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**VICTIMS OF CRIME**

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## INTRODUCTION

1. The plight of victims of crime and of illegal abuses of power has been arousing increasing concern in recent years. Proliferating instances of victimization both of individuals and of vulnerable groups, highlighted by the media, have provoked feelings of empathy, of shared vulnerability and of the need for more effective preventive and remedial action. Though the response still lags far behind the need, there seems to be a growing recognition that the common bond of humanity and self-interest, as well as the climate of insecurity and fear in which so many people live, require strengthened ties of social solidarity and joint action to reduce the suffering and damage which criminal and other illicit and noxious acts inflict.

2. Recent events have poignantly drawn attention to this fact: massive disasters involving criminal negligence and claiming thousands of victims, killings of political opponents or others, however camouflaged, reported cases of torture, organized criminality, and widespread instances of ordinary street crime, provoking vigilante counteractions and a further spiral of violence. In many parts of the world, the citizens at large are the victims, afraid to leave their homes at night, to follow their favourite pursuits and customary life-styles, often living almost in a state of siege, whether the danger is real or exacerbated by the pervasive anxiety fanned by the publicity given to crimes or, on the contrary, the ominous silence surrounding them.

3. Victimization, both individual and collective, is an age-old phenomenon which has at times reached genocidal proportions. The decimation of certain racial, religious and ethnic groups is tragic testimony to this. Innocent victims of terrorism against and by the State, victimization through harmful economic practices exhibiting flagrant disregard of human life and health, or double standards victimizing the weak and the unknowing - such instances abound, with few possibilities for recourse. Violent street crime in many places has claimed random victims, drawing attention to the need for better preventive measures and assistance. The real dimensions of domestic violence are being exposed, and remedies considered. But the response to the range of problems is still lagging and the victims all too often neglected. Yet, historically, redress has played an important role. Traditionally, under customary systems of justice, the focus has been on repairing the damage to the victim in the framework of the relations between tribes or families or other groupings. But in the modern context, the victim is all too often left without remedy. Indemnification of, and other aid to, crime victims is an important issue which deserves priority. At the collective level, the Wiedergutmachung experience with the victims of Nazi persecution offers a precedent applicable elsewhere.

4. Various aspects of victimization and potential modes of response have received various degrees of attention in different places and at different times. However, in the shrinking world of mass communications and increased exposure to various forms of human suffering, greater empathy, stress on civil rights and the quest for social justice have aroused a growing consciousness of the need for more effective action on behalf of victims of whatever kind.

5. With the overriding focus on the offender in many criminal justice systems (especially those based on the adversary principle), the need and wishes of victims have been largely ignored or relegated to a secondary place, although some improvements in their situation have been achieved, especially during the last fifteen to twenty years. In some countries, largely as a result of the victim movement, significant advances have recently been made, with the establishment of special commissions of inquiry, victim assistance programmes

and services, and enactment of appropriate legislation, including victims' bills of rights. But even this progress, significant as it is, does not fully meet the actual need, nor has it been sufficiently concerted or widespread to warrant complacency. Much more needs to be done if major strides are to be made in this area of overwhelming concern, not only to the criminological community but to humanity as a whole.

6. During the last decade, a number of international and regional colloquia have been held, reflecting the growing interest in "victimology" and the development of more effective policies to meet the needs of crime victims.\* This is the first time, however, that a global United Nations conference is focusing on the subject. The urgency of the matter has been emphasized by the preparatory meetings. It is hoped that the Congress will provide the opportunity for meaningful discussion on this question as a springboard for incisive action.

7. The Committee on Crime Prevention and Control at its seventh session stressed that, attention should be paid to the victims of illegal abuses of power, consideration should also be given to the victims of traditional crime, particularly of offences involving violence or brutality (E/CN.5/1983/2, para. 138). In pursuance of resolution 7 of the Sixth Congress (A/CONF.87/14), the formulation of guidelines on behalf of such victims had been included in the regular United Nations work programme. 1/ In order to relate the guidelines to this agenda item of the Seventh Congress, their scope was expanded to

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\*The various gatherings on the subject include the following: First International Symposium on Victimology, Jerusalem, September 1973 (proceedings contained in Israel Drapkin and Emilio Viano, eds., Victimology: A New Focus (Boston, Heath (Lexington Books), 1974); International Congress of Penal Law, 1974; Second International Symposium on Victimology, Boston, 5-11 September 1976; Third International Symposium on Victimology, Münster, 2-8 September 1979 (papers contained in Joachim Schneider, ed., The Victim in International Perspective (Berlin, de Gruyter, 1982); Fourth International Symposium on Victimology, Tokyo/Kyoto, 29 August-2 September 1982 (proceedings contained in K. Miyazawa, ed., Victimology in Comparative Perspective (Tokyo, 1985); Fifth International Symposium on Victimology, Zagreb, 18-23 August 1985; First World Congress on Victimology, Washington, D.C., July 1980; Second World Congress on Victimology and Sexual Abuse of Children, Rome, 17-23 July 1985; International Colloquium on the Victim in Criminal Justice, Dubrovnik, 1984; First International Institute on Victimology, Bellagio, 1975 (proceedings contained in Emilio Viano, ed., The Victim and Society (Washington, D.C., Visage Press, 1976); Second International Institute on Victimology, Bellagio, 1982; Third International Institute on Victimology, Lisbon, 1984; International Seminar on Victimology, Siracusa, 3-9 January 1982 (proceedings contained in Victimology, vol. 8, Nos. 1-2, 1983; United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) Simposio de Expertos en Victimología, San José, 26-28 April 1983; Thirtieth International Course on Criminology: Victims of Crime (proceedings contained in E. Fattah, The Plight of Victims in Modern Society (London, MacMillan, 1985); Helsinki Institute for Crime Prevention and Control affiliated with the United Nations (HEUNI) Seminar: Towards a Victim Policy in Europe, Helsinki, 30 October-2 November 1983; Council of Europe, Sixteenth Criminological Research Conference: Research on Victimization, 26-29 November 1984; Interregional Preparatory Meeting of Experts on Victims of Crime, Ottawa, 9-13 July 1985 (A/CONF.121/IPM/4).

include also victims of ordinary crime (E/AC.57/1984/14). The Committee on Crime Prevention and Control recommended that the Interregional Meeting of Experts on this topic arrive at a final text for submission to the Seventh Congress.

8. The Interregional Preparatory Meeting welcomed the formulation of the draft guidelines and made further recommendations, on the basis of the work of a drafting group, proposing a draft resolution and declaration on justice and assistance for victims (A/CONF.121/IPM.4, Annex I). This text was to be revised in the light of comments received from members of the Committee on Crime Prevention and Control and governmental and non-governmental quarters for submission to the Congress (A/CONF.121/IPM.4/Add.1). In addition, to facilitate discussion on this subject, a synthesis of the main principles of justice and assistance for victims, which have emerged from the preparatory work on this agenda item, is contained in the annex to this report.

9. In order to ascertain the position of victims and the measures available to them or proposed for recourse or redress, assistance and restitution or compensation, and to provide an empirical basis for the Congress deliberations, a comparative survey on this subject has been conducted as part of the regular work programme, summarized in document A/CONF.121/22. In accordance with Economic and Social Council resolution E/1984/49, a report on the situation of women as victims has also been prepared in connection with this agenda item (A/CONF.121/16).

10. The contributions of Governments and of non-governmental organizations which have taken special initiatives in this area and provided valuable input (E/AC.57/1984/NGO.1 and 2)\* should further enhance the fruitfulness of the discussion. It is hoped that, despite the wide range and numerous kinds of victimization, certain common approaches can be pursued and specific action requirements formulated, as a basis for strategies at various levels intended to reduce victimization and to improve the situation of victims.

## I. VICTIMIZATION AND VICTIMS

11. It has been suggested that by the simplest definition, the term "victim" would apply to those who have been harmed unjustly.\*\* This concept includes the perception that victimization has occurred, since the idea of justice, or of its modalities, may be situationally relative or culture-bound. What is known about the nature, extent, causes and other aspects of various forms of victimization around the world largely hinges on the degree to which various societies recognize the existence of different harmful acts or define them as problematic or deviant. As norms and attitudes vary, so do the law

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\*See also World Society of Victimology, Newsletter, vol. 3, No. 2 (1983/1984), pp. 1-32.

\*\*Melvin J. Lerner, The Belief in a Just World (New York, Plenum, 1980). Legally, criminals are defined as those who have been found guilty of violating the criminal law, but the victim's status is, rather, "self-defined and ... not recognized under law by criminal justice professionals". Eduard A. Ziegenhagen, Victims, Crime and Social Control (New York and London, Praeger, 1977), p. 5.

enforcement, research, and data collection efforts, and thus the knowledge generated. Historically, serious and widespread instances of victimization have been accepted as the natural order of things, even by the victims themselves, before the injustice of their injurious or inequitable treatment evoked a consciousness of the need for change and calls for remedial action. In both individual and collective cases, society determines, through its system of values and norms, whether victimization has occurred, and through its response either alleviates or compounds the pain and suffering of the victims.

12. Since those who play a dominant role in exercising social control in a society also make the laws, observance of the law is not a necessary guarantee against victimization. The human toll of nazism and of apartheid attests to this. In limiting the scope of the discussion to the victims of crime and illegal abuses of power, this constraint must be borne in mind. So must be the fact that a number of countries, especially developing ones, may not yet have legislation, let alone the means of enforcing it, to cope with various potentially serious forms of victimization, deriving from unscrupulous exports of hazardous substances, 2/ dangerous or obsolete drugs, 3/ or technology without appropriate regulations and training for its use, thus increasing its risk factor to the population. 4/ The victimization of developing economies through quasi-licit practices such as transfer pricing, and of consumers - wherever they be - through consumer fraud or the passing on of penalties paid or other costs incurred, provides further illustration of the maneuverability of the crime or legality concept to the detriment of potential victims. At the individual level, unlike the police and other agents of control, victims of street crime may be less concerned with nomenclature than with the alleviation of their discomfort and restitution of their loss. However, granted the inadequacy of purely legalistic definitions, such short-cut terminology will be used to circumscribe the discussion, with this caveat in mind. It might be added that in spite of the lag existing between changing socio-economic reality and legislation, the acknowledgement of the victimizing effects of certain practices may be formalized in the adoption of new laws or reform of prevailing ones, with a view to curtailing and preventing such practices.

13. While regulatory mechanisms involving civil laws and administrative regulations are primarily used to ensure for example the observance of environmental safeguards and labour safety, the criminal law may be invoked in particularly serious cases, or as an additional deterrent. The progression from civil to penal stipulations may be related to the socio-economic transformations and changing perceptions of the harmfulness of certain acts, particularly those linked to technological developments.\* The facilitation of civil remedies as a principal or additional means of redress for damage suffered in certain cases through attachment to criminal proceedings or other ways of reducing their cost and time delays further underlines the importance of a comprehensive approach which would still be as concrete and specific as possible.

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\*The recent criminalization of the practice of insider trading in the United Kingdom is a pertinent example of this progression. See Barry Rider, Insider Trading (Bristol, Jordan, 1983).

14. As crime has increasingly become transnational, with technological advances, so have forms of victimization.\* Yet, methods of prevention and control have all too often failed to keep pace with the new requirements. They need to be reevaluated and improved so as to provide a more effective means of curtailing victimization. This necessitates also more profound attention to the processes and dynamics which are linked to it. It also underlines the abiding need for concerted action, both national and international, to stem victimization in whatever guise it occurs.

#### A. The victims

15. At the preparatory meetings for the Congress, there was a consensus that the spectrum of victims is broad, ranging from all members of society as potential victims, to particularly vulnerable sectors of the population and, finally, to individuals. It would be an impossible task to identify, even in summary fashion, the many kinds of victimization and victims of illegal acts evoking serious concern.\*\* Previous attempts at highlighting some of the most noxious practices resulting in victimization of major groups of victims (see, for example A/CONF.87/6 and E/AC.57/1984/13) have barely scratched the surface. Alarming communiqués have become almost routine, yet some deprivations are not even known.\*\*\* While accurate statistics are usually lacking because of the frequently covert nature of the operations involved, it is known that thousands of people have perished in recent years, the victims of massive persecution on racial, ethnic, religious, political and other grounds.\*\*\*\* The deliberate taking of human lives, 5/ including the elimination of whole population groups, extra-judicial executions (E/1985/43, E/CN.4/1985/17 and A/CONF.121/21) "security sweeps" against presumed guerilla activities or other alleged enemies involving regular or special police units or shadowy "death squads", 6/ and the disappearance of political opponents, 7/ attacks on refugee camps and expatriate nationals, 8/ the use of women and children as a "shield" or cannon fodder in external and civil wars, 9/ the use of innocent persons as accidental pawns in indiscriminate terrorism, with the loss of innocent lives, 10/ the prevalence of torture 11/ and other consistent violations of human rights - all these attest to the proliferation of criminal abuses of power which exact a staggering toll. Their true extent cannot be determined and may never be known since much of the evidence is hidden or destroyed, the victims dead and their relatives fearful of reprisal.

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\*The almost 900 acts of terrorism which took place in 1983 were directed against victims representing 85 nationalities. Ronald L. Gainer, "International Cooperation in criminal justice administration - a selective overview", in United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI Resource Materials Series, No. 26, December 1984, p. 28).

\*\*For a valuable attempt to do so, see Elías Neuman, Victimología: el rol de la víctima en los delitos convencionales y no convencionales (Buenos Aires, Editorial Universidad, 1984).

\*\*\*"In a number of instances, minorities or even majorities, have faced extinction or forced assimilation and were too powerless to protest." Quoted from "Survey of recent and prospective trends and fundamental changes in the field of socio-economic development", 1985 Report on the World Social Situation (E/CN.5/1985/2, p. 50).

\*\*\*\*It is estimated that at least two million people have thus perished in the last 15 years and probably many more (E/CN.4/1983/16), p. 40.

Individuals and groups who protest against such practices have often been intimidated, persecuted and silenced.\* In spite of its prohibition, slavery in its older and newer forms is still practiced in some parts of the world, 12/ and forced removal of people into "homelands", 13/ exploitation of migrant labour, 14/ bannings (A/C.3/40/1), protracted detention without trial 15/ and other forms of institutionalized violence\*\* negate fundamental human rights and basic tenets of justice. All too often there is a substantial gap between professed norms of conduct and actual practice. Channels for recourse and mechanisms of redress for victims of such abuses are usually lacking or inaccessible in fact.

16. Collective victimization of an economic kind, through large-scale consumer fraud, inflated prices, dangerous or ineffective products and machines, environmental hazards, infringements of labour safety regulations, perpetrated sometimes by powerful trading partners, including transnational corporations, may involve large numbers of people who do not even know that they are being victimized. Whereas in developed countries, consumer associations, trade unions and others concerned have succeeded in curtailing such abuses and in initiating remedial measures (for example, through class actions), victimization tends to proliferate where the controls are more lax and the people less aware. Vast segments of the population, particularly in developing countries, are easy prey to victimizing practices of this kind.

17. Traffic in human misery is a particularly sordid abuse, whether it be diversion of sorely needed aid for selfish ends, including offences such as black-marketeering and collection of charitable funds under false pretences, or trafficking in drugs across national frontiers which profits from artificially created needs and dependencies. Such practices involve multiple levels of victimization, affecting not only individuals and families, but also - through the nefarious links with corruption and organized crime - impairing the social fabric and economic viability (for example, through money-laundering and interfaces with legitimate activities). 16/

18. While conventional or street crime often randomly claims its victims, certain structural factors in many societies may make certain population groups particularly vulnerable. Victimization surveys conducted in a number of developed and some developing countries have revealed a disproportionately heavy concentration of victims among the poor and among disadvantaged minority groups. In inner cities, where the deprived and frustrated are frequently concentrated, there tends to be higher victimization risk, with the entire community paying the price.

19. The relevance of victimization surveys was originally revealed in connection with such vastly under-reported crimes as rape and child or spouse abuse, whose victims constitute a large proportion of the "dark figure" of crime. It became obvious from their study that certain reasons militate against the reporting of such acts, linked to expectations of societal

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\*See, for example, D.D.N. Nsereko, "Group victims of crime and other illegal acts linked to abuse of public power, with special reference to Africa", paper prepared for Interregional Preparatory Meeting of Experts on Victims of Crime, Ottawa, 9-13 July 1984.

\*\*Manuel López-Rey, "The victims of crime", paper prepared for the Interregional Preparatory Meeting on Victims of Crime, Ottawa, 9-13 July 1985; and S.C. Versele, "La violence institutionnalisée", rapport présenté au 23ème Cours international de Criminologie, Maracaibo, Venezuela, 1974.



disapproval and to problems of definition by society and by victims themselves.\* Such underreporting has the effect of minimizing the awareness and the seriousness of certain forms of victimization as a social problem.

20. One of the original contributions of the relatively new discipline of victimology has been to consider the relationship between victim and victimizer. 17/ However, this approach, though useful in drawing attention to the possible interactions in the genesis of an offence, has also been misused in assigning blame for presumed provocations to victims who "are asking for it". While this reaction has been particularly decried by feminists (for example, in relation to rape) its analysis has wider implications related to the whole question of power or powerlessness and the socio-political definition of various types of conduct by different population subsets.

#### 1. Victims or victimizers?

21. In certain cases the line between being a victim or a victimizer is not clearly drawn or the respective roles may converge - simultaneously, or successively. Auto-victimization is perhaps the ultimate expression of this dual role. The self-destructive behaviour of "criminals out of a sense of guilt", who may unconsciously seek punishment, whatever their overt stance, reflects the tortuous psycho-dynamics which are sometimes at play.

22. The penal system, by a certain bias or excesses, may victimize the victimizers within it. It has been pointed out that most prisons are populated largely by the most disadvantaged members of the population, who have been the major focus of what is basically "la criminología del pobre diablo", 18/ though criminal offending is distributed across all segments of society. Apart from questions of inequity and original handicap, apt to affect the dynamics of criminal events, the very real victimization to which the inmates of most prisons are subjected exacerbates the problem and diminishes the chances of cutting the vicious circle of victimization and crime.

23. The negative aspects of the prison culture have been underlined, as has the criminogenic and victimogenic effect of prison violence. The deprivations of institutional life in many prisons, which lack basic amenities and inflict both physical and mental abuse, exact a staggering human toll. Protracted detention pending trial under adverse conditions of large numbers of people, including those who may be innocent, is endemic in some regions. 15/ This kind of victimization needs to be curtailed, by more expeditious and equitable procedures, wider use of alternatives to imprisonment, and channels for judicial or other recourse.

