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

REPORT OF THE INTERREGIONAL PREPARATORY MEETING FOR THE
SEVENTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME
AND THE TREATMENT OF OFFENDERS ON
TOPIC II: "CRIMINAL JUSTICE PROCESSES
AND PERSPECTIVES IN A CHANGING WORLD"

Budapest, 4-8 June 1984

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INTRODUCTION

1.   The Interregional Preparatory Meeting of Experts convened to discuss
topic II of the provisional agenda of the Seventh United Nations Congress on
the Prevention of Crime and the Treatment of Offenders: "Criminal justice
processes and perspectives in a changing world", was held at Budapest from
4 to 8 June 1984. The Meeting was opened by the Hungarian Minister of
Justice, Mr. Imre Markoja who, in his opening statement, expressed his
country's great pleasure in the fact that the Meeting was being held at
Budapest, particularly in view of the fact that 10 years ago a similar meeting
had been held there, preparatory to the Fifth Congress.

2.   Mr. Markoja summarized certain aspects of the long history of Hungary,
which he characterized as "stormy". The changes introduced after the Second
World War had been of a total nature, affecting all areas of society, and
aimed at the full elimination of feudal remnants. Hungary had succeeded in
avoiding the rapid increases in crime that characterized most of the world,
and had prevented the emergence of phenomena such as an organized underworld,
illicit drug traffic and terrorism. In fact, crime rates had not increased
from the mid-1960s until 1979.

3.   Regrettably, an upward trend had recently appeared, particularly in the
area of juvenile delinquency. There was a need for a better understanding of
the causes of crime, among which were some still extant internal tensions and
contradictions, as well as the deleterious impact of foreign influences and
the effect of alcohol.

4.   The Executive Secretary of the Seventh Congress expressed the sincere
appreciation and gratitude of the United Nations Secretariat for the kind
invitation extended by the Hungarian Government, adding that it demonstrated
the deep and continued interest of the Hungarian authorities in contributing
to United Nations activities in crime prevention and criminal justice, as
shown by the meeting held at Budapest 10 years earlier.

5.   The Executive Secretary also thanked the experts for attending the
meeting and conveyed the best wishes of Mrs. Leticia R. Shahani, Assistant
Secretary-General for Social Development and Humanitarian Affairs, who would
join the meeting later that week.

6.   Referring to the role of the Meeting in the preparatory activities for
the Seventh Congress, he noted that the topic under consideration was one of
increasing importance in a world struggling for a more effective and humane
administration of justice. Criminal justice processes could not be examined
without proper consideration of the social, cultural, economic and political
realities within which such processes took place. It was those realities that
had to be identified and dealt with.

7.   All optimistic visions notwithstanding, the age was one of great
conflicts, appalling misery, inhuman living conditions and insufficient
sanitation for hundreds of millions of people in a world of rapidly growing
population. The question had to be asked whether criminal justice systems
were adjusted to a world of incessant socio-economic change.

8.   It went without saying that what happened in one component of the criminal justice system had an impact upon the performance of other components, hence the need for an integrated approach. Such an approach would help to bring the different components to a level where they could be seen as parts of a larger system extending from law enforcement to after-care services.

9.   A particularly important and sensitive issue was the role played by international migration. In a world of migrants, there had emerged a need to deal humanely with foreign offenders, particularly with regard to the transfer of prisoners to their country of origin.

10.   Another important issue centred on the problems relating to decriminalization and depenalization, as well as the criminalization of emerging or long disregarded phenomena, such as certain economic commercial activities extending beyond the national borders of States.

11. Mr. A.J.E. Brennan, the representative of the Committee on Crime Prevention and Control, expressed the appreciation of the Committee for the invitation of the Government of Hungary. In the light of the deliberations of the Committee at its seventh session in 1982, he emphasized three points as deserving of particular attention. First, in connection with the question of the relationship between the decision-makers within the various sectors of the criminal justice system and, therefore, of the interrelations between the sectors as a whole, it was a matter of debate whether the various sectors did indeed form a system. Secondly, there was the difficult question of the premises and goals of good management, requiring interdependence, on the one hand, and the independence of the various sectors, especially courts and prosecution, on the other. Lastly, there was the question of the level of national resources to be allocated to crime control, for example, how many police officers were enough. The demand for those resources was primarily a function of the complex range of decisions referred to above.

12.   After the agenda had been adopted, the following officers were elected:

Chairman:	Mr. M.P. Mvunga (Zambia)
Vice-Chairmen:	Mr. R. Levene (Argentina)
	Mr. H.R. Khan (Pakistan)
	Mr. J. Gödöny (Hungary)
Rapporteur:	Mr. G.O.W. Mueller (United States of America)

I. DISCUSSION

A. The changing environment and responses by criminal justice systems

13. It was concluded at the Meeting that scientific and technical change had become a major factor in the transformation of life. Social institutions, however, were designed to accommodate to change only gradually and thus could not keep pace with advances in technology. An example was the high level of rural unemployment brought about by the mechanization of agriculture, which did, indeed, cause massive rural unemployment with consequent disturbance of social relations.

14. While everybody would agree on the existence of a linkage between socio-economic development and crime, it should be emphasized that it did not have to be, nor was it always, a direct relationship. Such linkages were not necessarily the same in developed and developing societies. In the latter, traditional ways of resolving conflicts could be endangered by the emergence of "modern" legal systems in response to socio-economic development. In some cases, traditional structures could be more rapid and less disruptive and traumatizing than the so-called modern procedures, which were often slow and costly and tended to emphasize punitive rather than compensatory and conciliatory measures.

