



General Assembly

Distr.
LIMITED

A/CONF.121/PM.1
4 April 1983

ORIGINAL: ENGLISH

SEVENTH UNITED NATIONS CONGRESS ON THE
PREVENTION OF CRIME AND THE TREATMENT
OF OFFENDERS

DISCUSSION GUIDE FOR THE REGIONAL AND INTERREGIONAL
PREPARATORY MEETINGS FOR THE SEVENTH UNITED NATIONS
CONGRESS ON THE PREVENTION OF CRIME AND THE
TREATMENT OF OFFENDERS

CONTENTS

| | <u>Paragraphs</u> |
|---|-------------------|
| INTRODUCTION | 1 - 3 |
| SUBSTANTIVE TOPICS INCLUDED IN THE PROVISIONAL AGENDA | 4 - 72 |
| Topic 1. New dimensions of criminality and crime prevention in the context of development: challenges for the future | 6 - 26 |
| Topic 2. Criminal justice processes and perspectives in a changing world | 27 - 37 |
| Topic 3. Victims of crime | 38 - 50 |
| Topic 4. Youth, crime and justice | 51 - 61 |
| Topic 5. Formulation and application of United Nations standards and norms in criminal justice | 62 - 72 |
| <u>Annex.</u> Guiding principles for crime prevention and criminal justice in in the context of development and a new international economic order | |

INTRODUCTION

1. This discussion guide is intended to outline the five items of the provisional agenda for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as approved by the Economic and Social Council in its resolution 1982/29 of 4 May 1982, and to be used as an annotated provisional agenda for the preparatory meetings convened before the Congress.

2. The subject matter of each agenda item is expected to be further developed at a series of regional and interregional preparatory meetings. The regional meetings, to which Governments will be invited by the Secretary-General to send representatives, will be held in 1983 and will provide the necessary regional input, including information on major policy orientations and general trends in the countries of each region and their priority concerns under the five agenda items. The interregional meetings, on each of the agenda items scheduled for 1984, will be attended by experts selected by the Secretary-General with due regard to their areas of competence and geographical distribution, in order to provide technical guidance and substantive input for the preparation of the documentation which will serve as the basis for the Congress discussions on the various topics. In accordance with Economic and Social Council resolution 1982/30 of 4 May 1982, each regional and interregional preparatory meeting will also be attended by a member of the Committee on Crime Prevention and Control appointed by its Chairman.

3. The present discussion guide is intended to focus consideration of the different agenda items at the preparatory meetings, to stimulate discussion of issues of major concern with a view to identifying the main policy options for action by the Congress and to obtaining relevant information for inclusion in the working papers for the Congress. In this connection, participants are invited to submit any relevant materials, including reports, relevant studies, new legislation, treaties and agreements, etc., as well as any other appropriate background documentation on each of the agenda items.

SUBSTANTIVE TOPICS INCLUDED IN THE PROVISIONAL AGENDA

4. On the basis of the proposals contained in the note by the Secretariat on the substantive issues for the elaboration of the provisional agenda for the Seventh Congress (E/AC.57/1982/3 and Corr.1), the Committee on Crime Prevention and Control decided at its seventh session (E/1982/C.2) to recommend to the Economic and Social Council the approval of the following main substantive topics for inclusion in the provisional agenda of the Seventh Congress:

1. New dimensions of criminality and crime prevention in the context of development: challenges for the future;
2. Criminal justice processes and perspectives in a changing world;
3. Victims of crime;
4. Youth, crime and justice;

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5. Formulation and application of United Nations standards and norms in criminal justice.

5. The Committee also considered the scope, approach and subdivision of the proposed agenda items in depth. Its recommendations for the elaboration of the proposed agenda items are reflected below, in the outline of each substantive topic. In accordance with General Assembly resolution 36/21 of 9 November 1981, the Committee's recommendations on the subject were taken into account by the Secretary-General in his report on preparations for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, submitted to the Economic and Social Council at its first regular session of 1982 (E/1982/37), and were endorsed by the Council in its resolution 1982/29.

Topic 1. New dimensions of criminality and crime prevention in the context of development: challenges for the future

6. This topic is intended to emphasize the new perspectives of the United Nations activities in crime prevention and criminal justice in the context of development, stressing their direct relevance to the quest for a better quality of life. The Caracas Declaration, unanimously adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, recognized the significant increase in crime, including new forms of criminality, in various parts of the world, and its impact on society. It also recognized that crime impairs the overall development of nations, undermines people's spiritual and material well-being, compromises human dignity and creates a climate of fear and violence that erodes the quality of life. The General Assembly endorsed the Caracas Declaration in its resolution 35/171 and urged the international community to make concerted, systematic efforts to intensify technical and scientific co-operation and co-ordinate policies directed towards crime prevention in the context of political, economic, social and cultural development.

7. The importance of this new, broader focus can be further appreciated when considering that the Seventh Congress will take place three decades after the First Congress was held in Geneva, in 1955. Much has changed during this time, not only in the world crime situation, but also in the wider context in which crime occurs. The past years have witnessed rapid and far-reaching social and economic transformations in most countries. To many States of the Third World, these years have brought independence and the challenge of translating their goals into concrete plans and programmes. However, these changes have also brought with them, along with technological progress, certain criminogenic influences and an increased sophistication of means for committing offences. Economic recession, as experienced today by the world community, with its adverse effects on employment, income distribution and poverty, may also have negative consequences conducive to particular forms of crime and violence, especially in the light of the high rate of unemployment and lack of social and economic justice in many areas of the world.

8. The extent and seriousness of crime in its new dimensions varies from country to country and with the particular social, economic, political and cultural circumstances, but there seem to be certain common features, evident in many forms

of commercial, economic and technological crime, some related to transnational corporations and international trade, some involving offences against consumers or acts harmful to the environment, or computer crimes; various forms of corruption, organized crime and illicit traffic in drugs and weapons; local and international terrorism; instrumental and inter-personal violence including hijacking, kidnapping, taking of hostages, destruction of public property and facilities; institutional violence related to racial discrimination and the violation of basic human rights, including torture, disappearances and mass killings, as well as institutional collective or individual State actions aimed at severely damaging the economy of, or causing widespread social disruptions in other countries. Such crimes often victimize large sections of the population and create a climate of fear and insecurity which have a negative impact on the quality of life and constitute an impediment to the harmonious development of nations.

9. The changing characteristics of crime and delinquency underline the need for further study of the possible relationships between criminality and certain aspects of development, such as population structure and growth, urbanization, industrialization, housing, migration and employment opportunities. They also underline the necessity, once these issues have been examined and their interlinkages analysed, of adopting policies likely to produce appropriate solutions. This constitutes a great challenge for work in crime prevention. To meet this challenge, the Sixth Congress had emphasized the importance of an integrated approach in which strategies for more effective crime prevention and improved performance of criminal justice systems should be formulated in the context of overall development planning.

10. The importance of considering crime prevention in the developmental context was reaffirmed in General Assembly resolution 36/21, which recognized the necessity of formulating new policies for crime prevention and control and spelled out the basic elements to be considered for that purpose in the formulation of the agenda of the Seventh Congress, i.e. "to give particular attention to current and emerging trends in crime prevention and criminal justice, with the view to defining new guiding principles for the future course of crime prevention and criminal justice in the context of development needs and the goals of the International Development Strategy for the Third United Nations Development Decade and a New International Economic Order, taking into account the political, economic, social and cultural circumstances and traditions of each country, and the need for crime prevention and criminal justice systems to be consonant with the principles of social justice."

11. The wider perspectives of the International Development Strategy for the Third United Nations Development Decade and the proposals for a New International Economic Order reflect the aspirations of the world community to eliminate economic inequality and the widening gap between the developed and developing countries and to ensure more equitable economic and social development, peace and justice for present and future generations. They also underline the quest for dignity and social justice for all people everywhere, which would permit all groups of the population to become full partners in the development process and recipients of its benefits. These perspectives should be fully taken into account when discussing this topic, with special reference to their implications for crime prevention.

12. In considering this topic, the Committee on Crime Prevention and Control at its seventh session stressed that it had two main objectives: to provide continuity between the Sixth and Seventh Congresses, serving as a vehicle for further strengthening international co-operation in crime prevention, and to formulate "new guiding principles for the future course of crime prevention and criminal justice", in conformity with paragraph 6 of General Assembly resolution 36/21.

13. Consequently, and in accordance with the Committee's recommendations, the Economic and Social Council decided that this topic should provide the central theme for the Seventh Congress and be considered in plenary meetings, affording Member States the opportunity to make policy statements, report on national experience, indicate their priority concerns in the area of crime prevention and control, exchange information on the progress achieved in the implementation of the Caracas Declaration and the various resolutions and recommendations of the Sixth Congress, and identify the ways and means in which international co-operation in this field could be enhanced. The plenary meetings envisaged for the consideration of this topic would also provide a special opportunity and a negotiating forum for the discussion and finalization of the new guiding principles, with the view to ensuring their applicability in practice, in accordance with different national circumstances, developmental requirements and changing socio-economic conditions.

14. Therefore, and bearing in mind that the subject is quite broad and that certain relevant issues which are more appropriately dealt with under the other agenda items could also be touched upon here, the scope of this topic would encompass (i) a general discussion of the new dimensions of criminality and crime prevention in the wider context of socio-economic development, and (ii) the formulation of the new guiding principles.