24. For other categories of detainees, institutionalized because of disability or their presumed "danger to others or themselves", such as mental patients, there is also substantial potential for victimization, though in various countries, in recent years, protective guarantees have been reinforced, commitments curtailed, and deplorable "human warehousing"

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\*In many jurisdictions marital rape is not considered an offence, and family violence has only recently received prominent attention. "An assault is a crime ... a person beaten in the home is no less a victim than the person beaten on the sidewalk in front of the home." Quoted from final report of United States Attorney General's Task Force on Family Violence (Washington, D.C., 1984). See also Elizabeth Kemmer, Violence in the Family (New York and London. Garland, 1984); and A/CONF.121/16.

conditions exposed. International guidelines in this sphere have also been formulated. 20/ The reverse trend to discharge emotionally handicapped persons without adequate shelter or community supports has increased the ranks of the homeless in some countries, generating calls for remedial action, while in others, the homeless are a long-standing victim reservoir.

25. Like their adult counterparts, "street children", who populate the towns of many developing countries, especially in Latin America, may be seen as petty victimizers, because of their possible delinquency. But, ranging from those completely abandoned by their families, to children sent out to beg or steal, or otherwise help to earn their family's meagre keep, they are essentially victims. 21/ So, ultimately, are drug abusers, many prostitutes or others, victimized not only by themselves but by predatory individuals or combines who derive profit from their problems, 22/ whose interfaces compound the potential for victimization and the eventual social cost.

26. Double victimization is a phenomenon that may operate collectively as well as individually. Refugees and migrant workers are a category particularly at risk - the counterpart of the chronic or multiple victim. By their very situation and lack of leverage, they are easily victimized. 23/ The "boat people" floating in the Asian seas are a ready target for pirates. Undocumented aliens are a convenient and cheap work-force, and migrant workers often toil under adverse conditions and new forms of servitude. 14/ Though they may formally be "lawbreakers", these groups are essentially victims of unscrupulous and often criminal practices against which they have essentially no recourse. The formulation of United Nations standards designed to protect their rights 24/ is a recognition both of their need and of international responsibility towards those victims whom national measures may not adequately protect because of conflicting interests and because their actual or potential victimization may have parameters that are transnational in scope.

27. While random victimization, for example, terrorism and street crime, is a growing phenomenon in the modern world, shocking by its unexpectedness, certain patterns of victimization contribute to the vulnerability and feeling of helplessness of certain population groups. It has been noted that "one may be randomly selected, as a victim within a particular high-risk group, but the fact that individuals are at high risk for certain forms of victimization because they share certain social characteristics - like being female, or being poor, or being black - is not random."\* The concept of collective victims, then, "means essentially that individual victims are targeted because they belong to an identifiable group or collectivity."\*\*

28. Though both the structural problems posed and their possible solutions are complex, involving issues of empowerment, as well as effective crime prevention strategies, they probably hold greater policy making promise than would the premise of complete randomness requiring an individualized clinical

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\*Martha Burt, "Community relations and public image in rape crisis centres", paper presented to the Colloquium on the Aftermath of Crime: a Mental Health Crisis, organized by the National Institute of Mental Health and the National Organization for Victim Assistance, Washington, D.C., 28 February-7 March 1985.

\*\*Cherif Bassiouni, "The protection of 'collective victims' in international law", paper prepared for the Interregional Preparatory Meeting of Experts on Victims of Crime, Ottawa, 9-13 July 1984.

approach and possible institutionalization of each aberrant or potentially violent offender, though, of course, adequate mental health policies are also a sine qua non.

#### B. The impact of victimization

29. If most people's behaviour is heavily influenced by the assumption that they live in a "just world", where people get what they deserve and deserve what they get, then in order to maintain this belief, people may blame and disparage victims of undesirable life events such as crime or, if they become victims, they may blame themselves.

30. Crimes involving assault and personal injury can, of course, have the most serious physical effects, from death to permanent disability and disfigurement. Since there is a tendency for people to consider themselves largely immune from attack, the infringement of personal inviolability creates a trauma which, in addition to the physical harm inflicted, may profoundly alter the perception of and response to one's environment and the threat it poses. A sense of powerlessness, inequity and imminent danger may replace the belief in a fundamentally just and orderly world.\* Stress reactions and outright rage, especially where there is a loss of normal physical functioning, may seriously compound the problem and diminish the chance of at least partial recovery. The material and human cost to victims and their families, including medical expenses for protracted treatment, property loss, loss of earning capacity etc. can be devastating.

31. The physical and other effects on victims of man-made disasters, deriving from the lack of appropriate safeguards or outright criminal negligence, can be very extensive. It is estimated, for instance, that in the Bhopal tragedy, several thousand people died and that five to ten thousand will probably never be able to earn a living because of their injuries which have caused them incurable problems with breathing, sleeping, digestion, vision and even the

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\*Research has demonstrated that most people see the world as meaningful and controllable; equity theory or the "just world" theory deals with ways in which people attempt to restore a sense of fairness after being victimized or seeing others victimized. See Camille B. Wortman, "Coping with victimization: conclusions and implications for future research", Journal of Social Issues, vol. 39, No. 2 (1983), p. 197; Irene Vanson Frieze, "Social-psychological models for understanding victim reactions", paper presented to the Colloquium on the Aftermath of Crime: a Mental Health Crisis, organized by the National Institute of Mental Health and National Organization for Victim Assistance, Washington, D.C., 28 February-4 March 1985, pp. 2-3.

performance of light labour. As is often the case, the victims represent the most disadvantaged and vulnerable segment of the population.\*

32. In addition to the concrete damage to health, there are also less tangible but even more pervasive effects of certain kinds of victimization. The experience of being criminally attacked through violent crime has profound immediate and long-term psychological consequences, in addition to the physical ones. It has been pointed out by a number of researchers, as well as personnel of service agencies dealing with victims, that the psychological damage suffered may be even more noxious than bodily injury and the loss of personal property, which is commonly thought of as the most unsettling effect of victimization. 25/

33. While specific reactions vary according to the seriousness of the event and the individuals involved, a certain overall pattern and predictable sequence of reactions has been identified. The immediate response tends to be one of shock, disbelief, temporary paralysis and denial, followed by "frozen fright", numbness, disorientation, and feelings of loneliness, depression, vulnerability and helplessness. After this first stage of "impact disorganization", the reactions to victimization usually change; the victim may experience swings in feelings from fear to anger, alternating between sadness and elation, between self-pity and guilt. Some victims, who particularly suffer from feelings of embarrassment, revenge, and self-blame, sometimes manifest emotional shifts ranging from confidence about their ability to cope, to feeling quite incompetent. Many victims suffer from feelings of loss (especially loss of identity and of self-respect), humiliation, rejection by others, erosion of trust and autonomy, rage, grief, depression and a desire for revenge. Behavioural reactions include obsessive thoughts linked to the traumatic event, inability to concentrate, insomnia, nightmares, uncontrollable crying, agitation, restlessness, increased use of drugs, deterioration in personal relationships, and fears of being alone or abandoned, of recurrence of the event, and of death. 26/

34. In most victims, there is a gradual dissipation of symptoms but in others, there is a latent period of days, weeks, months or even years during which the person seems normal, which may be followed by a delayed chronic reaction. This characteristic syndrome has been termed "post-traumatic stress

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\*Unofficial sources estimate a still higher number of casualties, suggesting three to fifteen thousand deaths and as many as fifty thousand people seriously injured in a population including many beggars, transient workers and other impoverished people who sleep in ramshackle shantytowns surrounding the pesticide factory where the leak occurred. Steven R. Weisman, "Disabling and incurable ailments still afflict thousands in Bhopal", New York Times, 31 March 1985, pp. 1-12. Other incidents, such as the Mexico gas explosion, the Sevesa dioxin poisoning and dam collapse in Italy, and the knowing exposure of workers to carcinogens such as asbestos, the sale of potentially hazardous products such as Depo-vera or the Nestle infant formula, have claimed countless victims. See, for instance, Carlo Sarzama, "New forms of victimization in the industrialized countries", paper presented to the Interregional Preparatory Meeting of Experts on Victims of Crime, Ottawa, July 1984; Guilielmo Gulotta, "Collective victimization through the abuse of power" (Milan, Centro Nazionale di Prevenzione e Difesa Sociale, 1984); Paul Brodeur, "The asbestos industry on trial", New Yorker, 10, 17, 24 June and 1 July 1985.

disorder", which can be acute as well as chronic or delayed, and has been included as a special category in psychiatric diagnostic manuals.\* It manifests itself among children as well as among adults.\*\*

35. The impact of victimization on vulnerable population groups is particularly severe. Though numerically the elderly are said to become victims of crime less often than others, when crime occurs, the effects can be devastating, particularly since it confirms their worst fears. Violent crime can be physically much more damaging for frail old persons, and economically ruinous, even if the amount stolen is not large, since the victims are often poor. "Congames" and other kinds of fraud can literally wipe out life-savings, and quack remedies offer worthless "cures" or even jeopardize their health. The elderly easily fall prey to those who capitalize on their susceptibility and insecurity. Furthermore, the elderly's fear of crime affects their entire life-style, preventing them from going shopping, from socializing and from engaging in recreational pursuits, especially in the evening, thus accentuating their isolation and sometimes virtually subjecting them to a kind of house arrest. 27/ Institutional abuse of the elderly in hospitals or nursing homes and "parent-battering" in the home - which is vastly underreported and often involves recurrent abuse 28/ - victimizes truly captive victims who are largely helpless and dependent on their victimizers, with consequences ranging from criminal neglect leading to further deterioration, to outright violence and risk to life and limb.

36. Life-threatening experiences of the most extreme kind leave an indelible mark on survivors who have escaped mass annihilation, 29/ and often also on their offspring. Over the past two decades there have been studies of the intergenerational transmission of the psychological effects of the Holocaust on survivors' offspring, and the most recent literature voices concern about the continuation of such effects to the third and succeeding generations. 30/

37. Torture, especially when sustained, inflicts damage far beyond physical and mental pain; it is apt to cause disintegration of the personality of the victim and of the torturer, and ultimately family and social disruption. Sensory deprivation, incomunicado status and almost catatonic inactivity - the

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\*Recognized as such at a 1983 Conference of the World Health Organization on the psychological consequences of violence, and included, for example, in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders III (1980), which gives three symptom criteria for the PTSD diagnosis: re-experiencing the trauma; numbing of responsiveness to the world; and a range of symptoms with clusters of recalling or defensive phenomena. A reaction index scale has been developed to determine both the presence and severity of this disturbance, which was originally identified as combat-induced trauma. Bessel A. van der Kolk, Post-Traumatic Stress Disorder: Psychological and Biological Sequelae (Washington, D.C., American Psychiatric Press, 1984). Specific forms of PTSD have also been identified, such as the "rape trauma syndrome" as a basis for expert testimony in rape cases, with some opposition. Patricia Rowland, "The ultimate violation. Rape Trauma Syndrome: an answer for victims justice in the courtroom" (Washington, D.C.).

\*\*Norberto Liwski, "Los niños de los desaparecidos", Ittleson Award Lecture, World Federation of Mental Health/American Orthopsychiatric Association, New York, 21 April 1985; Edward Schumacher, "Children of the disappeared: Argentine doctors find a syndrome of pain", New York Times, 18 February 1985.

context in which torture often occurs - exacerbates its scarring effects. Suffering without the possibility of its expression exacts its pernicious toll, evident even much later: somatic manifestations, dejection, depression, substance abuse, disturbance of affective and human relationships, and violence against others and oneself. 31/ Political prisoners may show the delayed psychological effects of their incarceration and torture, with numbing depression and difficulties in their attempts to relate, preventing satisfactory readjustment to their newly obtained freedom.\* Ongoing persecution of persons on political grounds, or because they are members of denigrated minorities, may be especially difficult to bear because of the public ostracism and lack of community support for the victims.

38. Fear of reprisals and official denials contribute to the paralyzed inaction which makes reality even harder to bear. The climate of secrecy and insecurity which surrounds covert operations compounds the terror and perpetuates victimization. In the case of forced "disappearances", physicians and psychologists have described the effect as a sustained shock, a latent and prolonged state of crisis in which the anguish and pain caused by the absence and unknown fate of a loved one continues indefinitely since the catharsis of mourning has been denied. 32/

39. Children of the disappeared tend to retreat into their own less painful reality; they suffer from nightmares, speech problems, stuttering, memory loss and learning problems, as well as impaired physical health. They exhibit the symptoms of the abandoned and the marginal child, continuous and prolonged stress, and eventually the abused child syndrome. 33/

40. The dehumanization of "outgroups" is often a prologue to their mistreatment. The glorification of martial virtues and of other forms of violence in the media and in daily language, and the basic lack of respect for "weakness" tend to tip the scales in favour of victimizers over victims. 34/ The psychodynamics of complex patterns of human interaction reveal some startling phenomena, such as the "Stockholm syndrome", wherein hostages come to identify with their captors, another kind of line-blurring between victim and victimizer. The vicious circle whereby abused children, for want of a better role model, tend to become abusive parents, poignantly reflects the relentless heritage of violence.\*\* The perpetuation of victimization, sometimes rationalized or under novel guises, by societies which have

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\*"'Ideologically they are strong', said a psychologist who is working with the Social Rehabilitation Service, but at an emotional level, facing families, sons, sexual life, they practically cannot feel. The dissociation that they needed to protect themselves in prison works against them. Numerous former political prisoners have already been hospitalized with mental problems and several have committed suicide. Others have suffered depression ... It takes them a long time to break out of the mentality of being in jail". Alan Riding, "For freed prisoners and leftists in Uruguay, hidden terror", New York Times, 7 March 1985.

\*\*"A great proportion of those who assault both strangers and their own loved ones were themselves raised in violent households ... they leave a legacy of violence to the future. Lois Haight Herrington, "Victims of crime: their plight our response", American Psychologist, vol. 40, No. 1 (January 1985), p. 101. See also final report of United States Attorney General's Task Force on Family Violence (Washington, D.C., 1984); David Finkelhor and others, eds., "The intergenerational transmission of violence", in The dark side of families: current family violence research (Beverly Hills, London, New Delhi, Sage, 1983), pp. 304-329.

themselves been victimized and should, therefore, have the empathy and determination to avoid additional suffering, is probably the most tragic phenomenon of all.

1. Wider effects

41. Institutionalized violence and discrimination have a most pernicious effect on the victims. When they involve mass uprootings and migratory labour, leading to the impairment of family ties, daily harrassment, and a host of other inequities, as in the case of apartheid, they have a marked adverse impact on the victim's physical and mental health, and a not too salutary effect on the rest of the population.\*

42. Violent street crime is usually more visible and has a more identifiable impact than other, more hidden types of offences, involved, for example, in economic crime. The impact of the latter, particularly in the long term and when committed by complex entities, such as corporations, can be severe and far-reaching, but not easily discernible, especially since the harm tends to be diffuse and spread over many victims. And yet, as noted elsewhere, the human casualties are far more numerous than those produced by conventional offences, and the impact on the economy and social fabric may be staggering, particularly in developing countries. 35/

43. In the past public opinion tended to be less alarmed by and more indulgent of economic malpractices than of street crime. This appears to be changing with the growing realization of the physical harm caused by these offences. Recent research findings in some countries have revealed a high degree of public concern for illegal corporate acts with "serious adverse physical impact".\*\* The evidence marshalled and comparative quantitative and qualitative assessments made have increasingly led to the conclusion that the economic, physical and moral costs of corporate crime "are in fact far greater than those associated with conventional street crime", 36/ and that appropriate preventive strategies and means of control are necessary, to reduce as far as possible the victimization which inevitably results.

44. Corruption, with its links to organized crime, particularly drug trafficking, has a pernicious effect on entire societies, subverting institutions, impairing the social fabric and undermining public trust. Money-laundering schemes and other devious operations which are used to camouflage the criminal origin of the funds, mask the interfaces between legitimate and illegitimate activities, and can distort national economies, as well as exacerbate economic crises. The material and social cost of corruption is impossible to estimate, but it is obvious that it exacts a tremendous price, not only in the financial burdens it imposes but also in the inequities it promotes. In revenue cases, for example, corruption usually favours those belonging to middle or upper income groups and thus adds to the

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\*The effects include brain sequalee and organic brain damage resulting from malnutrition, higher illegitimacy rates and delinquency linked to family disruption and protracted stress, alcohol-related disabilities, depression and suicide. The situation is exacerbated by the lack of adequate health care. See Apartheid and Health (Geneva, World Health Organization, 1983), p. 168.

\*\*Winston Williams, "White-collar crime: booming again", and Adam Clymer, "Low marks for executive honesty", New York Times, Business Section, 9 June 1985, quoting findings from latest New York Times/CBS news poll.

regressive tax structure of many developing countries, the funds going mostly for conspicuous consumption instead of developmental investment. 37/ Bribery has sometimes been included in the cost of doing business. Though more stringent policies to curtail the practice transnationally have been instituted, their success is as yet difficult to assess.

45. Modern technology has increased the scope of victimization resulting from certain kinds of crime. One computer crime, for instance, can affect many people and cost millions. It has been estimated, for example, that the annual losses from computer crime in the United States are of an average of 300 million dollars, while in Europe a loss in 198 of some 35 billion French francs is anticipated.\*

46. Other forms of economic and organized crime may have a more restricted focus, but the effect can still go far beyond the target. Traffic in persons, in its new guises, linked for example to tourism, depreciates human dignity.\*\* Theft of cultural property, especially if systematically perpetrated, deprives a nation of its heritage. 38/ Exploitative labour practices using children\*\*\* and other vulnerable population groups not only victimize individuals, but impair the human potential which is the most precious resource of all countries.

47. The negative consequences of certain practices of transnational corporations have been noted previously, 35/ and need not be detailed here. Attention to them does not mean unawareness of the positive contribution made by transnational corporations to many aspects of development, nor of the fact that malpractices can also be perpetrated by national enterprises. But the financial and technological resources available to transnational corporations and their scope of operations significantly increase their impact. Abuses of dominant market position, such as overpricing, especially of essential commodities and products, such as pharmaceuticals, and other manipulations linked to restrictive business practices, can have serious adverse effects on consumers, especially in developing countries, and on national economies. Transfer of obsolete or inappropriate technology, questionable operations such as transfer pricing, which may siphon off sorely needed revenue, deceptive advertising and other deleterious activities victimize large numbers of vulnerable and unknowing people, as well as contravening the goals of development. In some cases, such as that of Namibia, foreign economic enterprises have exploited the mineral and other resources without benefit to the broad masses of the population. The employment of economic leverage for political ends can deny peoples the ultimate command of their destiny.

