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SIXTH UNITED NATIONS CONGRESS ON THE
PREVENTION OF CRIME AND THE
TREATMENT OF OFFENDERS
Sydney, 25 August - 5 September 1980

REPORT ON THE AFRICAN REGIONAL PREPARATORY
MEETING ON THE PREVENTION OF CRIME AND THE
TREATMENT OF OFFENDERS

Note by the Secretary-General

The Secretary-General circulates herewith to the participants at the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders for information the report on the African Regional Preparatory Meeting on the Prevention of Crime and the Treatment of Offenders which was held at the headquarters of the United Nations Economic Commission for Africa in Addis Ababa, from 21 to 25 August 1978.

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INTRODUCTION

1. The African Regional Preparatory Meeting on the Prevention of Crime and the Treatment of Offenders was the fifth of a series of regional meetings convened to discuss the provisional agenda, and to make appropriate recommendations concerning the preparation of the documentation, for the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held at Sydney from 25 August to 5 September 1980, in pursuance of General Assembly resolutions 415 (V) and 32/59. As its agenda the Meeting adopted the list of five topics proposed in the Discussion Guide 1/ prepared by the United Nations Secretariat and approved by the Committee on Crime Prevention and Control at its fourth session, held at Headquarters from 21 June to 2 July 1976.2/

2. The meeting also considered the issue of capital punishment under topic V as recommended by the Committee on Crime Prevention and Control at its fifth session, held at Vienna from 5 to 16 June 1978 pursuant to General Assembly resolution 32/61 of 4 January 1977.

3. The Preparatory Meeting was held at the headquarters of the United Nations Economic Commission for Africa, Addis Ababa, from 21 to 25 August 1978. It was attended by representatives and experts of 17 members of the Economic Commission for Africa and by observers from 3 national liberation movements recognized by the Organization of African Unity and from Intergovernmental and non-governmental organizations. The meeting was also attended by an observer from Australia, the host country for the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The list of participants is given in annex I.

4. The Hon. T. Haile-Mariam, the Chief Justice of Ethiopia, was elected Chairman of the meeting. Dr. Tolani Asuni, Professor of Psychiatry, University of Ibadan, Nigeria and the Hon. Jean Benglia, Senior Magistrate, Senegal, were elected Vice Chairmen. Prof. Tibamanya Mwene Mushanga, Professor of Criminology, University of Nairobi, Kenya, was elected Rapporteur.

5. His Excellency Ato Kebede Gabremariam, Permanent Secretary, Ministry of Law and Justice of Ethiopia, in his opening statement, emphasized that it was highly desirable to promote and encourage

1/ See A/CONF.87/RM.1.

2/ See E/CN.5/536, chap. V, sect. H.

the active participation of the public in all crime prevention activities.

6. Commenting on the relationship between development and criminality, the Permanent Secretary observed that there were indications that certain types of development might be accompanied by an increase in the incidence of criminality.

7. He noted that in the international approach to crime prevention, the United Nations had provided a valuable forum in which fruitful discussions were conducted and from which practical conclusions on preventive strategies were drawn.

DISCUSSION OF THE TOPICS

I. Crime trends and crime prevention strategies

8. The participants agreed that the experience of contemporary Africa might not be easy to compare with that of other regions. The African nations had emerged from colonialism only very recently and this process was still going on. In the process of nation-building, the problem of assessing crime in a scientific manner could not be developed as it had been in other regions. While most nations were in the process of building statistical capabilities for purposes of national planning, it was difficult to interest policy makers and statisticians in the problem range of criminality when so many other social and especially economic problems were accorded priority. At the same time, it was equally difficult to interest officials of law enforcement and criminal justice in the vital task of reporting, classifying and analysing criminality, crime trends and criminal justice operations. There was, thus, the paramount question of motivating officials at all levels to the task of assessing crime data for policy-making.

