stressing that criminal law and the criminal justice process should be seen as instruments of last resort in dealing with wrongdoing in society,

Taking cognizance of the fact that in most countries imprisonment is the sanction that is the main focus of criminal legislation, even though it may not be imposed in many criminal cases,

Emphasizing that Member States should develop explicit sentencing policies that would have the effect of reducing levels of imprisonment world-wide, particularly in respect of relatively trivial types of crime,

Recognizing that successful measures for combating crime are, for the most part, to be found outside the sentencing process, that sentencing practices should be seen neither as a cause of current levels of crime nor as solutions

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<sup>4/</sup> See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.

to crime problems in the future, and that, although one of the goals of the criminal justice system as a whole is to reduce crime, the purpose of sentencing is to contribute to that goal by responding in a just and measured fashion to wrongdoing in society,

Recognizing also that a sentencing policy that accomplishes the aforesaid goal will contribute to the well-being of society by providing for sanctions that preserve the authority of the law and promote respect for it,

Recognizing further that sentencing is but one stage of the criminal justice system and that, similarly, imprisonment does not occur only as a result of a decision by a judge to sentence an offender,

Adopts the following recommendations for further action at the national, regional and international levels.

#### I. Management and training

1. Recommends that Member States should consider the following policies:

(a) Designing methods for measuring and projecting trends in criminality and in judicial practices and for evaluating the results of policy decisions, according to their specific circumstances;

(b) Within their legal frameworks, structuring the management of each part of the criminal justice system so that an information base for coherent policies can be developed and ensuring that the impact of decisions in one part of the system is considered in the light of their effects on others;

(c) Evaluating decisions within one part of the criminal justice system in the light of the goals not only of that part of the system, but also of the system as a whole;

(d) Acknowledging that staff training in the criminal justice system should aim at creating an understanding of the role of each person and each service in the context of the goals of the system as a whole;

(e) Encouraging staff training on an inter-service basis in order to promote awareness of the interdependence of different parts of the criminal justice system;

(f) Fostering, where practicable, the development of joint training programmes between Member States in order to facilitate the exchange of new ideas and perspectives on the training of criminal justice personnel and on solutions to management problems;

(g) Making efforts and, where possible, obtaining funding for Member States to exchange personnel for training programmes;

#### II. Management of imprisonment, especially in crisis situations

2. Also recommends that, in order to reinforce the application of the Standard Minimum Rules for the Treatment of Prisoners, 4/ to respond to the current and increasing crisis of overcrowding and other problems facing many prison administrations throughout the world and to promote accountable management, Member States should consider the following action:

(a) Developing policies and strategies that reduce the use of custody and detention to a minimum. Such policies should be designed and evaluated in their own right, independently of the problem of overcrowding;

(b) Pursuing, where prison overcrowding nevertheless exists, practical measures such as amnesties, where these are socially acceptable, pardons or other measures specifically designed to alleviate the problem;

(c) Establishing policies and procedures that allow for judicial review and effective external control of prison administrative policies or practices, especially where there is evidence that the Standard Minimum Rules for the Treatment of Prisoners have not been followed;

(d) Drawing up specific operational standards for areas covered by the Standard Minimum Rules for the Treatment of Prisoners. Such standards should be expressed in quantitative terms where appropriate and should provide criteria against which the administration of prisons can be periodically evaluated;

(e) Making the operational standards referred to in subparagraph 2 (d) above readily accessible to all interested parties so that they can be used to evaluate prison operations;

(f) Supporting efforts by prison administrations to provide opportunities for all prisoners to be reintegrated into society, developing policies and procedures to achieve that goal, and making information on those policies publicly available;

(g) Ensuring that a person who has been released from prison shall be at no more of a disadvantage than any other member of society in terms of having access to benefits provided to the public;

3. Invites Member States to report periodically on their compliance with the Standard Minimum Rules for the Treatment of Prisoners. Such reports should be made public by the United Nations and should be accessible to all interested persons;

4. Requests the Secretary-General to allocate resources to assist Member States in accomplishing these tasks, as appropriate;

