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WORKING GROUP OF EXPERTS FROM LATIN AMERICA AND THE
CARIBBEAN ON CRIMINAL POLICY AND DEVELOPMENT

Final report

The United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) organized in San José (Costa Rica), from 21 to 26 July 1980, a meeting of Latin American experts to consider the topic of criminal policy and development in Latin America, in relation especially to item 8 of the agenda of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

Miss Elizabeth Odio Benito, Minister of Justice, opened the meeting and was elected Chairman by acclamation; Lic. Jorge A. Montero, Director of ILANUD, and Professor Manuel López-Rey y Arrojo, United Nations Consultant, were elected Vice-Chairman and Rapporteur respectively, likewise by acclamation. The following experts, together with the Rapporteur, were elected members of the drafting group also by acclamation: Licda. Victoria Adato de Ibarra (Mexico), Lic. José A. Garcíá Alvarez (Cuba) and Dr. Hernando Rosero Cuevas (Ecuador).

The following conclusions reflect the essential features of the discussion of the items to be considered by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, especially agenda item 8, entitled "New perspectives in crime prevention and criminal justice and development: the role of international co-operation".

I. PRELIMINARY CONSIDERATIONS

It was confirmed once again that in order to achieve greater efficiency in the prevention of crime, the treatment of offenders and criminal justice, it was necessary to establish international co-operation among the countries of Latin America and the Caribbean. That would in no way exclude the co-operation which should be established at a broader level with the United Nations and the countries of other regions in conditions of equality and mutual respect. It was considered that ILANUD should play the co-ordinating role in such international co-operation.

International co-operation among the Latin American and Caribbean countries should not be aimed at formulating a uniform criminal policy for those countries, but should take into account both the common problems of the countries concerned and their socio-economic and political diversity.

International co-operation regarding criminal policy should be geared to the concerns and needs of the Latin American and Caribbean countries, as freely determined by them in the context of respect for the individual human rights established collectively by the United Nations Charter, the Universal Declaration of Human Rights and United Nations agreements.

It was considered that criminality is a social phenomenon and that criminal policy is part of or closely related to the national, political and economic development of each country. Consequently, criminal policy should be regarded as a whole. The prevention of crime in Latin America and the Caribbean is closely linked to the efforts being made by the developing countries at the national and international levels to achieve a just and equitable new international economic order.

Despite the generous efforts of the Government of Costa Rica and the co-operation of the United Nations, the co-operation received by ILANUD from the Latin American and Caribbean countries has been, with some exceptions, limited. Paradoxically, more co-operation has been received from non-Latin American countries than from Latin American countries. Consequently, it was felt that the Governments of the region should intensify their co-operation in accordance with the modalities set forth in section II below.

II. MODALITIES OF INTERNATIONAL CO-OPERATION

In the context of the diversity of socio-economic and political systems, co-operation could take the following forms:

- (a) Exchange of information;
- (b) Co-ordination of criminal policy plans and reforms;
- (c) Technical assistance;
- (d) Financial and professional aid.

All these modalities would be aimed at a revision of penal systems with a view to achieving penal social justice.

III. SPECIFIC ASPECTS

(1) It is recommended that Governments should organize a criminal statistics system with the necessary national adaptations that would make it possible to obtain sufficient information about the extent, characteristics and trends of all forms of criminality in Latin America and the Caribbean; prepare a statistical handbook; organize national documentation centres; and establish a data bank in ILANUD.

(2) Without prejudice to national criminological research, other criminal research should be co-ordinated at the regional level which, among other aims, would seek to determine: the correlations between criminality and socio-economic development with respect to various age groups, internal and international migration, socio-economic and political treatment, urban areas and big cities, and unemployment and underemployment; the distribution of criminality among the various social classes, especially those possessing economic, industrial, technological and institutional power; the exploitation of women, the disintegration of the family and the increase in crime among women.

Efforts should also be made to clarify and systematize the terminology and methodology of criminal policy, bearing in mind the characteristics of the social and legal structures of the countries concerned.

(3) Each country is independent and organizes its socio-economic and political structures without outside interference. Nevertheless, it is recommended that the planning of national development should include the planning of criminal policy and the planning of the penal system.

To that end, it is recommended that the bodies responsible for formulating and implementing development plans should include criminal policy experts. Consequently, as a reflection of that participation, each country should establish a criminal policy body which in addition to its national functions would be responsible for ensuring international co-operation.