9. But even where the problem of motivation had been overcome, there loomed large the problem of the requisite expertise for statistical work in the area of crime prevention and criminal justice. Most nations did not have adequate or adequately trained staff to perform work in crime statistics, nor did they have the capacity to train such staff. The establishment of regional training facilities was regarded as absolutely necessary, as a first step for successful planning for crime prevention. Such a facility should be established with the assistance, or under the auspices, of the United Nations.

10. Several delegates reported a certain amount of progress in recording incidents of criminality and dispositions made in criminal cases. There remained, however, two rather serious problems:

1. Different criminal justice agencies kept separate statistics,

compiled by different methods, which could not be easily related to the statistics compiled by other agencies; 2. Above all, once statistics had been compiled and reported, there frequently existed the problem of what to do with them. As yet, there was a dearth of properly trained policy makers with the capacity of analysing crime statistics, especially trend statistics, and of making appropriate policy recommendations. That, likewise, called for the establishment of a regional African United Nations institute for the prevention and control of criminality.

11. Despite these significant obstacles, the countries of the African continent had been able to record considerable shifts in criminality during recent decades which were so obvious that sophisticated methods of statistics were not needed to document them. These changes were linked to the profound political, social and economic changes which had swept over the African continent. The termination of colonialism had initiated rapid economic and social developments which were bound to have their impact on the crime structure. An almost universally observed by-product of economic advancement was rural to urban migration and, with it, the loss of power of the indigenous social control organs, especially the extended family to positively affect behaviour. Crime and delinquency resulted wherever individuals were left without the moral support which theretofore had existed.

12. This situation was aggravated by the influx of alien ideals which frequently tended to subvert, rather than strengthen, traditional values. The mass communications media of Western civilization had a significant negative impact. In recent years the world economic crisis had also contributed to criminality.

13. The representatives of various countries reported on the type of criminality which ensued. Among these new forms of criminality were stranger-to-stranger violence, crimes involving violation of trust and fidelity, theft, robbery and armed robbery and even sexual offences. Since economic development did not proceed without difficulty, shortages resulted, and this led to a criminality of smuggling, hoarding, bribery and corruption, embezzlement of public funds and, above all, widespread juvenile delinquency among young people left on their own in sprawling urban areas.

14. Obviously, under those circumstances the nations of the African continent had to search for solutions to the growing problems of crime and delinquency. Several countries had succeeded by profound revolutionary changes which altered the entire social structure of society and provided a new framework for social and economic development, in which the equal access of all citizens to all opportunities and the concern of the whole community for all its individual members had significantly reduced criminality.

For these countries, it was also stated that only by eliminating social injustice inherent in a given social, economic and political system could crime be drastically reduced. In other countries success had been achieved by a variety of specific sectoral measures which had been introduced to avoid or at least curtail the criminality which had ensued in the wake of economic development. But the participants from all countries and social systems were agreed that any remedial approach had to focus on the individual in his/her position as a member of the community, and that the preservation of the role of the family was paramount.

15. The participants stressed their preference for a long-range crime prevention strategy which rested on the instilling and preservation of civic virtues and social values over the strategy which relied on law enforcement only. It was difficult to instill such positive values as long as blatant social inequalities existed. Poverty, unemployment, broken homes and alienation of values were serious criminogenic factors which had to be overcome. While, thus, crime prevention strategies had to be long-range and socio-economic in orientation, law enforcement had to play a significant role whenever primary and long-range crime prevention strategies proved ineffective.