### III. Management and computers

5. Recommends that Member States should consider the following action:

(a) Assessing, prior to making a decision on the computerization of their criminal justice systems, the costs and benefits of such a decision, including the associated indirect costs;

(b) Determining the type of data to be included in such an information system, since that will have a direct impact on the factors on which decisions may be based at a later stage;

(c) Monitoring carefully the installation procedures and the results of computerization to ensure that the explicitly stated original goals are being effectively met;

(d) Ensuring the protection of the rights of individuals (offenders, victims and others);

(e) Taking into account, if such computerization has already begun, the following points:

- (i) How decisions on the nature and extent of information collected and the definition of terms or units used will facilitate the effective management of the criminal justice system as a whole;
- (ii) How such decisions might affect the future potential for comparative analyses of different jurisdictions at the national and international levels;

6. Invites Member States that have not yet begun to computerize their criminal justice systems to take into account the recommendations of the European Seminar on Computerization of Criminal Justice Information Systems: Realities, Methods, Prospects and Effects, held at Popowo, Poland, from 18 to 22 May 1987; 5/

7. Requests the Secretary-General:

(a) To develop a data base of innovative programmes for the computerization of criminal justice systems that might be applicable to systems in other Member States;

(b) To facilitate the exchange of information, experience and personnel between jurisdictions that are in the process of computerizing some aspect of their criminal justice systems and those that are at a more advanced stage of that process;

(c) To disseminate information on relevant experiences in that area;

(d) To provide adequate resources for the completion of these tasks;

#### IV. The application of criminal law

8. Recommends that each Member State should consider the following action:

(a) Developing techniques for reducing to a minimum the intrusion of its criminal justice system into the lives of members of society;

(b) Creating a process that encourages prosecutors and other officials within the criminal justice system to support techniques of resolving disputes and conflicts, such as those involving mediation and reparation;

(c) Acknowledging the advisability of allowing an authority such as the prosecutor, where appropriate, to screen certain types of cases out of the criminal justice system instead of always proceeding with formal charges;

(d) Formulating guidelines for the equitable use of ways of dealing with wrongdoing that are less punitive than the criminal justice system, subject to suitable safeguards;

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5/ Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations, and Poland, Ministry of Justice, Computerization of Criminal Justice Information Systems: Realities, Methods, Prospects and Effects, HEUNI No. 12 (Helsinki, Government Printing Office, 1987).

## V. Sentencing policy

9. Also recommends that Member States should establish structures and procedures, including effective communication with the judiciary and other relevant criminal justice institutions, to ensure that:

(a) Policies, including explicit sentencing principles, are developed that provide guidance to sentencing judges and facilitate an understanding by the offender, the victim and the general public of the case, of the sentencing process and of the decision;

(b) Such sentencing principles are formulated so that they can be used to assess the appropriateness of individual sentences;

(c) Sentencing practices are evaluated to establish whether they are fulfilling the purposes ascribed to them;

10. Further recommends that, in developing the structures and procedures referred to in paragraph 9 above, Member States should take into account the following points:

(a) The responsibility for the imposition of sentences in particular cases should rest solely with an impartial and independent judiciary and should not be subject to influence or interference by Governments or their executive agencies;

(b) Fair and coherent sentencing policies should be established and implemented with the support of the judiciary, the legislature and other interested parties and embodied in legislation as appropriate;

(c) Sentences should be no more onerous than necessary to express society's condemnation of the behaviour involved and to ensure the protection of society from the most dangerous offenders;

(d) A range of sanctions should be available to enable the sentencing judge to choose the most appropriate one, bearing in mind the following guidelines:

(i) Sentences involving imprisonment should be imposed only if it can be shown that there are reasonable grounds for believing that community sanctions would be inappropriate;

(ii) The choice between different sanctions of equivalent severity should be made in consideration of such factors as the likelihood of the offender being rehabilitated and the cost and benefits to other members of society and to society as a whole;

(e) Imprisonment should be used as a sanction of last resort;

(f) Only the most serious offences should be excluded from the application of community sanctions; and the full range of sanctions should be equally available for all but the most serious offences;

(g) Prison sanctions for special categories of offenders, such as pregnant women or mothers with infants or small children, should be restricted and a special effort should be made to avoid the extended use of imprisonment as a sanction for these categories.