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\*Carlo Sarzana, "New forms of crime and victimization in the industrialized countries", paper prepared for Interregional Meeting of Experts on Victims of Crime, Ottawa, 9-13 July 1984.

\*\*Charlotte Bunche and others, Female Sexual Slavery, and International Feminism: Networking against Female Sexual Slavery, report of the Global Feminist Workshop to Organize against Traffic in Women, Rotterdam, 9-15 April 1983; A/CONF.121/16.

\*\*\*It is estimated that there are at least 75 million child labourers in the world, many of them working under most deleterious conditions. See International Labour Office, Labour Report (Geneva, 1985); Beria and Porzio, op. cit. 12/



C. Determining the extent and seriousness of criminal victimization and the needs of victims

48. Official crime statistics, based on crimes recorded by the police, have been criticized for their incompleteness and probable distortion: since less than fifty per cent of offences committed are said to be reported to the police, and even less included in the official records, the "dark figure" of crime is not reflected in ordinary criminal statistics. Furthermore, they offer little information on the victims, whose perceptions of criminal events, their impact, circumstances etc. may be critical for policy-making.

49. The extent of criminal victimization world-wide is thus difficult to gauge. Estimates of victims of illegal abuses of power are more difficult still, considering the frequently covert means by which they are victimized. But even with these limitations, it is evident that there are vast dimensions to the problem. One analyst ventures the estimate of no less than 97 million offences committed in 160 countries (developed and developing) in 1980, of which 30-60 per cent were against property, "not all very serious except for the victims who often belong to the lower echelons of society". 39/ If the dark figure of crime is taken into account, and the fact that some offences have several victims, the total would be far larger still.

50. While surveys of self-reported crime had been conducted since the mid-forties, it was suggested in Finland in the mid-1960s that public-opinion-type surveys might be used to canvass people about the crimes committed against them. 40/ Following the first "victimization survey", conducted in the United States in 1967, various other countries have utilized this technique as an important complement to official police statistics, including both reported and unreported incidents of criminal victimization as well as reasons for non-reporting. The surveys also reflect the movement to define social indicators which could serve as objective measures of the various aspects, including the degree of personal safety, which, combined, may be said to constitute the quality of life. The information provided permits examination of the variations in reporting rates, the victims' definition of the incidents and their effect, the demographic and ecological characteristics of the victims (as a means of determining relative victimization risk etc.), as well as affording a better understanding of the functioning of the criminal justice system from the victim's perspective.\* Some of the most recent surveys, such as the one conducted in the United Kingdom, provide information not only about the extent of crime and the decisions to report it, but also about the practical and emotional consequences of crime. 41/

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\*The periodic victimization surveys conducted in the United States have sought to provide comprehensive coverage, based on a large representative sample in major United States cities (United States Department of Justice, Bureau of Justice Statistics, Criminal Victimization in the United States series). In Canada and the Netherlands comprehensive victimization surveys have also been conducted (Canada, Ministry of the Solicitor-General), Measuring Crime and Victimization for Eight Categories of Crime (sexual assault, robbery, assault, break and entry, motor vehicle theft, theft of household property and of personal property, respectively, and vandalism); victimization surveys undertaken elsewhere have had either a national or a more limited focus. See, for example, Christopher H. Birbeck. "Victimization surveys in Latin America: some first experiences", Victimology: an International Journal, vol. 8, Nos. 1-2 (1983), pp. 1-21.

51. These surveys have yielded interesting findings pointing to basic similarities from country to country, including the following: that between one third and one half of certain crimes against the person and against property are never reported to the police, because the victim does not consider them a police matter or feels that the police can do little about them; <sup>42/</sup> that those not reported are usually not serious enough or are held back because of embarrassment or other subjective factors (for example, incidents of sexual assault and family violence); that there is a tendency to report incidents involving a significant financial loss, rather than those resulting in pain, injury and fear; that the victims are primarily young males (similar to the likely offenders), belonging, in some countries, to minorities; and that criminal victimization is very much influenced by life-styles and the opportunities they provide for the commission of crimes.\*

52. In connection with these surveys, considerable attention has been focused on assessing the risk of victimization of various population groups. Unexpectedly, it was found that the fear of crime is not related to its objective risk. For example, while the elderly (and women, especially elderly women) are most fearful of crime, they are less likely to be victimized perhaps because of their more withdrawn life-style and less exposure to the possibilities of crime, though its impact tends to be greater.\*\* The ecological factors have also been highlighted by the surveys in underlining the proximity factor in the higher risk of victimization, for example, in the inner city or in mixed housing, where juvenile delinquents may abound, as contrasted with homogenous housing for the elderly.

53. Victimization surveys have shown remarkable potential, but their full utilization as an empirical tool for policy formulation and planning, overall and especially on behalf of victims, is limited by a number of factors.

54. It has been pointed out that the usual victimization surveys suffer from "enormous bias in the choice of criminality measured". The field is deliberately restricted to offences of which the subject has individual, direct knowledge. However, as critics have pointed out, the very fact that individuals covered by the survey were aware of their victimization makes the choice of the technique a convenient one, but leaves unexplored a whole area of criminality where the victimization may not be perceived or be cumulative, or involve institutional victims (as in industry and commerce), or affect whole sections of society and the social fabric (e.g. tax evasion, illegal price-fixing and consensual offences, such as drug trafficking and bribery). Thus, "by failing to elucidate a whole area of criminality, these surveys tend to perpetuate the notion that crime consists merely of theft and physical violence. Like its counterpart of offender-oriented criminology, this kind of

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\*According to most studies, being under 25 years of age and a life-style of frequently going out, especially at night and in questionable neighbourhoods, provides the best predictor of victimization. See J.J. van Dijk, "Recherches sur la victimisation: rapport général", Sixième conférence de recherches criminologiques, Conseil d'Europe (Strasbourg, 1985).

\*\*See, for example, Martha R. Burt and Bonnie L. Katz, "Rape, robbery and burglary: responses to actual and feared criminal victimization, with special focus on women and the elderly", Victimology: an International Journal (Spring 1985); Pat Mayhew, "The effects of crime: victims, the public and fear", report presented to the Sixteenth European Criminological Research Conference, Council of Europe, Strasbourg, 26-29 November 1984.

'victim-oriented criminology' suffers from its incapacity to apprehend the criminal phenomenon in its totality."\*

55. To overcome some of these deficiencies, it has been suggested that "in order to prevail over the present stagnation in the extraction of knowledge through victim surveys - although these are methodologically at a high level - the endeavours of researchers should turn to the gaps in the investigation of single kinds of offences that have been left out by the existing victim surveys, [involving], for example, collective victims and organizations as victims ... of vandalism, property crime, economic crime and offences against the ... environment ... elusive offences such as bribery (corruption), fraud ... areas such as white-collar, environmental crime and traffic violations, which have been neglected up to now because of their difficult accessibility, should be better integrated. This means that victim surveys should not be limited to traditional delinquency or to crime in the streets." <sup>43/</sup> Some important initiatives have been taken to offset this deficiency, <sup>44/</sup> though much more remains to be done.

56. A more comprehensive and integrated approach would require the development of various kinds of indicators, including contingency measures where direct information is not available. It also means a varied data base in which victimization surveys would be an important element to be used in conjunction with other relevant inputs. It has been emphasized that in order to make optimum use of victimization surveys, they should be conducted in an appropriate conceptual framework and assess definable problems; and that, especially in the context of developing countries lacking the means for massive representative sampling, simplified, less costly and flexible victim survey techniques could be used. Some pilot projects have sought to produce, through these means, findings to illuminate policy-making in more or less circumscribed spheres, although they have wider planning implications.\*\*

57. Comprehensive information systems to shed light on the process of victimization of different kinds and on its full impact, with adequate measures of the harm inflicted, are evidently needed. Some countries (e.g. Finland and the Germany, Federal Republic of) have used crime damage statistics to supplement traditional police crime figures to good effect (A/CONF.56/7).

58. Joint and comparative research efforts can help to develop new and refined methodologies and more extensive knowledge bearing on victims, the risk of victimization and the fear of crime. <sup>45/</sup> As a result of European victimization surveys carried out by the Finnish National Institute of Legal Policy in co-operation with statistical offices, in which special attention was paid to the comparability of victimization measures, a "social indicator of personal safety" was developed in the context of the Social Indicator

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\*Renée Zauberman, "Sources of information about victims and methodological problems in this field", report prepared for the Sixteenth European Criminological Research Conference, Council of Europe, Strasbourg, 26-29 November 1984.

\*\*See, for example; Sonia Navarro Solano, Estigmatización, Conducta Desviada y Victimización en una Zona Marginada (San José, ILANUD, 1983); and Christopher H. Birbeck, "Encuestas de victimización criminal en América Latina: las primeras experiencias" (Mérida, Venezuela), paper presented to the Symposium on Crime and Development, organized by the International Group on the Sociology of Law together with ILANUD, San José, December 1984.

Development Programme of the Organization for Economic Co-operation and Development, which includes such elements as exposure to risk (fatal and serious injuries) and perceived threat (fear for personal safety). 46/

59. Attempts to assess the subjective reactions relating to crime, such as feelings of security and insecurity, have derived not just from concerns about possible victimization, but also from a realization that the effectiveness of law enforcement and criminal justice services depends in a large measure on the degree to which they meet subjective as well as objective safety needs. 47/ In some countries, for example Japan, a "level of safety measure" has actually been developed, to serve as a basis for planning police activities. In devising it, the National Research Institute of Police Science recognized that the concept of safety includes psychological as well as physical aspects, comprising the following elements: absence of or protection from physical danger and from damage to property, absence of specific anxiety and a generalized sense of well-being, and freedom from coercion and the infringement of individual rights even by such authorized persons as police officers. The research project also developed measures of "whole community harm" or "level of anxiety or fear" in the community as an indicator of the safety level that could be enhanced through police activities whose relative effectiveness was evaluated, inter alia, in terms of the reduction of the level of anxiety which they achieved, 48/ admittedly not a measure of risk, but still of prime importance.

60. Many issues and problems remain to be tackled in future research designed to gauge the extent, severity and social costs of victimization through crime and other illegal activities. Problems of multiple or continuing victimization, for instance, call for longitudinal studies, not only of individuals but also of communities whose deterioration over time reflects the cumulative effect of victimization upon the quality of life. 49/

61. Further work is also required to elucidate various other aspects, such as variations, including ecological ones, in victimization rates and the attendant risks - including differences in opportunity, vulnerability, impunity, measures of emotional impact, offender intentionality, moral wrong etc. - in terms of their policy implications.\* The use of cross-cultural innovative approaches with a range of techniques suited to the different aspects and problem areas, offers special promise which needs to be explored.

62. Assessing the extent and severity of victimization linked to non-conventional crime, particularly economic offences committed in the organizational context, is still more difficult, because of both conceptual or definitional and methodological problems which derive from the dispersion of relevant data.

63. It has been contended that since various economic offences, especially those committed by enterprises, are not violations of the criminal law but, rather, of civil and administrative provisions, they do not in fact constitute crimes. On the other hand, it has been pointed out by criminologists working

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\*Waller, op. cit., 42/ and Sparks, op. cit., 49/ See also Bernard Villmov, "Implications of Research on victimization for criminal and social policy", report presented to the Sixteenth European Criminological Research Conference, Council of Europe, Strasbourg, 26-29 November 1984.

in this field that "a corporate crime is any act committed by corporations that is punished under administrative, civil or criminal law, [that] this broadens the definition of crime beyond criminal law, which is the only governmental action for ordinary offenders [but that] unless this more inclusive definition of crime is used, it is not possible to consider violations of law by corporations in the same context as ordinary crime [since] in legal terms, business and corporate offenders are 'administratively segregated' from ordinary offenders not because of differences in illegal actions but because of differences in legal terminology." 50/

64. It has also been noted that numerous social and economic harms inflicted by entities such as corporations are considered legal even though the moral distinction between these acts and certain forms of street crime are difficult to maintain, and that therefore "one must consider social harms in a context not restricted by legal institutions". 51/ Other analysts have utilized the concept of "para-criminality" to refer to acts which may be economically or socially noxious but may not yet be criminalized (especially in developing countries). 52/ Proponents of a broader approach, invoking ethical, social cost and social justice considerations, have also stressed that those with economic and political leverage tend to influence legal definitions and enforcement actions,\* particularly in view of the crossover from industry to regulatory agencies (and vice versa) which frequently occurs. Accordingly, it is argued that economic offences, especially corporate crime, constitute "real crime" leading to real victimization unless it is adequately dealt with and, where possible, forestalled.

65. Methodologists seeking to provide a viable basis for the assessment of the extent and severity of economic offences have stressed "the blurring of distinctions" between civil and criminal matters, particularly matters that fall within what has been considered "white-collar crime".\*\* Pioneering surveys of potential sources of information in this area have thus suggested the development of appropriate indicators for white-collar law violations cutting across different systems, including law enforcement systems based on compliance and those based on penalties. They have drawn attention to the fact that whereas the damage or harm to victims is an essential condition of all torts as well as crimes, and in general there is a positive correlation between the seriousness of the violation and the range of possible penalties, in practice matters classified as the same type of violation vary considerably in the harm done and the penalty assigned. Though calculations of probable

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\*Studies of the operation of the mechanisms and processes of social control, in the last decade, particularly in the Scandinavian countries, have revealed the fallacy of relying only on the official viewpoints. Critics have thus concluded that "a criminologist cannot be bound by the official and conventional definitions of lawmaking, lawbreaking, and law enforcement. It is the essence of his job that he notes and accounts for the disparity and differences between the official world and the real world as it is revealed in field research". A. Blumberg, Criminal Justice: Issues and Ironies (New York, New Viewpoints, 1979).

\*\*A corollary requirement according to those researching the field, is therefore "that a definition of white-collar violations of law encompass all behavior where penalties can be imposed, regardless of the proceeding", but in some countries, especially developing ones, some of the most noxious acts may still be beyond the reach of the law, complicating the matter further. See, also, Reiss, Data Sources ... 44/, p. 3.

harm are implicit in the definition and classification of types of law violations and in the range of penalties attached to each, the actual harm done to victims is usually the principal element in determining the alleged offence and, subsequently, the sanctions. Yet, in the case of white-collar violations, information on harm is often lacking, especially where violations are not formally litigated or adjudicated. Among the reasons for this is that the damage in individual cases may not be readily apparent, even to the victim, and only visible in the aggregate; that the mode of the offence as well as the result may be particularly damaging (especially when it involves relationships of trust, as in corruption) to collectivities, that it may be impossible to determine the amount of collective or even individual harm where the sequence to events is spread over time; and that even where criminal negligence ("reckless endangerment") results in death, the penalty structure seems steeper when such offences occur as ordinary rather than white-collar offences. 44/, 53/

66. In spite of these problems, ways of determining the relative seriousness of offences have been suggested, 54/ including measures of harm (physical, psychological etc.), the number of victims involved, the extent to which the harm inflicted is the consequence of negligence, fault or intent - distinctions of culpability being particularly important in determining the seriousness of violations of pollution laws, as well as consumer protection and labour safety regulations. For additional or alternative information on economic offences, one would need to draw on such sources as the following: victimization surveys, including organizations' (also governmental ones) self-reporting systems, private detection and reporting systems, including regulatory systems (for example, those setting business or professional standards) emanating from organizations dealing with the harms resulting from economic offences, such as insurance fraud; and mass and specialized media reports. Innovative research designs to study critical problems of victimization (for instance, through corruption) in their wider context can yield socio-politically and economically important results for countries all along the development continuum, and guide policy-making and planning. 55/

67. Determination of the extent of crimes and other victimizing acts, perpetrated in violation of international conventions, United Nations human rights instruments and other standards, and involving the deprivation of life, liberty, physical integrity and other harms, is nearly impossible. The depredations are often inflicted under a mantle of secrecy, especially in the case of official abuses, and their full scope may only become evident when it is too late. Some victims are never known. International organizations, by trying to monitor and curtail such occurrences have a critical role to play, but the inherent constraints make this task difficult, even where fact-finding is concerned. Yet, even cursory estimates, reinforced by media reports and other special sources of information, reflect the vast dimensions of the problem.

## II. THE RESPONSE

68. All too often, rather than responding swiftly and effectively to the needs of victims and preventing further victimization, society stigmatizes the victims of crime and of illegal abuses, thus compounding their victimization. Manifest sympathy may belie an attempt to distance oneself from the victims and avoid being drawn into situations where one may feel fearful or impotent oneself - whether it be coming to the aid of the victim who is being attacked or helping him or her later on. Shocking stories of the failure of bystanders to act while a human being was fighting for survival are sad testimony to

this. The failure to act in itself can be an offence, and the duty to come to the aid of a victim, or potential victim, is included as a basic tenet of the law in many countries, as is the protection of third party intervenors through "good samaritan" clauses.\*

69. On the other hand, increased fear and decreased tolerance of victimization in the face of widespread and recurrent crime, may lead to vigilante excesses, further blurring the line between victim and victimizer. 56/ The fear of crime may even be consciously manipulated by authorities anxious for an acceptable reason to justify the imposition of stringent controls or even states of emergency, as well as by those searching for a scapegoat for individual acts of violence, or for the concerted measures of repression taken. 57/ Even where this is not the case and democratic institutions prevail, marginal communities with mildly deviant life-styles may be perceived as having higher rates of criminality than would appear from victimization studies; the dysfunctional process of stigmatization can lead to a self-fulfilling prophecy, instead of reinforcing indigenous mechanisms of cohesion and social control. 58/

70. In a real sense, the victims are the "gatekeepers" of the criminal justice system, for most offences would not be known were it not for initiatives taken by or on behalf of victims. Yet, though historically the victims have played a prominent role in the criminal justice process, as the initiators of private prosecutions, and though they are the pivotal element in customary justice, their status and involvement have been drastically reduced in most contemporary systems. The marginalization of victims and additional trauma which they often undergo in dealing with the criminal justice system compounds their victimization and accentuates their feeling of powerlessness. Recent efforts have sought to make the criminal justice system more responsive to victim concerns without prejudicing the rights of offenders. Initiatives have thus been taken to meet the needs of victims more adequately within the criminal justice system and its subsystems (police, courts and corrections), as well as through ancillary or alternative procedures, such as mediation and arbitration.