16. The remedy for the ills which befell many countries of the African region undoubtedly had to be sought in long-range intersectoral and sectoral planning. Intersectoral planning called for the concerted action of all agencies of government, represented by the various ministries, and the participation of the citizenry in long-range efforts aimed at creating conditions which encouraged positive, social and lawful behaviour. Sectoral planning called for a co-ordinated approach by all agencies which were concerned with the prevention of crime and the administration of criminal justice. The representatives of various countries reported on recent efforts in this regard which, on the basis of preliminary analysis, had proved successful. Thus, several countries had established national co-ordinating agencies in which all relevant ministries were represented, including ministries of justice, interior, planning, social affairs, education, health, and even the military. These co-ordinating bodies met frequently and decided upon a co-ordinated long-range and short-range policy. Especially at the local level, popular participation at all co-ordinated planning was regarded as essential. When it came to the implementation of such plans, popular participation was particularly relevant and great strides had been made by socialist countries in which a great part of the crime prevention tasks had been taken over by the citizens and especially by trained volunteers.

17. There was agreement that in all countries the aim of crime

prevention ought to be given far greater priority than had been the case in the past. The broad range of experience in the African countries indicated that those countries had suffered least from crime which had planned against possible negative side-effects of economic and social progress, on the basis of reliable information.

II. Juvenile justice: before and after
the onset of delinquency

18. The topic of juvenile justice was regarded as particularly relevant for the African continent due to the extraordinarily large share of juveniles among the population. Juveniles were the inevitable victims of a process marked by reduced capacity of families to transmit social values and to control the young. Since it was economic and social development which brought about this dilemma, it was by economic and social means that juvenile delinquency had to be primarily prevented. The participants, thus, expressed a clear preference for juvenile justice - in the sense of social and economic justice for the child and its family. Juvenile justice after the onset of delinquency was regarded as a necessary intervention only in case of individual failures to prevent juvenile delinquency in the first place.

19. Little, if any, sympathy was expressed for the current controversy in some developed countries, centring on the issue of whether the social and rehabilitation approach had or had not been effective and had or had not endangered the procedural and civil rights of youngsters actually or potentially in conflict with social standards and laws. Africa had a different concern, a concern which sought to achieve social justice for all and internalized value systems for each young person. Broadly based communal approaches were called for to achieve this far-reaching aim. For that purpose, it had to be the effort of the State to strengthen the family as a principal transmitter of values. There was agreement that next to the family, the community as such and the system of public education played a paramount role.

20. Yet, public education was fraught with difficulties. Countries had emerged to independence with only a small number of schools. Vast masses had to be educated upon independence, both young and adult: the shortage of teachers and schools and of educational materials hampered the efforts. Above all, curricula had to be designed which not only taught reading, writing and arithmetic but also instilled values germane to the aspirations of the nation. Nobody wanted a generation of educated psychopaths. Young people had to be trained for their role as nation-builders, in whatever capacity, and that was regarded as the best possible delinquency prevention.

21. While there was agreement on ideals and goals, there also was sober recognition of the enormous task to be accomplished. In many cities of the continent, children and young persons were swarming in the streets by the hundreds, without goal except to survive, without support, without hope, subject only to peer-group pressure. With inadequate resources, the task of those charged with delinquency prevention was enormous. Methods to cope with the problem spanned the entire range of human ingenuity. While no country was confident enough to report complete success, countries which had experienced revolutionary political, economic and social changes had instituted highly successful programmes of long-range delinquency prevention. Most countries of the region had devoted some national effort aimed at delinquency prevention and the raising of a generation of responsible citizens. Such efforts were African in approach and sought to avoid imitation of programmes valid only in alien cultures.

22. Emphasis on community-wide approaches should not be regarded as rendering emphasis on the individual superfluous. Per contra, it had to be the aim of all delinquency prevention efforts, including communal ones, to instill in the child a sense of responsibility, security, belief and confidence. These were the best guard against endeavours to achieve material well-being by illegitimate means.

23. The participants could all point to significant differences between urban and rural conditions in matters of delinquency. Hardly any significant delinquency had been experienced in rural areas. In cities, on the other hand, delinquency was a growing phenomenon. This pointed to a need for keeping young people in rural areas where their services were needed to increase agricultural output. Innovative measures had been taken to make life in rural areas culturally attractive by providing educational and social services.