15. In many societies, one could observe a return to traditional structures, based either upon religion or upon culture. That movement was resurrecting certain traditional roles, for example that of the victim, and the involvement of the community, and could be interpreted, at least in part, as a reaction to the excesses of "modern" criminal justice practices, as a reaction to foreign domination, and as a revival of certain cultural and national identities.

16. The role of migration and urbanization was brought to the attention of the Meeting. In the opinion of some experts, they were the most significant phenomena, at least in some regions. The decline in rural employment opportunities had pushed people away from the country, whereas the economic development of cities had failed to meet the growing demands of the migrants. That was why it was idle to talk about crime prevention without taking into account the corresponding economic factors. Although it was evident that, to reduce rural-urban migration, opportunities in rural areas should be improved, especially through the investment of remitted earnings, it was also obvious that such a policy was dependent upon the availability of the resources required to perform that function of equalization.

17. International migration could also contribute to some profound and potentially disturbing changes. Thus, migrant workers from developing countries left their families behind, depriving young people of a father figure during a crucial period of their physical and spiritual growth, a deprivation that was reflected in increased juvenile delinquency rates. Furthermore, upon their return such migrant workers seriously affected the hierarchies of their original cultures in so far as they brought with them their own, new, status symbols, thereby undermining the traditional respect for the elders, and weakening some forms of social control.

18. Although all agreed on the linkage between crime and development, it was clear that there was nothing fatal or inevitable about it. On the contrary, development should go hand in hand with crime prevention, in that some criminogenic factors were reduced by the improvements in living conditions brought about by economic development.

19. In any case, the pursuit of development in ignorance of its potentially negative consequences and in the absence of adequate planning could be the source of considerable trouble, including crime. There was, therefore, an urgent need to introduce crime prevention measures within overall development planning.

20. It was also indicated that certain reported increases in crime rates might be mere reflections of better data-collecting techniques, at least in developed countries. People might be more inclined to report a crime to the police so as to meet insurance requirements.

21. The opinion was expressed that development in terms of market economy was likely to give rise to hierarchies that differed from the traditional ones, thus tending to destroy the latter. If such changes were not checked by means of planning, they were likely to generate considerable conflict.

22. In order to ensure socio-economic development as free from crime as possible, it was not always necessary to draft new legislation. Rather, and more frequently, administrative practices and adjustments in development plans might be better suited to accomplishing the purpose. Where legislation was deemed necessary, it should be in keeping with the local culture and customs and should incorporate them as much as possible, especially by strengthening and making use of indigenous control mechanisms. Lastly, it was necessary to recognize that not only socio-economic changes but also political transformations had an enormous influence upon codes and procedures.

23. In discussions on the type and extent of the changes that the criminal justice system might make in response to socio-economic changes, it was observed that the process of change should not be seen simply as a one-way flow, in which the environment affected criminal justice; the structure of the system of justice should also be seen to affect the social and economic structure. In several developing countries in recent years, changes in political structure or organization had also led to constitutional changes and alterations in the legal procedures, which in turn had a great impact on economic and social relations. The interaction between such factors should not be ignored.

24. It was therefore concluded that the kinds of changes appropriate for criminal justice might well include legal changes of a large scope, or minor adjustments; but it might also be the function of criminal justice planners to suggest and promote changes in other aspects of the social and economic structure. The role of research scientists in influencing policy-makers, both inside and outside the criminal justice system, was important and so far had not received the required recognition or support. The link to the subject matter of topic I of the provisional agenda of the Congress could clearly be made on this point.

25. The discussion then reverted to the question of the co-existence of formal and informal systems of justice. In particular, the experts concentrated on the question of how informal systems could be introduced, reintroduced or reinforced in countries, developed or developing, where complex formal systems existed, for the sake of the greater popularity and effectiveness of the overall system. By way of example, it was pointed out that the reintroduction of reconciliation between victim and offender, which

had largely disappeared from formal judicial proceedings, might unburden the formal process and render the system more popular. Reconciliation included the objective of a return to normal life as quickly as possible, usually involving some form of reparation. In urbanized society, however, the relatively low proportion of offenders who had committed crimes against individual victims and had subsequently been traced and convicted would limit the usefulness of that method. In one developed industrial country, the role of informal arbitrator was often taken by the prosecutor, who in effect acted as an agent of diversion by exacting agreed small fines in trivial cases.

26. In socialist countries, labour collectives and other social organizations could and did fulfil the role of social courts, and arbitrate and supervise the offender, in relatively minor cases; they also handled the conciliation of disputes in an informal manner.

27. It was suggested that the basis for a general theory of informal justice could be built by studying the elements common to various systems of informal justice, rather than by a comparative approach that emphasized the differences between them. All the different cultural versions would probably allow for greater victim participation; and all would essentially be limited to low-level criminality, of the "social nuisance" type, to the exclusion of cases that represented a real threat to society.

28. It was pointed out, however, that such an approach would raise the more theoretical question of what acts would cause the most serious social harm, a value judgement that had to be made independently by each society. That approach, nevertheless, also highlighted the second main object of introducing informal systems, namely the reduction of the load, or demand, on the formal system. On the one hand, if the scope of the offences, or acts, that were dealt with by the formal system were narrowed, the effectiveness of the system in dealing with more serious crimes could be enhanced. On the other hand, if the most trivial cases were removed, another category of least serious offences would be created, and somewhere a cut-off point would have to be found.

29. One suggestion for examination, perhaps by experiment, of the value of informal systems, or their component processes, was that "bottle-necks" within the formal system should be identified, and experimental informal processes devised and tested as a means of reducing them. It was suggested also that the relationship between formal and informal systems of justice could be regarded as closely connected with problems in the relationships between the different criminal justice agencies. It was generally agreed that the comparative merits and limitations of formal and informal systems should be considered at the Congress and that the questions of accountability, discretion, the right of appeal and safeguards for the rights of offenders as well as victims should also be covered.