#### A. The police

71. The police and others who come into contact with the victim first, following criminal victimization, have a crucial role to play in assessing the emergency needs, administering or summoning first aid (including emotional first aid), establishing the basic facts of the case, and otherwise intervening in the interest of justice and the victim. Crisis intervention techniques have been developed as part of special police training procedures designed to forestall and reduce victimization and its effects, where possible, and sensitization methods have sought to increase the police's understanding of victim needs. Since the police are the agency with which the victim usually has the largest number of contacts, beginning with the first and most critical one, their attitude and behaviour are particularly important. An analysis of victim satisfaction with the police has singled out

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\*In India, for example, bystanders are required both to report criminal acts and to intervene in order to assist victims; and in the socialist States of Eastern Europe, such as Poland, bystanders who intervene are protected by civil and criminal law, and in additional ways if they help the police. See, also, A/CONF.121/6; James M. Ratcliffe, ed., The Good Samaritan and the Law (Garden City, N.Y., Anchor Press, 1967).

a number of factors given special importance by victims, including the speed of the police response. 59/

72. In choosing whether to report an act to the police, the victim exercises his or her discretion as a decision-maker determining whether criminal proceedings will ensue, but the police themselves also exercise considerable discretionary powers. It has been found in studies on the subject that the seriousness of the offence, which may be expected to reflect the amount of harm inflicted, is a significant factor (especially the physical injury suffered and amount of property loss) in the likelihood of prosecution, as is the victim's preference, and whether there was a prior relationship between the victim and the suspect (formal proceedings are more likely to be initiated in the case of strangers). Other factors concerning victims, along with those characterizing offenders, have been found to have some correlation with the likelihood of having formal proceedings initiated, including the age and sex of the victims, their social status, the police perception of the victim's "complicity" (which may be discriminatory of itself) etc. The relative weight attached by the police to the harm suffered by the victim, as compared with other factors, depends also on the police orientation not only to the victim but also the presumed offender (for example, deterrent versus labelling approach).

73. Recent research findings reveal, however, that though the victims' initial response to police intervention may be positive, their satisfaction decreases as the criminal justice process gets under way. 59/ The police are, in fact, the victim's main source of contact with the system, including the collection of evidence, court testimony etc. Yet, the flow of information between victim and police is largely unidirectional, the victim being called upon to provide all necessary information to the police, but the latter being under no obligation to keep the victim informed and, indeed, rarely doing so.

74. The lack of knowledge as to what is happening is a prime reason for victim dissatisfaction and contributes to the feelings of impotence and isolation which accentuate the trauma of victimization. Furthermore, where certain remedies or alternate services are available, they are often not known to the victims in the absence of appropriate referrals by the police who may not view them as part of their regular functions or may not know of the existence of such services. To strengthen the effectiveness of their response, it is particularly important that there be co-operation between police and social service providers. Law enforcement officers need to be informed and knowledgeable of where victims can be referred for aid. It is clear that the police and other law enforcement officials and auxiliaries (including citizens' militia) can fulfil a critical role not only in preventing victimization, but also in curtailing its impact.

75. Unfortunately, however, this is not necessarily the case and, in autocratic contexts, the police have actually sometimes served as an instrument of repression and victimization of those deemed to constitute a threat to the regime; in other cases, individual excesses and instances of police brutality have claimed their own victims.\* Problems of police

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\*See also "The administration of justice and the human rights of detainees. Report on restraints in the use of force", prepared by the Secretary-General in accordance with resolution 1983/24 of the Sub-Commission on the Prevention of Discrimination (E/CN.4/Sub.2.1984/14); Andrew H. Malcolm, "Police brutality, once a minority-area concern, now found widely", New York Times, 30 July 1985.



corruption and linkage to organized crime and narcotics trafficking have widened the reach and impact of such deleterious activities. Differential treatment of certain groups and disadvantaged segments of society by the police, as well as by other parts of the criminal justice system, raises serious questions of equity and contravenes the principle of social justice.

76. Observance of codes of conduct for law enforcement officials, civilian police review boards, prosecution of police officers implicated in alleged crimes and training to increase police sensitivity and responsiveness, can help to optimize the role of the police as a means of recourse for victims, as well as the front line for crime prevention. The promotion of greater police accountability to "control the controllers" is an essential condition for curtailing the extent and impact of criminal victimization.

#### B. Administration of justice

77. The "decline of the victim" has been noted in historical analyses of the evolution of penal systems, from a stage of private vengeance by the victim or clan, to that of State regulation, with frequent composition between the parties and, finally, to the present situation where the victim plays a clearly secondary role. While in the past the victim was usually a direct party to criminal proceedings, with the emergence of the system of public prosecution, the State as surrogate has taken over the role of the injured party. The role of the victim in the majority of jurisdictions has been reduced to that of witness in the State's case against the defendant, and thus primarily to that of a means of expediting the process - a return in a way to the semantic roots of the term with its sacrificial connotations. The marginalization of the victim's role has increased victim alienation from and dissatisfaction with the system and ultimately decreased its effectiveness. Victim co-operation is an essential element of successful prosecution. More organic victim involvement in the criminal justice process, and efforts to reduce the "second injury" stemming from the inconveniences and further trauma imposed by it, have been urged by victim advocates, and the need for reform is acknowledged by others though opinions differ as to the actual degree and form of victim input and participation. 60/

78. All too often victims and witnesses are confused and intimidated, unfamiliar with the proceedings or what is expected of them, subjected to a loss of time and money, due to court delays and unnecessary trips, and to further emotional stress caused by insensitive treatment. They may also be exposed to actual threats from the defendants, their relatives and friends, or to character assassination by the defence. Though in some countries (e.g. Germany, Federal Republic of, and Israel), certain offences such as assault and trespass, which are regarded as of a somewhat private nature, may be prosecuted by the complainant, most present day criminal prosecutions are undertaken by the State. 61/ Victims are rarely informed, as a matter of course, of the outcome of the proceedings, and rarely consulted during the trial. Arguments that because of their retributive feelings victims would urge more severe sentences have not been borne out by the research conducted. 62/ And while the harm done to the victim is reflected in the legal categories under which the offender may be prosecuted, it is not necessarily a determinant of the dispositions ordered by the court.

79. The interests of victims tend to be subordinated to administrative objectives of maximizing limited prosecutorial resources, focusing on certain offences, clearing court backlogs (often through "plea bargaining" to which the victim has no input), curtailing prison populations etc. 63/ The depreciation and alienation of victims diminishes the viability of the

criminal justice process as well as its potential as a mechanism for effecting redress.

80. The situation is still less satisfactory in the case of collective victimization, where it may be difficult to determine the harm to the individual victim or the causal connection, and thus to ascertain guilt and responsibility as a basis for penal action. This is the case particularly in economic and environmental offences involving many people, and where the offenders are corporate entities to which the concept of mens rea does not apply.

81. Offences against consumers and many other economic crimes are notoriously difficult to investigate and prosecute because the modus operandi is generally the same as in legitimate business transactions, and the harm spread over many victims. Unorganized and poor, as consumers often are, especially in developing countries, they are no match for powerful offenders, such as corporate entities which have substantial financial and technical means at their disposal. Nor are the overburdened and understaffed criminal justice systems of most countries equipped to deal with such offences effectively, given the difficulties of proof and of pinpointing criminal responsibility. Legal manoeuvres provoke delays and successive appeals during which victimization continues. Transnational corporations may profit from loopholes and gaps in national legislations and the differences between them, as well as from problems of enforcement which developing countries often face. 64/

82. Where powerful interests prevail and, especially, where operatives of organized crime are involved (for example in drug trafficking), the criminal justice process may be subverted not only by possible interlinkages with bribery and corruption, but also by the intimidation and actual elimination of witnesses. In human rights violations and life-threatening acts, particularly those committed by States, victims or their families may be afraid to complain and may find it especially difficult to obtain or submit evidence. By the time that prosecution and other remedial action does become possible (if ever), the evidence will have been largely destroyed.\* In cases of clandestine killings and "disappearances", where claims are made that victims have fled abroad or are in hiding, the facts may be almost impossible to ascertain, except through deduction, analogy and co-operation.

83. In spite of the pervasive difficulties, some significant inroads are being made at various levels in promoting greater justice for victims of various kinds.

84. Some precedents already exist in certain jurisdictions. Thus, in continental systems, it has been possible to attach a civil claim for compensation to a criminal proceeding, though in most common law systems these two aspects have been kept separate, thereby causing additional complications and delays for victims seeking redress. To reduce the trauma of testifying in court, some countries have instituted special provisions to protect especially vulnerable victims, such as children, by admitting their evidence without their actual presence. 65/ It has also been pointed out that victims of family violence should not be required personally to press charges when probable cause is established, since they are not required to do so in the case of other offences. 66/

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\*See, also, Nsereko, op. cit.

85. In a number of countries, substantial advances have been brought about in recent years by the victims' rights movement. Victim support schemes seek to provide information and help victims in need. Victim/witness assistance programmes have been introduced, in conjunction with prosecutors' offices or, more generally, under the supervision of the courts or under independent agencies. These have sought to inform victims and relate their concerns to the different stages of the proceedings, reduce the number of trips to and from the court-house through victim notification procedures, and provide needed transport as well as convenient and secure waiting rooms separate from those for defendants, nursery facilities and other amenities. There may be referrals to social service agencies and emergency aid and legal assistance (for example, vis-à-vis landlords or employers) to victims. 67/ By combining these features with greater victim involvement in critical case decisions, witness/victim co-operation with the prosecution is increased. This approach also helps to eliminate the secondary victimization which the criminal justice system frequently inflicts. 68/

86. Limited attempts in this direction include programmes under which courts and prosecutors have invited victims to give their views in plea negotiation and sentences at the court hearing or by informal communication. In some jurisdictions "victim impact statements" are included as a routine item in pre-sentence reports prepared by probation officers, and "victim advocates" have been designated to gather and present the victims' views to the prosecutor and, sometimes, also to guide them through the entire proceedings.\*

87. For collective victims, such as those of consumer fraud or environmental offences, "class actions" taken in certain countries offer a promising avenue for seeking redress which could be used more widely. 69/ Organizations or other bodies can intervene on behalf of certain categories of victims (for example, victims of rape and of domestic abuse) is possible in some countries, such as France. In Italy groups of persons, neighbourhood committees, cultural associations and conservation organizations may be granted standing at a trial, for example in cases of damage to the ecology, though especially at the superior judicial levels there is still some reluctance about putting it into effect. The compensation of the community or individuals for possible injuries is advocated by those concerned with providing equitable redress.\*\* In a number of countries, consumer bodies help victims who cannot afford private counsel to seek redress, by preparing cases and carrying out the necessary inquiries. In some, consumer associations bringing suits on behalf of collective consumer interests must prove their representative character (in France, for example, that means at least ten thousand victims), 70/ but the principle is valuable in itself, and could be extended to other types of victimization.

88. The transition from corporate immunity (societas delinquere no potest) to liability (first for non-feasance and, then, also for misfeasance) has been motivated in large part by the need to protect the public. Technological advances, and their application in contexts which may yet not be adequately prepared for them, make this need even more acute. Workers are particularly

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\*See, for example, Duncan Chappell and Allison J. Hatch, "Proposal for a model project involving the use of victim impact statements" (Victoria, British Colombia, 1984).

\*\*Sarzana, op. cit.

vulnerable to potential dangers related to their employment conditions. Those suffering harm from exposure to harmful substances without being given adequate warnings, in spite of the available knowledge regarding the risks involved, have instituted successful claims for damages in certain cases. 71/ While in the past there have been indictments of corporations for homicides stemming from acts of their agents performed within the scope of their employment, more recent prosecutions for corporate homicide seem to be qualitatively different in referring to acts resulting from complex business decisions and altering the implicit "cultural parameters" of homicide. 72/ In 1985 the actual conviction in the United States of corporate officers who were given long prison sentences for murder in a case of wilful endangerment reflects the increased recognition by the criminal justice system of the harmfulness of such conduct. 73/

89. Though some questions have been raised concerning the appropriateness and effectiveness of corporate criminal sanctions, it has also been emphasized that the prevalence of illicit practices by business entities calls for more effective ways of punishment and deterrence under the criminal law. In particular, the application of the concepts of corporate criminal responsibility, along with that of individual responsibility of corporate officers, has been urged, with prison terms for the latter, an increased level of fines for the enterprise, and the possibility of still more drastic measures, such as closure, if it recidivates.\* Recent innovative proposals have sought to provide further alternatives to ensure an adequate level of social control that would not penalize the public (e.g. consumers, workers, creditors and share-holders). They include the requirement of corporate restructuring as a condition of "corporate probation" (especially where the organizational processes and ethos tend to be criminogenic) and the principle of corporate restitution.

90. In response to a clearly articulated need, recent international conferences, such as the International Congress of Penal Law, held in Cairo in 1984, recommended that the access of individual victims or groups of victims of economic and business offences should be facilitated, that associations of victims of such offences, including consumer associations, should be permitted to participate in penal, administrative or civil proceedings, and that the system of sanctions for economic and business offences should include the possibility of restitution.

91. In the case of officially sanctioned crimes resulting in large-scale victimization, proof may be particularly difficult because of the clandestine nature of the original operations and the obliteration of evidence. The trauma of testifying for the victims or their survivors is particularly acute. Nonetheless, judicial proceedings against those responsible are an essential part of obtaining justice for the victims. In such contexts, where violations of human rights are apt to occur and victims and their representatives may be particularly constrained, there should be adequate scope for the initiation of

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\*See, for example, the reports presented to and report of the Colloquium on Comparative Legislation Concerning Economic Crime, Freiburg, 20-23 September 1982; Klaus Tiedemann, "Concept and principles of economic and business criminal law", Revue internationale de Droit Pénal, Nos. 1-2, 1983; Charles P. Alexander, "Crime in the suites", Time, 10 June 1985, pp. 56-57. See also resolutions of the XIII International Congress of Penal Law, Cairo, 1-7 October 1984, on the concept and principles of economic and business criminal law, including consumer protection.

investigative and judicial action by concerned entities, especially human rights organizations, both national or international. When democratic Governments supersede repressive ones, there is usually no other option than for the State to try the offenders on the basis of individual cases, however numerous they may be; but the possibility of group actions could be explored here too. It is to the credit of newly democratic Governments, such as that of Argentina, to have established investigative bodies to ascertain the facts, and to have initiated judicial proceedings against those who had instituted a policy of terror and repression and perpetrated "crimes of homicide, illegal deprivation of freedom and torture of prisoners", thus affording victims and families of victims a role in this respect.\*

92. Those who have survived there, as elsewhere, against trying odds, can bear painful witness to the wrongs visited upon them. For many others, the world over, the opportunity never comes, or it comes too late. Judicial recourse, when invoked under authoritarian regimes, may be useless, and judges may be subverted or powerless to withstand the weight of repression. It is critical that their independence and leverage be ensured, so that they truly serve the cause of justice,\*\* as some have, sometimes at their peril. It is also imperative that some form of representation, for example through national associations, is afforded victims who have no other voice to speak, including those under detention without good cause and the families of inaccessible victims.

93. That further efforts are needed to improve the position of victims in the judicial process is clear, though the debate regarding the degree and forms of victim involvement in the criminal justice process continues. The positions range from those who wish to see the victim as an active participant in every phase of the criminal proceeding, including the indictment, trial, sentencing and parole hearings, to those who agree that the victim should be less marginalized, but continue to see the provision of relevant information and aid as the main avenues for improving the victim's situation. Those reluctant to accord a more active role to the victim include both those who are fearful that it might infringe on defendants' rights - which need not necessarily be the case - and those who feel that victims do not necessarily seek such a role and that they might be manipulated into it by victims' rights champions for their particular purposes. Nevertheless, it is undeniably true that the lack of a meaningful role in the administration of justice, and of leverage, as is still largely the case, accentuates the victims' feelings of powerlessness and perpetuates their status as victims.

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\*See Decree No. 187 of 15 December 1983 on the establishment of a National Commission on Disappeared Persons (Comisión Nacional sobre la Desaparición de Personas), and Decree 158 of 13 December 1985, instituting criminal proceedings against members of the Juntas, stating "que la persecución penal de los hechos a que se refiere este decreto interesa a cada uno de los habitantes, en particular a las víctimas, los que podrán - en uso de sus derechos - realizar aportes informativos dirigidos al esclarecimiento de esos delitos y al acobio probatorio contra sus autores", Anales de Legislación Argentina, 6 January 1984 (special issue). See also report of the CONADEP (Sabato) Commission, issued on 20 September 1984, which eloquently describes the events and notes i.a. the intimidation to which its members were subjected, as well as the victims, in its truth-finding task:

\*\*See A/CONF.121/9 and Centre for the Independence of Judges and Lawyers, Bulletin, No. 12, October 1983, pp. 27-56, for Universal Declaration on the Independence of Justice.

94. In the search for alternatives to formal criminal justice proceedings and the adversarial, accusatory or inquisitorial approach, there has been increasing interest in diversion and the utilization of techniques such as mediation, arbitration and other forms of conciliation to resolve disputes between the parties, especially where there are continuing relationships. 74/ This approach has long been a cornerstone of customary justice systems in Africa and Asia, with the informal settlement of disputes in the framework of local communal practices. The panchayats in India, baranguays in the Philippines, conciliation boards in Sri Lanka, intercession by village elders with a view to reconciliation of the parties in Africa etc. are instances of mechanisms of this kind. Using informal arbitration and principles of mediation and restitution as substitutes for or adjuncts to regular penalties such as incarceration, they bring justice closer to the people and increase respect for victims' interests. 75/

95. Neighbourhood and comradeship courts in socialist States serve as popular tribunals whose decision-making is not strictly judicial but, rather, involves the application of moral and legal norms by citizens of the community with regard to certain acts. Many disputes between members of living or working groups can thus be handled informally at what could be termed the pre-court level, before they escalate to the point of requiring more formal intervention. 76/ China has fully and systematically developed the concept of community justice, through its people's courts or mediation committees, so that interpersonal disputes and minor infractions of the law reach the formal courts only as a last resort. Plaintiffs can initiate action orally or in writing and decisions are rendered promptly under simplified procedures. The accessibility, informality and perceived fairness of the proceedings, with their emphasis on restoring equitable social relations, serve to reduce grievances and prevent further escalation of conflicts apt to result in serious crimes.\*

96. In some developed countries, "alternative dispute resolution" is being used as a viable community alternative to adversarial proceedings and traditional modes of sentencing. In the United States, for example, this method has been spurred by the Federal Dispute Resolution Act of 1980. Such mediation schemes seek to minimize disruption and promote social cohesion and reconciliation between those concerned by tackling the causes and not merely the symptoms of conflicts which have arisen, and thus decreasing the chances of further victimization. 77/ Specialized mechanisms for dealing with special kinds of problems, such as housing courts, labour courts, small claims courts, consumer complaint tribunals and community child welfare boards (which deal with juvenile offences in the Scandinavian countries and Scotland), also include an element of mediation or arbitration. Innovative attempts to bring offenders and victims individually or collectively face to face, as a salutary exercise for both, have been made in certain countries, for example Argentina, the Netherlands and the United Kingdom of Great Britain and Northern Ireland, with mixed reactions.\*\*

97. It has been contended that some diversion programmes might widen the net of social control without providing the requisite human rights guarantees; that

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\*Zhang Yan Ling, intervention au XIIIe Congrès international de droit pénal (section III), Cairo, 1-7 October 1984; Zhang Zhye, "How China handles civil disputes", Beijing Review, vol. 27, No. 7 (13 February 1984), pp. 22-25.

