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on the Prevention of Crime  
and the Treatment of Offenders**

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REPORT OF THE INTERREGIONAL PREPARATORY MEETING  
FOR THE SEVENTH UNITED NATIONS CONGRESS ON THE  
PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS  
ON TOPIC III: "VICTIMS OF CRIME"

Addendum

Revised draft resolution introducing the draft Declaration on  
Justice and Assistance for Victims of Crimes or  
Other Acts Involving the Abuse of Power

1. In accordance with the mandate given to the Secretariat at the Interregional Preparatory Meeting on topic III (see A/CONF.121/IPM/4, para. 77), the following revised text of the draft resolution introducing the draft Declaration on Justice and Assistance for Victims of Crimes or Other Acts involving the Abuse of Power is submitted for the consideration of the Congress.

The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recognizing the need for more effective measures at the international, regional and national levels on behalf of victims of crimes or other acts involving the abuse of power,

Resolved to promote progress by all States in their efforts to respect and to secure for the victims of crimes or other acts involving the abuse of power the rights due to them,

Recommends that the General Assembly adopt the following draft resolution and draft Declaration on Justice and Assistance for Victims of Crimes or other Illegal Acts Involving the Abuse of Power:

"The General Assembly,

"Mindful of the pledge made by Member States under the Charter of the United Nations to take joint and separate action in co-operation with the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms for all,

"Reaffirming the importance of the principles embodied in the basic instruments of the United Nations concerning human rights, in particular the Universal Declaration of Human Rights, 1/ the International Covenant on Economic, Social and Cultural Rights 2/ and the International Covenant on Civil and Political Rights, 2/

"Noting that the Declaration of the United Nations Conference on the Human Environment 3/ proclaims that the environment, both natural and man-made, is essential to the well-being of all people and to their enjoyment of basic human rights - notably the right to life itself,

"Recalling also that, under article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 4/ each State party to that instrument undertakes to ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full a rehabilitation as possible,

"Recalling further that the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in its resolution 7, 5/ recommended that the United Nations should continue its present work on the development of guidelines and standards regarding the abuse of economic and political power,

"Keeping in mind General Assembly resolution 33/173 of 20 December 1978, in which the Assembly called for official accountability and legal responsibility for enforced or involuntary disappearances, and General Assembly resolutions 38/94 of 16 December 1983 and 39/111 of 14 December 1984, in the preamble to which it was stated that the families concerned should know the fate of their relatives,

"Cognizant that millions of people throughout the world suffer harm as a result of crimes and other acts involving the abuse of power and that the rights of these victims have not been adequately recognized,

"Recognizing that the victims of crimes or other acts involving the abuse of power, and also frequently their families, witnesses and others who aid them, are unjustly subjected to loss, damage or injury and that they may, in addition, suffer hardship when assisting in the prosecution of offenders,

"1. Affirms the necessity of adopting national and international measures in order to secure the universal and effective recognition of and respect for the rights of victims of crime;

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"1/ General Assembly resolution 217 A (III).

"2/ General Assembly resolution 2200 A (XXI).

"3/ Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972 (United Nations publication, Sales No. E.73.II.A.14), chap. I.

"4/ General Assembly resolution 39/46, annex.

"5/ See Report of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders: Report Prepared by the Secretariat (United Nations publication, Sales No. E.81.IV.4), chap. I, sect. B.

"2. Stresses the need to promote progress by all States in their efforts to that end, without prejudice to the rights of suspects or offenders;

"3. Adopts the Declaration annexed the present resolution, which is designed to assist Government and the international community in their efforts to secure justice and assistance for victims of crimes and other acts involving the abuse of power;

"4. Call upon Member States to take the necessary steps to give effect to the provisions contained in the Declaration;

"5. Requests the Secretary-General to monitor its implementation by reporting regularly to the General Assembly and the Economic and Social Council, through the Committee on Crime Prevention and Control, on measures being taken by Member States, and by establishing an inter-agency task-force including all relevant agencies and bodies of the United Nations system to review progress and make recommendations for improving the ways and means of protecting victims;

"6. Also requests the Secretary-General to promote the objectives of the Declaration, particularly by ensuring its widest possible dissemination;

"7. Urges, the specialized agencies, other entities and bodies of the United Nations system, relevant inter-governmental and non-governmental organizations and the public to co-operate in the implementation of the provisions of the Declaration.