24. The apparent attractions of urban areas were all but nullified by the impossibility of providing opportunities and services to all those seeking advancement. Governments used to control such movements, yet it was by no means clear how such controls could be effected. In some countries penal responsibility had been placed upon parents who had failed to control their children. But programmes in which youngsters were enrolled where they obtained training in useful skills and civic education had proved more effective. Some such programmes had been organized by specialized departments for rural development, which had placed emphasis on co-operative units and productive work. Of particular success in some countries had been those programmes which combined vocational training with the involvement of youth in national reconstruction.

25. Of particular relevance were those national efforts which succeeded in organizing entire segments of the youthful population. High school students, in great numbers, had been sent to rural areas to take the place of teachers, and city youth had been organized in groups to whom useful skills were imparted so that those youngsters would not become public burdens but responsible citizens. In some countries young people from the cities had been resettled in rural areas on land made available under land reform programmes. Most of these programmes were too recent to permit an evaluation of results.

26. Here, as elsewhere in the administration of justice, co-ordination of efforts, at the national, regional or local level, was reported by all as of greatest significance to avoid waste, duplication or gaps in the delivery of essential services. Several countries had made excellent progress with such co-ordinating bodies.

III. Crime and the abuse of power: offences and offenders beyond the reach of the law?

27. It was clear from the outset of the discussion of this topic that this agenda item, more than any of the others, had grave political implications. While it was undoubtedly true that, in a certain sense, crime and the administration of criminal justice derived their significance from political considerations, when it came to criminality and the abuse of power, political considerations were of paramount significance. This was true regardless of the nature of the power referred to, whether political per se, economic, social, or of whatever sort, for all these had their source in the political structure. It was also agreed that, for practical purposes, the topic might be subdivided according to whether the power referred to was political in the direct sense and, thus, referred to abuses by those in direct and immediate power positions, or economic, which, of course, could persist only through links to the political system.

28. The African continent had for centuries been victimized by abuse of power, both political and economic, which either was criminal or would have been criminal but for the fact that those who abused the power could shield themselves from accountability by that very power position. In parts of the continent these abuses persisted in notorious forms. The representatives of various national liberation organizations recognized by the Organization of African Unity, and invited to the meeting by the Secretary-General pursuant to decisions of the General Assembly, who were representing the peoples of Zimbabwe and South Africa, reported to the meeting about the suffering to which their people were being subjected through abuse of power in flagrant violation

of international law and in contravention of the resolutions of the General Assembly, perpetrated by the current régime of South Africa. Confidence was expressed that even these criminal abuses of power would ultimately lead to accountability under law, possibly even before an international tribunal. Care should be taken, however, not to yield to the error of revengeful action, so that those administering such justice could not be accused themselves of abuse of power.

29. Participants devoted considerable attention to the types of criminal abuses of power that had to be considered, finding it necessary to differentiate between criminality during colonial times and after the establishment of national sovereignty. Acquisition of independence had by no means ipso facto resulted in a cessation of criminality through abuse of positions of power. Several delegates pointed to the continued existence of power positions inconsistent with the common weal, exercised for the purpose of enrichment of a few at the expense of the many and often accompanied by abuse of political power through the violent oppression of opponents. This situation was aggravated by the eagerness of powerful overseas trading partners intent upon importing into such countries their industrial products, often consisting of expensive armament, but also including luxury items, such as expensive automobiles, which would wind up in the hands of the very same persons who were abusing their powers. These powerful privileged few would then find it necessary to further curtail the rights of those whose opposition to their own power base they feared, especially the broad masses.