15. With respect to (i), it is evident that crime prevention remains one of the areas most resistant to changes or reforms. Some of the most developed countries have been most affected by problems of crime and delinquency, while developing countries are finding to their dismay that some of the gains of development are being offset by increasing social disruption, insecurity and crime. Even where genuine efforts have been made to modify the approach so as to cope more effectively and humanely with new and emerging crime problems, only partial success has been achieved. As a result, the development process of many countries is still hindered by proliferating economic crimes, committed often on a massive scale to the detriment particularly of developing countries, escalating violence of various kinds, and, perhaps most alarmingly, abuses of public power victimizing large numbers of individuals, indeed entire groups, offering little prospect of redress and compromising the basic tenets of justice. Moreover, criminality often manifests itself in its most noxious forms there where societies and individuals appear to be more susceptible and more exposed to the ploys of those who try to take advantage of the situation, as in the case of drugs. The alarming reach of transnational criminal organizations which manipulate drug production, trafficking and distribution, the connections between drug trafficking and other serious forms of criminality (e.g. traffic in firearms, terrorism) and the destabilizing impact of corruption and the enormous financial gains deriving from drug trafficking on the countries' economic, social and political fabric are all aspects which deserve close consideration. As the International Narcotics Control Board has recently

noted, "the struggle against drug abuse is first and foremost a fight against the degradation and destruction of human beings. Addiction also deprives society of the contribution which the abusers could have made to the community of which they are a part. In social and economic terms, the cost of drug abuse is, therefore, staggering, particularly when taking into account the crime and violence which emerge in its wake and its erosive impact on moral values. The problem of drug abuse in its several aspects is hindering national development programmes in many countries and is causing a serious drain on badly needed development resources".

16. Relevant information on many of the above-mentioned issues will be provided in the analysis of the results of the survey of crime trends, criminal justice systems and crime prevention strategies, which will become available before the Congress. The study on socio-economic and cultural factors and crime, conducted as part of the regular work programme, should help to determine the possible relationships between dysfunctional development and criminality (for example rapid urbanization without the necessary social services, imbalances between educational and employment opportunities, etc.), and in the formulation of crime prevention strategies in the context of overall development planning. Current work on crime prevention and a New International Economic Order and on the abuse of power will also be reflected in the documentation for the Congress and will bring additional substantive input for the discussion on this item.

17. In addition, in accordance with paragraph 4 of Economic and Social Council resolution 1982/29, the Congress will consider a report on the implementation of the recommendations of the Sixth Congress, from which it may become evident that a number of countries have already adopted certain measures, including:

(a) The establishment of a body concerned with crime prevention planning, working in close co-operation with other agencies dealing with aspects of national development planning, so as to secure the necessary co-ordination and integration of efforts;

(b) The periodic reappraisal of laws and reassessment of the definitions of what is prohibited, as well as cost-effective evaluations of crime prevention programmes and policies;

(c) The essential protection of basic human rights, which is also an essential requirement of social progress.

18. Detailed discussion and the exchange of experience and expertise in these areas are, therefore, of particular importance: from successes or failures of current crime prevention programmes and policies lessons for the future can be drawn, evaluations of past and current programmes can be made, innovative solutions to seemingly intractable problems can be identified and new strategies adopted for national, regional and international action.

19. In the formulation of the new guiding principles, under (ii) above, it should be noted that the reality of the interdependence of States, the transnationalization of crime, and its significant increases lend emphasis to the necessity of intensified international co-operation in this sphere. In this

connection, the Caracas Declaration has already outlined some basic requirements which have now to be made more specific, so as to provide more elaborate principles that countries may draw upon in establishing or reforming their crime prevention policies to make them responsive to changing and emerging conditions. This objective, and the need for devising new strategies and structures to correct existing inadequacies, should direct the work aimed at the finalization of the guiding principles, giving special attention to the interfaces between economic changes, new forms of criminality and crime control policies.

20. In this context, the conflict existing in many countries between indigenous institutions and traditions governing the handling of socio-legal problems and the frequently imported, alien legislations and codes, should be examined so as to reduce the gap between the written law and local practices and values. Various forms and ways of community participation should be further explored and encouraged, and suitable alternatives to purely judicial and legally-based interventions examined, in order to avoid, where possible, undue criminalization and institutionalization.

21. The particularly critical role that crime prevention can play in the development process should be further analysed, emphasizing that criminal justice should serve not only as a guardian of internal peace and stability, but also as a progressive instrument for wider community intervention, control and redress of crimes, illicit practices and inequities which impede the attainment of national development targets and internationally postulated goals, including that of ensuring a better life for all.

22. The new guiding principles to emerge from the preparatory meetings and to be finalized by the Congress itself should provide the basis for action at various levels - national, regional and interregional, contribute to harmonious, equitable development and social justice for all and constitute a set of standards to promote effective and coherent crime prevention and criminal justice policies based on respect for fundamental rights and human dignity. By providing an integrated framework for crime prevention in the context of overall development planning, the principles should help to reduce the social and material costs of crime. At the same time, they should be responsive to popular aspirations and flexible enough to allow for adjustments to changing needs and particular socio-economic and cultural circumstances, as well as to national requirements and priorities.

23. In order to better focus the discussion at the preparatory meetings, a first draft of those principles, elaborated by a meeting of experts convened in Siracusa, Italy, from 10 to 14 January 1983 at the International Institute of Higher Studies in Criminal Sciences, is included as an Annex to this discussion-guide. This draft, together with the comments and observations of all regional meetings, should provide a solid start for the high-level meeting of eminent persons which will consider this matter further.

24. While the finalization of the new guiding principles will be a primary endeavour of the Seventh Congress, certain other issues were also identified by the Committee as worthy of consideration under this agenda item. These would include the use of criminal statistics in diagnosis and policy formulation; the possible relationships between crime and certain dysfunctional aspects of unplanned or

poorly planned development, and the need for a scientific approach to planning for crime prevention as an essential part of overall national planning efforts, both sectorally and intersectorally.

25. Crime can no longer be considered a purely local concern but represents, rather, a global problem whose prevention and control require a commitment at all levels, particularly if its noxious consequences are to be avoided. Ways and means of providing and strengthening regional and international co-operation in this field should, therefore, be prominently considered with a view to ensuring the collection and dissemination of relevant information and the exchange of research findings among culturally homogenous countries as well as among those of different cultures and systems, and also in order to develop suitable approaches designed to increase the store of available knowledge and translate meaningful and reliable data into effective plans and programmes. In addition, technical co-operation and multilateral assistance should be increased to cope with the new dimensions of crime in all phases of crime prevention work, especially to deal with transnational crime; while research efforts should be promoted and intensified to avoid the repetition of costly mistakes or duplication of efforts.

26. The consideration of the above issues at the national, regional and international level would help to better focus the discussion of this topic, with reference to the following specific questions:

QUESTIONS FOR DISCUSSION

(1) What have been the new dimensions of crime and crime prevention in recent years? In particular, what are the new forms and types of criminality which are being experienced in relation to:

- (a) international crimes;
- (b) transnational offences;
- (c) common criminality, with indications of major trends and characteristics;
- (d) non-conventional crime; and
- (e) the economic and social costs of crime?

(2) What are the likely trends and directions of crime in the years to come?

(3) What new measures and crime prevention policies have been adopted to cope with crime problems?

- (a) Are any innovative measures being taken in promoting a new, more comprehensive approach to preventing crime in the context of development, such as improving co-ordination among agencies concerned with crime and those dealing with national development, enacting new, more responsive, progressive and effective laws and enhancing indigenous social controls, especially those based on customary practice and community participation?

- (b) To what extent has crime prevention been incorporated into national development plans?
- (c) Have any measures been adopted in order to reduce the potential or actual conflicts between indigenous traditions and institutions and the official codes and legal statutes? Are there any studies conducted or specific recommendations formulated in this respect?
- (d) What problems have been encountered in the implementation of the measures taken and what steps have been taken or are envisaged to overcome them? (please provide examples)

(4) What are the possible interrelationships between criminality and such socio-economic factors as urbanization, industrialization, migration, unemployment and education? Have any studies been conducted on these and what have been their findings?

(5) Since planning for crime prevention as part of the overall national development process should rely on criminal statistics and criminal justice data as a basis for policy formulation, to what extent have these statistics and data proved useful? How could the empirical base of policy planning be improved? How can research results and a more scientific approach be applied in planning for crime prevention at the intersectoral level?

(6) Regarding the draft guiding principles contained in the Annex, how can they be further improved, expanded, refined or otherwise amended so as to effectively meet existing and prospective needs?

- (a) What other issues should be considered and included in their formulation, in accordance with national experiences, priorities and concerns, and within the broader context of the goals of the International Development Strategy for the Third United Nations Development Decade and a New International Economic Order?
- (b) How can these new principles be effectively applied so that they have a practical impact on the future course of criminality, crime prevention and criminal justice?

(7) How can regional and interregional co-operation, particularly Technical Co-operation among Developing Countries best contribute to the prevention of crime and viable administration of justice?

(8) What are the most appropriate and effective ways and means of further promoting and strengthening international co-operation in this field? What role should the United Nations play in these efforts?

Topic 2. Criminal justice processes and perspectives
in a changing world

27. The world is changing constantly in many respects and many ways. The nature and rate of these changes vary greatly between different countries and cultures, but some elements of change, such as economic growth, income distribution, demographic patterns, educational levels and social values, are common to nearly all States. These changes are already affecting the criminal justice system directly, as well as indirectly through their effects on the patterns of criminality, and may lead to more complex and, at times, incompatible demands on the criminal justice system. The Caracas Declaration emphasized, in this connection, the importance of comprehensive policy formulation and planning in criminal justice, while resolutions 1 and 2 of the Sixth Congress also stressed the need for better information on all aspects of crime prevention and control, and recognized the necessity for the entire machinery of criminal justice to be responsive to changing economic and social conditions in the societies in which it operates.

28. In pursuance of these resolutions, the Committee on Crime Prevention and Control recommended that this topic should emphasize the need for an integrated approach to criminal justice, viewed as a coherent, dynamic process with a social objective, and operating in a changing context. This perspective also reflects that of General Assembly resolution 36/21, in which Member States were invited "to intensify efforts to make their criminal justice systems more responsive to changing socio-economic conditions".

