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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 III: "VICTIMS OF CRIME"

Ottawa, 9-13 July 1984

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## INTRODUCTION

1. The Interregional Preparatory Meetings of Experts on Topic 3 of the agenda of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, entitled "Victims of Crime", was held at Ottawa, Canada, from 9 to 13 July 1984. The meeting was attended by seventeen experts from different regions of the world, the Chairman of the Committee on Crime Prevention and Control, observers from interested Member States, and representatives of non-governmental organizations in consultative status with the Economic and Social Council.

2. In his opening statement, the Executive Secretary of the Congress welcomed the participants and expressed his gratitude to the Government of Canada for its hospitality, recalling that a very fruitful preparatory meeting for the Sixth Congress had been held in Ottawa some five years ago. He also noted Canada's leadership role in promoting progress in the field of crime prevention and criminal justice, the continuing efforts in areas such as the application of alternatives to imprisonment, and the recent initiatives in alleviating the plight of victims of crime.

3. The Executive Secretary pointed out that, although in the last two decades there had been a visibly growing concern about this problem, much remained to be done, including the promotion of a basic change in contemporary socio-cultural attitudes towards victims, and the enhancement of access to channels of redress. Lessons could usefully be drawn from forms of customary justice practiced in developing countries, emphasizing basic principles of justice, equity and reparation for harm done.

4. He also noted that, while some steps had recently been taken to assist victims of conventional crimes in many countries of the world, further measures were needed. He drew attention to the fact that in the case of victims of abuses of power, including massive victimization, torture, persecution of minorities, and severe economic abuses, the situation was particularly alarming, especially since the disadvantaged and the populations of developing countries were among these severely affected victims for whom channels of recourse and mechanisms of redress were usually lacking. Sounding an encouraging note, the Executive Secretary stated that, provided there existed the will to remedy the situation, good use could be made of existing precedents, including the experience of "Wiedergutmachung" for victims of nazism, consumer class actions, human rights courts, the United Nations Fund for Victims of Torture and other available options.

5. The Executive Secretary pointed out that, in order to enhance the consideration of the subject by the Seventh Congress, the meeting was expected to explore the topic in depth, to define its scope and priorities and to outline the parameters for action. He then recalled that the topic had already been examined by five regional preparatory meetings. Consequently, he deemed it appropriate to summarize the salient aspects highlighted by these meetings.

6. The regional meetings had brought to the fore a general concern about victims of crime and the need to improve their position in the criminal

justice process, though this did not in any way detract from the importance of procedural safeguards for offenders. Furthermore, from the regional meetings there had emerged a consensus that there was a broad spectrum of victims, ranging from all members of society as potential victims, to particular groups or classes, to individuals. It was observed that there were large groups of unknowing victims, as well as especially vulnerable groups, of which examples were cited.

7. At the various meetings, a wide range of victimizers was identified and discussed, including States, transnational corporations and law enforcement officials. It was pointed out that criminal justice systems themselves were often among the sources of victimization, especially when they discriminated against the disadvantaged.

8. Different methods of crime prevention and redress had also been discussed at the regional meetings, as well as forms of victim participation in the criminal justice process which enhanced the role of the victim. It was acknowledged, however, that there still existed a number of obstacles to be surmounted in this respect.

9. The Executive Secretary recalled that the regional meetings had stressed the need for further research and for strengthened international co-operation in this area. This would entail, inter alia, calling upon the United Nations to take fresh or further initiatives designed to improve the situation of victims and to help prevent victimization. Considering the magnitude and urgency of the needs, the Executive Secretary expressed the hope that the meeting would be able to formulate a sort of Magna Carta for victims, which could serve both as a guide for Governments anxious to help victims and as a catalyst in fostering more effective co-operation at the transnational level. In conclusion, the Executive Secretary stated that he was confident that, with good will, perseverance and tolerance, it would be possible for the experts to reach broad agreement and to meet the challenge which the meeting faced.

10. The Chairman and representative of the Committee on Crime Prevention and Control, Professor Manuel Lopez-Rey, then addressed the participants, stressing that the two main points for consideration were compensation and restitution to victims of crime and the need to reform the penal systems so that compensation and restitution could be made more effective. In this regard, he acknowledged that some countries had provisions for compensation, but also pointed out that in most cases the existing provisions did not go beyond the nineteenth century conception of civil responsibility arising from the commission of a crime. The Chairman of the Committee thus urged the experts to deal with the matter, having regard to the principles of crime prevention and criminal justice in the context of development and a New International Economic Order, as endorsed by the Committee on Crime Prevention and Control in March 1984.