#### "Annex

#### "Draft Declaration on Justice and Assistance for Victims of Crime or Other Acts involving the Abuse of Power

#### "Article I

##### "Purpose and scope

"1. The purposes of the present Declaration are: to recognize the rights of victims; to establish ways and means of ensuring their protection and humane treatment; to provide adequate redress; and to prevent victimization, as far as possible.

"2. The rights of victims and the means of implementation set forth in this Declaration shall be applicable to all without distinction of any kind such as race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, cultural beliefs or practices, birth, family, or other status.

#### "Article II

##### "Definitions

"1. A "victim" is a person who has suffered harm, including physical or mental injury, emotional suffering, material loss or damage, or significant impairment of his or her rights, as a result of an act or omission which:

"(a) Is a crime under national law;

"(b) Is a crime under international law;

"(c) Is a serious violation of internationally recognized standards for corporate conduct or internationally recognized human rights standards protecting life, liberty and personal security; or

"(d) Otherwise amounts to an abuse of public, economic or social power causing significant harm and inflicted by persons acting in an official or quasi-official capacity, particularly as public officials, as agents or employees of the State or as agents or employees of corporate entities.

"2. For the purpose of the present Declaration, the term "victim" includes:

"(a) Any person who is thus harmed, whether as an individual or as a member of a group or collectivity;

"(b) Legal entities, organizations, associations, communities or society, as appropriate;

"(c) Those who suffer harm in the course of intervening to prevent victimization or to assist victims in distress;

"(d) Family members, where appropriate, for example in cases in which a person has died or is physically or mentally incapacitated as a result of being victimized.

### "Article III

#### "General principles

"1. Victims should have the right to assistance in their recovery from the harm inflicted on them.

"2. Victims should have the right of unimpeded access to justice and to fair treatment before the law.

"3. Victims should have the right to protection and other measures designed to prevent their further victimization.

"4. Victims should have the right to receive restitution from the offender or responsible third parties, whenever appropriate.

"5. Victims who have sustained significant bodily injury or impairment of physical or mental health should have the right to receive compensation from the State.

"6. Victims should have access to basic social services and to judicial or administrative remedies in the State where they were victimized, regardless of their residential status.

"7. Victims should be accorded the recognition, assistance and support of States and the international community.

### "Article IV

#### "Access to justice and fair treatment of victims

"1. Judicial and administrative mechanisms should be established, strengthened or maintained, to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible.

"2. As far as possible, legislation and procedures relevant to victims should be simplified and made comprehensible to the general public.

"3. Mechanisms for the informal resolution of disputes, including mediation, arbitration, and customary justice or indigenous practices, should be used where appropriate to facilitate conciliation and redress for victims.

"4. Victims should be informed of their options in seeking redress and assistance, including the possibility of dealing with the matter through criminal, civil or alternative mechanisms.

"5. Victims should be permitted to institute and pursue criminal and civil proceedings or to appeal to a judicial or quasi-judicial authority, as appropriate.

"6. Where necessary, free legal assistance and advice should be available to victims in criminal, civil, and administrative proceedings.

"7. The participation of victims in formal and informal proceedings should be facilitated, for example by:

"(a) Avoiding unnecessary inconvenience in the scheduling of hearings;

"(b) Informing victims in a language they understand of their role in and the purpose and timing of the proceedings;

"(c) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims;

"(d) Providing fair compensation to victims for reasonable expenses incurred as a result of being required to appear at hearings;

"(e) Affording victims the opportunity to be present and heard at appropriate stages where their interests are affected.

"8. The privacy of victims should be protected when necessary (for example when the type of offence, the status, situation or personal safety of the victim warrant such protection) by adopting special court rules and procedures and by restricting the publication of names, addresses and personal information.

"9. Victims, their families and witnesses on their behalf should be protected from intimidation or retaliation resulting from their having reported the victimization or from having co-operated with law enforcement and prosecution efforts.

"10. None of the above-mentioned rights should be so construed as to prejudice the rights of accused persons.