30. The interconnexion between powerful overseas trading partners and the relatively few persons in power positions who abused the public trust constituted a threat to the well-being of the entire citizenry. Detection and prosecution of the many and often complicated criminal conspiracies in which they were involved frequently exceeded the capacity of law enforcement and prosecution. Not only was it difficult, with traditional means, to detect complicated fraudulent sales transactions, embezzlement, corruption, kick-backs and other criminal arrangements but difficulties existed in bringing powerful persons to trial at home since their very power shielded them from prosecution. The difficulty was aggravated in the case of foreign domiciliaries whom the domestic jurisdiction could not reach. Both the domestic and the foreign power holders who combined their might for personal enrichment and to the detriment of the people had to be regarded as usurpers of power and as criminals who imposed far greater damage on the community than common street criminals.

31. Difficulties existed with respect to the quantification of the harm done by criminals abusing power. It was exceedingly

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hard to measure the loss imposed upon the community by the multitude of offences which could be classified as abuse of economic power. It was even more difficult to assess in monetary terms the harm imposed by abuse of political power, consisting of vast encroachments of individual liberty and human rights, the suffering created by unjust infliction of physical suffering and of torture and similar maltreatment, the disappearance of human beings and secret and illegal killings and the vast misery imposed by denial of the right to work and to live productive lives. An end had to be put to such vast sufferings. Africa could only be defended by her own children, and every effort had to be made to keep all foreign intervention - and that included specifically mercenaries - out of Africa.

32. A variety of views were expressed about the root causes of crime in general and of criminality through abuse of power in particular. While in some cases the causes might be personal greed or personality defects, in most cases the causes could be found in the intimately interlocked social, economic and political conditions which permitted or fostered such criminality. Considerable progress has been reported by representatives of socialist countries who, in a revolutionary sweep, had radically altered these conditions, thus diminishing the possibility of criminality through abuse of power.

33. All participants who expressed themselves on the questions reported on a variety of schemes which had been introduced to curb power-abuse criminality. Eternal watchfulness on the part of a well-organized citizenry was viewed as one of the most important controls against abuse. Citizenry control was exercised in some States through the elected representatives of the citizenry, assembled in parliamentary commissions, while in other countries it consisted of local or national citizen groups constituted by various means. Reference was made to the possibility of introducing in Africa an independent organ to enquire into the conduct of officials, similar to the Scandinavian ombudsman. Much was to be said in favour of a strong and independent organ of enquiry or prosecution which could not be blocked by the very same people who were being investigated.

34. In some countries particular success had been experienced with the use of fixed control organs, skilled in evaluating financial transactions. In some countries persons who had overtly acquired more wealth than their ostensible income would allow could be called upon to explain the origin of such unexpected income. They would face prosecution if the increase in wealth remained without legitimate explanation. Much had to be learned about the art of detecting and bringing to justice those who committed crime by abuse of political and economic power, and long-range planning to prevent such abuses required additional skills.

The support and resources of the United Nations to provide the requisite training were viewed as essential. United Nations efforts were also called for to strengthen the international machinery, whether bilateral or multilateral, for subjecting to control and justice the international offenders who abused power. Different international control organs might have to be envisaged for the two types of criminality through abuse of power, political, on the one hand, and economic, on the other.

35. While there was no disagreement with the various proposals which were made along technical lines, often resting on successful national experience, several speakers cautioned about over-reliance on technical approaches. They viewed the problem range as one which required profound social and political changes which, in turn, aimed at creating a change in the human being, i.e., from egotism to altruism, coupled with the acceptance of a social conscience.

IV. De-institutionalization of corrections and its implications for the residual prisoner

36. The topic de-institutionalization of corrections and its implications for the residual prisoner had to be seen in the context of African history. Prisons had been alien to the cultural tradition of most African nations and had been introduced by colonial Powers. Prisons were repressive institutions. However, in many parts of Africa they came to be seen as unavoidable evils, a view which persisted today in various quarters, even though the former colonial powers were now embarked upon a vigorous programme of de-institutionalizing the penal system. The traditional African method of responding to wrong-doing had included community control and social reintegration, coupled with restitution, concepts which were now being accepted by modern correctional theory and practice.