11. Following the adoption of the agenda, the meeting proceeded to the election of officers. The following were elected: as Chairman, the Honourable Fred Gibson, Deputy Solicitor-General of Canada; as Vice-Chairmen, Prof. S. M. Diaz (India), the Honourable Ira de Cordova Rowe (Jamaica) and Prof. Z.P. Separovic (Yugoslavia), and as Rapporteur, Mr. George Liundi (Tanzania).

12. A Drafting Group was established at the beginning of the Interregional Meeting of Experts and was entrusted with the task of preparing a draft Declaration on victims of crime and of abuses of power, as recommended by the Committee on Crime Prevention and Control at its eighth session.<sup>1/</sup> The Drafting Group elected Prof. M. Cherif Bassiouni (Egypt/U.S.A) as its Chairman, and Dr. Horacio Ravenna (Argentina) as its Vice-Chairman. To expedite the work in accordance with the recommendations of the Committee on Crime Prevention and Control, it was decided that the Drafting Group should recommend to the meeting the content and format of that Declaration. The Drafting Group was to use as a basis the draft contained in the Secretary General's report (E/AC.57/1984/14) and other relevant texts and contributions, synchronizing them in the most logical and useful way possible.<sup>2/</sup>

### I. SCOPE OF VICTIMIZATION AND NEEDS OF VICTIMS

13. From the outset, there was a convergence of views on the necessity of developing a working terminology and defining the term "victim", as a basis for identifying those to whom the proposed guiding principles would apply. Utilizing this approach, it would be possible to determine the scope of the concept of victimization and to achieve some measure of precision.

14. The discussion ranged over the following themes: an examination and evaluation of victims as defined by national legislations (civil and criminal codes or other statutory provisions); victims as defined by charters of rights or other relevant national and international instruments or standards; the position of women and other categories of the population particularly at risk, such as children and youth, the aged, disadvantaged persons, minority groups, etc.; the social and cultural reactions to victims among different communities; and the means for identifying victims and their needs, especially in cases of hidden victimization (e.g. family violence and consumer fraud) and where there was cumulative harm.

15. The experts emphasized that the scope of the matter under consideration extended to both victims of illegal acts involving the abuse of power and to victims of conventional forms of crime. It was generally agreed that every effort should be made to determine, for example, what acts amounted to an illegal abuse of power or what constituted an economic crime. It was therefore suggested that the proper approach would be to formulate broad definitions which could serve as signposts for national Governments in the formulation of national policies.

16. It was suggested by some participants that, in view of the fact that both the modus operandi and the types of measures needed for prevention and control might differ markedly, a distinction could be made between conventional crimes and illegal abuses of power. Additionally, it was felt that separate treatment of the two categories of crime would facilitate a clearer

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1/ E/1984/16

2/ E/AC.57/1984/14, Annex, E/AC.57/1984/18, pp.49-50, 62-64

appreciation of their effects, and better understanding by policy-makers. Appropriate policies for victims of abuses of power may differ in some respects from those for victims of conventional crimes. It was pointed out, for instance, that some cases of human rights violations and illegal abuses of power might involve political decisions by the State which went beyond the excesses of individual public officials. These types of offences were frequently perpetrated within the bounds of the law as formulated by offenders in positions of power.

17. On the other hand, it was observed that the activities of the United Nations in the area of crime prevention and criminal justice focused on both conventional and non-conventional offences and offenders. The perspective was that "all crimes are crimes" and were equally deserving of attention. The distinction between traditional and non-traditional crimes was in reality based on the changing circumstances of society, especially in the industrialized countries. Thus, for example, murder was murder regardless of the nature of the killer, whether it was a police officer or any other person.

18. Following a preliminary exchange of views, the experts turned their attention to the problem of identifying the various kinds of victimization which called for urgent action. In determining the scope of this item and the kinds of victimization which deserved priority, three basic rights were cited as the point of departure: the right to life, the right to freedom, and the right to personal safety. It was stressed that all of these rights were basic human rights, and that the whole problem of victimization was one of the abuse of human rights.

19. By way of definition, it was suggested that a victim could be an actual or legal person who has suffered loss, damage or injury as a result of conventional or non-conventional crime (including abuses of power). Victimization could even result from harmful incidental or accidental acts or failure to take action. One could distinguish a number of sub-categories: consenting victims, unknowing and unwilling victims, negligent and careless victims, etc.