"11. In order to reduce to a minimum human rights violations and other abuses of power against persons under any form of detention or imprisonment, and to facilitate the use of remedies such as habeas corpus and amparo, families of persons under any form of detention or imprisonment should have the right, at all times, to be informed of the whereabouts of such persons.

"Article V

"Restitution by offenders

"1. Restitution by offenders should be facilitated in criminal proceedings, due consideration being paid to the means and circumstances of the offenders and the interests of justice, and without prejudice to the right of victims to use informal, administrative or civil procedures in seeking redress.

"2. Victims or their dependants, where appropriate, should have the right to obtain restitution from offenders for at least the following kinds of harm:

"(a) Loss of life;

"(b) Impairment of health;

"(c) Physical and mental pain and suffering;

"(d) Loss of liberty;

"(e) Loss of income, earning capacity and support;

"(f) Loss of or damage to property or deprivation of the use of movable and immovable property and other valuable assets, including intellectual property and artistic works;

"(g) Special damages, including the expenses reasonably incurred by the victim as a result of the victimization, such as the costs of medical and psychological treatment, and legal, transportation, and funeral expenses;

"(h) Intangible damage, such as loss of reputation.

"3. Victims should be entitled to restitution of property or proceeds deriving from the offence, or to adequate financial payment therefor by the offenders.

"4. Indigenous practices and traditions using restitution as a central principle in providing redress for victims should be encouraged and supported where appropriate.

"5. (a) In cases where the acts or omissions referred to in article II, paragraph 1, above were perpetrated by State employees or agents acting in an official or quasi-official capacity, victims shall be entitled to fair restitution from the State in question or from the perpetrator;

"(b) In cases where it is reasonable to assume that the acts or omissions referred to in article II, paragraph 1, above were committed by State employees or agents, even though there may be insufficient evidence to identify any particular employee or agent, the burden shall be on the State to prove that the acts or omissions were not perpetrated by such employees or agents acting in an official or quasi-official capacity.

"6. In cases referred to under article V, paragraph 5, above, the victims' right to receive restitution from the State shall in no way be diminished by the fact that the Government under whose authority the victimizing acts or omissions occurred is no longer in existence.

"7. Restitution from the State should be granted to victims of judicial error and, in appropriate cases, to persons who, after awaiting trial in detention for protracted periods of time, are found not guilty.

"8. Where substantial damage to the environment has been caused, those responsible shall be liable to make restitution, including, but not necessarily limited to, rehabilitation of the environment, reconstruction of the infrastructure, replacement of communal properties, facilities and amenities and damages for personal property. In addition, whenever such conduct results in the dislocation of a given community, or any part thereof, restitution shall include payment of damages to victims and their repatriation or relocation, as appropriate.

#### "Article VI

##### "Compensation from the State

"1. When general social security or insurance programmes do not provide full relief for victims, and/or when victims are unable to receive fair restitution because of offenders' lack of means or for any other reason, the State should establish compensation programmes to provide prompt and adequate financial assistance to victims of serious crimes.

"2. Compensation from the State should include, as appropriate, financial awards for physical and mental injury, loss of income or maintenance, medical and other expenses resulting from the injury, and, in the case of death of the victim, funeral expenses.

"3. International funds providing compensation to victims, such as the United Nations Voluntary Fund for Victims of Torture, should be strengthened and expanded.

"4. The benefits and rights accorded to victims may be adjusted or withheld as deemed reasonable if the victims themselves criminally contributed to the harm inflicted.

#### "Article VII

##### "Services to victims

"1. Victims should be provided with the necessary material, psychological and social assistance and support, including medical and psychiatric help, and financial aid.

"2. In providing services to victims, attention should be given to victims who have special needs because of the nature of the harm inflicted or because of such factors as age, sex, physical or mental disability, race, religion or birth status.

"3. Police, medical and hospital personnel, prosecutors and members of the judiciary, community workers and others who provide services to or deal directly with victims should receive appropriate training to increase their sensitivity to the needs of victims and foster ways of meeting them.

"4. Victims should be promptly and fully informed of the availability of social services, and how to obtain assistance.