37. Because of the repressive nature of prisons, a number of African countries, upon achieving independence, decided to abolish this form of punishment. Yet no nation had wholly succeeded in doing so. In one country prisons had to be retained for severe and dangerous offenders, whose offences antedated in some cases the independence of the country. In another nation prisons had to be reinstated because of the impossibility to achieve a crime-free society in a short span of time and the need to have secure facilities close to the courts which adjudicated offenders. In other countries prisons, so it was felt, had to be retained for the time being simply because penal codes prescribed them - and penal codes could not be rapidly amended, because alternative sanctions appeared too costly, trained staff for extra-mural

treatment was not available, or the public demanded protection from the dangerous offenders, especially recidivists, or retributive sentences for violent criminals, and because of a persistent belief in the deterrent effect of prison sentences, although little evidence was available to support this belief.

38. Nevertheless, wherever prisons continued to exist, efforts had been made to humanize them as much as possible and to substitute rehabilitation programmes for pure punishment. Particular emphasis was placed on equipping the offender with skills needed for a socially useful life upon discharge. Efforts were also made to retain the prisoner's contact with his/her family and friends, and to provide him with public education. In some cases the time of confinement had been used to study the prisoner's possible personality problems and to remedy these.

39. Among the experiments recently undertaken were the progressive régime, according to which the prisoner, as he/she progressed towards rehabilitation, would be transferred to a less restrictive environment and would ultimately be permitted to work in the community, where he/she could earn wages. Moreover, family visits were allowed and encouraged. Nights would have to be spent in the institution. In a certain sense this was a form of de-institutionalization of corrections. The ultimate aim of de-institutionalization of corrections, however, was the drastic reduction of the prison population by fewer and shorter prison sentences and their replacement by alternative sanctions.

40. Bold experiments had been made in at least one country which had become convinced about the high social and material cost of imprisonment and the lack of convincing information about the rehabilitative nature of cellular confinement. Consequently, re-education camps had been instituted which were complexes without walls or barbed wire, in which sentenced persons served their sentences while providing useful labour to agriculture or other communal activities, while also learning to respect the community and its norms, acquiring a positive attitude towards labour and accepting the values of society. At such centres convicts were also required to teach their own crafts or useful skills to other convicts, thus participating in their rehabilitation. While such an open environment might be thought to allow easy walk-aways, evidence indicated that practically no escapes had taken place, while the success rate was high.

41. Similar experiments with sanctions other than imprisonment had been made in a number of countries, where sentences included useful labour to the community, including road improvements, construction of public buildings and similar community services. Every extra-mural sanction lessened the possibility of abuse, including maltreatment and torture, which prison so frequently entailed.

42. Of particular concern was the definition of those who had to be imprisoned - often for long periods - because they were dangerous. The point was made that society defines dangerousness: If violators of import-export regulations or cannabis users are regarded as dangerous, they will receive statutorily long sentences. Moreover, society may well have a role in rendering certain persons dangerous, due to the inequities or inadequacies of the social and economic structure or, ultimately, due to brutalization by imprisonment. The question of the definition of dangerousness and, with it, the establishment of criteria for those who could serve extra-mural sentences, required an in-depth review, considerable exchange of national experiences, and United Nations assistance, perhaps in the form of guidelines.

43. The question of the potential of abuse linked to imprisonment was touched upon by several speakers who referred to torture and cruel treatment, not inflicted as a matter of state policy but due to imperfect recruitment of correctional staff, and lacking training and supervision. Administrative agencies, review and supervisory bodies and citizens groups, as well as vigorous prosecution of violators of standards, had had effects, but much remained to be done.