29. The need for the criminal justice process to be considered from a dynamic perspective and to have a built-in potential for change is supported by recent research carried out in some developing and developed countries. The results of these studies have shown that what is done in one part of the system affects what happens in its other parts, and can influence the performance of all the parts. Traditionally, however, the "sub-systems" of law enforcement, courts and corrections, have been considered in isolation from each other and treated as self-contained and self-regulating entities; this may well have been an impediment to further progress in the area of crime prevention and control. For the future, therefore, increased effectiveness in fighting the crime problem will require a more comprehensive and integrated approach to criminal justice. In fact, the degree of effectiveness of the criminal justice system, as measured against the main goals to be achieved (e.g. the containment of criminality, speedy and fair dispensation of justice), depends not only on the activities of its specific identifiable component parts, including the legislature, the police, prosecutors, judges and correctional services, but also on the interaction between them, and therefore on the overall performance of the system. However, more precise insights and understanding are required of the interactions among these components of the criminal justice system. In particular, the effect of the expected performance of one component on decision-making within another component needs to be more adequately examined. The consideration of criminal justice and its component parts as a whole, i.e. as a system, would ensure greater consistency and maximize its potential for adaptation to a changing environment.

30. A systematic approach to criminal justice should permit consideration of several aspects of its operations which have not been sufficiently articulated by

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the previous United Nations Congresses. Such an approach would start from the principal question of what is the role and scope of the "criminal justice system" in different societies, as well as an examination of the social and organizational goals to be achieved, duly taking into account the need for the protection of human rights and for ensuring fair and equitable treatment at all stages of the criminal justice process, as well as the necessity for policies to be feasible and practical. Also of importance is the appropriate identification and analysis of possible constraints, including obstacles to the flow of information within and between the various sectors of the criminal justice system, which hinder crime control and frustrate the aim of ensuring a fair and speedy trial. Explicative techniques such as flow charts showing the dynamics of the process should be considered in this context, possibly as part of a more extensive analysis of the appropriate uses of statistics and other data, and the development of a national crime-related data base.

31. The Committee agreed that discussion of this topic should concentrate particularly on the relationship between the different components of the entire criminal justice process, on the impact of each on the activities and efficient functioning of the others, and on the possible relationships between these components and the changes taking place in the society in which they operate. This would assist countries to understand more thoroughly the way in which the penal machinery works and, for example, to examine the modalities for reducing the high percentage of the prison population awaiting trial for long periods of time. Judicial delays in the processing of offenders are sometimes reduced by ad hoc measures involving the assignment of temporary judges and/or establishment of special courts and procedures. While these efforts may relieve the strain on the criminal justice system in the short run, they may also produce further problems and malfunctions in other parts of the system. For instance, they can lead to disparities and inequities in the treatment of persons, although such differential treatment can occur for other reasons. In this context, some members of the Committee observed that in many countries the vast majority of the prison population is composed of persons belonging to the lower strata of society. The extent and the ways in which this occurs are only recently becoming more clearly understood, and deserve more attention at the Congress. Some of the problems, especially the inadequate treatment of culturally different sub-groups within a population can be resolved by specific measures, such as the review and modification of inappropriate, remote and/or non-comprehensive legislation, the increase in the number of personnel with a particular cultural understanding, etc.; while others may require far-reaching solutions or structural reforms.

32. Within the criminal justice system the police have traditionally played a very important role. The Committee stressed the complex functioning of law enforcement agencies in society. It emphasized the need for a more detailed examination of this subject at the Congress, both because the police fulfil such a wide-ranging spectrum of tasks, and also because there may be a need to ensure that the police continue to be receptive and responsive to the expressed needs of the public they serve, while avoiding the danger of the police becoming a society unto themselves. This potential problem in most societies can become most manifest and extreme under conditions of emergency or similar situations. Contemporary social and economic conditions and modern manifestations of violence have placed the traditional role of the police under strain. In view of the new trends in criminality in many

countries, the police in recent times have been compelled to operate in complex and often conflicting ways, ranging from direct law enforcement through crime prevention and detection to various forms of social support. This has been reflected in some reorientation of the goals of policing, and greater efforts in some countries toward improved training of personnel, to enhance their role and make them more responsive to the needs of a dynamic world, and less isolated from the other components of the criminal justice system. The attitude of the general public towards the police, approaches such as community policing, and especially the interaction of the police with the other components of the system, including the extent to which changes in policing may affect the activities of the other parts of the system, could be appropriate areas for detailed examination.

33. Improvement in the performance of the criminal justice system often depends on the utilization of research and scientific contributions. Recent advances in evaluative research can assist in the analysis and setting of operational priorities. Evaluation of the functioning of the criminal justice system, and the formulation of general policy options will also be assisted by such techniques. Research, therefore, must include studies of the interactions among the different components of the system. In this connection, the Committee emphasized the immediate need for research on all aspects, and also pointed out the need for a survey of areas where research and scientific studies have been successfully applied, and their results considered valuable in terms of policy implications. It might also be useful to explore the limitations to the applications of research in criminal justice planning, and how these limitations may be overcome. New technologies, especially the rapid development and reduced cost of micro-computers and other forms of electronic data processing, and their potential application in the various sectors of the criminal justice system, including the danger of their misuse, are an area of growing importance.

34. Since each national criminal justice system has its unique characteristics, and all operate in their own socio-economic cultural and legal contexts, there is a wide range of different provisions and practices across cultures and countries. However, as the Committee agreed, a systematic approach to the functioning of the whole criminal justice process would not only enhance the effectiveness of national criminal justice systems but also facilitate meaningful cross-national analyses, exchanges of information and a dialogue on questions of common concern. Topics for such exchanges and dialogues might include developments in the philosophy and practice of policing; the role of public prosecutors in bridging the gap between the judiciary and the executive; the participation of the public in crime prevention activities and the treatment of offenders; alternatives to incarceration and programmes involving new methods of treatment; the more humane and limited use of imprisonment, including a reappraisal of the effectiveness of the "treatment" or "medical" model; the latent and manifest relationships between the components of the criminal justice system; and the problem of discretion exercised with respect to different categories of crimes and offenders, at various levels. The concept and practice of "diversion" from the criminal justice system and alternatives to judicial intervention have increasingly attracted more attention, and are worthy of discussion, as are the processes of decriminalization and depenalization. Finally, consideration of the system as a whole must include the question of the autonomy and independence of the judiciary and quasi-judicial roles and functions of public prosecutors who are at the centre of the administration of justice.

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35. The questions outlined above demonstrate the need to consider how and to what extent the socio-economic, cultural and political environment influences the criminal justice process; how each part of the criminal justice system under given circumstances affects the others; and how all of them can best serve society. In this context, it would be also essential to consider the aims of the criminal justice system as a whole and of its component parts and how the actual performance compares with these goals; and, finally, to what extent these are or can be made more compatible and consistent with national priorities. It would also be important to consider public reactions to the policies pursued by the criminal justice system which may not be clearly understood by society. For example, policies giving priority to rehabilitation or policies involving short terms of imprisonment or use of alternatives may be criticised for their lenience. Consideration may be given to appropriate methods of informing the public of the role and function of alternative criminal justice practices. The way the public is led to perceive the goals of the criminal justice system and societal attitudes towards it can in fact create resistance to reform. The same is also true of the attitudes prevailing in the criminal justice system itself. Within this general question of the perception of criminal policies and the public image of the criminal justice system, the mass media have a critical role to play in promoting more effective and humane policies.

36. Any examination of the changing external environment and the criminal justice system leads to the conclusion that both are mutually interdependent. These issues bring to light the question of the responsiveness of the system to external conditions, and the extent to which planning may influence the equitable and fair delivery of services, in accordance with the demands of justice. Discussion of those questions should assist in the introduction of institutional and other reforms which would help to make the criminal justice process more efficient, more suited to existing social needs and more responsive to ongoing and prospective changes.

37. Within the above framework the following questions are suggested for discussion at the preparatory meetings:

QUESTIONS FOR DISCUSSION

- (1) How can foreseeable social, demographic and economic changes be taken into account in criminal justice planning?
 - (a) How do socio-economic factors influence the development, refinement and modification of criminal justice processes and measures, and how can these be made more responsive to them?
 - (b) How can these responses to external changes be linked with steps for system-wide improvements in the efficacy of crime prevention and criminal justice, the observance of the rights of offenders, the prevention of discrimination, and the welfare and support of victims?

(2) What are, and what should be, the main forms of co-operation and information flow between the sectors of the criminal justice system in order to improve its performance?

- (a) What practical steps should be taken to improve communication among the subsectors of the criminal justice system?
- (b) How can crime prevention planning be promoted to further the systemic approach to criminal justice?
- (c) How is the autonomy and independence of the judiciary to be ensured and their role integrated into the system as a whole?
- (d) How can the co-operation between the criminal justice system and the public be improved?

(3) What are the main impediments to the humane and efficient processing of offenders through the various stages of the criminal justice system, and how can they be overcome?

- (a) Which of these impeding factors are intrinsic to the system, and which are extraneous, e.g. influenced by socio-economic change?
- (b) In the formulation of policies and priorities, and the subsequent implementation thereof, to what extent are the constraints of each component the result of the operating methods of other sectors and how can this interaction be optimized?

(4) What are the major changes necessary to achieve a more effective utilization of criminological and other research for the improved operation of the entire criminal justice system?

- (a) What developments have recently taken place, and what are the priorities for the immediate future in the collection and analysis of statistics and other crime-related data as a basis for criminal policy planning and evaluation?
- (b) What are the implications and use potential of the new low-cost micro-computing capabilities, which are likely to become more widely available in the immediate future, for more effective performance of the system?

(5) What changes have there been in the work priorities of the police, as a major component of the criminal justice system?

- (a) To what extent have these been the result of responses to changing policies and practices in other criminal justice sectors and/or changing priorities within the police force itself?
- (b) What changes in respect of policing seem to be the most urgent in the immediate future, with reference to either other components of the criminal justice system or the social environment?

Topic 3. The victims of crime

38. While the concern with victims of crime dates far back historically, and though restitution to crime victims is a central principle of many forms of customary justice, the fate of victims has been largely neglected by criminologists, penologists and reformers whose main focus has been successively on the offence, the offender, and the processes of social control, with a recent amalgam of these aspects in an attempt to concurrently protect the rights of the accused, make the criminal justice system more effective and humanize the treatment of offenders. The emergence of victimology as a special field of study is a phenomenon of less than two decades; its primary focus on the role and "complicity" of the victim in crime causation, while shedding light on the dynamics of the interplay, has obscured the need for viable policies on behalf of victims in the quest for justice and, where possible, redress. The adoption, in a number of jurisdictions, of schemes for victim compensation has progressed from sometimes token and/or rarely used provisions to more meaningful and effective initiatives, but action is, at best, still limited (e.g. to individual victims of "street" or violent crime), while the wider needs of other categories of victims and of particularly vulnerable victim groups are still largely ignored.