VI. Ensuring fair treatment

11. Recommends that, in order to avoid the negative consequences of the premature application of a criminal sanction for persons not yet convicted of an offence, Member States should promote action with a view to achieving the following results:

(a) Reducing the time between the commencement of criminal proceedings and the final settlement of a case;

(b) Reducing to a minimum the number of persons committed to custody awaiting trial, in view of the general principle of the presumption of innocence. In particular, efforts should be made to enact legislation that has the effect of holding in custody before trial only persons for whom it can be shown that there are reasonable grounds for believing that they will not appear for trial, that they are likely to commit further serious offences or that they will seriously interfere with the administration of justice, or persons who should be held in custody because of other serious factors related to the charge;

(c) Ensuring that persons for whom a non-custodial sanction, such as a fine, is adjudicated are not subsequently imprisoned solely because they did not comply with the terms of the originally imposed sanction;

(d) Establishing practices or policies whereby all information and recommendations relevant to sentencing are made available to the sentencing judge. Such information could come from the defence, the prosecutor or an agent of the court (for example, in the form of a pre-sentence or social inquiry report);

12. Also recommends that Member States should promote policies and practices to ensure that sanctions are administered fairly, effectively and consistently, that information about the manner of their implementation is provided to sentencing judges and that judges are made aware of the nature, impact and cost of the sanctions available to them;

13. Further recommends that prisoners should be provided with work opportunities, compatible with their work experience and the prison régime, that special community programmes for released prisoners should be encouraged and that specific measures for the treatment and rehabilitation of recidivists should be introduced.

DRAFT RESOLUTION II

United Nations Standard Minimum Rules for Non-Custodial Measures  
(the Tokyo Rules)

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind the Universal Declaration of Human Rights 1/ and the International Covenant on Civil and Political Rights, 1/ as well as other international human rights instruments pertaining to the rights of persons in conflict with the law,

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1/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. A.



Bearing in mind also the Standard Minimum Rules for the Treatment of Prisoners, 2/ adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and the important contribution of those Rules to national policies and practices,

Recalling resolution 8 of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders 3/ on alternatives to imprisonment,

Recalling also resolution 16 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders 4/ on reduction of the prison population, alternatives to imprisonment, and social integration of offenders,

Recalling further Economic and Social Council resolution 1986/10 of 21 May 1986, section XI, on alternatives to imprisonment, in which the Secretary-General was requested to prepare a report on alternatives to imprisonment for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and to study that question with a view to the formulation of basic principles in that area, with the assistance of the regional institutes,

Recognizing the need to develop local, national, regional and international approaches and strategies in the field of non-institutional treatment of offenders and the need to formulate standard minimum rules, as emphasized in the report of the Committee on Crime Prevention and Control on its fourth session, concerning methods and ways likely to be most effective in preventing crime and improving the treatment of offenders, 5/

Convinced that alternatives to imprisonment can be an effective means of treating offenders within the community to the best advantage of both the offenders and society,

Aware that the restriction of liberty is justifiable only from the viewpoints of public safety, crime prevention, just retribution and deterrence and that the ultimate goal of the criminal justice system is the reintegration of the offender into society,

Emphasizing that the increasing prison population and prison overcrowding in many countries constitute factors that create difficulties for the proper implementation of the Standard Minimum Rules for the Treatment of Prisoners,

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2/ Ibid., sect. G.

3/ See Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, 25 August-5 September 1980: Report prepared by the Secretariat (United Nations publication, Sales No. E.81.IV.4), chap. I, sect. B.

4/ See 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.

5/ E/CN.5/536, annex.