\*\*Presumably being therapeutic for the victim and rehabilitative for the offender, and conducted individually, with their respective victims (e.g. Netherlands), or prisoners meeting with victims, though not their own (e.g. United Kingdom).

they tend to be used in cases where the prosecutors consider it unlikely that they will obtain a conviction, and that since the cases are relatively minor, they might have been dismissed anyway. Conversely, it is also argued that their use, for example in cases of domestic violence, may avoid criminal prosecution for noxious acts such as spouse abuse and thus perpetuate what is no longer just a consensual dispute, but is in fact criminal.\* Where mediation is used, it is critical that the parties be in an essentially equal bargaining position. But since such programmes involve a systemic approach and community participation in the administration of justice, with the necessary caveats and appropriate evaluative procedures, they do provide a viable means of recourse for the aggrieved party and a way of mitigating conflicts inherent in various patterns of victimization.

98. The rendering of justice internationally, and implementation of international proscriptions nationally, touches on complex issues of jurisdiction and enforcement which are beyond the scope of this paper. The elaboration of an International Code of Offences against the Peace and Security of Mankind has been a major task of the International Law Commission over the years. The principle of universal jurisdiction has been rarely applied as yet, and an International Criminal Court is still but a blueprint.\*\* Despite the absence of direct means of enforcement of this kind, even for acts constituting crimes under international law,\*\*\* indirect enforcement schemes can be invoked, whereby contracting States obligate themselves to enforce the international legal obligation through domestic legal systems, using measures such as the criminalization and punishment of the respective acts, denial of defence of obedience to superior orders, as well as co-operating with other States by means of extradition and other forms

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\*A resolution of domestic violence against women, adopted by the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace (Nairobi, 15-26 July 1985), urged governmental agencies to pay special attention to violence against women, to treat such behaviour as criminal and to provide services to assist battered women and their children.

\*\*See Cherif Bassiouni, International Criminal Law: a Draft International Criminal Code (Alphen an den Rijn, Netherlands, Sijthott and Nordholt, 1980); "Establishment of an International Criminal Court", report on International Criminal Law Conferences, Racine, Wis., 1971-1972.

\*\*\*The following categories have been identified inter alia as international crimes: crimes against humanity, genocide, apartheid, slavery and slave-live practices, torture, unlawful medical experimentation, taking of hostages, drug offences, piracy, crimes relating to international air communications, threat and use of force against internationally protected persons, falsification and counterfeiting, theft of national and archeological treasures, bribery of foreign public officials, international traffic in persons and exploitation of the prostitution of others, and international traffic in obscene publications. International instruments, primarily in the form of conventions, seek to ensure national compliance. Offences against the environment and other categories have been proposed for inclusion in the International Code of Offences against the Peace and Security of Mankind. See, also, A/39/10; Cherif M. Bassiouni, "The protection of victims in international law", op. cit.; and International Crimes Digest/Index of Conventions and Relevant Penal Procedures, vols. 1 and 2 (Dobbs Ferry, N.Y., Oceana, 1985).

of mutual judicial aid. The intensified co-operation of States in the prosecution of drug-trafficking (even pending the elaboration of a convention) and related organized crime illustrates the possibilities of joint action which could be more widely pursued.

99. The reporting, information dissemination, complaint examination, inquiry and investigative functions of United Nations human rights bodies and work of other United Nations entities and agencies, including those providing humanitarian aid, aim at putting into effect basic principles of justice and curtailing victimization. The efforts of regional and non-governmental organizations provide further support in this respect. Yet, as concerned analysts have pointed out, the inadequacy of protection of vulnerable groups persists, enforcement problems proliferate, even concerning internationally proscribed acts (for example, the difficulty of proving intent in allegations of genocide), and gaps exist where the source of the harmful conduct is "beyond the reach of the law".\* More effective, concerted efforts are evidently required to provide a wider measure of protection for those at risk, and of redress for those victimized - wherever they are.

#### C. Indemnification of victims

100. Historically, the indemnification of victims was deemed to be the basic tenet of justice: that wrongs should be made right. Failure to make restitution could result in retributory punishment of offenders by the victims or their kin. Reparation to victims was a cardinal principle of early societies, as exemplified in the Code of Hammurabi, the death-fine of ancient Greece, the Law of Moses and Indian Hinduism. Societies organized around tribal and kinship groups developed the practice of informal restitution which still continues to be the cornerstone of customary justice practices. The system of "wergild" among Germanic tribes called for blood revenge for murder or rape, and fines for other injuries, assessed on the basis of the age, sex and rank of the victim. In countries governed by Islamic law, the Kassama principle of the Sharia has provided for compensation of the victim by the State for the loss incurred. Over time, reparation to the victim was integrated into the penal law as an element of punishment, and the "composition" process included the payment of damages both as redress to the victim and penalty for the offender, with the State claiming a widening share as its power increased. As the function of punishment was transferred to the State, the rights of victims were progressively removed from the jurisdiction of penal law and composition evolved into the civil law of torts, necessitating special - often protracted and expensive - litigation, rather than being considered as the victim's due.

101. Western systems have tended largely to neglect the principle of reparation for crime victims. However, it was periodically highlighted as a valid option by thinkers and reformers, such as Sir Thomas More, Jeremy Bentham, Herbert Spencer and Raffaele Garofalo. More recently, Margery Fry in England urged equity for victims - a call heeded in the adoption of the New Zealand Compensation Act of 1963, the compensation programmes adopted in the United Kingdom in 1964 and in the United States (California) in 1965, and in a number of other countries during the past two decades. At the same time, recent years have witnessed a wider use of restitution by offenders as a sentencing alternative or adjunct. 78/

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\*See, also, A/CONF.87/6.



102. While the terms compensation and restitution are sometimes used interchangeably (for example, in the United Kingdom, "Compensation Orders" refer to restitution to victims by offenders), the term compensation is more generally employed to denote payments made to crime victims by the State as a way of supplementing inadequate restitution or indemnifying victims of crime, especially violent crime, where restitution from offenders is not available.

### 1. Restitution

103. Court-ordered restitution by offenders has most often been used as a condition of probation or conditional (deferred) sentence, though in some jurisdictions it has been employed as a sanction in itself. A restitution order may be imposed at any stage of the criminal process and can take different forms. The offender may be required to pay money directly to the victim, to participate in a work programme in which part of his salary is paid to the victim, to render services to the victim or to perform community work in lieu of repayment to the victim. "Creative restitution" has been utilized as a sentencing option designed to provide reparation for damage caused to the public good, as well as a means of "rehabilitating" the offender through community service. When victims are paid directly, they do not usually relinquish the right to claim further damages through civil action, but in most cases of conventional crimes the offenders' means are too limited to permit effective redress (though most persons fined do pay their fine). Sometimes, thus, restitution has been used as a condition of parole, with the offenders working (for example, in a community-based correctional centre) to reimburse their victims under contracts stipulating what portion of their earnings is to be used for this purpose.\*

104. In some countries, such as the United Kingdom, inmates of correctional establishments and participants in correctional schemes perform tasks to raise money for their local victims' support scheme. Evaluation studies of such programmes, though limited, seem to offer support for the wider utilization of restitution as an alternative to imprisonment for offenders and a means of indemnifying victims. 78/ Indeed, the use of restitution as a "privileged" sanction in itself has been suggested. It may also have the positive side-effect of promoting conciliation between victim and offender, increasing the latter's sense of responsibility and self-esteem while relieving the burden on the victim and making him feel a partner in the correctional process.

105. Though restitution can be an effective sanction, it is not necessarily a suitable punishment for all kinds of crime: it may be more appropriate for property crimes than for those causing injuries to the victim that are difficult to quantify, and would seem inadequate in itself as the sole penalty for wealthy defendants or perpetrators of violent crime. 79/

106. It has also been proposed that, in view of the complexities of criminal prosecutions against corporations, which include the problem of proving intent and pinpointing responsibility, where the law is violated and public interests are harmed as a result of corporate activities which cannot be traced to any

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\*Jacques Vérin, "La réparation aux victimes d'infractions pénales", paper presented to the HEUNI Seminar: Towards a Victim policy in Europe, Helsinki, 30 October-2 November 1983; S. A. Thorvaldson, "Compensation by offenders in Canada: a victim's right? Five answers", report presented to the 33rd International Course of Criminology: Victims of Crime, Vancouver, 6-11 March 1983; United States Department of Justice, Restitution to Victims of Personal and Household Crimes (Washington, D.C. 1981); Galaway and Hudson, op. cit. 78/

individual, restitution should be made by the corporation as a whole for the damage inflicted. It is contended that such an approach, under the criminal law, would also be in keeping with the growing tendency in tort law to allocate the losses resulting from a complex and technologically dangerous civilization to the parties best able to bear the cost. Proponents of this approach, citing the parallel with the use of restitution in respect to individual offenders, stress that it would further the aims of deterrence and retribution (just desserts), as well as of "rehabilitation" (by bringing corporations to change their structure, functioning or personnel so as to avoid future restitution). The corporations would give evidence of being socially responsible for their criminal acts and the well-being of those injured by them, thus re-establishing mutual good-will. 80/

107. Such an approach, it is argued, could best be put into practice by utilizing "restitutionary courts, which should be experimental, accommodating and facilitory", and whose sentences should be based on the damage done (though it often cannot be repaid in money), on the basis of proof by the victims, but with the interests indirectly affected also receiving due consideration. These courts would be problem-solving rather than adversarial in method, act as neutral arbiters among conflicting value systems, consider all serious demands pressed by any individual or group involved and the mitigating factors. It has been suggested further that the amount of restitutionary recovery should be equal to the victims' loss or the corporation's gain, whichever is greater; that if there are doubts in this respect, they should be resolved in favour of the victim, and that punitive recovery should be allowed only if there is concrete evidence that it will have a deterrent or rehabilitative effect.

108. By way of awards, lump-sum or continuous payments are suggested "over some period of time over which a corporation is reasonably likely to realize benefits from any unlawful act". 80/ The choice between these options would presumably depend on the nature of the damage done to the victim (homicide by a corporation, for example, might call for supporting a victim's dependents over the course of their dependency), the cash flow of the corporation and the court's best judgement. In the case of corporate executives guilty of knowingly repeating serious offences, restitution would be provided in the framework of a three-component system consisting of small production-oriented in-prison programmes, residential community programmes and non-residential community programmes. Sentences of community service as "creative restitution" have already been applied to some white-collar offenders, but the above-mentioned proposal focuses more clearly on the need for material restitution to the victims. The author notes that if restitutionary courts are considered "too deviationist", the principle could be utilized as part of an adversarial proceeding modified only to the extent that prosecuting attorneys would represent the interests of the victims and their families as well as the public in seeking damage awards. It is suggested that appropriate criteria could be established for the practical application of the ideas advanced. Though such proposals require critical analysis, they illustrate the possibilities for imaginative innovation in the interest of justice and the victim, as well as the offender, both corporate and individual.

109. Certain proposals have also been made for restitution by corporate entities for transnational abuses.\* In the case of collective victimization

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\*See, for example, "Suggestions for the prevention of transnational corporate abuses and reparation to their victims", paper prepared for the Interregional Preparatory Meeting of Experts on Victims of Crime, Ottawa, 9-13 July 1985.

by powerful individuals or entities, including the State, the seizure of assets may be a necessary procedure in the absence of voluntary restitution. Where perpetrators of large-scale abuses have fled elsewhere, bilateral or multilateral co-operation is required for this purpose.

## 2. Compensation

110. There have been various rationales for compensation of victims by the State - at least for violent crimes - apart from the frequent inadequacy of restitution by offenders. It is contended, for instance, that the State has an obligation to compensate its citizens for its failure to protect them adequately. This premise has been largely rejected by States enacting compensation statutes, out of concern that it might lead to an expanding "right" of persons to safety and well-being which is apt to impose an excessive burden on the treasury. Perhaps most cogent is the view of victim compensation as a "humanitarian response to a compelling human need". There is some disagreement, however, as to whether only economically needy victims should receive such assistance, under a social welfare approach, or whether all victims of injurious crimes are eligible, by an insurance analogy under which all citizens share the risks of criminal victimization, to be pooled through governmental programmes.\*

111. Arguments for victim compensation also stress that they improve crime reporting and the overall functioning of criminal justice systems by increasing the co-operation of victims with law enforcement agencies; that it encourages policy-makers to take more effective crime prevention measures, so as to keep compensation costs down; and that it accentuates the moral stigma of crime, thus further reducing it. On the other hand, it is claimed that the programmes might make people less cautious, since they would expect to be compensated in case of harm, and offenders more likely to commit crimes if their consciences are assuaged by the payments; that they create opportunities for fraud (though simulation of injuries is unlikely); that most schemes are essentially political, stating the desirability of compensating victims but in fact not properly doing so; and that policy-makers might be less likely to adopt effective crime prevention programmes without the barrage of victim complaints.\*\*

112. It has also been questioned whether the funding of compensation schemes through fines or other levies on offenders, or certain categories of offenders (for example, traffic violators), is equitable, but all these arguments cannot invalidate the importance of victim compensation, given its merits and the severe hardship of those for whom it provides some relief. If the will is there, appropriate funding means can be found, though coverage may remain largely symbolic.

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\*For a comprehensive discussion of the rationale, principles and problems of victim compensation, see A. G. Mazalov and V. M. Savitskii, "Nereshennaia problema vozmeshchenya vreda poterpevshemu ot prestupleniya". Pravovedeniye, No. 3 (Moscow, 1977), pp. 47-54; Daniel McGillis and Patricia Smith, Compensating Victims of Crime: an Analysis of American Programs (Washington, D.C., National Institute of Justice, 1983), p. 4.

\*\*Although recent research findings do not seem to bear out this contention. See, also, Leroy Lamborn, "Toward a victim orientation in criminal theory", in Hudson and Galaway, op. cit., pp. 145-188.

113. Most compensatory schemes limit their scope to victims of violence, exclude victims related to the offender (and thus victims of spouse, parent or child abuse), or those alleged to have played a contributory role in the offence (as may be claimed in rape cases), and impose financial and residency requirements as well as deadlines for filing. They also call for crime reporting and co-operation with law enforcement authorities.

114. Compensation is usually restricted to medical and frequently funeral expenses incurred as a result of the crime and not reimbursed from other sources, unreimbursed loss of earnings, payment for loss of support for dependents of deceased victims, and short-term emergency awards to very needy claimants. Some programmes provide additional benefits, such as replacement of medical devices (for example, glasses), attorneys' fees, cost of rehabilitation or psychiatric treatment, compensation for disability or disfigurement and, in rare cases, for pain and suffering. Almost all programmes have a ceiling for maximum awards and weekly payment limits, and many require certain minimum losses or minimum deductibles, aimed at reducing overall programme costs.

115. The appropriateness of the relative and household exclusions, the financial means test and the minimum loss policies has been challenged, as has the adequacy of emergency award procedures. The largely symbolical nature of the compensation awards in many jurisdictions and the frequent unawareness of victims of its availability, further limit its scope as a means of redress. When victims are rejected because of a technicality, or when the award is clearly disproportionate to the need, the victim may feel further victimized. While the impact of compensation programmes on victims has not been systematically studied, the limited research results available to date seem to indicate that victim compensation programmes do not necessarily improve the victims' attitude towards and co-operation with the criminal justice system. Flexible eligibility criteria, faster claims processing, more adequate awards, with improved emergency award procedures, and increased public awareness, are among the factors likely to make victim compensation schemes more effective. 81/

116. Funding mechanisms for indemnification to victims of crime vary, though in most countries it is primarily the offender who is liable to compensate the victim for the harm inflicted by a criminal act - whether under a civil claim which may be joined to a criminal proceeding under continental systems, as a compensatory claim presented by the public prosecutor on behalf of the victim (as in Czechoslovakia), or as compensation adjudged by the court on behalf of the victim, even if the latter does not file a claim. At the HEUNI meeting on victim policy in Europe, the concern was expressed that where civil claims for compensation are separated and transferred to civil procedure, this should not be misused for the convenience of judges, at the expense of the victim's interest in a speedy and simple adjudication of their claims.

117. Different financing methods are utilized to cover the cost of State compensation. In socialist countries, for instance, citizens are protected against the costs of most kinds of victimization in the framework of overall social welfare programmes, implemented by the State as well as trade unions. Payments inter alia also to crime victims are thus made under insurance policies available to all citizens at low rates.\* While the special State

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\*See, for example, Imre A. Wiener, "Civil litigation and the insurance system concerning the victims", paper presented to the HEUNI Seminar: Towards a Victim Policy in Europe, 30 October-2 November 1983.

compensation schemes adopted in other countries generally cover only crimes of violence, in some others certain additional categories are also covered, for example, property offences committed by institutionalized persons while outside the institution, such as prisoners on furlough (Sweden). A tendency to widen the scope of compensation as well as the circle of beneficiaries has been noted, though an overly inclusive system of State compensation poses the danger of potential abuse. The Helsinki meeting stressed that as a rule compensation should aim at the full recovery of all losses sustained, with priority given to the needs of victims in real distress, not limited to victims of violence alone, and that indemnification should be further developed so that liability is extended to cover all kinds of material and non-material suffering sustained as a result of the victimization. It was further recommended that the victim's right to compensation should not be compromised by decriminalization policies. 82/ Instruments such as the 1983 European Convention on the compensation of victims of violent crimes provide common policy principles for the countries concerned with the aim of fostering appropriate and co-ordinated action.