39. To bridge this gap, the matter has been placed on the agenda of the Seventh Congress, following the recommendation of the Committee on Crime Prevention and Control. The Sixth Congress had considered some aspects of victimization in its deliberations on "Crime and the abuse of power: offences and offenders beyond the reach of the law?", and adopted, in its resolution 7, far-reaching recommendations on this subject. In pursuance of them, certain work has been undertaken, as part of the regular programme of work of the Crime Prevention and Criminal Justice Branch, on specific kinds of victimization and possible preventive and remedial measures. Special attention, in this connection, has been given to victimization linked to abuses of economic and public power, as well as the situation and measures on behalf of especially vulnerable groups, such as women, the aged and the young, in the context also of related United Nations activities, such as the World Assembly on Aging, the 1985 Conference of the Decade for Women and the International Youth Year. The Seventh Congress will provide an opportunity for systematizing available information and drawing the necessary policy implications for action at various levels.

40. The Committee on Crime Prevention and Control stressed that while major attention should be paid to victims of illegal abuses of power, especially of a large-scale nature, consideration should also be given to victims of traditional crimes, particularly offences involving violence and brutality. Since victimization is a widespread problem, encompassing many aspects of economic and social life, and acts sometimes not proscribed (due to social lag, differences between jurisdictions, etc.), its impact is far greater than may be perceived, with particularly serious consequences for vulnerable segments of the population. There can be victimization by individuals, organizations (such as secret societies and other forms of organized crime), by national and transnational corporations (singled out by the Committee for special attention), and, at times, by the penal system itself and by other official institutions, as in the case of institutional violence. It is expected that the preparatory meetings will further delineate the scope of this item so as to make the discussion both comprehensive enough and sufficiently concrete to chart the course of future action.

41. While the Committee recommended that, at the Seventh Congress, the whole range of criminal victimization should be touched upon, it emphasized the need to give special attention to certain kinds of victims and victim groups. This would include the disadvantaged and powerless strata of society, minorities, including migrants, likely to suffer discriminatory treatment, especially vulnerable population groups such as women, children and youth, the elderly, the disabled, and those otherwise at risk (e.g. drug addicts, the homeless). The line between individual and collective victimization is not always easily drawn. Some may be victimized both individually and collectively, both by conventional crimes and abuses in newer forms. For example, women and children may fall prey to traditional crimes such as rape and wife or child-battering, and become victims of organized abuses involving the exploitation of persons, e.g. prostitution, slavery and slave-like practices, and forced labour. The poor and the elderly are easy targets for street crime, especially in inner cities and, as a group, also tend to be most victimized by consumer fraud and other kinds of economic crime. Exploitative practices of this kind may be particularly damaging in developing countries where large segments of the population can be victimized by powerful trading partners. Persecution, especially when institutionalized on the grounds of race, religion or ideological belief, or of antecedents (e.g. ex-offenders), involving practices contrary to international human rights instruments and conventions, may, as in the case of apartheid and other forms of racial discrimination, victimize the majority of the population under the guise of legitimacy. Torture of political opponents and others in the hands of authorities, executions and disappearances claim as a cost not only individual victims, but also their families and associates, jeopardizing essential freedoms and the entire quality of life. The fear of crime and victimization is a critical factor affecting life styles in many societies, and, at times, may be the mainstay of terrorism by disaffected groups as well as of countermeasures on the part of the authorities.

42. In order to delimit the scope of this topic, major areas of discussion and victim groups for priority consideration should be identified, in an attempt to enhance prospects for policy recommendations and productive action aimed at preventing and/or reducing victimization as much as possible, taking into account the major concerns of the day. Attention should also be given to ways by which victims may be identified and the harm inflicted measured, especially where, as in the case of economic crime or collusion between economic and public power (e.g. corruption), large numbers of victims are involved and the harm cumulative. Recent experience with victimization surveys, social indicators and indirect measures of crime should be useful in this connection, as can attitudinal surveys and indices of the fear of crime and victimization developed in some countries. Crime impact studies, cost of crime studies and crime damage statistics can shed further light on the severity and extent of victimization, as a guide to informed and incisive action. Techniques of this kind will need to be further developed and applied at both the micro- and macro-levels in order to yield sufficiently comprehensive and significant results. Since the harm inflicted may be unreported or unrecorded, not readily measurable, being spread over many victims, and thus not easily apparent, this task may be complicated, but methodological efforts in this direction are necessary to provide a better empirical base for appropriate policy and programme development. There is also a need for different kinds of qualitative studies on issues which have been overlooked, including the subjective effects of

victimization and attendant feeling of powerlessness, questions of "double victimization", e.g., stigmatization by certain crimes (such as rape) and differential treatment by the organs of control, especially in the case of the disadvantaged.

43. Policies to reduce and prevent victimization from crime and abuses of power will need to: (1) further justice, help and redress for the victims, and (2) institute more effective preventive strategies designed to reduce the incidence, severity and impact of victimization.

44. With regard to (1) above, it can be observed that contemporary criminal justice systems seem to have been primarily concerned with the detection, apprehension, trial, sentencing, incarceration or rehabilitation of offenders, with little concern for the victims. Indeed, the victims' exposure to the criminal justice process often increases their trauma and compounds their feeling of helplessness and frustration, as well as of resentment at not having been protected from exploitation or afforded proper remedies. The increased awareness of the victim's plight and of the apparent ineffectiveness of purely offender-centred criminal justice has spurred efforts in a number of countries to be more even-handed, to improve the victim's position in criminal proceedings and to strengthen his or her chances of receiving more than merely symbolic compensation. Efforts to simplify legal procedure and facilitate access, protect the plaintiff and otherwise increase the willingness of victims to file complaints, to compel public prosecutors to initiate public action, and to institute joint actions, common in civil law countries as part of criminal procedure, represent considerable progress over the past. The preparatory meetings and the Seventh Congress will provide a good opportunity for the systematization of knowledge and exchange of experience among different countries in this respect. Consideration of these new initiatives can be structured along several main lines, including the issue of basic victim rights (right to protection from criminal acts; rights to redress for pain, loss and injury inflicted by crime, including emotional trauma and distress and possible loss of earning power; and right to dignity, respect and fair treatment by law enforcement, judicial and correctional authorities). There is also the problem of providing legal aid and other needed assistance, through criminal justice, social service and health agencies or other means for those victimized or in danger of being victimized. Crisis-management teams or centres, victim-offender mediation and reconciliation facilities, victim care centres, including shelters for the abused or endangered, information, counselling and referral services, and mechanisms for the provision of adequate restitution and compensation to victims or their kin by the offender and/or by the State are modalities which have recently been utilized in some areas and whose potential should be properly explored.

45. Some of these aspects raise further issues to be considered in the larger context of criminal policy, criminal justice system planning and social development, as well as social justice requisites, especially in the determination of the kind and extent of restitution to be made, the advantages of different schemes and the safeguards needed to avoid fraudulent claims and other abuses. Questions of social costs and benefits and of various trade-offs will inevitably arise, as may material ones of affordability (e.g. of compensation by the State). However, in view of the

high cost and low success rate of prevailing approaches, such as imprisonment, as well as considerations of equity, such avenues need to be urgently explored and translated into policy and practice.

46. The problems will be still more complex, and yet the action as urgent, in the case of groups of victims of crimes or abuses of power. But here, also, some precedents already exist which can be built upon, and still newer options pursued. For instance, the concept of class actions instituted by consumer groups in some countries could be further expanded to include other categories of harm inflicted. The Code of Conduct for Transnational Corporations and other relevant agreements should help to prevent economic victimization, especially in developing countries. The policies of some countries, providing for reparations to victims of persecution and mass suffering, can serve as a useful precedent of restitution to victim groups. United Nations work on the responsibility of States for wrongful acts and on the International Code of Offences against the Peace and Security of Mankind, as well as efforts to establish an international criminal jurisdiction, especially for offences against international law, and international fact-finding commissions, provide other modalities for action, as would the expanded use of the United Nations Voluntary Fund for assistance to victims of torture, established under General Assembly resolution 36/151. The elaboration and adoption of an agreed upon set of principles for restitution to groups or categories of victims who have been severely harmed through maltreatment, persecution or other infringements of their basic human rights, along with a declaration or code of conduct for the protection of and assistance to all victims, would represent a milestone and major challenge for the Seventh Congress. If the priorities and basic requisites are properly articulated, as well as the constraints of this endeavour, a significant degree of consensus might already emerge at the preparatory meetings to facilitate this task.

47. In connection with (2) above, there is no doubt that a climate of social justice and secure, equitable development are the best protection against victimization, whether of individuals or of groups. Planning for wholesome national growth to minimize some of the imbalances conducive to injustice and exploitation, and a wider sharing in its fruits, in line with the goals of the International Development Strategy for the Third United Nations Development Decade and a New International Economic Order, would lessen the deprivation conducive to massive victimization. On a physical level, "target hardening", urban planning for "defensible space", including viable housing and cities, and other ways of reducing criminogenic opportunities, can help to contain victimization attendant on "street" crime. Other kinds of measures, including greater regulatory stringency and uniformity may be required to stem economic abuses causing depredation for large segments of the population.