Taking note with appreciation of the work accomplished by the Committee on Crime Prevention and Control, as well as the Interregional Preparatory Meeting on topic 2: "Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures" and the regional preparatory meetings for the Eighth Congress,

Expressing its gratitude to the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders for the work accomplished in the development of the Standard Minimum Rules for Non-Custodial Measures, as well as to the various intergovernmental and non-governmental organizations involved, in particular, the International Penal and Penitentiary Foundation for its contribution to the preparatory work,

1. Adopts the United Nations Standard Minimum Rules for Non-Custodial Measures, contained in the annex to the present resolution, and approves the recommendation of the Committee on Crime Prevention and Control that the Rules should be known as "the Tokyo Rules"; 6/

2. Recommends the Tokyo Rules for national, regional and interregional action and implementation, taking into account the political, economic, social and cultural circumstances and traditions of each country;

3. Calls upon Member States to apply the Tokyo Rules in their policies and practice;

4. Invites Member States to bring the Tokyo Rules to the attention of law enforcement officials, prosecutors, judges, probation officers, lawyers, victims, offenders, social services and non-governmental organizations involved in the application of non-custodial measures, as well as members of the executive, the legislature and the general public;

5. Requests Member States to report on the implementation of the Tokyo Rules every five years, beginning in 1994;

6. Urges the regional commissions, the regional and interregional institutes in the field of the prevention of crime and the treatment of offenders, specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council to be actively involved in the implementation of the Tokyo Rules;

7. Calls upon the Committee on Crime Prevention and Control to consider, as a matter of priority, the implementation of the present resolution;

8. Requests the Secretary-General to take steps, as appropriate, to ensure the widest possible dissemination of the Tokyo Rules, including their transmission to Governments, interested intergovernmental and non-governmental organizations and other parties concerned;

9. Also requests the Secretary-General to prepare every five years, beginning in 1994, a report for the Committee on Crime Prevention and Control on the implementation of the Tokyo Rules;

10. Further requests the Secretary-General to assist Member States, at their request, in the implementation of the Tokyo Rules and to report regularly thereon to the Committee on Crime Prevention and Control;

11. Requests that the present resolution be brought to the attention of all United Nations bodies concerned and be included in the United Nations publication entitled Human Rights: A Compilation of International Instruments.

#### Annex

### UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES (THE TOKYO RULES)

#### I. GENERAL PRINCIPLES

##### 1. Fundamental aims

- 1.1 The present Standard Minimum Rules provide a set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment.
- 1.2 The Rules are intended to promote greater community involvement in the management of criminal justice, specifically in the treatment of offenders.
- 1.3 The Rules shall be implemented taking into account the political, economic, social and cultural conditions of each country and the aims and objectives of its criminal justice system.
- 1.4 When implementing the Rules, Member States shall endeavour to ensure a proper balance between the rights of individual offenders, the needs of victims, and the concern of society for public safety and crime prevention.
- 1.5 Member States shall develop non-custodial measures within their legal systems to provide other options, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.

##### 2. The scope of non-custodial measures

- 2.1 The relevant provisions of these Rules shall be applied to all persons subject to prosecution, trial or the execution of a sentence, at all stages of the administration of criminal justice. For the purposes of the Rules, these persons are referred to as "offenders".
- 2.2 The Rules shall be applied without any discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status.
- 2.3 In order to provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender and with the protection of society and to avoid unnecessary use of imprisonment, the criminal justice system shall provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions.

- 2.4 The development of new non-custodial measures should be encouraged and closely monitored and their use systematically evaluated.
- 2.5 Consideration shall be given to dealing with offenders in the community without resorting to formal proceedings or trial by a court, in accordance with legal safeguards and the rule of law.
- 2.6 Non-custodial measures introduced as substitutes to imprisonment shall not be used as alternatives to other non-custodial sanctions.
- 2.7 Non-custodial measures should be applied at the earliest feasible time.
- 2.8 The use of non-custodial measures should be part of the movement towards depenalization and decriminalization instead of interfering with or delaying efforts in that direction.