30. Consideration should also be given to changing expectations on the part of the public as to what the criminal justice agencies could achieve, or what their priorities were. A greater awareness of, and sensitivity to, those changing expectations on the part of the criminal justice agencies themselves was necessary and that in turn had implications for the training of criminal justice personnel.

31.   The experts then paid quite extensive attention to the role of the
victim.   While it was agreed that the question as a whole would be covered by
topic III on the provisional agenda of the Congress, the specific aspect of
the role of the victim in the operations of the criminal process had to be
dealt with under topic II.   In traditional systems of justice, the victim had
always played a leading part in the process, especially in agreeing as to what
constituted a just settlement or reparation.   In a contemporary
industrialized, mobile society, with formal systems of justice, that tradition
was difficult to maintain.   The role of the victim in helping to assess the
penalty, to be imposed impersonally by the State, was certainly limited, and
attempts to reintroduce reparation entailed serious, though perhaps not
insurmountable, difficulties.

32.   Various schemes of victim compensation were described, and it seemed
that, in countries with very different political and social systems, the means
by which the victim obtained compensation ultimately depended on his or her
initiative, though the role of collectives in some countries was regarded as
an aid.   The need for some kind of more normal, even quasi-automatic, victim
compensation scheme to be built into the criminal justice system was therefore
proposed as an important item for specific discussion at the Congress under
topic II and as an appropriate link between topics II and III.   The inclusion
of such a component in the criminal justice system would give the State rights
and obligations parallel to those of the victim and the offender.   Finally, it
was suggested that the main priority - not to become a victim - should not be
overlooked and the services of the police in providing crime prevention
support should be duly emphasized.

33.   The discussion then moved from victims' rights to those of the offender,
or suspect.   Again, the general subject was covered under another topic
(topic V), but an analysis of the criminal justice system would not be
complete without some mention of the question.   One expert pointed out that
the rights of the defendant were already so well protected that the role of
police and prosecution was becoming increasingly difficult, and another expert
suggested that there was indeed an inherent conflict, on several levels,
between the rights of the offender and those of the victims.   To some extent,
as the rights of one were upheld, those of the other were reduced or
constrained.   But it did not have to be that way.

34.   Research had demonstrated that, in times of economic recession,
prisoners' rights were increasingly restricted, and incarceration rates
themselves increased, even if there was no change in recorded crime rates.
The problem of work for prisoners in times of general economic deprivation was
a serious one and still unresolved in many countries.   That was deemed to be a
good example of the central theme of topic II, namely, the impact of social,
or in that particular case economic, change on the special practical aspect of
the administration of criminal justice systems.

35.   The independence of the judiciary was discussed briefly, and the
representative of the Committee pointed out that relevant draft guidelines had
been prepared for consideration under topic V (A/CONF.87/8).

36.   Two particular aspects of the subject were relevant to topic II.   First,
the independence of the judiciary should be regarded as axiomatic, but should
not be interpreted as "isolation from reality".   Therefore, judicial studies,

and especially the provision of information on the effects of the exercise of function of the judiciary in terms of both delays in the trial process and of sentencing, had a growing importance. Secondly, judges of all levels had to realize that by their decisions, and by the use of their own administrative substructure, as well as the impact on the later stages of the system, they were consumers of scarce resources.

37. One expert observed that, in his country at least, the judges seemed often to take positive steps to avoid the inflow of information to them, especially in respect of the prison system. This was an example of the lack of concern for the objectives of other subsystems.

38. The discussion on goals and objectives of the criminal justice system begun with the observation that work on the problem should proceed simultaneously in two directions: deductively from basic principles, to delineate the ideal, and inductively from empirical data on the functioning of the criminal justice system to describe the real. That would allow some assessment of the gap between the ideal and the real.

39. The degree to which criminal justice could be a true "system" was one of the main questions of the last decade. The appearance of a system derived largely from the fact that an individual progressed through its different stages, first as a suspect and later as a convicted offender. There was, however, a need to perceive the process as a system from an administrative and organizational standpoint, too, because it was clear that the various agencies interacted with each other and constantly influenced each others' activities. In particular, the fact that the inflow and outflow of each subsystem or agency was often under the control of another subsystem or agency imposed greater constraints on the intended operation of the process as a whole than did the lack of material resources.

B. Characteristics of the requirements for improved co-ordination within the criminal justice system

40. Discussion of the characteristics of and requirements for improved co-ordination within the criminal justice administration elicited some fundamental questions regarding the functioning of the criminal justice system.

41. The various components or subsystems of the criminal justice system might have some different or even contradictory goals, indicating a low level of co-ordination among the component agencies, since each seemed to practice its own policy, paying little or no attention to the impact such policies could have on the other components or on the objectives of the overall system.

42. The lack of integration was, however, the direct outcome of certain basic constitutional principles, such as the independence of the judiciary, or the principle of the separation of powers. Those were non-arguable principles; the problem was how nevertheless to provide for adequate integration or co-ordination.

43. An excessive insulation of the judiciary could have very unfortunate consequences in that it prevented magistrates from gaining an awareness of the flow of the process and the functioning of the overall system. Indeed, judges had to be aware of the social and human consequences of their decisions.

44. While it was generally agreed that the judiciary had to be independent of other organs of government, it was also thought essential that they should be integrated into the flow of information. Such an information flow was an essential factor linking the different agencies of the system.

45. The changing role of the judiciary, which was seen to be declining in some countries but was being increasingly affected by the pressure of work in others, was discussed. It was seen to lead to two changes in the administration of justice which required careful review. The first was the general management question of who was running the system, and the second was the growth of alternative procedures, such as "moral cautioning". Rubber-stamping of various kinds could ultimately be dangerous to the judiciary, and especially to its symbolic role of representing the reaction of the State and the public to criminality. The independence of the judiciary should not only be guaranteed: it, as well as the actions of the judiciary, should have a high visibility. The experts agreed that the role of the judiciary should be given extensive consideration at the Congress under topic II.