48. Since it is difficult to separate victims from victimizers, adequate controls on the latter must be imposed, especially when large-scale abuses occur or threaten to occur. This would include, above all, efforts to ensure the accountability of and impose certain limits on those wielding power, whether it be the economic might of transnational corporations or other powerful trading partners, or the public power of the State and its organs of control (including the criminal justice system with its subsystems of the police, courts and prisons or other correctional facilities). In addition to "controlling the controllers" and their possible manipulation of legislation - which could make possible the legitimation of

victimization - there is potential strength in reinforcing community ties and public vigilance. The rebellion of consumers against unscrupulous practices, and the gains wrought by the consumer movement or anti-pollution groups in promoting product safety and raising environmental standards, are examples of what unity can achieve. Self-help strategies (e.g. awareness-raising groups, citizen patrols and neighbourhood or private security arrangements) and a willingness to assist victims can reinforce the sense of group solidarity and be an effective crime preventive. Endangered persons need to be warned of their potential victim situation, as should the groups or societies to which they belong. Furthermore, reporting on victims should become a standard component of police records and crime statistics. Information and sensitization of the public, are of course, critical to this process, especially where poverty or ignorance may insulate large masses of people from the knowledge that they are being victimized. Indigenous processes and traditional links and groupings can be drawn upon in resisting potential victimization and providing support where it has occurred.

49. Depending on need and scale, specific measures can also be instituted to help certain target groups or individuals in danger of becoming victims, including special protective measures for the old, young or weak, and formal mechanisms for resolving conflicts before they escalate into violence and bodily or mental harm. In view of the relationship between alcohol and drug abuse, violence and crime, preventive measures are also required to limit this kind of victimization and self-victimization. The cross-fertilization of experience in connection with the Congress should help to trace the main parameters of what can be done in this entire problem area at the local, national, regional and international levels.

50. In view of the pervasive needs relating to victims of crime and abuses of power, and the urgency of multi-pronged action, the consideration of this topic must be both sufficiently meaningful and oriented to the attainment of concrete results, taking also into account the complexities and larger issues involved. The following questions might assist in the discussion of this topic at the preparatory meetings:

QUESTIONS FOR DISCUSSION

- (1) What kinds of victims and victim groups require priority consideration in terms of the impact of crime and the abuse of power, as well as overall concern?
- (2) How can the processes of victimization, especially on a large scale, be better understood and articulated?
- (3) How is victimization manifested, what is its extent, and how can its incidence and effects be empirically ascertained?
 - (a) How can the victims of damaging practices involving cumulative harm be identified in order to permit adequate policy and programme formulation?
 - (b) What kinds of qualitative and quantitative studies could generate the kind of knowledge most useful for decision-making and planning?

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- (c) What pilot and demonstration schemes could usefully be undertaken to spearhead action on behalf of victims?
- (4) What means should be used to protect victims' rights and promote greater justice for them?
 - (a) How can the basic rights of victims be ensured and their neglect by the criminal justice system remedied?
 - (b) How can indigenous mechanisms and customary practices be utilized in the quest for greater justice for victims?
 - (c) What institutionalized mechanisms of redress, including restitution and/or compensation, can be provided for victims of crime, especially those involving violence and brutality?
 - (d) What principles could be formulated to protect and assist victims and provide reparation for groups of victims of crime and abuses of power, and how could their application be promoted at the national and transnational levels?
 - (e) What service delivery systems and facilities can be provided for victims of crime and abuses to lessen the trauma and prevent repeated victimization?
- (5) What policies and strategies should be used to reduce or prevent victimization?
 - (a) What national and local preventive policies might be instituted to decrease the opportunities and chances of victimization?
 - (b) What specific measures might be taken, directed at particularly vulnerable population target groups, to reduce the likelihood of their victimization?
 - (c) How can actual and potential victimizers, including corporate entities, institutions and authorities be prevented from exerting harm?
- (6) What priorities for preventive and remedial action to reduce and prevent victimization can be set at the national, regional and international levels?

Topic 4. Youth, crime and justice

51. The year 1985 has been proclaimed International Youth Year by the United Nations. Member States have committed themselves to focus their attention on the particular situation of youth, and to concentrate and collaborate in their efforts to ensure that youth will obtain and retain the right to full participation in national development and be entitled to the benefits accruing from it. Since the Seventh Congress coincides with the International Youth Year, it has a unique opportunity of contributing to the achievement of its goals and objectives.

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52. A number of reasons have led to the strong emphasis placed by the United Nations on the problems of youth in the contemporary world, especially within the realm of crime and justice. These include the following:

- (a) The proportion of youth among the population will continue to increase for decades to come;
- (b) Contrary to the growing expectations of fuller participation in the development process, employment opportunities for youth are declining in many parts of the world, due to economic depression, recession and inflation;
- (c) Youth are particularly vulnerable to maltreatment, exploitation and neglect, as well as to the undesirable consequences of socio-economic changes;
- (d) For these and other reasons, crime committed by youth, tending to be the most crime-prone age group, seems to be increasing disproportionately;
- (e) Serious manifestations of youth drug abuse and criminality, particularly violence, as a group phenomenon, are becoming more widespread; and
- (f) There is increasing recognition that juvenile justice requires greater attention at the national and international levels.

53. Thus, "juvenile justice and youth" constitutes one of the main priorities of the Specific Programme of Measures and Activities for the Preparation and Observance of the International Youth Year, which provides the following guidelines for national, regional and international long-term action:

- " (i) At the national level: Governments should be encouraged to accord high priority to the problems which cause juvenile delinquency and youth criminality within the framework of planning for youth, in close co-operation with all relevant authorities and within the broader context of national development plans;
- " (ii) At the regional level: Regional commissions, in co-operation with Governments, national organizations and the United Nations regional institutes on the prevention of crime and the treatment of offenders and with the relevant research centres, should conduct research and organize training courses on the problems which cause juvenile delinquency, on the relationships between development, youth and crime; and on effective solutions to deal with these problems, including juvenile justice administration;
- "(iii) At the international level: Agencies and bodies of the United Nations system should provide technical assistance to Governments in the development of effective programmes aimed at the causes and prevention of youth crime and juvenile delinquency, and of standard minimum rules for the administration of juvenile justice."

54. In this connection, it should be recalled that the Sixth Congress, by its resolution 4, recommended that the Committee on Crime Prevention and Control be directed to develop standard minimum rules for the administration of juvenile justice and the care of juveniles, which could serve as a model for Member States. The Congress also recommended that the Secretary-General report to the Seventh Congress on the progress achieved in the formulation of the rules.

55. In recognition of the fact that special attention should be paid to the ways in which juveniles are being prepared for full-fledged participation in the development of their nations, and affirming that standard minimum rules for the administration of juvenile justice can have an important role in protecting the fundamental human rights of juveniles in conflict with the law, the Sixth Congress also directed that the rules should reflect four basic principles. These relate to:

(1) The provision of carefully defined legal protections for juveniles in conflict with the law;

(2) The use of pre-trial detention only as a last resort, and with special institutional arrangements for confinement, taking always into account the needs particular to their age;

(3) The use of institutionalization only after adjudication for very serious offences; and

(4) The responsibility of the international community to ensure opportunities for a meaningful life for the young as fully participating members of society.

56. The Secretariat is in the process of implementing resolution 4 of the Sixth Congress, in co-operation with the United Nations regional institutes for the prevention of crime and the treatment of offenders and the United Nations Social Defence Research Institute, in an effort to formulate a first draft of the standard rules, to be considered by the Committee on Crime Prevention and Control at its seventh session in 1984. However, within the framework of the above-mentioned basic principles, it may also be advisable to have input from the preparatory meetings as to the appropriate content of the rules, to be examined in depth by the Seventh Congress under this agenda item. While the development of a set of recommendations, in accordance with principle (4), is aimed at ensuring for the young a proper development and integration into the mainstream of social, economic and cultural life of their societies, the formulation of guidelines and procedures for the appropriate handling of the young in conflict with the law, in accordance with principles (1)-(3), should aim at diminishing any adverse impact of the criminal justice system upon them and at fostering the process of their integration in national development.

57. Taking fully into account the directives of the Sixth Congress, the Committee emphasized that, in formulating the set of rules referred to above, attention should be given to the interrelationship between the needs of children and youth, because of their early stage of development on the one hand, and the needs of society and the family on the other, and that these rules should be flexible enough to be applicable in different social and cultural situations. The Committee

stressed the special role of the young in society, which varies with cultural differences, and that the community should respond to their particular needs and help the family and the young to resolve whatever problems they may encounter.

58. The Committee also recommended that due regard be given to the following specific issues:

(a) The movement of the young without employment opportunities or prospects from rural areas to cities;

(b) The interrelationship between urbanization, drug abuse and youth criminality and deviance;

(c) The use of free or leisure time and the problem of entertainment;

(d) The impact of mass media on the young;

(e) The special problems of children and youth belonging to minorities, such as foreigners, migrants, ethnic or religious groups; and

(f) The special training of social workers and criminal justice practitioners, including the police.

59. In view of the complexities and interdependence of the issues involved, the Committee not only welcomed the participation of the regional and interregional institutes in the development of the standard minimum rules for the administration of juvenile justice, but also called for the further strengthening of co-operation with the Regional Commissions and with all relevant organizations and bodies, with related work programmes in the area of youth, including the Centre of Human Rights, the Division of Narcotic Drugs, the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization, the United Nations Labour Organization, and the World Health Organization.

60. It may also be useful to draw attention to a number of existing or emerging international instruments for the care and protection of the young. Of particular relevance are the Declaration of the Rights of the Child, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Draft Convention on the Rights of the Child, currently being formulated by the Commission on Human Rights, and the Draft Declaration on the Rights and Responsibilities of Youth, formulated by the Advisory Committee for the International Youth Year. The existence of international instruments of this kind, however, does not automatically and necessarily provide the protection envisaged. For a variety of reasons, many countries have not been able to adopt appropriate national enabling and implementation legislation as a follow-up to international action. Even where such legislation does exist, many countries have encountered considerable difficulties of practical application. Given this situation, therefore, the preparatory meetings, in discussion of the content and the format of the United Nations standard minimum rules for the administration of juvenile justice, should accord particular attention to possible obstacles which may be encountered and ways of resolving them.

61. In light of this brief explanatory outline of the topic, the following questions may be helpful for discussion at the preparatory meetings:

QUESTIONS FOR DISCUSSION

(1) What is the contemporary profile and the situation of the youthful population, and what is the degree of youth participation, generally, in social, economic and cultural national life?