### 3. Legal safeguards

- 3.1 The introduction, definition and application of non-custodial measures shall be prescribed by law.
- 3.2 The selection of a non-custodial measure shall be based on an assessment of established criteria in respect of both the nature and gravity of the offence and the personality and background of the offender.
- 3.3 Discretion by the competent authority shall be exercised at all stages of the proceedings by ensuring full accountability and only in accordance with the rule of law.
- 3.4 Non-custodial measures imposing an obligation on the offender, applied before or instead of formal proceedings or trial, shall require the offender's consent.
- 3.5 Decisions on the imposition of non-custodial measures shall be subject to review by a judicial or other competent independent authority, upon application by the offender.
- 3.6 The offender shall be entitled to make a request or complaint to a judicial or other competent independent authority on matters affecting his or her individual rights in the implementation of non-custodial measures.
- 3.7 Appropriate machinery shall be provided for the recourse and, if possible, redress of any grievance related to non-compliance with internationally recognized human rights.
- 3.8 Non-custodial measures shall not involve medical or psychological experimentation on, or undue risk of physical or mental injury to, the offender.
- 3.9 The dignity of the offender subject to non-custodial measures shall be protected at all times.
- 3.10 In the implementation of non-custodial measures, the offender's rights shall not be restricted further than was authorized by the competent authority that rendered the original decision.

- 3.11 In the application of non-custodial measures, the offender's right to privacy shall be respected, as shall be the right to privacy of the offender's family.
- 3.12 The offender's records shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the offender's case or to other duly authorized persons.

#### 4. Saving clause

- 4.1 Nothing in these Rules shall be interpreted as precluding the application of the Standard Minimum Rules for the Treatment of Prisoners, a/ the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, a/ the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment b/ or any other human rights instruments and standards recognized by the international community and relating to the treatment of offenders and the protection of their basic human rights.

## II. PRE-TRIAL STAGE

### 5. Pre-trial dispositions

- 5.1 The police, the prosecution service or other agencies dealing with criminal cases should, where appropriate and compatible with their legal system, be empowered to discharge the offender if they consider that it is not necessary to proceed with the case for the protection of society, crime prevention or the promotion of respect for the law and the rights of victims. For the purpose of deciding upon the appropriateness of discharge, a set of established criteria shall be developed within each legal system.

### 6. Avoidance of pre-trial detention

- 6.1 Pre-trial detention shall be used as a means of last resort in criminal proceedings, with due regard for the investigation of the alleged offence and for the protection of society and the victim.
- 6.2 Alternatives to pre-trial detention shall be employed at as early a stage as possible. Pre-trial detention shall last no longer than necessary to achieve the objectives stated under rule 5.1 and shall be administered humanely and with respect for the inherent dignity of human beings.
- 6.3 The offender shall have the right to appeal to a judicial or other competent independent authority in cases where pre-trial detention is employed.

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a/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.

b/ General Assembly resolution 43/73, annex.

### III. TRIAL AND SENTENCING STAGE

#### 7. Social inquiry reports

- 7.1 If the possibility of social inquiry reports exists, the judicial authority may avail itself of a report prepared by a competent, authorized official or agency. The report should contain information on the social background of the offender and may include other circumstances relevant to the imposition of non-custodial measures. The report shall be factual, objective and unbiased, with any expression of opinion clearly identified.

#### 8. Sentencing dispositions

- 8.1 The judicial authority, having at its disposal a wide range of non-custodial sanctions, should take into consideration in making its decision the rehabilitative needs of the offender, the protection of society and the interests of the victim, who should be consulted whenever appropriate.
- 8.2 Sentencing dispositions may include:
- (a) Verbal sanctions, such as admonition, reprimand and warning;
  - (b) Conditional discharge;
  - (c) Status penalties;
  - (d) Economic sanctions and monetary penalties, such as fines and day-fines;
  - (e) Confiscation or an expropriation order;
  - (f) Restitution to the victim or a compensation order;
  - (g) Suspended or deferred sentence;
  - (h) Probation and judicial supervision;
  - (i) A community service order;
  - (j) Referral to an attendance centre;
  - (k) House arrest;
  - (l) Any other mode of non-institutional treatment.

### IV. POST-SENTENCING STAGE

#### 9. Post-sentencing dispositions

- 9.1 The competent authority shall have at its disposal a wide range of post-sentencing alternatives in order to avoid institutionalization as far as possible and to assist offenders in their early reintegration into society.
- 9.2 Post-sentencing dispositions may include:
- (a) Furlough and half-way houses;
  - (b) Work or education release;
  - (c) Various forms of parole;
  - (d) Remission;
  - (e) Pardon.
- 9.3 The decision on post-sentencing dispositions shall be subject to review by a judicial or other competent independent authority, upon application of the offender.