46. Co-ordination of the system appeared necessary and desirable, its nature was far from clear. The imposition of an exclusively systemic approach, moreover, seemed to involve certain dangers if it implied the total integration of all agencies, and was consequently a source of concern. Some degree of conflict among different agencies, such as police, prosecution and the courts, was perhaps a good and healthy situation, in that it prevented the development of a potentially dangerous and destructive rigidity or the supremacy of one arm of government over another, and could even protect from danger persons who were being processed by the criminal justice system.

47. Co-ordination of the system should be based upon the diffusion of information concerning the different goals of the subsystem. Indeed, no one centre should be capable of dictating goals to the other components of the system, although, ideally, basic policy goals should be agreed upon by all and all the agencies should develop a common language of communication.

48. In the opinion of several experts, the criminal justice system appeared outmoded. Perhaps some functions should be taken away from it. As a matter of fact, increasing case-loads had forced some criminal justice systems to rely more and more on quasi-judicial structures. That development was a source of concern, since it could herald the obsolescence of the judiciary. In some cases, the functions of the judge were being actually pre-empted by the prosecution, the system thus becoming largely administrative, and perhaps more efficient, but also less accountable. In others, judges were playing an increasing role in the supervision of the investigation and prosecution by ensuring that no violation of the human rights of the accused were committed during that process, and their role was seen to be still central.

49. There appeared to be a return to earlier conceptions of the main goals of the system, a trend that was partly a result of research, which had questioned the efficacy of the treatment model. There had hence been a revival of the retributive (or "justice") model. A certain degree of scepticism on the part of administrators and policy-makers vis-à-vis such theoretical fashions was a healthy attitude, in that it avoided wide policy swings that later came to be regretted. Research, however, had tended to evaluate the implementation of

certain measures rather than the underlying policies themselves. That might be one explanation for the general acquiescence in the idea that "nothing works", and in the desirability of a cost-benefit rationale as the basis of policy. Certain indicators of performance for the criminal justice system, such as "the branching ratio" at each decision point, would be of great benefit in future policy development. For example, the acquittal rate might be considered one indicator of the independence of the judiciary, as much as of the inefficiency of the prosecution.

50. Perhaps the failure of the treatment model was basically a failure of the methods used to evaluate it. Common indicators, a common base of measurement and a common language were needed. Success, moreover, was not necessarily to be expected, since it clearly depended upon the conditions under which a given policy was applied and upon certain characteristics of the in-take population to which it applied.

51. The analysis of one particular system indicated that high detection rates not only served as a deterrent but also enabled prosecutors and judges to exercise considerable discretion. Prosecutors could afford not to prosecute minor and unclear cases, thus increasing the conviction rate, while judges could afford to be more lenient in a highly selective and efficient manner. Under such circumstances, the treatment approach retained its usefulness, because those sent to prison were convinced that it was due not to chance or bad luck, but to the essential wrongness of their actions, as demonstrated by a series of adverse adjudications and decisions. Furthermore, the treatment and rehabilitation models did not necessarily conflict with the retributive models. There was actually a need for a certain balance between the two sets of goals.

52. Discretion, however, was perceived by other experts to be a mixed blessing, particularly in certain societies made fragile by specific social characteristics. In those cases, mandatory prosecution could be a means of avoiding suspicions of partiality, prejudice or favouritism, which could lead to a loss of confidence in the criminal justice system.

53. The achievement of the overall goals of the criminal justice system could be ensured by certain social conditions, which elicited the support of the public for the criminal justice system. The efficiency of the system was substantially enhanced where such support existed, and non-existent where it was absent. In any case, the system was not to be limited to reprisal measures. In many countries, judges had a function beyond that of adjudicating and meting out punishment. They also had a role to play in forming public opinion and enhancing people's consciousness regarding law-abiding behaviour. It was thought essential for judges to appear before the public in order to explain their functions and actions, thus creating a sensitivity to the tasks and demands of the criminal justice system.

C. Recent changes in law enforcement

54. The discussion then focused on law enforcement, and particularly on desirable future changes with respect to the objectives and roles of the various criminal justice sectors or agencies. In accordance with the guidelines laid down by the Committee, and considering that the police composed by far the greatest portion of the criminal justice system, most attention was given to the functioning and performance of the police.

55. The roles and priorities of the police in various countries and in different contexts were described. Although the details differed greatly, there was one common theme. In many developed and developing countries, the police had become alienated from the people they served, and much stronger and more positive links with the local community were the greatest need of the moment.

56. In many developing countries, the problem had arisen primarily because of the colonial background of the agency concerned. Although independence might have been achieved some time ago, the police had continued in the role of maintainers of the status quo, representing the repressive aspect of government rather than the interests of the people. Thus, they were still physically separated, for instance by their location in camps or barracks. That, in turn, led to a psychological separation.

57. In developed countries, especially in Western Europe and North America, the isolation had occurred largely as a result of the increased use of technology in communications and transportation, including the use of computers, and the emphasis placed on the crime-fighting role. That is, police officers had seen themselves as remote technical specialists reacting to criminal events. In that perspective, measures of performance such as clearance rates were most emphasized. Within the last few years, however, there had grown up a much greater commitment to crime prevention through involvement with and mobilization of the local community, along with a willingness on the part of the police to recognize their own powers of discretion. That development had been most noticeable, and had had a longer history, in Asian countries, particularly Japan. The increasing role of the police as the core of locally organized crime prevention activity, involving the public, was also emphasized as a major development in policing. Both central and local management were required. The evaluation of the effectiveness of such strategies was a high priority for research in all countries.