(2) What is the current view of social justice for children and youth, and how is it articulated in national development goals and objectives, especially in the context of the International Youth Year programme and activities?

(3) What are the proportion, nature and extent of youth criminality?

(a) What are the new forms and dimensions of youth crime?

(b) To what extent are they drug-related?

(c) What are the particular characteristics of violent youth crime?

(d) What are the various social, economic and cultural factors and changes contributing to and affecting youth criminality?

(e) What has been the adverse impact of the mass media and entertainment on the young?

(4) What general measures, programmes or policies are being developed or implemented to cope with youth crime?

(a) Do those measures, programmes or policies represent a concerted effort or integrated approach at the national level to address the existing problems and to prevent others from arising?

(b) Do those policies and programmes include delivery of comprehensive and effective social services, especially in the area of mental health, to ensure for the young the necessary care, assistance, protection and security?

(5) What is the contemporary view of juvenile justice administration, and what have been the recent developments in the juvenile justice field, procedurally as well as substantively, particularly in relation to:

(a) The existence of a separate juvenile court system (tribunals, boards);

(b) Punitive vs. treatment or educational adjudication policies; and

(c) Due process vs. parens patriae approaches?

- (6) What matters should be considered in the formulation of the proposed United Nations standard minimum rules for the administration of juvenile justice, in accordance with national experiences, priorities and concerns?
- (a) What should be the range of basic legal protections accorded to youth in conflict with the law?
 - (b) What should be the governing policy for the adjudication and handling or treatment of youth offenders?
 - (c) What should be the extent of the application of diversionary measures, both in avoidance of judicial intervention and in providing alternatives to custodial sanctions?
 - (d) For what reasons and under what specific conditions should youthful offenders be confined in institutional facilities?
 - (e) What other important considerations should be incorporated in the rules, taking into account the needs particular to their age?
- (7) What actions would be particularly useful in promoting regional and international co-operation with regard to youth, crime and justice?

Topic 5. Formulation and application of United Nations standards and norms in criminal justice

62. This topic reflects the long-standing concern of the United Nations with the humanization of criminal justice. Since its foundation, the United Nations has made efforts to secure and preserve the dignity of all those who come into contact with the criminal justice system. The Universal Declaration of Human Rights of 1948 refers to the protection of human rights in criminal justice in its articles 3 and 5 to 12, while the same principles proclaimed in those articles have been set forth, inter alia, in the International Covenant on Civil and Political Rights (arts. 6, 7, 11 and 13 to 17) and its Optional Protocol. Mention may be made also of the International Convention on the Elimination of All Forms of Racial Discrimination (arts. 5 (a) and (b)), the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Suppression and Punishment of the Crime of Apartheid, the Standard Minimum Rules for the Treatment of Prisoners, the Declaration on the Protection of All Persons against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Code of Conduct for Law Enforcement Officials, the Principles of Medical Ethics and the Convention on the Elimination of All Forms of Discrimination Against Women.

63. Furthermore, this topic derives directly from the recommendations of the Sixth Congress, which recognized the great value of the work so far accomplished in this field and acknowledged the need of continuing it in the future with a view to making available to Governments, on a permanent basis, further guidance and assistance in assuring fair and effective criminal justice through international standards and norms.

64. In this connection, the resolutions of the Sixth Congress on alternatives to imprisonment, the development of measures for the social resettlement of the imprisoned, specific needs of women prisoners, the transfer of offenders, guidelines to ensure the independence of judges and to improve selection and training of judges and prosecutors, and the Code of Conduct for Law Enforcement Officials should be recalled and, in particular, resolution 14 on human rights instruments and their implementation for prisoners, which requested the inclusion of a specific item concerning the implementation of human rights for prisoners in the agenda of the Seventh Congress.

65. In the past, some general observations have been made and agreement in principle has been reached on several basic issues concerning the scope and extent of this topic, which might serve as a possible point of departure and orientation for the forthcoming discussions. These issues can be summarized as follows:

(a) An important factor in the effective promotion and implementation of United Nations standards in criminal justice is their application in the context of national strategies and plans for economic and social development. These standards, therefore, should be sufficiently flexible and wholly compatible with the different socio-economic and cultural conditions prevailing in various countries, so as to ensure their congruence and relevance, while facilitating their implementation.

(b) United Nations work in this area is progressing following two parallel but very distinct approaches: on the one hand, legally binding covenants, such as the International Covenant on Civil and Political Rights are being developed, and, on the other, recommendations in the form of basic standards and guidelines are being formulated, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners, with a view to inspiring the internal laws and practices of States. Both approaches have their own specific merits and deserve separate consideration in accordance with their different legal nature.

(c) United Nations standards and norms concerning the protection of human rights in criminal justice are being adopted one after another, in an incremental process. While a diversity of standards may appear at first glance to be somewhat confusing, such a variety might be considered, on balance, as a major asset. Relevant experience tends to show that fair and humane administration of justice is often achieved through the effective application and combined use of various standards and procedures, including reporting systems for Governments, complaint procedures for individuals, regular ex-officio reviews of past or current developments and investigation procedures on an ad hoc basis. However, in order to avoid ambiguity and possible contradictions, it may be advisable to promote the inclusion in every instrument of saving clauses, similar to Article 5, paragraph 2 of the Covenant, affirming that the most favourable provision relating to human rights should prevail.

(d) While gaps in the substantive and procedural provisions of United Nations standards in criminal justice are being filled gradually, there is still a long way to go towards effective implementation in many parts of the world. Success in the application of standards and norms depends not only on international action, but, in the first instance, on efforts undertaken by Governments by virtue of their domestic jurisdiction and competence.

66. Keeping these considerations in mind, it may be convenient, in structuring the discussion of this topic, to adhere to the recommendations made by the Committee on Crime Prevention and Control, namely: (1) to review the existing standards and norms; (2) to assess the impact achieved, as well as the difficulties encountered in applying these; (3) to consider the need for the formulation of additional standards and norms; and, in particular, (4) to further study the question of death penalties that do not meet the acknowledged minimum legal guarantees and safeguards, as contained in the International Covenant on Civil and Political Rights and other international instruments.

67. The existing standards and norms mentioned in (1) above include relevant provisions of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and its Optional Protocol, the Declaration against Torture, the Code of Conduct for Law Enforcement Officials, the Principles of Medical Ethics and the Standard Minimum Rules for the Treatment of Prisoners and related recommendations. In addition, under (1) reference could be made to presently emerging standards and norms which are likely to be finalized and adopted by the time of the Seventh Congress, such as the Draft Convention against Torture, the Draft Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment, the Model Agreement on the Transfer of Foreign Prisoners, the Draft Guidelines on the Independence of the Judiciary, and the Draft Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the ultimate abolition of capital punishment.

68. What is referred to under (2) above might include the examination of the impact of existing standards on national legislation and practices, as well as an analysis of obstacles to their implementation at the national, sub-regional, regional and international levels, and the identification of appropriate measures for overcoming them. In this context, special attention could be given to community participation and reliance on public opinion, as well as to the mechanisms to promote implementation of, and compliance with, existing standards, and to the possibility of developing some general guidelines or commentaries for their effective application in practice (for example, at the regional level). Efforts to this end would have to be in accordance with the political, socio-economic and cultural conditions of each country, keeping in mind that the obstacles may be markedly distinct, according to the nature, content and legal force of the instruments considered. For instance, the solution of problems concerning the application of the Principles of Medical Ethics may require a different approach than measures to overcome obstacles to the implementation of legally binding instruments of a global scope, such as the Covenant.

69. The third sub-topic is designed to explore potential new areas of priority for standard-setting, pursuant to the recommendations of the Sixth Congress, the Committee on Crime Prevention and Control and other relevant bodies. It might be appropriate to focus on a number of crucial and timely subjects previously touched upon but not yet fully discussed: in the first instance, alternatives to imprisonment and ways and means for the social resettlement of offenders, including the role of the community in this respect. Moreover, consideration might continue of such important questions as the foreign offenders and ways and means of meeting their specific needs, including transfer provisions, as well as the formulation of

standards for the protection of persons suffering from mental disorder. Finally, discussion could be resumed of such problems as the prevention of recidivism, as well as of possible measures for shortening prison sentences, consistent with the safety of the community, and the further implementation of standards for training correctional personnel.

70. The fourth sub-topic may include, among others, the question of capital punishment and summary or arbitrary executions, as well as other matters related to Resolution 5 on "Extra-legal executions" of the Sixth Congress.

71. In the elaboration of the various issues related to this topic, close consultations will be maintained with the Centre for Human Rights and other relevant bodies in order to ensure appropriate co-ordination, thus maximizing the effectiveness of the work and avoiding possible overlap or duplication of activities.

72. In accordance with this brief explanatory outline of the topic, the following questions are suggested for discussion at the preparatory meetings:.

QUESTIONS FOR DISCUSSION

- (1) What has been the impact of United Nations standards and norms in criminal justice on policies and practices at the national level?
 - (a) What concrete changes have taken place in national legislation and practice of crime prevention and control under the impact of United Nations standards and norms?
 - (b) In particular, what has been the impact of the Standard Minimum Rules for the Treatment of Prisoners?
 - (c) How much attention has been given to the dissemination and application of the Code of Conduct for Law Enforcement Officials?
- (2) By what means could a wider acceptance of existing United Nations standards and norms be promoted and sustained?
 - (a) Are there any major obstacles to full implementation?
 - (b) If so, how could these obstacles be overcome?
 - (c) In particular, what steps could be taken for the fullest possible observance of the human rights of prisoners?
- (3) How could the formulation of new standards and norms in criminal justice be attuned to the requirements of modern criminal policy, indigenous traditions and customs and the strategies for economic and social development, in full respect for human rights?

(4) Where is the need and the potential for the development of new international standards in this field and what would be the main priority areas?

(a) What issues could be included in the model agreement for the transfer of foreign prisoners? Should procedures be based, as recommended by the Sixth Congress, on the consent of both the sending and receiving countries and either on the consent of the prisoner or in his interest?