44. De-institutionalization of corrections should not be left to chance. Prisons could not be emptied by the exercise of the pardon power on national holidays. Policy decisions had to be made on the basis of study, research and the exchange of experience data, so as to reduce the number of "residual prisoners", "unlucky ones", as they were called in one country, for whom, as yet, alternative sanctions were not available or acceptable. The entire range of human imagination had to be mustered in the search for alternatives to imprisonment, although, to be realistic, the ultimate disappearance of prisons was not in sight.

45. Consequently, it was necessary to pursue vigorously the policy of humanization of corrections, so as to ease the lot of residual prisoners, in accordance with national traditions and international standards for the treatment of prisoners. Inhumane prisons were, perhaps, the last vestige of suppression imported by colonial Powers, and Africa had to free itself from this vestige and find its own answers to its problems. Obviously, this could not be done in disregard of the experiences of the entire world. Per contra, through the services of the United Nations, Africa wanted to benefit from the experience of all humankind.

V. United Nations norms and guidelines in criminal justice: from standard-setting to implementation; and the question of capital punishment

46. The participants acknowledged the intention of the United Nations to extend a network of extensive protection, for the benefit of all humankind, borne out of the tragic experiences with the dictatorships of the 1930s and 1940s and, in Africa, during colonial oppression. Those of the international standards intended to safeguard the criminal process and the rights of persons in state custody were particularly appreciated. No one questioned the need for the existing standards nor the development of additional standards, not only in the area of human rights in criminal justice but also for the effectuation of expeditious criminal procedures and related subjects. Note was taken of the endeavours of the Committee on Crime Prevention and Control to develop such standards.

47. Serious questions arose, however, with regard to the implementation and effectuation of these standards. There was, to begin with, the issue of dissemination of United Nations norms and guidelines. Standards themselves, as well as documents pertaining thereto, emanating from the United Nations Secretariat, frequently did not reach the offices most concerned with them, rendering implementation virtually nugatory. A better system of communication between United Nations offices and missions in New York, on the one hand, and responsible agencies of national governments, on the other, had to be devised before one could hope for implementation of standards. To the extent that the relevant documentation reached the appropriate government offices, there arose the issue of proper dissemination of standards, and that issue was twofold, first, budgets were usually unavailable to produce the requisite number of copies for distribution to all concerned parties; secondly, the standards, being in one of the United Nations official languages, were oftentimes of no use to countries and their many regions in which other languages were spoken. Lastly, there was virtually no international follow-up respecting the implementation of such standards, since United Nations questionnaires, likewise, often did not reach the responsible agencies.

48. It was recognized that none of the countries of Africa, the Republic of South Africa excepted, pursued a policy calculated to violate United Nations norms and guidelines pertaining to criminal justice and offender treatment. Nevertheless, widespread violations were occurring in many countries, due to the fact that the services of criminal justice, especially police and prison services, were as yet being administered by haphazardly recruited, non- or ill-trained officers who simply lacked the knowledge and

attitude necessary for norm-compliance. A great task had yet to be performed in this regard in which unquestionably, the requested African United Nations Institute for the Prevention of Crime and the Treatment of Offenders had a major role to play, especially through training trainers. Attitudinal shortcomings, however, affected not only the lowest echelon of the government services, but, in some African countries, reached into the highest levels so that, sometimes, the very right to life was threatened. Perhaps this was a necessary evil in a region which had so recently, and violently, freed itself from oppression; although it was reported for at least one country that the transition to a state of humane criminal justice had been achieved swiftly and smoothly.

49. The achievement of the true Rule of Law in Criminal Justice, consonant with the world's norms and guidelines, ultimately required a perfect system of recruitment, training, dissemination and enlightenment. The abolition of exploitative conditions and the creation of conditions of social and economic justice, would then not permit the recourse to political emergencies and exigencies which frequently were the cause of widespread abuses of these standards. Until that state of relative bliss were reached, vigorous recourse to the United Nations standards should be had, so that public opinion could be marshalled behind them, and so that even a lowly official could justify a refusal to engage in actions violative of the standards.