58. In developing countries, an improvement in the conditions of service was seen as a necessary prerequisite for enhancing the status of the police. Indeed, the social status and conditions of service of the police as a professional group were seen as matters of priority in many countries, as the degree of co-operation that the police could expect from the public was largely dependent upon how their job, and thus their role, was evaluated. One expert from a developed country, however, warned that the elevation of the police to a privileged position, at least as regards pay, might not produce a parallel improvement in the level of service rendered to the public.

59. At a more general level, the development of a coherent policy of policing was advocated. Such a policy would have to derive in part from the general objectives of the criminal justice system as perceived in any given society, but could also be built up empirically by analysing attitudes and priorities held by both the public and the police themselves. Although "policing the police", whether through the courts or through social organizations, might initially be unpopular with them, it would permit the long-term upgrading of the service, and was in the interests of the "professionalization" so desired by the police themselves.

60. The most practical expression of such a philosophy would be in the training methods and curricula adopted for police recruits and during their careers. The experts were unanimous that the levels of educational and technical sophistication and expertise among the police had to be adequate to counter the various, increasingly sophisticated, contemporary forms of criminality. That, in turn, raised the problem of how to co-ordinate a police force which not only had a general commitment to a community perspective but also required a sufficient level of technical expertise in fields as diverse as high technology and international banking.

61. Relations with the public should be kept permanently under review. It was agreed in general that the behaviour of police officers was of critical importance in enhancing the status of the police in the public eye. No alternative methods of promoting good relations with the public could compensate for corruption, aggression or injustice if practised by individual officers. Arrogant attitudes could immeasurably damage the image and the effectiveness of the police.

62. Measures of performance had been under consideration in different countries, but many of those proposed had not always been successful: provided that their limitations were recognized, a range of such measures was a useful monitoring instrument for the police to use themselves. The more precise tracking of local patterns of criminality was suggested as one measure, at least, that could be asked of police forces from the data available to them.

63. One problem that had been encountered in some countries was the diversion of the police from their primary duties, not in response to demands for quasi-social services from the community but to demands for quasi-political activity on behalf of one interest group in relation to others, for matters of protocol, and for other activities that were not of general public concern. It was argued that the Congress should consider the question of ensuring the independence of the police from direct political involvement as part of the question of establishing the professional standing of the service.

64. The experts then looked briefly at the roles and objectives of the other criminal justice agencies. A strong plea was made for the development of positive attitudes on the part of the legal profession, including the judiciary in some countries. Inflexible attitudes were regarded as a major obstacle to change as a whole, and members of the legal profession had to view themselves as part of the overall criminal justice system.

65. The main point in respect of the prosecution services was that their significance in the criminal justice process, especially vis-à-vis the courts, had increased in many countries, to the extent that prosecutors were even making sentencing decisions. The central feature of such a of system was that, in addition to exercising procuratorial functions, the office in question was responsible for overseeing the initial investigation and the legality of other State bodies. It also acted as co-ordinating office for the different law-enforcement agencies. The relevant experiences of one socialist country were described.

66. The courts seemed to be constrained primarily by the pressure of their case-loads, a situation that gave rise to a "substitution procedure", whereby a blockage or bottle-neck in the system was circumvented by informal, often

quasi-unofficial means. Plea bargaining, or negotiation, was the most obvious instance. In more general terms, pressure on the system created irregular practices.

67.   The question of challenges to the correctional system might be better expressed as challenges to Governments and authorities about how to structure the correctional system, and how to react to its most pressing problems, as well as how to devise more precise long-term strategies.

68.   Among the questions suggested for possible inclusion in the discussion on the changing priorities of corrections was the recruitment and training of staff.   That might reflect a change in emphasis on ."treatment", moving from a psychotherapeutic view of the process to a vocational and "opportunity enhancement" perspective.   Following the latter approach, the training and education of prisoners would be undertaken mostly by skilled craftsmen rather than by psychiatric social workers.   The provision of work experience and the re-education of prisoners were two aspects of the treatment that could not be separated.

69.   It was agreed that all the interlocking problems raised most powerfully the question of who was running the criminal justice system, who was responsible for the receipt, analysis, and dissemination of system-wide data, originating both within and outside the criminal justice system and who would co-ordinate the response of the system in a manner calculated to maintain its effectiveness.

D.   Law reform and changes in the administration of criminal justice

70.   Some experts expressed reservations concerning the wisdom of lumping together decriminalization, diversion and depenalization.   The concept of decriminalization was regarded as being subject to various interpretations. The United Nations, while not in a position to determine the policies of Member States, had, however, a clear role to play in providing a forum for Member States on those issues, which were of concern to all countries.

71.   Decriminalization could be the result of a specific legislative action or could be the outcome of decisions on the part of the decision-makers within the system, especially judges.   In the latter case, one could speak of a de facto decriminalization.   In the case of diversion, the discretionary power associated with it should be carefully examined, so as to avoid any suspicion of preferential distribution as a consequence of prejudice.   Although de facto decriminalization implied certain dangers, it also allowed for a certain humanization in the practice of criminal law.

72.   In some countries it appeared as though the decriminalization movement had ground to a halt.   The opposite tendency, that is to say, criminalization, seemed predominant.   This reversal was apparently a reaction to popular retributive demands.   The public was entitled not only to have an impact on decriminalization policies but also to be thoroughly informed of plans to decriminalize and of the social long-term impact resulting from such decisions.