(4) Co-operation should be established with a view to the effective criminalization of activities directed against national wealth, including artistic, cultural and ecological wealth, and of all illicit traffic, especially traffic in persons and drugs. Particular attention should be given to the criminalization of certain financial, economic and industrial practices which victimize certain groups or sectors of the population.

Those forms of conduct which are currently of little importance or are the reflection of an obviously unjust socio-economic structure should be decriminalized. As regards penalties, minimum use should be made of penalties deprivative of liberty, which should be replaced as far as possible by penal sanctions or limitations that leave the accused or sentenced person free and provide him with the requisite socio-economic, educational and occupational assistance. In that regard, some countries have introduced penal reforms making maximum use of conditional release, suspension of the sentence and of criminal proceedings, periodic leave of absence and temporary release and similar measures. Similarly, detention pending trial should be reduced to the indispensable minimum.

The exchange of persons sentenced to penalties deprivative of liberty between countries of the region and other countries pursuant to agreements should always be carried out with due regard for the human rights of the persons concerned; no exchange should be carried out and no agreement used for other purposes that violate those rights.

(5) There should be co-operation in the effective establishment and operation of a penal system of social justice. To that end, community participation in the organization and implementation of that system will have to be intensified at the national and regional levels. Some experts referred, among other examples, to the establishment of peoples' tribunals, factory or workshop committees, and community or neighbourhood boards or groups, which already exist in some countries. The penal system should put an end to the impunity enjoyed in some countries by offenders of certain social classes with regard to their criminal activities in the economic, industrial, political and other areas, especially the harmful activities of transnational corporations, the criminal violation of human rights by institutions or services, preventive detention without judicial intervention, and torture and cruel, inhuman or degrading treatment.

In order to protect the human rights of suspects, persons charged with offences, arrested persons, persons who are being tried and persons who have been sentenced, the State should establish a system of legal or institutional assistance or defence for their defence throughout the national territory. Such defence is essential since in most countries it is either not provided at all, or provided on a very limited scale; this explains, but does not justify, the fact that in many countries of the region the proportion of persons in custody who are awaiting trial varies between 40 and 80 per cent of the total, and that the immense majority of them belong to social groups whose economic resources are scanty or non-existent. Every penal system should be reviewed with a view to correcting any defects that currently help to aggravate the situation.

(6) There should be interregional co-operation in the formulation of criminal policy for the prevention of juvenile criminality. Consequently, there should be an evaluation of existing juvenile justice systems which, with some exceptions, do not function properly in large urban areas and are virtually non-existent in rural and semi-urban areas. A criminal policy of this nature should involve practical measures relating to family welfare, work by women, working conditions in frontier areas and manufacturing towns and the opening up of major means of communication, particularly when this involves the displacement of the indigenous population, and improvement of the conditions of families who emigrate from rural to urban areas. In short, it is recommended that so-called juvenile justice should be reviewed, bearing in mind particularly the fundamental role played in many Latin American countries by the members of the population who are under 18, and the human wealth which these young people represent.

(7) Compensation for crime victims is essentially a function of the State, as part of its penal functions, and does not depend solely on the solvency of the individual. In accordance with the principles of penal social justice, compensation funds or similar institutions should be established in every Latin American and Caribbean country; this has already been done in some of them.

(8) Bearing in mind the work done by ILANUD and its co-ordinating function with regard to international co-operation as regards criminal policy in Latin America and the Caribbean, it is recommended that the financial aid mentioned in section II (d) should be provided on a continuing basis so as to facilitate and expand the work of ILANUD.

IV. RESOLUTION OF THE GROUP OF EXPERTS

Upon completing their work, the experts decided to adopt the following resolution:

The Group of Experts wishes to express its gratitude to the United Nations and the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders for the opportunity given it to contribute to the strengthening of international co-operation with regard to criminal policy in Latin America and the Caribbean; the leading role played by the Institute in that connexion should be stressed. The Group also wishes to congratulate the Institute, represented by the Minister of Justice and its Director on the work done in the first five years of its existence, and to thank the Government of Costa Rica for its generosity in maintaining the Institute.

Since the present report represents a contribution to the discussion of the agenda of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Group of Experts unanimously expresses the hope that its report will be submitted to the Congress by the United Nations Secretariat as a document of the Institute.

This archiving project is a collaborative effort between United Nations Office on Drugs and Crime and American Society of Criminology, Division of International Criminology. Any comments or questions should be directed to Cindy J. Smith at CJSmithphd@comcast.net or Emil Wandzilak at emil.wandzilak@unodc.org.