- 9.4 Any form of release from an institution to a non-custodial programme shall be considered at the earliest possible stage.

## V. IMPLEMENTATION OF NON-CUSTODIAL MEASURES

### 10. Supervision

- 10.1 If a non-custodial measure entails supervision, the latter shall be carried out by a competent authority under the specific conditions prescribed by law.
- 10.2 Within the framework of a given non-custodial measure, the most suitable type of supervision and treatment should be determined for each individual case. Supervision and treatment should be periodically reviewed and adjusted as necessary.
- 10.3 Offenders shall be provided with psychological, social and material assistance and with opportunities to strengthen links with the community and facilitate their reintegration into society.

### 11. Duration

- 11.1 The duration of a non-custodial measure shall not exceed the period established by the competent authority in accordance with the law.
- 11.2 Provision may be made for early termination of the measure if the offender has responded favourably to it.

### 12. Conditions

- 12.1 The competent authority shall determine the conditions to be observed by the offender, taking into account both the needs of society and the needs and rights of the offender.
- 12.2 The conditions to be observed shall be practical, precise and as few as possible, and be aimed at reducing the likelihood of an offender relapsing into criminal behaviour and of increasing the offender's chances of social integration, taking into account the needs of the victim.
- 12.3 At the beginning of the application of a non-custodial measure, the offender shall receive an explanation, orally and in writing, of the conditions governing the application of the measure, including the offender's obligations and rights.
- 12.4 The conditions may be modified by the competent authority under the established statutory provisions, in accordance with the progress made by the offender.

### 13. Treatment process

- 13.1 Within the framework of a given non-custodial measure, various schemes, such as case-work, group therapy, residential programmes and the specialized treatment of various categories of offenders, should be developed to meet the needs of offenders more effectively.
- 13.2 Treatment should be conducted by professionals who have suitable training and practical experience.

- 13.3 When it is decided that treatment is necessary, efforts should be made to understand the offender's background, personality, aptitude, intelligence, values and, especially, the circumstances leading to the commission of the offence.
- 13.4 The competent authority should involve the community and social support systems, such as the family, neighbourhood, school, work-place and social and religious organizations, lay-persons and volunteers, in the application of non-custodial measures.
- 13.5 Case-load assignments shall be maintained as far as practicable at a manageable level to ensure the effective implementation of treatment programmes.
- 13.6 For each offender, a case record shall be established and maintained by the competent authority.

#### 14. Discipline and breach of conditions

- 14.1 A breach of the conditions to be observed by the offender may result in a modification or revocation of the non-custodial measure.
- 14.2 The modification or revocation of the non-custodial measure shall be made by the competent authority; this shall be done only after a careful examination of the facts adduced by both the supervising officer and the offender.
- 14.3 The failure of a non-custodial measure should not automatically lead to the imposition of a custodial measure.
- 14.4 In the event of a modification or revocation of the non-custodial measure, the competent authority shall attempt to establish a suitable alternative non-custodial measure. A sentence of imprisonment may be imposed only in the absence of other suitable alternatives.
- 14.5 The power to arrest and detain the offender under supervision in cases where there is a breach of the conditions shall be prescribed by law.
- 14.6 Upon modification or revocation of the non-custodial measure, the offender shall have the right to appeal to a judicial or other competent independent authority.

### VI. STAFF

#### 15. Recruitment

- 15.1 There shall be no discrimination in the recruitment of staff on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status. The policy regarding staff recruitment should take into consideration national policies of affirmative action and reflect the diversity of the offenders to be supervised.
- 15.2 Persons appointed to apply non-custodial measures should be personally suitable and, whenever possible, have appropriate professional training and practical experience. Such qualifications shall be clearly specified.



- 15.3 To secure and retain qualified professional staff, appropriate service status, adequate salary and benefits commensurate with the nature of the work should be ensured and ample opportunities should be provided for professional growth and career development.