73.   Decisions as to what acts were criminalized or decriminalized should not be the privilege of criminologists or legal theorists.   It was of fundamental importance to enlighten the public and to obtain public support for reform, so

as to avoid an increase in perceived insecurity or an indignant reaction in the case of decriminalization; or a refusal to co-operate and abide by the law in the case of criminalization. An evaluation of the conditions conducive to acceptable decriminalization was in any case imperative.

74. Moreover, a decision to decriminalize should not be taken in wilful ignorance of ethical values, purely for convenience or out of pragmatism, for example in order to reduce the case-load of the courts. Groundless decriminalization could have serious consequences, putting pressure on people, in some cases, to take the law into their own hands.

75. Developing countries were identified as the source of a new clientéle of criminal justice. Those countries were almost totally powerless to protect themselves from the unscrupulous practices of powerful trading partners, at whose mercy they were. The phenomena of criminality on the high seas, such as increasing acts of piracy, were often not contemplated in any existing legislation and had, moreover, gone largely unnoticed. Criminal justice policy should, as a matter of urgency, be directed to many countries that were dependent for their livelihood on unimpeded maritime trading; with the considerable increase that was taking place in maritime criminality, those countries constituted a vast new constituency, deserving of protection.

76. More studies were needed on new offences. For instance, little attention had been paid to actions that impeded socio-economic development and could constitute offences against the economy of a country, such as large-scale fraud. In other cases, some offences that were not new and were even typified by existing legislation, for example vandalism and hooliganism, had recently acquired a more menacing dimension.

77. In the case of some new forms of crime, such as computer crime and economic crimes committed across national boundaries, the police lacked the technical sophistication and capability to detect them, since police training had traditionally been oriented to the investigation of more conventional forms of criminality.

78. As the criminal justice system could only operate within a legal framework, and in response to violations to law, a continuous process of law reform was necessary to formalize the demands to which the system should respond. Law reform should be considered as much a part of the revision of the criminal justice system as a re-evaluation of the roles and goals of any of the operating agencies.

E. Public and community involvement

79. Three main concerns emerged in considering the relationship between the public and the criminal justice system; the need to inform and educate the public; the need to enlist its co-operation; and the desirability of the police's projecting a positive image.

80. In respect to information and education, the provision of information concerning legal matters, as well as constitutional rights and duties, was already part of the educational programmes of several countries. In that regard, the mass media, and particularly television, were identified as being of crucial importance. Justice should not only be done but should also be

seen to be done. Thus, information needed to be disseminated on the activities of the criminal justice system, as well as on the accessibility and openness of the system to the public, either directly or through the mass media.

81. Popular participation was crucial for the success of crime prevention and control. Research had shown that countries with a low crime rate invariably enjoyed high levels of community participation. Social justice and social welfare appeared to promote such participation.

82. Participation was, however, hampered by a lack of consideration for the comfort of potential participants, especially as witnesses. If co-operation or involvement became too costly, in terms of time, money, or anything else, the willingness of people to get involved would diminish. The best public relations policy for the police lay in their own behaviour. Arrogant and rude police officers were not likely to promote a willingness to co-operate with the criminal justice system. Public relations bureaux, information programmes and contact officers were useful devices, provided they were supported by the behaviour of police officers.

83. Legal provisions needed to be made available in the language of the people, especially in multilingual societies. Legal language was often not understandable and thus stood in the way of people's awareness of rights and duties and their effective participation in crime prevention and control.

F. Research and information

84. The role of research and the need for information were discussed at several conceptual levels. Above all, it was recognized that there was a need for an information flow, not only across the boundaries of the different agencies but between the various component agencies and stages of the system, or the system as a whole, and other spheres of governmental activity and concern. As discussed in the previous section, the public must be kept informed about the aims and the functioning of the criminal justice system. Vice versa, the system depended for its functioning on the receipt of information and assistance from the community. Forms of public participation could be devised. One of the examples cited was the local committee, calling on the experience of retired public servants. Other suggestions included the formation of youth clubs and volunteer patrolling. It was agreed that sound information on the criminal justice system was the best source of good public relations. There was evidence that the most punitive of public attitudes correlated with little or poor information about criminal justice. Therefore, research, including statistical data appropriately presented, had a role to play in public relations as well as in the internal management of the system. The publication policy of research and planning units or institutes was, therefore, of considerable importance.

85. In considering the problems associated with information flow within the system as a whole, the differences between developed and developing countries, especially the poorest, had to be kept in mind. In fact, in many countries the only data recorded were those accompanying a particular case, and they were rarely transmitted beyond the part of the system which required them for its immediate functioning. Technical assistance and co-operation were essential if countries were to progress beyond that stage, enabling them, for instance, to make some differentiation between types of offenders; the distinction was made between those who committed offences through need, and those through greed.

86. Even in developed countries with a high degree of technology, there was often little information flow within the system of criminal justice. The question of who should tell what to whom was almost as unanswered as the question raised earlier of who was running the system. Each agency, or part thereof, produced its own information for its own purposes without concern for the requirements of other agencies. In one country, the most beneficial effect of the establishment of a central office of criminal justice statistics had been the marked increase in dialogue that it had stimulated between the agencies.

87. The use of recently developed information technology, based upon ever more popular computers, was a central issue in the discussion. It was strongly emphasized that consideration of it should be included in discussions at the Congress, and that questions of both general policy and technical detail were involved.

88. At the policy level, the experts examined both the advantages and disadvantages of computerization. It was not easy to predict how quickly the "computer revolution", owing to steadily decreasing costs, would spread to developing countries, but some experts thought that it might be as soon as five years, rather than 15, as suggested by others. Therefore, preparation for the widespread use of computers was a matter of some urgency.

89. The advantages of a computer-based information system were well known and widely documented. Aggregates of information needed for any detailed planning and overall system management were feasible in a way never before possible; and their use in making the day-to-day running of the system more efficient, especially in respect of court flows, was mentioned again.