118. Many compensation programmes, especially in free market economies, are funded through revenue from fines and penalties, including fixed penalties, proportional surcharges and discretionary penalties (especially traffic violation fines). Criticisms have been voiced that such mechanisms may violate citizens' rights to equal application of the laws by requiring convicted offenders to pay for programmes which should be everyone's responsibility, a policy which has led court challenges in some cases. Some monitoring approaches have been developed to ensure the collection of penalties and fines, for example by auditing court dockets in order to determine whether they are in fact levying the appropriate fines (as in New Jersey, in the United States). In addition to revenues, fines, penalties, restitution by offenders and civil suits against offenders and against third parties whose negligence may have contributed to the victimization, other possible funding sources include property forfeiture and provisions to acquire profits from offenders' royalties obtained from commercially exploiting their crimes (through books, films etc.). 83/

119. In the case of economic offences, for example against consumers, labour safety or the environment, victims have the possibility of seeking remedies such as compensatory damages. In cases of "reckless endangerment", the active concealment of known dangers (for example, of a product or industry) or criminal negligence, punitive damages can also be awarded. However, as with large criminal fines, they may punish the innocent along with the guilty, by being passed on to consumers, leading to worker lay-offs or to default to creditors and shareholders, to raised insurance premiums etc. Punitive damages can serve compensatory ends by reducing the burden of attorney's fees and other expenses of litigation for which recovery is allowed; they thus provide added incentives for plaintiffs to use and cover misconduct. 84/ Criminal prosecutions may increase the likelihood of civil suits by drawing attention to the wrongdoing.

120. The substantial awards made in some countries in recent years in personal injury cases has provoked some calls for limits on such awards. The criticism has been voiced that a large part of the money has gone to the lawyers, rather than the victims, and that the difficulties and time delays inherent in such proceedings operate to the detriment of the plaintiffs. The proliferation of suits (as in the asbestos cases) may also lead to corporate bankruptcy, sometimes as a way of restructuring and avoiding the payment of damages. 71/

121. In view of the above, and the need of many victims for prompt relief, it has been suggested that emergency funds be established in such cases, with

simple procedures to permit victims to be compensated as promptly as possible.\* However, where transnational corporations or their subsidiaries are involved, questions of national jurisdiction arise and problems of representation may be compounded (in the Bhopal case, for instance, the Indian Government has engaged United States counsel on behalf of the victims to commence an action in United States courts; other group actions have also been initiated). 85/

122. With regard to certain kinds of economic offences, for example, against the environment, it has also been proposed that a special fund for the victims of criminal negligence affecting large numbers of people should be established; 86/ this could be done on a national, regional or international basis. The illicit proceeds of organized crime, such from drug trafficking involving money laundering, might also be seized, to provide resources for helping crime victims, through drug abuse treatment and prevention programmes, preferably through the United Nations Fund for Drug Abuse Control.

123. Most countries have some provisions for the protection of persons against abuses of public power and for the payment of damages in cases of its misuse. The right to bring suit to this effect is usually incorporated in the constitution. Thus, according to article 57 of the Soviet Constitution of 1977, the "citizens of the USSR have the right to compensation for damage resulting from unlawful actions by State organizations and public organizations, or by officials in the performance of their duties". Under the Canadian Constitutional Act of 1982 (Charter of Rights and Freedoms), "anyone whose rights or freedoms as guaranteed by this Charter have been infringed or denied, may apply to a court or competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances" (section 24). In some jurisdictions, exemplary or punitive damages may be awarded to reinforce the censure of the illegal activity and provide redress for the injured party; in practice, however, such provisions may be applied only in a small measure due to the shortage of means or because suits for damages are slow and costly.\*\*

124. Few precedents exist for the voluntary compensation of groups of victims by Governments for the redress of wrongs suffered. The compensation proposed by the Governments of the United States and Canada for the detention of persons of Japanese descent during the Second World War are a case in point. The most comprehensive and systematic precedent, however, is the Wiedergutmachung provided by the Federal Republic of Germany to the victims of Nazi persecution. In trying to redress the wrongs (as far as possible) committed through discriminatory or other harmful practices against whole segments of the population, or against selected groups, certain guidelines can be derived from this experience, which may be applicable also in the other contexts.\*\*\* They apply to both restitution and compensation:

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\*In Poland, for instance, a small fund exists for this purpose. See Lech Falandysz, Wiktymologia (Warsaw, Wiedza Powszechna, 1979).

\*\*See also A/CONF.121/4.

\*\*\*See Walter Schwarz, "Report on the legislation of the Federal Republic of Germany for the redress of wrongs suffered by victims of National Socialist persecution, and evaluation of its implementation", prepared for the Interregional Meeting of Experts on this agenda item, Ottawa, 9-13 July 1984; Leslie Sebba, "The reparations agreement: a new perspective", Annals of the American Academy of Political and Social Science, No. 450, July 1980, pp. 202-212.

1. The principle of equality of rights of all victims is of primary importance. This does not mean that they should all receive the same amount of relief, but it does mean that they should enjoy the same rights within the scope of the claims laid down by the law;

2. It is necessary to have central planning, legislative, and administrative machinery, since only the principle of centrality can ensure the principle of equality of rights;

3. The legislation adopted should be transparently clear. It should be flexible enough to cover most cases. The same principles apply to the law of procedure, which should be as simple and as summary as possible, since its main function is to find out the truth and to provide relief as quickly as possible;

4. As the legislation by its very nature is of an experimental and transitory kind, amendments will be needed, since all the implications of the law cannot be foreseen at the time of its drafting. Amendments should be made retroactive and include adjudications and judgements made prior to the amendment, if the amendment enlarges the rights of the victim, so as to ensure the equality of rights. Both the administrative and the judicial personnel should be alerted to the necessity of amending the law wherever and whenever the results of the law as it stands appear unacceptable, and should draw the attention of the legislature to the need for amending the law when necessary;

5. If it is uncertain whether the budgetary means of the State will be sufficient to cover an unknown number of claimants, a fund should be established to limit the financial burden. A basic amount should be paid out immediately and the difference paid later, the final amount payable to each claimant being known only at the time when it is clear how many claimants filed claims and the amounts distributable out of the fund;

6. The system of indemnification should make a distinction between claims for the restitution of identifiable property and claims for compensation. Restitution in general should be provided in kind. Financial restitution should be restricted to those cases where movable property cannot be found or where immovable property has been the object of acquisition in good faith. When acquisition in good faith has occurred, restitution in kind should be limited to cases in which justice cannot be achieved without it, but speculation should be avoided by prohibiting the property's sale by the restitutee immediately after restitution;

7. With respect to compensation, relief in the form of an annuity (for life, or for a limited time, as in the case of younger persons with claims for the loss of educational opportunities) is preferable to capital indemnification. The decision of when and for how long a life annuity should be adjudicated should be left to the discretionary decision of the agency;

8. Compensation for damage to one's livelihood requires an instrument for measuring the extent of the damage generally, since it is impossible to assess it on a purely individual basis. The remuneration of a comparable government employee may serve as a basis for measurement;

9. Damage to health should be compensated. The main problem in computing it is the establishment of a causal connection between the

persecutory act and the victim's present state of health. This is very complex and requires medical experts, as well as a national medical council to decide in cases where there are different schools of thought. Claims for invalidity should be viewed not only in terms of physical incapacity but also of economic changes in the labour market, and be decided with the aid of an economic expert;

10. Compensation for the loss of liberty should only be provided as an element in the computation of damage in other categories, mainly health, and in augmentation of the compensation therefor;

11. The inheritability of claims should be limited to dependents, who should be compensated as such. As a principle, claims for death, damage to health, liberty and loss of livelihood should not be made inheritable, based on the principle that Wiedergutmachung is to be given to those who have suffered. This underlines the necessity of speedily implementing the law, since Wiedergutmachung fails in its goal if it comes after the victim's death;

12. The following administrative and judicial institutions should deal with claims to restitution or compensation:

- (i) As the institution of first instance, an administrative agency to clarify the facts, determine whether a claim exists, sift and evaluate the evidence, and prepare the final adjudication, always with the aim of reaching amicable settlements by concentrating on the indisputable elements of the claim;
- (ii) At the judicial level, administrative courts to focus on the fundamental issues of the cases and direct potentially leading cases promptly to the Supreme Court;
- (iii) The Supreme Court, as the highest instance to review the leading cases as well as to decide upon the fundamental issues;

13. The judicial and the administrative personnel should be carefully selected and well remunerated in view of the limited duration of their work;

14. It is sometimes easier to adjudicate or dismiss a claim or to issue a judgement than to reach a settlement, which requires a very high legal standard and much experience. The administrative agency should therefore be staffed by an experienced judge whose task it is to do so where possible;

15. The facts and evidence required of a person under the law should be reasonable, allowing claimants to prove their cases in a normal way and by normal means. Where direct proof cannot be submitted, as is often the case, circumstantial evidence should be admitted as far as possible;

16. Compensation claims should not be made dependent on linguistic or cultural criteria;

17. The assertion of claims by lawyers should be obligatory in view of the great complexity of the law of Wiedergutmachung and in order to hasten the trial procedures;



18. Restitution and compensation require the observance of filing dates, which means the exclusion of rights when they have been missed, deemed excusable or inexcusable. In excusable cases a special hardship fund can be established;

19. A system of contingent fees should be adopted to enable claimants without means to find legal help, and in order to differentiate between valid and invalid cases;

20. The requisite legislation should be so drafted and implemented that not only is justice fully done, but that possible fraud is also avoided.

125. The United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in December 1984 (A/Res.39/46), in pursuance of a Declaration against Torture which emanated from the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, includes a provision for compensation to the victims. Thus, article 14, paragraph 1, of the Convention stipulates that "Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation." It is further stated in paragraph 2 that "Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law."

126. As a means of assistance at the international level, the United Nations Voluntary Fund for Victims of Torture provides aid to individuals who have been tortured and to their relatives. Grants have been made for a number of projects in different countries, with priority to those providing direct medical or psychological assistance. The Fund has been restricted in its activities by the limited resources available. Strengthening and expanding the Fund, as recommended by the Interregional Preparatory Meeting of Experts, would make it possible to extend the scope of its activities and to include other victims. The United Nations Trust Fund for Prisoners in South Africa reflects the international concern with another group who require special assistance, particularly in view of recent developments.

#### D. Services and assistance for victims

127. Various facilities and arrangements have been utilized to help victims cope with the victimization they have experienced. In developing countries, family and kinship groups and traditional community mechanisms provide the main support system for the victim. To compensate for the decline of the extended family and loosening of family ties, in certain developed countries a growing effort has been made to provide additional or alternative means of helping victims to cope with the aftermath of the traumatic event. This trend, discernible especially in the last ten years, has derived largely from the increased awareness of the special needs of certain victim groups, such as rape victims, battered wives and abused children, and the calls for action spurred by the women's movement and child protection advocates. The provision of "safe houses", counselling, legal aid and safeguards etc. for such victims has served as a springboard for more extensive action which includes other victims.

128. The services that have evolved can be divided into several main categories, though these are not clear-cut and their sponsorship varies.

Perhaps the most prominent of these have been the services that deal with the crisis of victimization or seek to prevent it. Crisis intervention services have been provided to diffuse potentially explosive situations (for example through special police units sent out to resolve violent family disputes), as services for specific types of victims, and as generalized services provided by community agencies or so-called "crisis intervention centres". Their main purpose is to offer immediate, concrete help and reduce the trauma of the victimization. Crisis intervention may consist simply of telephone hotlines (e.g. for drug abusers and for suicide prevention), or may involve comprehensive multi-purpose services to various client groups, including inter alia, crime victims. Shelters for battered wives and children and front-line help for rape victims and others in emergency situations may be offered under the auspices of the police, who also provide transport and other aid. Experimental victim units have also been attached to hospitals for in-patient care in case of need, and the establishment of victim clinics has long been proposed by certain leading victimologists.

129. Services such as victim/witness assistance schemes are designed to help victims participate more effectively in the criminal justice process, to protect their rights, such as they may be, and to render practical and logistical help to them, so as to alleviate rather than compound their problems. This, however, is not enough for dealing with the deep trauma and after-effects which afflict many victims.

130. Information and referral services for crime victims can be provided by the police, the courts, social welfare organizations, crisis centres and special intake facilities of a temporary kind. In some cases, referrals (for instance to counselling services and to compensation scheme administrators) are combined with assistance in processing claims and a measure of follow-up. Inventories of community-based resources and of those available in the framework of the criminal justice system are needed both to facilitate appropriate referrals and to acquaint victims with the options available to them. Outreach services, by contacting crime victims, play an active role in providing assistance and support. 87/

131. Self-help groups of various kinds try to aid victims, while broader victim advocacy organizations have sought to provide guidelines and impetus for more comprehensive service delivery to crime victims. 88/ Consciousness-raising efforts aimed at fostering concrete action have included the issuance of pamphlets, media coverage and efforts designed to secure the adoption of legislation which would include the provision of the requisite services for crime victims, along with indemnification.

132. In spite of the recent expansion of victim-oriented services in some countries, some major problems remain. Where appropriate facilities are not yet available, or where they cannot readily be established because of material or other constraints, careful planning and the utilization of all suitable options is all the more important.

133. One major shortcoming of victim services, where they exist, is that they are offered in a very selective fashion. Victims of violent street crimes thus receive primary attention, as their experience may well warrant. However, victims of property crimes, terrorism, unwarranted captivity etc. are relatively neglected, although they often suffer gravely as a result - as the impact of burglaries and "congame" fraud on the elderly shows.

134. Most programmes offered to crime victims currently are geared to short-term treatment, and do not provide longer-term counselling or other

follow-up. Such a restricted time-frame may be insufficient, since the effects of the trauma may be camouflaged and not readily apparent, manifesting themselves only later on, as often happens with the post-traumatic stress-disorder. Furthermore, the staffing patterns of many emergency service providers which rely heavily on volunteers, may not include the diagnostic skills or in-depth treatment capability required for serious chronic cases. While volunteers constitute an invaluable resource by providing a measure of empathy and succor which may be absent in the most sophisticated training, specialized therapeutic approaches and professional supervision is required, particularly where there are continuing needs.\* Auxiliary helpers should be given appropriate training in order to optimize their input to the emergency response in the victimization crisis, help stabilize the victims by meeting their needs and strengthening their coping skills, and, by restoring their sense of control and mastery of their fate, turn victims into survivors. They can also help to bridge the gap which often arises between the victim and others, reinforcing the feeling of community and social solidarity. 89/

135. Under conditions of chronic adversity, such as apartheid, where services are hardly available, self-help coping mechanisms are the lifeline for survival. Mutual aid societies, mabidisho/mashambane (hold-hands society), religious organizations and a combination of individual and group strategies, developed over the years, have enabled the indigenous population to retain their sense of individual dignity and group identity in the face of poverty and exploitation, constant insecurity, humiliation, outright violence and imprisonment. 90/

136. In institutionalized victimization, where the pain and sense of isolation are compounded by silence, uncertainty and the impossibility of turning to the larger support system, because of fear and possible ostracism, the re-establishment of social links is all the more important. Pioneering efforts to mitigate the effects of certain kinds of concerted victimization have come to recognize this fact, though the psychological and social withdrawal of victims and their families may persist for a long time. 91/

137. The "therapeutic community" principle has particular relevance in this regard. Experience with group therapy for victims has revealed that it is most effective when the group consists of victims of a particular kind who can share common problems and reactions, whether they be abused wives or drug addicts. In dealing with long-term effects of massive victimization, such as those observed in survivors of the holocaust and their offspring, and in the children and families of disappeared persons, the catharsis of intolerable and often suppressed grief, and the bonds of shared suffering which develop, are crucial elements for acceptance and progression to another life stage. 92/

138. The potential for the application of existing knowledge and for new treatment approaches in working with victims is tremendous. It needs to be creatively and systematically explored. Traditional mechanisms and cultural supports can usefully be drawn upon in fostering viable helping patterns and networks. 93/ Multilevel responses to multiform needs must be developed within each context.

139. The spectrum of these needs which must be met and the prevalent fragmentation and lack of continuity and co-ordination mandate a coherent,

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\*See also Zigfrids T. Stelmachers, "Evaluation of victims services: is enough being done?" and other articles in Evaluation and Change: Services for Victims/Survivors, special issue, 1980.

integrated approach to the delivery of victim services. The absence of a theoretical framework and of scientific evaluation of most of the services offered prevents accurate assessments of their efficacy, despite the appreciation expressed by victims. Much more has to be known of what kinds of approaches are to be instituted with which target groups and for what periods.\* It is likely that specialized services for victim subgroups might have to be provided along with generic ones; the methodology may well determine organizational arrangements and vice versa. Better planning and a more comprehensive strategy would facilitate co-ordination, help identify gaps and possible overlap, and afford victims more than the haphazard referrals and assistance which they mostly receive. The establishment of integrated victims service agencies in some countries is a significant step in this direction. 94/

140. Inventories of existing and potentially utilizable facilities can help to identify possible resources for the delivery of victim services. These may have different scopes, organizational locations and frameworks. They can be provided as part of general health and mental health care, by social welfare or human development agencies, as a function of the services provided for certain population groups, such as the elderly or the disabled, or be largely autonomous. The auspices and location may influence the orientation of the services extended. For example, those operating in the mental health context may follow the medical model, with the risk of stigmatizing victims as being impaired and thus perpetuating their victimization.\*\* However, this need not be the case, and where there is a genuine commitment to the provision of assistance and support geared to the victims' actual requirements, constructive help can be rendered, respectful of the dignity and exigencies of those concerned.

141. While further research is needed on the complex relationship of victimization to delayed or chronic maladaptive behaviour, the emerging identification of trauma-specific syndromes and improvements in the treatment of many victims (and co-victims, such as family members) of violent crime, including sexual assault, kidnapping, hostage-taking, child abuse and exploitation etc., underlines the importance of access to trained specialized resources, as well as social - especially peer group - support. In fact, it has been found that delayed victim needs are best met in specific peer group projects (e.g. for rape victims, adults molested as children, parents of murdered or disappeared children, holocaust survivors and their descendants).\*\*\* The available experience seems to indicate that programmes should be either specialized or particularly sensitive to the differential needs of ethnic or cultural minorities and of victims of age-specific and gender-specific crimes.

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\*Van Dijk, op. cit.

\*\*See, for example, Yael Danieli, "The use of mutual support approaches in the treatment of victims", paper presented to the Colloquium on the Aftermath of Crime: a Mental Health Crisis, organized by the National Institute of Mental Health and National Organization for Victims Assistance, Washington, D.C., 28 February-4 March 1985.

\*\*\*Stigmatizing diagnoses may discredit a victim's right to testify, to retain custody of children, to obtain victim compensation, to regain employment, and to avoid institutional care or even involuntary commitment and enforced medication. See Draft Consensus Statement of the Assessment Panel of the Colloquium on the Aftermath of Crime: a Mental Health Crisis, Washington, D.C., 28 February-4 March 1985.