"5. The provision of community-based and voluntary services for victims should be encouraged and supported.

"Article VIII

"Measures by States to prevent victimization

"1. Measures should be taken by States to protect public safety and prevent victimization, including:

"(a) The adoption of social, political, and economic policies to promote justice and reduce victimization, and the development and dissemination of relevant statistics and other scientific information in support of such endeavours;

"(b) The provision to the public by police and community agencies of information on the risk of crime in different areas and situations and on effective crime prevention measures;

"(c) A periodic and comprehensive review of legislation in order to reduce victimization, simplify laws and procedures and make them responsive to changing circumstances;

"(d) Criminalization, where appropriate, of acts and omissions that violate internationally recognized human rights standards protecting life, liberty and personal security, or that otherwise amount to an abuse of power, and development of effective means of enforcement of such proscriptions;

"(e) Ratification of international human rights treaties and their incorporation or application, together with other relevant international standards, in national law and practices;

"(f) Inclusion in the general educational curriculum for all schools, universities and other educational institutions of teaching on human rights and on the nature of abuses of public and economic power;

"(g) Instruction of all law enforcement and military personnel in the observance of human rights and fundamental freedoms as articulated in national and international instruments and standards;

"(h) Promotion of codes of ethics and inculcation of ethical standards for elected and appointed public officials and the personnel of economic enterprises, as well as adherence to principles of accountability based on internationally recognized standards;

"(i) Establishment of effective restraints on the exercise of economic power, including disclosure requirements, organization of specialized multi-disciplinary teams to aid in the detection, investigation and prosecution of violations, and the harmonization of laws to prevent the exploitation of gaps and differences in national legislations;

"(j) Provision of safeguards to prevent offenders from passing the costs of sanctions on to the State, consumers and the general public;

"(k) Prohibition of secret places of detention and incommunicado detention;

"(l) Facilitation of the inspection of all places of imprisonment and detention by independent and impartial persons or organizations.



"Article IX

"International co-operation

"1. Acts or omissions which are crimes under international law, such as crimes against peace, war crimes, crimes against humanity, genocide, apartheid, slave trade, attacks on or hijacking of aircraft, taking of hostages, and torture, and other gross violations of human rights infringing upon the right to life, liberty and security of persons should be subject to investigation. Persons against whom there is evidence that they have committed such crimes should be subject to prosecution wherever they might be found, unless they are extradited to another State which has the authority to exercise jurisdiction in respect of such crimes. The defence of "obedience to superior orders" shall not be admissible for persons accused of such crimes. The fact that a person acted as Head of State or as a responsible government official does not relieve that person from responsibility for committing such an act.

"2. States should collaborate in the detection and pursuit of persons suspected of having committed acts described in article IX, paragraph 1, above, and should take steps to promote mutual judicial and administrative assistance, including extradition for the purpose of trial, and seizure of assets to be put at the disposal of the State or international bodies in providing redress to victims.

"Article X

"Implementation at the international level

"1. Appropriate steps towards implementation of this Declaration should be taken at the regional and global levels, including:

"(a) Greater use by Governments and intergovernmental organizations of the information, activities and capacities of non-governmental organizations in preventing victimization and assisting victims;

"(b) Increased supervision of the exercise of public and economic power, including situations involving conduct constituting a crime under international law or a violation of internationally recognized human rights standards, inter alia, through the expanded use of:

"(i) Fact-finding by impartial international bodies empowered to report publicly on their findings;

"(ii) Direct intercession by impartial international bodies with the authorities of States where criminal conduct or other acts involving the abuse of power are believed to be occurring;

"(iii) Systems for examining individual complaints based on allegations of acts or omissions, as described in article II above,

"(iv) Development of means, both at the international and regional levels, of adjudicating charges that the conduct in question has occurred;

"(v) Investigation of the fate of missing or "disappeared" persons, in order to render an account to their families;

"(c) Conclusion of new bilateral and multilateral treaties and other international instruments, as well as other means intended to prevent and reduce victimization and to provide redress and assistance to victims."

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](mailto:CJSmithphd@comcast.net) or Emil Wandzilak at [emil.wandzilak@unodc.org](mailto:emil.wandzilak@unodc.org).