(b) What matters should be taken into account for the development of guidelines in the area of alternatives to imprisonment?

(5) What would be the role and scope of regional co-operation in the formulation and application of standards and norms in crime prevention and criminal justice?

(6) What would be the principal issues which may be considered as regards capital punishment and the prevention of extra-legal executions?

(a) Has any major discussion taken place or any initiative been proposed towards the restriction of the use or the abolition of capital punishment?

(b) What could the international community do to more effectively prevent summary or arbitrary executions or extra-legal executions and other degrading and inhuman punishment?

Annex

GUIDING PRINCIPLES FOR CRIME PREVENTION AND CRIMINAL JUSTICE IN THE
CONTEXT OF DEVELOPMENT AND A NEW INTERNATIONAL ECONOMIC ORDER

Introduction

Crime in its new forms and dimensions presently seriously impairs the development process of many countries, as well as their international relations, thus compromising the attainment of the objectives of the Third United Nations Development Decade and establishment of a new international economic order, which should ensure steadily accelerating economic and social development and peace and justice for present and future generations.

The alarming growth and seriousness of crime in many parts of the world, including both common and non-conventional criminality (in which often economic, industrial, commercial and governmental or official institutions are involved) make it, in fact, difficult to envisage the effectiveness of a new international economic order without taking into account this global phenomenon in the broader context of development. Due attention, therefore, should be paid to crime prevention and criminal justice and the related processes, including the victims of crime, the role of youth in contemporary society and, above all, the application of United Nations standards and norms in criminal justice at the national, regional and international levels.

In considering crime prevention and criminal justice in this new and broader perspective it should be kept in mind that development may include such elements as economic growth, cultural change, productive employment and social progress and equity, as well as technological advancement, while crime prevention and criminal justice embraces policies, processes and institutions aimed at controlling criminality and ensuring equal and fair treatment for all those involved in the criminal justice process.

Crime exists in any society and in every society criminal law and justice are intended to guarantee the ultimate protection of its basic values and norms. Development may reduce and even abolish certain manifestations of crime but it may also create new ones. However, experience has shown that well-planned development with social justice, respect for human dignity, freedom, equality and security can substantially reduce crime.

Despite the recognition that crime prevention and criminal justice should be viewed in the broader context of development there appears nevertheless to be a lingering resistance to including crime prevention policies in the planning process, especially in such spheres as urbanization, industrialization, education, health, population growth and migration, housing and social welfare, etc.

The high cost of crime and its impact on the quality of life are largely a consequence of the failure to consider crime prevention and criminal justice as part of overall development planning, as was particularly stressed by the Sixth

Congress. Further examination of these issues has been requested by the General Assembly in its resolution 36/21 of 9 November 1981, and by the Economic and Social Council in its resolution 1982/29 of 11 May 1982, for consideration by the Seventh Congress, with the purpose of formulating new guiding principles that can assist in the achievement of a proper balance between socio-economic, cultural and political development on one side, and crime prevention and criminal justice on the other, to be pursued at the various stages of local, national, subregional, regional and interregional planning.

The above framework requires effective international co-operation among and between Governments, keeping in mind that the international and national economic and social orders are closely related and becoming more and more interdependent, and that, as a growing socio-political problem, crime transcends national boundaries.

In this perspective, the following principles are recommended for national, regional and international action, taking into account the political, economic, social and cultural circumstances and traditions of each country.

A. Crime prevention and a new international economic order

International order and national structures

1. Taking into account the relations between a New International Economic Order, development and crime prevention, changes in the national economic structure should be accompanied by corresponding reforms in criminal justice, so as to ensure a greater responsiveness of the penal system in the protection of the basic values and aims of society.

Global restructuring and individual guarantees

2. The restructuring of the international economic system, indispensable to rendering the international environment truly supportive of the development process should also foster economic, social and cultural conditions which would permit the citizens of all countries the full enjoyment of fundamental human rights, whose observance is guaranteed by a fair, effective and humane criminal justice system.

Development objectives and elimination of causes of injustice

3. While human development objectives should be taken into account for the establishment of a New International Economic Order, effective policies for crime prevention and criminal justice should also consider the structural causes of injustice, of which criminality is often but a symptom.

New directions and dimensions

4. New directions and dimensions should be explored not only with regard to existing traditional concepts of international law and relations, such as the concept of national legality vis-à-vis that of international legitimacy in

accordance with the principles of the Charter, but also with reference to existing measures, procedures and institutions of criminal justice.

Acts harmful to development

5. In conformity with the purposes of the United Nations, efforts should be made by all Member States, in their relations with other States, to refrain from committing such acts as are likely to harm the economic, social, cultural and political development of other countries, lead to massive human suffering and even cause death.

Non-conventional crimes

6. The prevention of crime as a global socio-economic and political phenomenon inherent in any society should embrace the main forms of unconventional crime in which official and non-official institutions, organizations of various sorts and individuals may be directly involved. The prevention of crime should no longer be confined to conventional, common crime.

Protection against criminal negligence

7. In view of the characteristics of contemporary post-industrial society and the role played by growing industrialization, technology and scientific progress, special protection against criminal negligence should be ensured in public health, labour conditions, the exploitation of natural resources and the environment, and the provision of goods and services to consumers.

Effective and equitable penalization

8. To help attain the preventive aim of a New International Economic Order, a more equitable penalization of crimes having economic implications is required. In particular, every effort should be made to improve sentencing policies and practices with the aim of eliminating undue inequality between sanctions for conventional property offences and those for emerging economic crimes affecting large segments of the public.

Economic crimes

9. Without reducing fundamental procedural guarantees, the rules concerning evidence in economic crimes, as well as the norms governing the organization, accounting and functioning of national or foreign enterprises operating in any given country should be simplified. In addition, in order to appreciate the evidence submitted, judges should receive adequate training in economic matters, or, if considered more desirable, special economic courts should deal with economic crimes, including ancillary criminal corruption or appropriation of regional or national public funds.

Issues of corporate responsibility

10. National penal legislation should make criminally responsible not only those persons who have either acted in behalf of any institution, corporation or

enterprise or those who are in a policy-making or executive capacity, but also the institution, corporation or enterprise itself, by imposing any appropriate measures which would prevent and/or punish its possible criminal activities.

Adequate sanctioning

11. If existing penalties are not appropriate to the extent and gravity of economic crimes and ancillary offences, efforts should be made to introduce penalties or measures considered more adequate for the prevention of such crimes.

Damage and financial capability

12. The degree of harm caused by economic crimes and related offences, as well as the financial capability of those criminally responsible, should be the main factors in determining the nature and gravity of the penalties or measures adopted.

Victim compensation

13. In order to ensure effective compensation to the victims of economic crimes and other offences involving abuses of power, efforts should be made to enact the necessary legislation, if the existing one is insufficient.

B. National development and the prevention of crime

Development, peace and justice

14. Development, aimed at fostering economic growth and progress and at ensuring peace and social justice by means of a comprehensive and integrated approach, should be planned and properly implemented, taking also into account the fundamental contributions which can be made by effective policies of crime prevention and criminal justice.

Crime prevention and national planning

15. Crime prevention and criminal justice policies can enhance the viability of national development plans, programmes and actions by providing opportunities and safeguards for equitable and full public participation and reducing the constraints on national development posed by traditional as well as new forms of crime.

Systemic approach

16. Crime prevention and criminal justice should not be treated as isolated problems, to be tackled by simplistic, fragmentary methods but, rather, as complex and wide-ranging activities, requiring integrated strategies and comprehensive solutions. Accordingly, crime prevention and criminal justice policies should take due account of:

(a) The socio-economic, political and cultural context and circumstances of the society in which they are applied;

(b) The developmental stage of societies, with special emphasis on the changes taking place and likely to occur and the related requirements; and

(c) The respective traditions and customs, making maximum use of indigenous options.

Integrated approach to planning

17. To avoid or reduce the criminogenic side-effects of developmental programmes and possible imbalances in the rates of growth of different sectors (e.g. urbanization/industrialization, education/employment), overall planning should be based on an intersectoral, integrated approach, which would permit the assessment of the effects of the decisions taken, mitigate their possible negative economic and social consequences and decrease the opportunities for committing crimes, while increasing legitimate avenues for need fulfilment.

Intersectoral planning

18. Intersectoral planning should also be achieved through a better interfacing and co-operation between planners and criminal justice agencies, the development of appropriate co-ordinating mechanisms, and the increased responsiveness of crime prevention policies to developmental requirements and changing conditions.

Trends and social impact studies

19. Development programmes, to be planned and executed in conformity with local, regional and national realities, should be based on assessments of present and future socio-economic and crime trends and on studies of the social impact and social consequences of the policy decisions and investments made. Feasibility studies, which usually involve considerations of economic viability, should also consider social issues and be complemented by studies of the possible criminogenic consequences of development projects, including proposed strategies for avoiding them.

Sectoral planning

20. Crime prevention and criminal justice planning should be carried out from a dynamic perspective of the totality of interrelated activities and functions in the areas of legislation, law enforcement, the judicial process, the treatment of offenders and juvenile justice so as to ensure greater coherence, consistency and accountability, in accordance with the main goals of national development. The use of a cost-benefit approach in policy-making and programming should permit, in the case of alternatives, use of that option which exacts the least social and material cost while yielding the maximum benefits.

Crime prevention planning and co-ordination

21. The establishment of a planning and co-ordinating body or mechanism, both at the national and local levels, with the participation of representatives of the different criminal justice subsystems and other experts, and with the involvement

of members of the community, should be promoted because of its special value in assessing needs and priorities, improving resource allocation and the monitoring and evaluation of programmes. The following should also be included in the objectives of such a planning and/or co-ordinating body or mechanism:

- (a) Promoting the development of indigenous research capabilities in respect to planning for crime prevention;
- (b) Assessing the cost of crime and raising awareness of the significance of its economic and social impact;
- (c) Developing means for more accurately collecting and analysing crime trend and criminal justice data, as well as studying the various socio-economic factors bearing on them;
- (d) Keeping under review crime prevention and criminal justice measures and programmes in order to assess their effectiveness and possible improvements required;
- (e) Working in close co-operation with other agencies dealing with national development planning, in order to secure the necessary co-ordination and mutual feedback.