50. International non-governmental organizations had a significant role to play in seeking to implement the relevant norms and guidelines, for example, the International Committee of the Red Cross and Amnesty International, which in a cable to the Meeting had urged, inter alia, the development of more effective mechanisms for the implementation of United Nations standards, particularly those for the humane treatment of prisoners.

51. As regards national implementation of norms and guidelines several participants referred to provisions in their penal codes which subjected to severe sanctions all officials who committed criminal offences which amounted to such violations. Other participants referred to their system for the supervision of agencies of criminal justice by popular bodies or official supervisory organs, including judges for the execution of sentences. Means for securing implementation varied considerably from country to country, nations having developed their own system. While, thus, the matter of implementation was a question of national jurisdiction and sovereignty, the international community had a role to play, especially in the African setting, where according to old practice, neighbours had the right and duty to guard each other against deviations from commonly held norms. The Economic Commission for Africa, which unfortunately had never been properly

equipped to deal with matters of social defence, required strengthening so as to enable it to play a role in monitoring compliance with United Nations norms and guidelines. African countries had to overcome their current reluctance to exercise self-criticism or constructive mutual criticism. Above all, they should ratify the international instruments designed to protect the rights of all persons subjected to the criminal justice process, now and in the future. It would take courage to do so, and moral strength was required to vigorously implement these norms.

52. The standards most frequently referred to by the participants were the Standard Minimum Rules for the Treatment of Prisoners, the Draft Code of Conduct for Law Enforcement Officials, and particularly the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In this connexion, the participants took note of the General Assembly's request to devote attention to the question of capital punishment, as to which no international standards had been developed. The death penalty was a matter of grave concern to Africa, the continent in which only one country (Mozambique) did not recognize this sanction under its penal code. In oppressive hands, it was pointed out by representatives of national liberation organizations, this sanction could take particularly pernicious forms, including killing by torture during confinement and the unexplained disappearance of citizens, including children.

53. The participants declared their agreement with the stated policy of the United Nations General Assembly which envisaged the eventual abolition of all capital punishment. But difficulties had to be anticipated on that road. Penal codes prescribed its application and both the popular will and legislatures were slow in providing for amendments. Actual imposition of the death penalty for capitally sentenced offenders had been restricted to only a few select cases, which, of course, raised the question why these few had to be singled out above all others and whether these few really had to be executed when all other capital offenders had their sentences commuted. Agreement was expressed that all penal codes needed urgent review as to whether capital punishment was necessary, from the perspective of criminal policy, for the offences for which it was currently provided, or whether its use could not be restricted to progressively fewer offences, with a view towards ultimate abolition.

Annex I

LIST OF PARTICIPANTS

Tashoma Haile-Mariam (Chairman)
President of the Supreme Court
Ethiopia

Jean Benglia (Vice Chairman)
Senior Magistrate
Senegal

Said Benabdellah
Magistrat à la cour suprême
Algeria

Getachew Kitaw
Deputy Attorney-General
Ethiopia

Zemene Hilawie
Head Correction Department
Prison Administration
Ethiopia

Fasil Nahum
Dean, Faculty of Law
Ethiopia

Girma Mulugeta
Lieutenant
Ethiopia

Abou Bakr Abdel-Ghaffar
Ambassador of the Arab Republic
of Egypt
Addis Ababa
Ethiopia

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Annex II

LIST OF DOCUMENTS

<u>Symbol</u>	<u>Title</u>
ESA/SDHA/1	Standard Minimum Rules for the Treatment of Prisoners and related recommendations
A/CONF.87/BP/1	Report of the European Regional Preparatory Meeting of Experts on Crime Prevention and the Treatment of Offenders
A/CONF.87/RM.1	Discussion guide for regional preparatory meetings for the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders
A/RES/32/61	General Assembly resolution on capital punishment
E/5616 and Add.1 and Corr.1 and Corr.2	Report of the Secretary-General on capital punishment

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