90. The main dangers of computerization should be spelled out in some detail at the policy level. The first of those was the all-pervading impact of computers in the construction of "surveillance" systems. Even more dangerous was unauthorized access to that system. Therefore, the incorporation of controls and safeguards, legal and technical, was crucial, and should be considered from the first installation of such a system. The second problem was that of rigidity: the information systems installed in the coming decade would determine the type of data collected, and what was done with that data, for the foreseeable future. Therefore, a thorough analysis was needed to determine what was desirable before the system was installed, and a certain degree of flexibility had to be maintained.

91. At the practical level, two main problems arose. The first was the creation of a new class of technical experts, who might have no intrinsic interest in criminal justice. That raised questions regarding the recruitment, training and promotion of staff; it was probably more desirable to have criminal justice professionals performing all but the most technical of tasks, rather than having computer specialists determining criminal justice policy simply by virtue of their computer expertise. Secondly, it was possible to create a misleading impression of control and adherence, and, as control might pass imperceptibly to a central agency, ultimately to relocate the decision stages of the criminal process in a quite unintended way.

92. At the technical level, the Meeting was advised that in one developed country that had installed computer-based systems widely, the problems of unit of count, that is to say, what should be recorded and in what form, had proved

formidable. The scientific and administrative problems of a common unit of count were illustrated by the experience of a socialist country, which had installed a common statistical system for the police and prosecution. It had been found difficult to extend the system to the courts. Secondly, while the technical problems of compatibility, making it possible for information to be transmitted across agencies, were real, the human problems of compatibility were probably greater.

G. Priority areas

93. The experts completed their task by giving detailed attention to the main issues that had to be particularly highlighted in the working paper to be submitted to the Congress.

94. In order to avoid any possibility of overlap between topics I and II, the following considerations were suggested. The whole concept of crime prevention belonged to both, and, because of its scope and size, different aspects of it could and should be accommodated under both topics. Areas in which the crime prevention function involved aspects of the criminal justice system, for instance police and community relations, would probably be more appropriately accommodated under topic II.

95. Two examples of developments in practical crime prevention strategies, were described in some detail. Both involved extensive collaboration between the departments of government on the one hand, and the local authorities and public on the other. The common feature of crime prevention planning at its current stage of development in any country involved the use of a central co-ordinating, advice-giving office, operating through local action committees and using volunteer resources of different kinds.

96. It was also suggested that the Congress be invited to consider the topic on the basis of the following general outline: after a general survey of the socio-economic background, the discussion could proceed from the concept of rationality with particular reference to decision-making, to a study of objectives and goals and, ultimately, of goal conflicts not only within, but also between, systems. Specific analysis of law-enforcement and policing problems would then derive from the study of law reform, which would be an appropriate part of the general theoretical framework. Finally, the role of research should be independently recognized, and the study of the new information technology should be incorporated. Particular attention should be paid to the quality, as distinct from the quantity, of information collected; the object should be to see that the new technology was harnessed to criminal justice objectives and did not take them over.

97. There was some discussion regarding the terminology to be used and it was thought that "co-ordination" would be a more appropriate term than "integration", as it would not imply any questioning of the fundamental independence of the various organs, most notably the judiciary. Although criminal justice could never be a wholly coherent system, it had enough of the characteristics of one to make some kind of systems approach inevitable. One advantage was that it would make clear the inherent and necessary conflict between the requirements of efficiency and those of independence and accountability, in addition to the exigency of protecting basic human rights. Co-ordination could be seen as both a methodological concept on which to base

the topic as a whole and a pragmatic organizational problem. It would also permit the inclusion of possible responses to both inter-agency and intra-agency goal conflicts, and the comparative evaluation of formal and informal processes of justice administration. The informal means might, indeed, prove to be one way of approaching the problem of conflicting goals.

98. The representative of the Committee on Crime Prevention and Control emphasized the need to bear in mind the main function of the criminal justice system, namely, the implementation of the criminal law. That would entail keeping criminal law constantly under review and bringing it into line with social and economic changes and new forms of criminality. He also re-emphasized the need for the Congress to consider in detail the involvement of the public in all stages of the criminal justice system, and to assess public expectations of what the system should do.

99. On the question of the obstacles to the desired co-ordination, the experts were in agreement that they could be classified into two main categories, other than inherent goal conflict, that is to say, resources or budget, and imbalances in the relative influences of the different sectors. The two were, of course, not unconnected. Since the constraint of resources was likely to last indefinitely, attention should be focused on the relative allocation of resources between the systems, which was one aspect of the problem of balance.

100. The development of research and statistics was agreed to need a separate section, not only because of the need to review thoroughly the use of the new technology, but also as a source of a wider social understanding, and as a source of information to give to the public. Scientific studies of both the patterns and incidence of crime and also the workings of the criminal justice system were essential to the development of a fully rational system. The new technology, both in police and prison work and in information systems, must be kept highly visible and accountable; on the other hand, contemporary forms of criminality could not be countered without it. The use of the new technology might make explicit previously hidden goal conflicts. Although it might create difficulties at first, it could ultimately assist co-ordination through an increase in dialogue.

101. With respect to changes in the role of the police, the meeting laid emphasis on the reconnection of the police with the public they serve, as well as on, the use of research in developing the police role, both technologically and conceptually. Finally, it was suggested by the representative of the Committee that the Congress should consider the general range of problems, as outlined above, in full session, as the policy implications must be widely publicized in the immediate future. But it would also be desirable to set up a smaller, more technical, specialized workshop to elaborate specific guidelines on the problems of implementation, and to study how best to help countries to prepare for that aspect of national development. The experts agreed that the immediate practical needs of the developing countries should not be overlooked. The foreseeable longer-term questions, which might not be under the control of the administrators of the criminal justice system but would ultimately require a response from the system, should also be dealt with without delay, so that the response could be timely and effective.