142. As in the case of emergency needs arising from the victimization trauma, in the treatment for its delayed or chronic manifestations, the mix of services will vary according to particular community structures and traditions. Mental health services may provide leadership in some jurisdictions, and justice agencies or grass-root organizations tied into the service network may sponsor appropriate services in others. The allowable duration of treatment in formal, funded programmes should be flexible, with regular reviews of the progress made towards negotiated goals,\* and restructuring of treatment as necessary for continued progress and avoidance of undue dependence. There should, however, be no time-limits or progress qualifications imposed on the right to remain in self-help or peer advocacy groups, which aid in re-establishing the victims' social links and overcoming the isolation into which they often retreat.

143. A really multidimensional, interdisciplinary approach, which seems to be required in the response to victimization and victims, would utilize existing community systems (e.g. medical, mental health, social services, criminal justice, drug and alcohol abuse) which have a constituency wider than just crime victims, as well as identifiable victim service programmes. In addition to providing special services, the latter could also serve as focal points to co-ordinate efforts and facilitate communication among all parts of the community victim service network, and to ensure continuity of assistance and support as the victim moves through different systems according to need. This does not necessarily require the establishment of a single consolidated victim superagency, which may not be feasible in some contexts. The process of developing victim services is still in its experimental stage, and there are various prototypes of facilities, programmes and treatments, without definitive conclusions yet as to how the different elements should be most appropriately organized and utilized. The optimal configurations will vary with historical traditions, customs, stage of development, nature and level of available services, funding possibilities and constraints, political and economic systems and social dynamics. In choosing among options, assessing outcomes, planning and implementing a more concerted approach, all relevant inputs need to be taken into account, including - perhaps most importantly - the reactions and suggestions of victims themselves.

#### E. Associations, advocacy and rights for victims

144. In response to the often unrecognized and unmet needs of crime victims, associations committed to the promotion of more effective action on their behalf have sprung up in a number of countries (e.g., Australia, Austria, Canada, France, Germany, Federal Republic of, Netherlands and United States). The impetus for their establishment has often come from victims or from those affected by the victimization of others, particularly family members. Social service providers, mental health workers, concerned criminal justice officials and lay volunteers have also played an active role in such associations, or have formed their own (for example, NAVSS in the United Kingdom). Their aims have generally been to promote greater public and professional awareness of victims' needs, extend the base of their support, enhance victim-related expertise and research and further appropriate legislative and other reform. The voluntary sector covers a range of organizations, from neighbourhood

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\*See, for example, Danieli, "The use of mutual support approaches in the treatment of victims", paper presented to the Colloquium on the Aftermath of Crime: a Mental Health Crisis, ...

self-help groups without funding, to semi-voluntary ones, such as councils for community relations, and includes organizations operating at the national level such as the Weisser Ring in Austria and the Federal Republic of Germany, National Association for Victim Assistance (NOVA) in the United States, and Plaidoyer Victimes in Canada, and also at the international level, such as the World Society of Victimology and organizations with special task forces or projects on victims or assisting certain categories of them. 95/

145. While the scope, focus and leverage of the various organizations differ, there is usually a mix of activities concerned with the provision of information and training, services and assistance, and advocacy. They may be directed to the public at large, civic groups, public agencies, professional organizations and the victims themselves. Depending on their constituency and means, some organizations publish basic leaflets, while others offer impressive information kits on various aspects including the requisites of the victim-helping process, guidelines for establishing victim service agencies, tips on fund-raising, and model legislation on basic victims' rights. 96/ In some countries (e.g. Australia, Canada, France, United States), victims' handbooks have also been developed under official or voluntary sponsorship. 97/ National and local meetings, public media events and the organization of "victims weeks", with high-level support, in some countries serve to sensitize the public as well as those in office to the plight and requirements of victims, as a springboard for improved action and necessary reform.

146. The advocacy efforts have sometimes had circumscribed objectives, such as better services, establishment or expansion of compensation schemes or a more active role for the victim in the criminal process. The past five years have witnessed a concerted movement, especially in some jurisdictions, towards the adoption of comprehensive victims' bills of rights. In one country (the United States), 28 states have adopted such bills, and one (California) has amended its constitution for this purpose. A number of victim-oriented organizations, both national and international, and victim advocates, have also proposed bills or declarations of victims' rights, reflecting a large measure of consensus on the essential requirements, though the specific suggestions may differ. These essentially include the provision of relevant information to victims and of pertinent input from them into criminal justice proceedings, concern for victims' privacy and feelings, decent treatment by the criminal justice system, appropriate reparation and adequate assistance and support.

147. Legislation on specific aspects, such as State compensation for victims of violence or victim witness assistance, which has previously been adopted in various jurisdictions, in spite of the postulated aims, has not always been adequately implemented in practice. Such measures have, however, at least provided guidance on the direction in which future action should move and a yardstick against which current practices can be assessed. In this sense, the promulgation of comprehensive victims' rights bills has a further advantage, not only in fostering more integrated and effective action, but also in establishing some basic standards which help to point the way and against which the respective efforts on behalf of victims can be assessed with a view to further progress.

148. The calls for a more even-handed attitude, which would take due account of crime victims, have led to the establishment in a number of countries of commissions of inquiry or task forces on this subject, with the mandate of assessing the extent of their needs and the scope of desirable action. 98/

These bodies have made far-reaching recommendations that have served as a basis for subsequent policy formulation and legislation in this field.\*

149. Elsewhere, where large-scale victimization has taken place, the relatives of the victims have sometimes formed associations spearheading calls for information and redress.\*\* The Mothers and Grandmothers of the Plaza de Mayo in Argentina aroused the public conscience even when there was no other recourse. The establishment of official bodies of inquiry, such as the Sabato Commission, affords not only the possibility of determining the scope of past crimes and other abuses, but also a means of catharsis and national renewal. The findings and recommendations of such bodies can serve, as in this case, as a springboard for criminal prosecutions and other redress, and as a basis for preventive measures in the future.

150. Watchdog organizations, such as consumer associations and advocacy groups, can help to safeguard potential victims and to provide recourse for those who have been harmed. Such groups have also been instrumental in promoting protective legislation nationally. Their international associations have fostered the adoption of international standards in the spheres of their concern, such as, the United Nations Guidelines on Consumer Protection, adopted by the General Assembly on 9 April 1985 (A/Res/39/248).

### III. PREVENTIVE STRATEGIES

151. Curtailment of the structural conditions and situations likely to engender victimization, and of conduct leading to it, is a priority for all countries, whatever their system or orientation. The role of the State as protector of the safety and well-being of its population is basic to responsible government, and it needs to be exercised de facto as well as de jure. Genuine democracy and social justice are essential requirements for a society to be responsive to the aspirations of its members and the plight of the more vulnerable among them. It has in fact been suggested that "the greater the life chances of the least powerful subjects in a polity, the more viable is that polity" 99/, and this adage needs to be put into practical effect.

152. The promotion of more egalitarian and fraternal attitudes and of respect for human dignity is central to this endeavour. Prejudice and stigmatization thrive on distrust and disrespect for group and individual differences, of whatever kind. They need to be stemmed rather than fomented. Some of this can be done through education, not merely in the formalistic sense, but in the tangible sphere of human relations and mutual observance of each other's rights. Adequate information to dispel bias bred of ignorance, and joint problem-solving in situations of conflict and frustration to counteract the tendency towards scapegoating of the outsider and the underdog, are necessary elements for achieving a climate in which victimization has less likelihood to thrive. Emphasis on accountability at all levels, avenues for recourse, and

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\*See, for example, France, Law of 8 July 1983 on the Protection of Victims of Crime, and United States, Victims of Crime Act of 1984, which provides for compensation and assistance to victims of crime, and for penalty assessment of offenders and forfeiture of the collateral profits of crime, as a source of funding for victim programmes.

\*\*See, for example, E/CN.4/1985/15, pp. 8-11.

mechanisms of redress for wrongs inflicted are indispensable not only as remedies, but also as co-ordinates of viable preventive action.

153. Within this larger context, policies and concrete measures must be adopted to diminish the likelihood of victimization from crime and other illegal activities. To be most efficacious, these need to be conceived and implemented at the macro-, meso- and micro-levels\* in a systemic perspective, with proper attention to the interfaces and feedbacks involved. Though a specificity of methods in dealing with particular types of crime and malpractices is required, so too is a comprehensive, generic approach which gives priority to those practices most likely to inflict the greatest harm. In this connection, due account must be taken of the broad national picture, the requirements of development and the particular socio-economic factors which may affect the cost-benefit constellation of the options employed.

154. These options can be divided broadly into measures aimed at affecting the behaviour of offenders and victims, or the situations which permit or provoke crime or related depredations. Starting with the victims, or rather potential victims, there can be efforts to alert them to the possibility of victimization in certain situations and to encourage preventive tactics or reduced exposure. Public education campaigns and provision of information by law enforcement officials on self-protection measures, avoidance behaviour and other ways of reducing risk illustrate methods of this kind, designed to minimize the possibility of becoming an object of crime in general or of specific kinds of crime. Some measures have been predicated on an analysis of the victimological risk of different groups and individuals, 100/ but for the most part the risks involve complex interactions between the parties concerned and the situations in which they take place.

155. The "opportunity structure", which has been related to probabilities of crime and victimization, is influenced by factors such as proximity (geographic or social), target attractiveness (e.g. monetary), accessibility and exposure, and guardianship (the effectiveness of persons or objects in preventing violations from occurring). 101/ The lack of effective guardians is assumed to increase the likelihood of direct-contact predatory crimes, and certain dimensions of social stratification may also contribute to an increased risk of victimization and definitional properties of specific crimes (which constrain strictly instrumental actions by potential offenders). It has been suggested that the more stringent the measures taken to control the opportunity structure for a particular type of crime, the greater the probability of success in reducing the number of such crimes, and that the opportunity structure for particular crimes can be changed by policies whose crime prevention effects differ according to their object (victim, perpetrator, situation), the time of occurrence of the effect (before, during or after the criminal act), and their duration (non-recurrent measures, structured measures). 102/

156. Sometimes relatively simple, practical steps which could prevent victimization are not taken because of lack of information or dated routines. Had, for instance, the people of Bhopal known that in case of gas leakage they should hold a wet cloth to their faces, thousands could have been saved. If

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\*See Eckard Kulhorn and Bo Svensson, eds., Crime Prevention. (Stockholm, National Swedish Council for Crime Prevention, 1982); "The role of the victim in crime prevention", summary report of HEUNI Seminar: Towards a Victim Policy in Europe, Helsinki, 30 October-2 November 1983.



commercial transactions affecting developing countries, which often lose scarce funds on bogus schemes that seem cheap and attractive on the surface, were monitored more closely (for example through ship registry checks), their victimization could be substantially curtailed. 103/

157. Different modalities of "techno-prevention" and "socio-prevention" 165/ can be used to curtail victimization. The reduction of exposure and accessibility, by limiting the use of cash or installing locks, for example, is the main principle in "techno-prevention". But such precautions and the expansion of the security industry may create a technology spiral and security illusion in the face of continued vulnerability and possible displacement effects - to another time, another area, another tactic or modus operandi or functional displacement to another crime. 104/ This possible shift or displacement effect must be fully taken into account. It underlines the need for crime prevention planning which utilizes an integrated approach.

158. Psycho-social factors also affect the outcome of physical or "situational" attempts at crime prevention. For instance, those most likely to be victimized may also be most likely to take the risk of not observing the necessary precautions. Educating the public as to the actual distribution of victimization risks can help to offset this tendency. The choice of approach will also involve certain trade-offs: fear of crime, regardless of actual risk, may detrimentally affect life-styles, for example of the elderly, compounding their isolation and fear. Others may claim different social and economic costs which need to be carefully weighed in terms of their broader implications.

159. The concept of "defensible space" like that of "target hardening" has been used to denote measures at the meso-level intended to reduce the possibilities for committing crime, in this case by strengthening the "guardianship" factor, for example in housing projects. However, the viability of social space, and not only physical space, is an important factor in crime and victimization reduction. The cohesiveness of certain slum areas whose physical replacement can provoke criminogenic social disruption attests to this and needs to be taken into account in preventive planning. Indeed, the strengthening of informal social controls along with other means of socio-prevention, involves the creation and expansion of social networks and other ways of enhancing the sense of community and security, as well as actual safety. Some countries have done so even in large cities. For example, in Japan urban villages have been created, and in the socialist States of Eastern Europe neighbourhood units play a cohesive and crime preventive role. 105/ In China, the Shanghai crime watchers, consisting of some 35,000 persons organized into 1,000 units - including neighbourhood committee officials, police, relatives and colleagues of young offenders, who lecture on law, promote recreational activities etc., as well as helping to organize suitable employment opportunities - are largely credited with the high success rate in stemming youthful recidivism. 106/

160. The importance of informal social control systems has been underlined in studies seeking to determine the factors making for effective crime control. The concept of "synnomie" (as opposed to anomie) has been used to denote societies characterized by "the existence of effective systems of popularly accepted and culturally harmonious social controls, of which the criminal justice system is one, capable of maintaining, generating and transmitting shared values". 107/ The creation of a social fabric and psychological climate which fosters mutual acceptance and caring can help to prevent victimization and move closer to the vision of a better society.

161. Community self-help measures can also assist in crime prevention. Block watch associations and citizens' patrols, escort services for the elderly, and other self-help efforts can be a useful adjunct to formal crime prevention efforts, provided their objectives and tactics are specified and the necessary limits observed. The borderline between constructive popular participation in crime prevention and vigilantism is one that must be clearly demarcated, so that excesses are not likely to occur. Institutionalized victimization with the complicity of "private" death squads, operating under the guise of "self-defensive" action, reflects the dangerous potential for abuse which needs to be forestalled lest "crime prevention" become an instrument of terror rather than a means of ensuring civil peace.

162. The linkages of such pseudo-private operations with official mechanisms of repression for the ostensible purpose of "crime control" underscore the importance of judicious preventive action which would incorporate appropriate safeguards against illegal abuses of public power as well as petty criminality. History, including recent history, has all too painfully recalled that controlling the controllers is a priority task for Governments intent on curtailing the victimization of their people. Declarations of a "state of siege" or "state of emergency", on the pretext of fictitious or exaggerated danger from within or from without, have lost their credibility for the large majority of people who have realized that they often serve merely as a licence for repression. 108/ The fact that some countries have been able to deal with the threat of violence, organized crime etc. without abandoning essential procedural guarantees is testimony that human rights need not be sacrificed in the cause of crime prevention. The host country of the Seventh United Nations Congress offers ample evidence of this fact. It can be usefully emulated, as can the example of countries which in the wake of bitter experience are seeking to redress past victimization through a meticulous judicial process. In exposing past abuses and seeking justice, they are also serving notice that both the initiators and knowing executors of policies of State terrorism and institutional crime will be held responsible. Indeed, real crime prevention requires accountability at all levels, particularly the highest, and a clear indication that obeying orders despite the knowledge of the gravity of the acts perpetrated on the borderline of the law cannot serve as an excuse. Observance of international norms and guidelines designed to stem victimization can also help significantly in this respect, as can the institutionalized channels of recourse, such as ombudsmen or complaint boards. 109/

163. Though motivated by a genuine belief that they serve the objective of protecting society, concepts of "social dangerousness" also carry potential for abuse. All too often this concept has led to preventive detention of largely harmless persons, such as vagrants, or of political targets. An examination of this approach in its contemporary perspective reveals its pitfalls and the need for proper caveats. The prediction of violence as a guide to preventive action has not yet been scientifically validated. Even among experts there is considerable disagreement concerning the potential threat posed by disturbed individuals and ex-mental patients, who may in fact be less rather than more likely to engage in violence than others in the population. Institutional segregation of those likely to "act out" is neither practicable nor warranted. Within these constraints, however, some recent attempts to provide an empirical base for violence prediction merit critical analysis. 110/ It has been suggested, for instance, that longitudinal analyses of the individual's life history and the victim's description of the offender's actual conduct during the criminal event may serve as an indicator of future proclivities. 111/ Current research on aggression, the biosocial correlates of criminal behaviour, and pharmacological and behaviour

modification techniques, provide another kind of approach 112/ whose implications for crime prevention can be considered only in the context of appropriate safeguards and human rights guarantees, as must be the whole question of experimentation with people, especially in captive settings.\*

164. It has become evident that in spite of the avowed aims of serving deterrence, the criminal justice system has not necessarily done so. The reasons include its frequent inconsistency, as well as the untoward effect of prisons in perpetuating criminal careers. Recent efforts to increase the coherence of the system, through structuring of judicial discretion, fixed sentences, reduced delays and more appropriate sanctions, could help in this respect, though basic dilemmas persist.

165. The need to look at criminal justice operations in cost-benefit terms, in other words, minimizing the price in human as well as material terms, cannot be overstated, nor can the necessity of avoiding potential victimogenic imbalances in their interfaces (for example, more police and higher arrest rates in the face of court crowding, and obsolete criminal procedures exacerbating protracted detention pending trials and prison overcrowding). Integrated policies and meaningful reforms are evidently required to optimize the preventive capabilities of the system while reducing its potential for human waste and abuse.

166. Measures will also need to be taken to operationalize and apply more effective policies within and outside the criminal justice context designed both qualitatively and quantitatively to forestall conduct and activities likely to cause serious victimization. Many of these have been outlined in other reports prepared for this and previous United Nations crime congresses and will not be reiterated here. But certain main principles need to be stressed and perhaps re-examined in light of the latest developments.

167. The administration of justice as a means of ensuring social justice, as well as effective crime prevention and control, must be fair and equitable, and perceived as being so. As such, it must serve as a bulwark against victimization, from all sources, including the most powerful. The criminal justice system has a pivotal role to play in maintaining that fragile balance which will, on the one hand, impose certain limits on the misuse of power by not allowing anyone to remain beyond the reach of the law, and, on the other, help to empower those who lack leverage of their own by invoking the law on their behalf.

168. Effective crime prevention is predicated on integrated national planning in the context of which legal and criminal justice reform can take place. As the International Congress of Penal Law emphasized in Cairo in 1984, the use of the penal law is concerned with the protection of collective and not only individual interests, and should be used for the common good.

169. Thus, the establishment and enforcement of prohibitions and penalties must correspond to the noxious character of the act, rather than focus on technicalities or provide escape hatches in spite of the inflicted harm. The criminal law must be employed as a means of curtailing and preventing serious

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\*See E/AC.57/1984/13, pp. 14-15, E/CN.4/1984/32 and background material contained in Ezzat Fattah, "Patterns, trends, dynamics of acts linked to abuses of power" (mimeo, 1984).

victimization rather than in a haphazard manner without a proper scale of priorities. Internationally, also, priorities must be established and loopholes closed in accordance with agreed criteria to reduce victimization across frontiers.