20. Indications of the extent and examples of prevalent types of victimization were given, including victimization resulting from traffic accidents and from medical malpractice involving violations of the patient's rights by those in power. Victimization arising as a result of technological innovations was cited as an area which required greater attention. The growth of industry and technology in modern society had fostered the development of new forms of economic crimes, such as "computer crime" (e.g. industrial espionage through the use of computers, and invasion of privacy by illicit use of data base information) and "ecological crime", which often directly or indirectly threatened whole communities. These new forms of crime had produced new forms of victimization. The activities of organized crime syndicates, involving drug trafficking, "money laundering", extortion, bribery of public officials, and outright violence, were also singled out as being particularly pernicious and widespread in their victimizing effects. Such illicit activities were increasingly interfacing with and undermining legitimate economic enterprises, impairing the fabric of society where this occurred.

21. It was emphasized that there was an alarming prevalence of victimization resulting from political and economic abuses of power which impeded the attainment of developmental goals and an improved quality of life for the peoples of many countries. Such abuses had a retrogressive effect on development, especially where large-scale corruption and repression were involved. As regards political abuses, for instance, the quest for a better future for their people on the part of many intellectuals had provoked official reprobation, forcing them into exile. Indeed, other intellectuals languished in detention or simply "disappeared".

22. In speaking of the aftermath of victimization, it was observed that the consequences were often lasting and could even be exacerbated over time. For example, the results of inquiries revealed that victims of medical malpractice were further victimized by its long-term psychological and psychiatric effects, as were prisoners of war, victims of terrorism, and those held in concentration camps, many of whom suffered from a "post-traumatic stress syndrome". Its manifestations included a persisting grief reaction, physical disturbances (for example, accelerated aging) and marital problems, with frequent cases of divorce (for example, among parents of victims of murder).

23. It was suggested that one could speak of intentional and unintentional malpractices and of conscious and unconscious victimization. Massive victimization, though it affected entire populations, might not be clearly felt as such. Consumer fraud involving the dumping of unwanted and hazardous products on the markets of developing countries was cited as an example of the latter kind of victimization. Preventive measures should be introduced to reduce the incidence of such acts, including enactment of legislation to prevent exploitation of loopholes, education of the public on the dangers of hidden victimization, and provision of information on legal channels of recourse. These measures would not of themselves eradicate victimization, however. Violations of basic human rights and interests continued to be perpetrated by transnational corporations and other powerful entities. It was pointed out, in this connexion, that some countries had not ratified international instruments aimed at the prevention of economic victimization by transnational corporations, with the consequence that the victims of these corporate malpractices were denied the legal basis necessary for their protection and for redress.

24. A broad overview of different instances of victimization prompted one participant to suggest that there were five types of victimizers: four of them fell into the category of abusers of power and the fifth was responsible for conventional victimization. The first of these four categories was that of institutional (both public and non-public) victimizers; the second category comprised ideological victimizers (e.g. terrorists, revolutionaries); the third category consisted of economic victimizers (e.g. industrial corporations, whether national or transnational, which destroyed the environment); and the fourth was the criminal justice system itself. The fifth category included individual victimizers involved in common crimes.

25. To systematize the discussion of the complex problems of victimization, some taxonomical suggestions were made. It was pointed out that the victimizer could be a State, a collectivity or an individual, and that the

victimizing act could be an ordinary legally proscribed one (e.g. rape), a non-ordinary one (e.g. pollution), a moral wrong (e.g. economic oppression) or an illegal abuse of power. Depending on the nature of the victimization, the identity of the victim and the victimizer, and the needs of the victim, the remedies that might be proposed could differ significantly.

26. One expert suggested that, depending on the kinds of mechanisms for treatment or redress, two models might be considered. These models could also be used in working on the draft Declaration on victims, to be submitted to the Seventh Congress. The first model would include (a) general principles; (b) a classification of victims of conventional crimes; (c) suggestions on different forms of assistance to victims, (d) ideas on international crimes and internationally protected human rights (general principles and specific offences) and, finally, (e) material covering the area of abuse of power by those beyond the reach of the law. The second model would follow the first part of the first model and, in the second part, it would deal with measures for the protection of victims at the national and international levels, categorized under: (i) access to legal remedies, and (ii) access to services and other assistance, including compensation, etc. In the last part, the second model would include consideration of measures that are not yet prescribed by either international or national legislation.

27. It was further observed that in each of the models, whenever there was a need for consideration of national and international remedies against victimization, the first kind of remedies could be analysed in terms of whether there was easy, or merely theoretical, access to them (due to, say, personnel or financial constraints). The second kind of remedies would include ad hoc mechanisms, such as fact-finding missions and established avenues of recourse (e.g. Committee on Human Rights, Commission of Human Rights, Working Group on South Africa, etc.).