Crime prevention as a tool of social policy

22. The criminal justice system should be viewed not only as an instrument of control, deterrence and punishment, but should, rather, be regarded as a positive instrument of socio-economic policy and, hence, as a tool for more viable development. In order to relate crime prevention and criminal justice to overall national development planning, efforts should be made to secure the necessary human and material resources, including the allocation of adequate funding, as well as to utilize as much as possible all relevant institutions and resources of society, thus ensuring the greatest involvement of the community.

Interrelations between development and criminality

23. Further study and research of the possible interrelationships between criminality and certain aspects of development, such as population structure and growth, urbanization, industrialization, housing, migration, and employment opportunities should be undertaken in order to increase the responsiveness of crime prevention and criminal justice policies, in a dynamic way, to changing socio-economic, cultural and political conditions. These studies should be conducted, when possible, in an integrated, interdisciplinary perspective and be directed toward policy formulation and practical action.

C. The responsiveness of the criminal justice system to development and human rights

Development and fundamental human rights

24. All socio-economic programmes incorporated in the framework of national planning should be conducive to the promotion of social justice and the protection of fundamental freedoms and human rights. Existing socio-economic policies and programmes should also be examined in light of their implications for the achievement of these objectives.

Development and legal and criminal justice systems

25. Legal and criminal justice systems should be instrumental in promoting beneficial and equitable development with due regard to human rights and social justice considerations ensuring that those performing judicial or quasi-judicial functions should exercise them in a manner which is independent of personal or group interest and always maintaining impartiality in the staffing of the courts and public access to, and oral conduct of, criminal court proceedings.

Periodic reappraisal of criminal justice policies and practices

26. There should be in every country, regardless of its stage of development, a periodic reappraisal of the existing criminal justice policies and practices in relation to the traditional, informal means of social control, so as to foster their concordance and responsiveness to the emerging requirements deriving from socio-economic and cultural changes.

Reducing the gap between written laws and societal structures and values

27. The conflicts existing in many countries between indigenous institutions and traditions for the solution of socio-legal problems, and the frequently imported or superimposed legislation and codes, following foreign orientations or models, should be examined so as to reduce the gap between official legal systems and societal values and structures.

Unrestricted access to the legal system

28. Legal systems should endeavor, through appropriate policies aimed at overcoming socio-economic, ethnic, cultural and political inequalities or disparities, whenever they exist, to optimize access to justice for all segments of society, especially the most vulnerable ones. Appropriate mechanisms for the protection of basic human rights, in accordance with the demands of justice, should be established. Legal systems should also provide less costly and less cumbersome procedures of peaceful settlement of disputes and litigation or arbitration, so as to ensure for everybody ways of prompt and just para-judicial and judicial action, while offering the means for widespread legal assistance for the effective defence of all those in need.

Community participation

29. Various forms of community participation should be explored and encouraged in order to create suitable alternatives to purely judicial and legally-based interventions, which would provide readily accessible methods of the administration of justice. Community intervention and participation in all phases of crime prevention and criminal justice processes should, therefore, be further promoted and strengthened.

Mass media and education

30. The role of the mass media, and their impact on aspects of crime prevention and criminal justice should be examined and evaluated, since the public perceptions of criminal policies and public attitudes are central to the effectiveness and fairness of the legal system. In addition, the mass media should positively contribute to public education on issues of crime prevention and criminal justice as an important tool of legal socialization and internalization of norms, together with programmes of civic and legal education.

Human rights, social justice and effective crime prevention

31. While protecting human rights and promoting social justice, improvements in the effectiveness of crime prevention and criminal justice policies should be encouraged through the increased use of community alternatives to incarceration, by reducing the delay in the administration of justice, by fostering staff training and evaluation, and by scientific and technological innovations and action-oriented research, especially when there is need to maximize limited financial and human resources, in the face of adverse national and international economic conditions.

Traditional forms of social control

32. When introducing new measures of social control, necessary precautions should be taken not to disrupt the smooth and effective functioning of traditional systems, paying full attention to the preservation of cultural identities and the protection of human rights.

New forms of crime and criminal sanctions

33. Criminal sanctions, generally established to counteract traditional forms of criminality, should also be oriented toward the new forms and dimensions of international, transnational, or national crime, through the adoption of new legislative instruments and measures adequate to meet the new challenges, and by means of innovative techniques for detection, prosecution and sentencing. Appropriate instruments and mechanisms for international co-operation should likewise be devised and applied, in order to effectively cope with such new manifestations of crime.

Overall re-examination of criminal justice measures

34. Constant efforts should be made to enhance the contribution of community-oriented alternatives to judicial interventions and institutionalization

procedures, thus decreasing the level of undue criminalization and penalization and reducing its social and human costs.

New technology and potential for abuses

35. The use of modern technology, especially computer systems, may result in the accumulation of personal data which is likely to give rise to a violation of human rights and result in criminal abuses. To alleviate these and other discriminatory aspects deriving from the continuous use of such data, safeguards against possible abuses should be adopted, confidentiality ensured, and a system of individual access to them and of correction of errors, established, together with appropriate procedures for expurgating such data.

Social marginality and inequality

36. In view of the staggering dimensions of social, political, cultural and economic marginality of many segments of the population, criminal policies should avoid transforming such deprivation into likely conditions for the application of criminal sanctions. Effective social policies should, on the contrary, be adopted to alleviate the plight of the disadvantaged and equality and equity in the processes of law enforcement, prosecution, sentencing and treatment should be ensured so as to avoid discriminatory practices based on socio-economic, cultural, ethnic, national or political backgrounds or material means.

D. International co-operation in crime prevention and criminal justice

Duty to co-operate

37. The obligation of all States and entities to co-operate in the prevention and control of crime should be duly emphasized, as an indispensable element in promoting more effective crime prevention and enhancing the viability and operation of criminal justice.

International law and criminal justice

38. International co-operation in crime prevention and criminal justice is a duty under conventional and customary international law with respect to international crimes, and an emerging duty with respect to transnational as well as all forms of common crimes, irrespective of where they occur. Accordingly, the United Nations should undertake the codification of international criminal law with respect to substantive crimes and enforcement mechanisms, and prepare model international instruments suitable for use as international and regional conventions, and as guides for national implementing legislation. International co-operation in criminal justice matters should be directed by the principle Aut Dedere aut Judicare.

Universal jurisdiction

39. In order to render the prosecution and adjudication of international crimes more effective, the acceptance of a universal criminal jurisdiction, as an extension of the national one, should be further pursued.

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Modalities of international co-operation

40. Ways and means of international co-operation in penal matters such as extradition, various forms of judicial assistance, including letters and commissions rogatory, transfer of criminal proceedings, recognition of foreign penal judgements, transfer of prisoners, and supervision of the conditionally released in other countries, should be made less cumbersome and more effective. In order to further promote the use of such mechanisms in all countries, thus maximizing the effectiveness of their co-operation, efforts should be made to develop appropriate model instruments between countries as well as comprehensive regional agreements on these subjects.

International legal standards and legal systems

41. International co-operation in criminal justice should be in accordance with the respective legal systems of the co-operating States and with due regard to human rights and internationally accepted legal standards.

Technical co-operation

42. In view of the shortage of technical and other resources in many developing countries, such as trained staff in all phases of crime prevention and criminal justice, research personnel and centres of study, availability of data and scientific resources, exchange of information and interaction and, in general, educational facilities, technical co-operation of various forms should be further increased in every respect. Accordingly, existing structures of the United Nations system, and Member States with the capability and resources, should make available to other countries technical assistance, either on a bilateral, regional, or international level, or as part of broader development programmes, and as a form of transfer of technology, in accordance with United Nations principles concerning a New International Economic Order. Similarly, developing countries might share with developed countries traditional approaches and experiences which might be useful to them.

Co-operation among developing countries

43. Technical Co-operation among Developing Countries, on a regional and interregional level, should be further promoted in order to share relevant common experiences, preserve as much as possible particular cultural characteristics, strengthen indigenous institutions of social control and increase self-reliance.

Additional tasks of international and regional co-operation

44. International agencies and bodies, including the United Nations regional crime prevention research and training institutes, should assist in activities related to the appraisal of legal systems and mechanisms of social control with the objective of identifying areas and causes of discrepancies which might exist between criminal justice and measures of social control, on the one hand, and socio-economic development, on the other.

Regional and interregional activities

45. In promoting an international strategy of crime prevention and criminal justice in the context of development, the United Nations regional and interregional crime prevention research and training institutes should continue to further enhance their functions as useful instruments for the effective implementation of this global approach, while their co-operation with the respective United Nations regional commissions should be strengthened.

Co-ordination between the institutes

46. Co-ordination of activities among United Nations regional and interregional institutes in the field of crime prevention and criminal justice should be fostered by institutionalizing contacts and exchanges of information and experience between them, so as to increase their potential for training, research and technical assistance to interested countries.

Scientific co-operation

47. The United Nations should make more intensive efforts to secure support and co-operation from scientific and professional non-governmental organizations which have an established reputation in the field of crime prevention and criminal justice, so as to make greater use of these resources on a subregional, regional, interregional and international level. To that end, the possibility of establishing an international council of scholarly, scientific, research and professional organizations and academic institutions should be explored. Such a council, consisting of selected representatives of the above-mentioned organizations and institutions in various parts of the world, should further enhance international co-operation in this field by furthering the exchange of information and providing technical and scientific assistance to the United Nations and the world community which it serves.

The quinquennial congresses

48. To maximize the effectiveness of United Nations Congresses on the Prevention of Crime and the Treatment of Offenders as an instrument of technical co-operation, the results of scientific research and other data made available to the Congresses should receive the widest dissemination. All countries attending the Congresses should set up national preparatory committees, including experts from multidisciplinary backgrounds, to prepare national contributions for the Congresses, participate in their work, and widely disseminate their results at the national level, not only to the respective Governments, but also the scientific, academic and professional community at large.

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