170. Whether the wrongdoing is economic or political, there must be accountability as a prerequisite for responsibility and, if necessary, liability, to ensure that victimization is not perpetrated with impunity and without hope of redress. In establishing clear limits and enforcing them, the lack of tolerance for harmful conduct will be institutionally reaffirmed and the multiplier effect of injustice avoided. All too often has the basic inequity of the system and the differential application of the law served as an excuse for those who have felt victimized to victimize others, even though those actually victimized have nothing to do with the depredations inflicted. This needs to be remedied. Consistent and comprehensive policies, both nationally and internationally, are required, governed by a concern for the social good and popular well-being, as well as a well-defined thrust against different forms of victimization.

#### IV. PRIORITIES FOR ACTION

171. It is clear that the scope of possible action to reduce victimization and improve the lot of victims is so vast that any specification of priorities is bound to oversimplify the realities and the innumerable ramifications and complex interrelationships which exist. Perhaps more than in any sphere, victimization, particularly criminal victimization, involves the interplay of many factors and systems which can exacerbate and perpetuate it, and conversely, which hold the potential to curtail it and to offer some remedies and a measure of redress. How this is done may be as important as what is done, bearing in mind the difficulty inherent in making prescriptions for policies which must ultimately be predicated on national and local realities and the particularities of each case. Notwithstanding these specificities, certain main lines of action seem to emerge. Their concretization will involve decision-making rooted in differing socio-economic and political systems, stages of development, cultural values, approaches and orientations. This diversity of inputs enriches the store of available options. Furthermore, as crime and victimization have both national and transnational dimensions, so should the response. Counter-strategies must thus involve wide-ranging action at various levels, national, regional and international.

##### A. At the national level

172. The reduction of basic inequities and the observance of fundamental rights which safeguard the democratic process provide the context within which major kinds of victimization can be more effectively reduced. Appropriate avenues for recourse in instances of alleged victimization are essential for grievances to be fully heard with a view to obtaining redress. This should include special mechanisms, such as complaint review boards or ombudsmen, or other means of ensuring access to remedies without constraints or discrimination.

173. Accountability of public officials and agencies and of others wielding power, including commercial enterprises with economic power, is a cornerstone of responsible action. It needs to be ensured through all possible means, such as the disclosure of relevant information, channels for reporting to the public and other ways of increasing responsiveness and curtailing possible abuse.

174. The inculcation of moral and ethical standards, through codes of conduct for public officials and personnel of economic firms, should help to promote conduct which is less likely to victimize people or certain groups. Education of the public, to increase vigilance (but not vigilantism) and awareness of rights and remedies available for their infringement is a necessary action counterpart. Such education must also further the spirit of tolerance of divergencies - racial, religious, cultural, of life-styles - and foster ethical values as well as non-violent conflict management and conflict resolution. 113/

175. Popular action at the local level to strengthen neighbourhood cohesion through informal systems of social control also holds promise for more effective prevention of crime and victimization. Participatory systems of justice which promote conciliation can play a significant role in preventing conflicts from escalating and in providing suitable remedies. Indigenous mechanisms for mediation have particular scope in this respect.

176. The law, especially the criminal law, has a pivotal role to play in curtailing victimization and alleviating the plight of victims. It must be rationally invoked to discourage and penalize acts inflicting serious harm and to reduce the social lag which may make it unresponsive to technological and socio-economic change. Where harmful practices prevail without adequate control, they need to be criminalized (and conversely, others perhaps, decriminalized); where loopholes persist, they need to be closed, and the existing provisions enforced. Periodic reviews of laws, as part of overall planning, can help to assure their relevance to new situations and to the achievement of national development goals, and increase their effectiveness as a means of curtailing victimization.

177. The criminal justice system has the capacity to provide remedies for crime victims, yet it too often compounds their victimization. Its responsiveness to victim needs must be enhanced, as must be its capacity for ensuring appropriate redress. All elements of the system must be activated towards this end, without prejudice to the rights of offenders. Law enforcement services, the courts and corrections, operating in a concerted manner, can benefit from greater input from victims and should assure feedback and facilitate assistance to them. Doctrines of criminal responsibility and penalties for both individual and institutional offenders should be so structured as to take due account of the inflicted harm and provide adequate and not just symbolic remedies.

178. Redress should consist of both material reparation, through restitution and compensation, individually or collectively, and the provision of assistance and support, both immediate and in the longer term, depending on the particular requirements. The role of social services, support networks and all human development systems (health, education, employment, voluntary sector etc.) is critical and should be maximized. Maintaining a "conspiracy of silence"\* in the face of suffering, by indifference, avoidance, repression and denial, exacerbates the effects of victimization and may contribute to the

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\*See, for example, Yael Danieli, "Psychotherapists' participation in the conspiracy of silence about the holocaust", Psychoanalytic Psychology, vol. 1, No. 1 (1984), pp. 23-42. Testimony given by victims to task force inquiries also reveals that therapists could not comfortably discuss incest and child molestation, thereby compounding the victims' trauma and humiliation. See Herrington, op. cit., p. 101.

lasting malady of individuals and to societal decline. The helping professions, community efforts, individual initiative and social solidarity can help victims to become survivors with improved life-coping skills.

179. Suitable training and guidelines can help to increase sensitivity and enhance the response to victim needs in different contexts, with due regard to the contribution of lay auxiliaries. Research, including longitudinal studies on victim reactions and requirements, particularly evaluative projects, can orient future treatment programmes, while victimization surveys and projections can serve to guide preventive policy. Better data collection methods and information systems, which will take full account of the whole spectrum of victimization and levels of possible interventions, will provide a more scientific basis for action. Victim-oriented government agencies and scientific institutions can play a pivotal role in furthering training and research in this regard.\*

180. Special commissions of inquiry, legislative reform bodies and other initiatives can help in the fact-finding process, raise public consciousness of victim-related issues and promote viable action. The role of victim advocacy groups (both those oriented towards victims of crime in general and to particular categories of victims, such as, for example, human rights groups and consumer associations) and other victim-centred organizations is particularly important in this connection.

#### B. At the regional level

181. Collaborative initiatives in respect of information-gathering, research and training relating to victims of crime and illegal abuses of power, can usefully be taken at the regional level by countries with common problems and traditions. Considerable progress in this respect has already been achieved. The sharing of expertise and experience, through exchanges of personnel, workshops and policy planning meetings, can increase national capabilities and foster innovation. Joint practical strategies can also be developed and implemented to deal with matters of mutual concern, especially in cases of criminality which cuts across national frontiers and involves numerous victims. Regional agreements for extradition and judicial assistance facilitate the pursuit of perpetrators, and practical co-operation between the respective services help to minimize the opportunities for victimization.

182. Common standards and instruments can more easily be adopted at the regional level: this is the case also with measures designed to reduce victimization and provide channels of redress. The Inter-american and European Courts of Human Rights illustrate the institutional means that can be utilized to provide recourse. Establishment of regional funds for assistance to victims, especially where national compensation is unavailable, is another option that could usefully be pursued.

183. Regional institutions such as the United Nations crime prevention institutes have a special role to play in fostering scientific and practical

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\*The offices for crime victims established in several countries seek to promote training and research in this field, as well as public participation, as do some local and non-governmental agencies. The first Victimology Institute set up at Tokyo University, has organized courses and symposia and conducted research in the field.

co-operation among the countries of their regions. Through their training, research and clearing-house activities, as well as direct aid to Governments, they promote the transfer of knowledge and more effective and appropriate policies. They have taken significant initiatives in this as in other fields.\* Their work needs to be supported and expanded, and other institutes created where they do not yet exist.

C. At the international level

184. International action on behalf of victims presents special opportunities but also has special constraints. Like offenders, victims of crime fall within the scope of national laws which define their status and prospects. However, in a shrinking world, many countries face similar problems and can thus profit from the insights and approaches of others. The transfer of knowledge introduces new perspectives and widens the range of available options; it can thus reduce the social costs of victimization and help prevent it, as far as possible. International responses are obviously called for in transnational kinds of victimization, the incidence of which seems to be on the increase. National answers alone seem to be insufficient to deal with the whole range of crimes and malpractices which tend to escape detection or control unless tackled in a comprehensive and concerted manner by all affected States.

185. The development of basic norms and guidelines representing international consensus on types of conduct to be banned or, conversely, pursued is particularly applicable with regard to victims. The Universal Declaration of Human Rights, the covenants, the Convention against Torture, the Standard Minimum Rules for the Treatment of Prisoners, the Guidelines on Consumer Protection, the Declarations on the Rights of the Mentally Ill, of the Disabled, of the Child, of Migrant Workers etc. reflect the concern for various categories of persons particularly vulnerable to victimization.

186. United Nations codes of conduct, such as the Code of Conduct for Law Enforcement Officials, Principles of Medical Ethics, Draft Code of Conduct for Transnational Corporations, equitable principles and rules for the control of restrictive business practices etc. propagate agreed ethical and operational standards designed to curtail the victimization of people and peoples. Other international guidelines, such as the Code of Ethics in the Public Service, need wider dissemination and application to supplement national initiatives.\*\* While this kind of "soft law" has no binding effect in itself, it does carry moral weight and contributes to the development of international customary law, as well as providing States with benchmarks against which they can assess their own efforts. The increased reliance on such standards and the growing awareness of instances in which they have been infringed underlines their importance. The range of international initiatives oriented to specific categories of actual or potential victims also reflects the

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\*ILANUD, for example, has conducted a victimization study and held a meeting on Victimology in Latin America, and HEUNI, a meeting on Victim Policy in Europe.

\*\*See Code of Ethics in the Public Service developed by the International Institute of Public Administration and approved by the Thirteenth International Congress on Public Administration, Abidjan, September, 1977; Raul F. Cardenas, Responsabilidad de los funcionarios públicos (México, Porrúa, 1982).

pervasiveness of the need, as does the establishment of special commissions of inquiry entrusted with intensifying humanitarian action, both within and outside the United Nations system.\*

187. However, to date there has been no comprehensive, systematic effort to view the problems, and the needs involved from the standpoint of the victims. This must be remedied. The conscience of the world demands it, and the time seems ready for it. Though some elements of a possible plan of action already exist, others do not, and they must all be incorporated in a concerted approach within a unified framework. Only thus can the repertory of options and desiderata serve as a useful reference tool for States and a conduit for concerned, just and equitable action.

188. Other steps are also needed. The development of data systems, which would include world-wide indicators of the extent and trends of different kinds of victimization and victims, and studies of the efficacy of the modalities available to deal with them in light of the existing needs, could facilitate the formulation of more effective and appropriate strategies, both nationally and internationally. Collaborative action-oriented research on aspects which merit urgent attention can help to provide a viable empirical base for future endeavours in this field.

189. The development of suitable training materials and actual training projects can advance the practical application of the knowledge gained. Through cross-fertilization of expertise and experience, fruitful approaches could be replicated elsewhere, possible solutions to recalcitrant problems jointly sought, and the body of acquired knowledge could steer action in the proper directions, powered by the common will to effect beneficial change. The United Nations can help in this respect through technical assistance, including strengthened interregional expert aid and Human Rights Advisory Services, fellowships, development of educational materials and promotion of technical co-operation among developing countries in its various forms. International conferences provide valuable opportunities for the exchange of expertise and experience on victim-related issues which can be further pursued, at both intergovernmental and non-governmental levels.

190. The provision of appropriate channels for recourse and means of redress also has international dimensions. The consideration of grievances by the Human Rights Committee reflects one such means, and the United Nations Trust Fund for Victims of Torture is a valuable, albeit underdeveloped, resource for certain kinds of victims, as is the United Nations Trust Fund for Prisoners in South Africa. Their capacity should be strengthened and coverage extended. Other funds, such as the one proposed for victims of man-made disasters, due often to criminal negligence, would help to meet critical and unforeseen needs. The United Nations Fund for Drug Abuse Control is sponsoring integrated programmes to treat victims of drug abuse and to curtail drug trafficking which claims not only individual victims but whole societies. Thus, some elements for an infrastructure already exist, but further ones are needed, with the structure consolidated and augmented, and the necessary conceptual and practical linkages made.

191. The needs are great. The possibilities of a commensurate response are constrained. But broad-based efforts undertaken with courage, vision and an abiding concern for those who warrant it can make a difference.

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\*\*For example, the Independent Commission on International Humanitarian Issues.



192. Non-governmental organizations have a special role to play in this regard. As champions of great human causes and defenders of basic rights, they have an independence and impartiality that permit them to serve as an honest broker and plead the case of many victims who have no one to speak on their behalf. Their good offices should be adequately utilized, and the necessary support extended to help them fulfil their honourable task. The blend of advocacy, research and assistance that they offer is a viable counterpart of government efforts and deserves to be expanded. They also include associations of victims and former victims, with members close to their cause, who can play a leading role. Only if initiatives are jointly undertaken and collectively pursued can some inroads be made, however vast the need.

193. The task is not an easy one and many difficulties exist, but much can be done, even now, with the increased consciousness of human suffering, to let action meet the dictates of conscience. The climate is propitious, on this fortieth anniversary of the birth of the United Nations, amidst the calls for its revitalization. There are still failings, but much has been accomplished. The increased emphasis on the observance of human rights and social justice, and the sense of shared responsibility for wrongs inflicted, wherever it be, illustrate that the common bonds of humanity have been reinforced even if concrete achievements lag behind.

194. The issue is larger than particular cases of victimization. What is at stake is the basic stance and purposes of the Organization, the fundamental mission of which is to reduce human suffering and help to improve the human condition. There may be differences among the United Nations constituency as to how this might best be done, and various interests at play; this is to be expected. It is to be hoped, however, that, whatever the focus or special concern, the unifying elements will outweigh the possible divisions in the face of the grave need and the acknowledged intent to seek more responsive and effective action.

Annex

MAIN PRINCIPLES OF JUSTICE AND ASSISTANCE  
FOR VICTIMS OF CRIME

A. Scope

1. Victims, as defined herein, are natural or legal persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss, or substantial impairment of their fundamental rights, through acts or omissions which are in violation of national or international criminal laws, or which otherwise constitute serious violations of internationally recognized standards relating to human rights, corporate conduct, or illegal\* abuses of power.

2. A person may be considered a "victim" under the Declaration regardless of whether the perpetrator of the victimizing act is a natural or legal person, including an official or agent of the State, or a collectivity, and regardless of whether the perpetrator is identified, apprehended, prosecuted, or convicted. The term "victim" also includes, where appropriate, the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

3. The provisions contained herein shall be applicable to all without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

B. Access to justice and fair treatment

4. Victims should be treated with compassion and respect for their dignity. They are entitled to justice and prompt redress for the harm which they have suffered.

5. Judicial and administrative mechanisms should be established and strengthened to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their options in seeking redress through such mechanisms.

6. The participation of victims in judicial and administrative processes should be facilitated by:

(a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;

(b) Allowing victims or their representatives to be present and heard at appropriate stages of the proceedings where their interests are affected, without prejudice to the accused;

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\*It must be borne in mind that in certain countries abuses of power contravening United Nations norms are deemed legal, and in others some abuses may not yet be criminalized. The term is therefore used merely as a shortcut.

(c) Providing proper assistance to victims throughout the legal process;

(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation.

7. Where appropriate, the judicial process should allow victims to take collective actions, directly or through a designated representative.

8. Informal dispute resolution mechanisms, including mediation, arbitration, and customary justice or indigenous practices, should be utilized where possible to facilitate conciliation and redress for victims.

C. Restitution from offenders or responsible third parties

9. Offenders or responsible third parties should, where appropriate, make fair restitution to victims, their families or dependents. Such restitution should include the return of property, payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

10. Governments should review their practices, regulations and laws, and amend them as necessary, to ensure that restitution is an available sentencing option in criminal cases in addition to other criminal sanctions.

11. In cases of substantial harm to the environment, restitution should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities, and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.

12. Where public officials or other agents acting in an official or quasi-official capacity have violated national or international criminal laws or international standards, as referred to in paragraph 1 above, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

D. Compensation from the State and other sources

13. Where general social security or insurance funds do not fully provide relief to victims, or where it is not possible to obtain fair restitution from the perpetrators, States should endeavour to provide financial compensation to:

(a) Victims who have sustained significant bodily injury, loss or harm, or impairment of physical or mental health as a result of serious crimes;

(b) The family, particularly dependents of persons who have died or become physically or mentally incapacitated as a result of such victimization.

14. The establishment, strengthening and expansion of national, regional and international funds for compensation to victims, such as the United Nations Voluntary Fund for Victims of Torture, should be encouraged.

**E. Social assistance and support**

15. Victims should receive the necessary material, medical, psychological, and social assistance and support through governmental, voluntary, community-based, and indigenous means.
16. Victims should be informed of the availability of health and social services and other relevant assistance, and be readily afforded access to them;
17. Police, criminal justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.
18. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

**F. Prevention**

19. In order to curtail victimization, States should endeavour to:
  - (a) Implement social, health (including mental health), educational, economic and specific crime prevention policies to reduce victimization and encourage assistance to victims in distress;
  - (b) Review periodically the existing legislation and practices to ensure their responsiveness to changing circumstances, and enact and enforce legislation proscribing acts which violate international law or internationally recognized standards relating to human rights, corporate conduct, and other abuses of power;
  - (c) Establish and strengthen the means for the detection, prosecution, and sentencing of those guilty of crimes or serious violations of internationally recognized standards relating to abuses of public and economic power, including the principle of State, corporate and individual responsibility for such conduct;
  - (d) Promote accountability through disclosure of relevant information to expose official and corporate conduct to public scrutiny, and other ways of increasing responsiveness to public concerns;
  - (e) Promote the observance of codes of conduct and ethical norms, particularly international standards, by public servants, including law enforcement, correctional, medical, social service and military personnel, as well as the staff of economic enterprises;
  - (f) Prohibit practices and procedures conducive to abuse, such as secret places of detention and incommunicado detention;
  - (g) Co-operate with other States, through mutual judicial and administrative assistance in such matters as the detection and pursuit of offenders, their extradition, and the seizure of their assets, to be used for restitution to the victims.
20. At the international and regional levels, all appropriate measures should be taken to:
  - (a) Promote training activities designed to foster adherence to United Nations standards and norms, and to curtail possible abuses;

(b) Sponsor collaborative action-research on ways in which victimization can be reduced and victims aided, and promote information exchanges on the most effective means of so doing;

(c) Render direct aid to requesting Governments designed to help them to curtail victimization and alleviate the plight of victims;

(d) Develop ways and means of providing recourse for victims where national channels may be insufficient.

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