#### 16. Staff training

- 16.1 The objective of training shall be to make clear to staff their responsibilities with regard to rehabilitating the offender, ensuring the offender's rights and protecting society. Training should also give staff an understanding of the need to co-operate in and co-ordinate activities with the agencies concerned.
- 16.2 Before entering duty, staff shall be given training that includes instruction on the nature of non-custodial measures, the purposes of supervision and the various modalities of the application of non-custodial measures.
- 16.3 After entering duty, staff shall maintain and improve their knowledge and professional capacity by attending in-service training and refresher courses. Adequate facilities shall be made available for that purpose.

### VII. VOLUNTEERS AND OTHER COMMUNITY RESOURCES

#### 17. Public participation

- 17.1 Public participation should be encouraged as it is a major resource and one of the most important factors in improving ties between offenders undergoing non-custodial measures and the family and community. It should complement the efforts of the criminal justice administration.
- 17.2 Public participation should be regarded as an opportunity for members of the community to contribute to the protection of their society.

#### 18. Public understanding and co-operation

- 18.1 Government agencies, the private sector and the general public should be encouraged to support voluntary organizations that promote non-custodial measures.
- 18.2 Conferences, seminars, symposia and other activities should be regularly organized to stimulate awareness of the need for public participation in the application of non-custodial measures.
- 18.3 All forms of the mass media should be utilized to help to create a constructive public attitude, leading to activities conducive to a broader application of non-custodial treatment and the social integration of offenders.
- 18.4 Every effort should be made to inform the public of the importance of its role in the implementation of non-custodial measures.

#### 19. Volunteers

- 19.1 Volunteers shall be carefully screened and recruited on the basis of their aptitude for and interest in the work involved. They shall be properly trained for the specific responsibilities to be discharged by them and shall have access to support and counselling from, and the opportunity to consult with, the competent authority.

- 19.2 Volunteers should encourage offenders and their families to develop meaningful ties with the community and a broader sphere of contact by providing counselling and other appropriate forms of assistance according to their capacity and the offenders' needs.
- 19.3 Volunteers shall be insured against accident, injury and public liability when carrying out their duties. They shall be reimbursed for necessary expenditures incurred in the course of their work. Public recognition should be extended to them for the services they render for the well-being of the community.

#### VIII. RESEARCH, PLANNING, POLICY FORMULATION AND EVALUATION

##### 20. Research and planning

- 20.1 As an essential aspect of the planning process, efforts should be made to involve both public and private bodies in the organization and promotion of research on the non-custodial treatment of offenders.
- 20.2 Research on the problems that confront clients, practitioners, the community and policy makers should be carried out on a regular basis.
- 20.3 Research and information mechanisms should be built into the criminal justice system for the collection and analysis of data and statistics on the implementation of non-custodial treatment for offenders.

##### 21. Policy formulation and programme development

- 21.1 Programmes for non-custodial measures should be systematically planned and implemented as an integral part of the criminal justice system within the national development process.
- 21.2 Regular evaluations should be carried out with a view to implementing non-custodial measures more effectively.
- 21.3 Periodic reviews should be conducted to assess the objectives, functioning and effectiveness of non-custodial measures.

##### 22. Linkages with relevant agencies and activities

- 22.1 Suitable mechanisms should be evolved at various levels to facilitate the establishment of linkages between services responsible for non-custodial measures, other branches of the criminal justice system, social development and welfare agencies (both governmental and non-governmental) in such fields as health, housing, education and labour, and the mass media.

##### 23. International co-operation

- 23.1 Efforts shall be made to promote scientific co-operation between countries in the field of non-institutional treatment. Research, training, technical assistance and the exchange of information among Member States on non-custodial measures should be strengthened, through the United Nations regional and interregional institutes, in close collaboration with the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat.

- 23.2 Comparative studies and the harmonization of legislative provisions should be furthered to expand the range of non-institutional options and facilitate their application across national frontiers, in accordance with the Model Agreement on the Transfer of Supervision of Foreign Offenders Who Have Been Conditionally Sentenced or Conditionally Released. c/