102. The experts also agreed that, even though resources were limited, and much competed for, there was an urgent need both to raise the level of national government commitment to a higher priority for criminal justice, and to secure a considerable increase in substantive technical assistance through the United Nations, for instance through the establishment of an African Institute. Governments in developing countries should establish agencies of law reform and put them to full use, and the United Nations should prcvide assistance in that respect.

II. CONCLUSIONS AND RECOMMENDATIONS

103. At the end of its work, the experts reached a consensus on the conclusions and recommendations set out below.

(1) Any model, to serve the purpose of preventing crime and to serve the ends of justice, has to be intersectorally co-ordinated, so as to facilitate the maximum flow of information among the agencies of criminal justice, including the police, the prosecution, the courts and the correctional administration, and particularly so as to avoid congestion in the flow of the process at the various possible bottle-necks and the resulting pressure on the various agencies.

(2) Awareness of the fact that while the various agencies serve a common purpose, they also have their own subsystem goals and, to some extent, competing interests. This should be recognized as desirable, especially in so far as the independence of judiciary is concerned. The circulation and evaluation of goals and objectives, and their continuing re-evaluation is essential for the criminal justice system.

(3) This means that complete integration of a criminal justice system is not desirable; co-ordination, however, is not only desirable, but essential. This can be achieved by a variety of means, including the establishment of standing co-ordination bodies, joint planning exercises, free flow of information and mutual feedback of impact and linkages between such bodies at the local and national levels.

(4) Inasmuch as the criminal justice system is one of society's mechanisms for ensuring the well-being of society, and inasmuch as socio-economic development in society has a potential impact on the crime rate, it is important that representatives of the criminal justice system participate in national and local government policy decisions. Thus, the same intensity of co-ordination needed at the sectoral level is also required at the intersectoral level as is found in the highest level of other sectors, such as health, education, labour and social affairs.

(5) As experience in crime control has demonstrated, every system of criminal justice has to be responsive to communal needs and must, therefore, allow for the widest possible popular participation at all levels, and the widest possible information flow to the community.

(6) While the prevention, reduction and control of crime, in its ever-changing forms, is the principal goal of any criminal justice system, the upholding of the principles of human rights, whether contained in national or international instruments aiming at the preservation of human dignity, is a fundamental principle of every criminal justice system.

(7) While criminal justice systems cannot by themselves eradicate social ills, they can contribute to securing social justice and harmony. Also it must be recognized that no system of criminal justice can function effectively if it is forced to operate under conditions of injustice, or is even compelled to preserve injustice and shelter social, cultural, or economic or political repression.

(8)   Governments should make every effort to focus attention on the role of criminal justice systems in the preservation of domestic tranquillity by according the requisite priority, in budgeting, planning and training, to the needs of criminal justice; the same priority must be accorded to these issues at the international level, in particular within the United Nations, in order to assist Member States at their own request in their efforts to prevent crime and guarantee domestic tranquillity.

(9)   Scientific research and development must, inevitably, introduce change into both the environment and the operations of the criminal justice system, taking into account advances both in the social sciences and technological progress. The appropriate utilization of all such research and development should therefore be a matter of high priority in all criminal justice administrations. New technologies, especially information technology, should be approached with caution, and incorporated slowly, to avoid building into the system features which may create more serious problems than they solve.

(10)   While no one model of a criminal justice system may be suitable for all nations, with their variegated cultural, social, economic and political approaches, these recommendations constitute a minimum to which all criminal justice systems should adhere in order to serve their purposes adequately.

Annex I

LIST OF PARTICIPANTS

Participating experts

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International Police Association

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Annex II

LIST OF DOCUMENTS

A. United Nations documents

A/CONF.121/PM.1
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

A/CONF.121/RPM/1 and Corr.1
Report of the European Regional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

A/CONF.121/RPM/2 and Corr.1
Report of the Asia and Pacific Regional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

A/CONF.121/RPM/3
Report of the Latin American Regional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

A/CONF.121/RPM/4
Report of the African Regional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

A/CONF.121/RPM/5
Report of the Western Asia Regional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders

B. Background documents

United Nations information material

Crime Prevention and Criminal Justice
Newsletter, No. 8, September 1983

Papers submitted by participating experts

Alex Himelfarb, "Criminal justice information: notes, credibility, reliability and validity technology fetishism: means and ends"

Masaharu Hino, "The integrated approach to criminal justice administration and cooperation with the public"

Konstantin Igoshev, "Scientific foundations of crime prevention"

Habib-Ur-Rahman Khan, "Priorities and problems in developing police strategies in changing socio-economic conditions"

Ricardo Levene, "The relationship between penal justice and penal procedures"

Faja E. M'Bai, "The main constraints, both inside and outside the system, on reform of the criminal justice system, especially in developing countries"

Francisco L. Morales Angeles, "The practical problems of assembling criminal justice data in developing countries and ways of overcoming them"

Gerhard O. W. Mueller, "Criminal justice processes and perspectives in a changing world"

Mary Tuck, "Innovation and change in the management of criminal justice: the role of research and planning"

Alexander Yakovlev, "Criminal justice as an alternative in dispute settlement"

Papers submitted by non-governmental organizations

Contribution of the International Association of Penal Law, the International Society for Criminology, the International Society of Social Defence and the International Penal and Penitentiary Foundation to the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders:

"Criminal justice processes and perspectives in a changing world - topic II on the provisional agenda of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders" - papers submitted to the Milan International Congress, 14-17 June 1983, organized by the Ministry of Justice of Italy and the Centro Nazionale di Prevenzione e Difesa Sociale