28. In considering the needs of victims, it was observed that more avenues of recourse should be available, taking into account the responsibility of the State and/or its agencies to assist victims, as well as the enforceability of laws and measures for gaining access to justice. The high social cost of victimization should not be compounded by the lack of opportunities for victim participation in criminal proceedings, nor by the denial of legal aid. Few countries afforded victims comprehensive participation in the justice process. Victimization was in some cases further exacerbated by a denial of justice, which greatly increased the social costs and led to double or secondary victimization. Experts cited instances of such double victimization, including police corruption and termination of judicial action on behalf of victims.

29. The victim's need for information was stressed as a high priority. An important research finding, reflected in the exchange of experiences, was that victims felt very isolated and uninformed of their basic rights. The problem for victims was not always one of lack of services, but often one of lack of information. The level, nature, quality and quantity of information provided to victims was a major factor in meeting their needs.



## II. MECHANISMS TO ENSURE JUSTICE AND REDRESS FOR VICTIMS

30. In the discussion of mechanisms required to ensure justice and redress for victims, experts suggested a variety of corrective measures, including international and national exchanges of views and information on measures to aid victims. They also noted the work of special victims' organizations and their accomplishments. It was urged that a particular effort be made to bring this whole body of information to the attention of decision-makers and of criminal justice practitioners.

31. Various experts underlined the point that victims should be placed on an equal footing with other parties to the criminal justice process. It was observed that, depending on the relevant provisions in national legislation, the victim's role was intended either to influence the proceedings or to supplement them after indictments were brought by the prosecutor to the court. Attention was also drawn to the fact that provisions for compensatory redress or restitution by offenders to victims were often not applied in practice in a number of countries, because the courts did not want to resort to them. Such provisions, though clearly desirable, simply did not exist in many other countries. When such provisions were enacted, they could be regarded as examples of the promotion of justice with a human face.

32. In keeping with the principle of equity which had already been proclaimed, the meeting strongly recommended that provisions for compensation from State funds for loss, damage or injury should include recognition of the principle of retroactivity, within a reasonable time frame. Thus, for example, subsequent fresh evidence of an offence could be used by the victim as the basis for a claim to redress. In this way, the possibilities for according justice to the victim in obtaining redress would be safeguarded and maintained.

33. The meeting took note of the numerous mechanisms designed to facilitate justice and redress for victims. One type of mechanism included provision for taking into consideration the victim's view of the effects of the crime, at such stages of the criminal justice process as sentencing and parole. So-called "victim impact statements" (i.e. the victim's assessment of the damage suffered), recently introduced in some developed countries, were helpful in this regard. Appropriate remedies were also needed for situations where redress for victims was either delayed or denied. Such a denial might have legitimate grounds, as in the case of one developed country, where environmental actions by civil organizations could not be brought before the court, as no formal avenues for this presently existed. It was thus proposed that, in cases where restitution or compensation affected a group or community, legislation should enable associations or groups of individuals to bring an action before the court. One participant pointed out that successful resort to means of redress also depended very heavily on the stage of criminal justice processing. According to the results of one cross-national study, only one fifth of cases brought to the attention of authorities actually reached the stage where redress could be provided by the courts, while the concerns of all the rest were dealt with by other law enforcement agencies and never reached this level in the criminal justice process.

34. The meeting agreed that one excellent way of dealing with victims' concerns would be the establishment at national and local levels of independent ombudsman-type offices where victims' complaints could be lodged and dealt with. Indeed, it was noted that such offices already existed in many Member States and since these offices enjoyed an independent status, they could influence governmental institutions to accord to victims their fundamental rights and meet their needs. It was further noted that serious infractions of rights which were brought to the attention of such offices would warrant official prosecution, rather than treatment as matters of private concern.

35. Two particularly important means for meeting the needs of victims were cited: those provided by the police and those available in the community. Police approaches which gave priority to assistance to victims, as well as to their law enforcement functions, were essential in improving the response to victims. Community approaches which included specialized services for victims (crisis intervention facilities, psychological and psychiatric services, comprehensive victim support agencies), as well as general care schemes (hospitalization, welfare payments, etc.), were also called for. It was observed that only some service providers were fully aware of victims' needs and were in a position to deal with them, and this was a problem which warranted attention.

36. The range and kinds of victim assistance which were brought to the attention of the meeting prompted some recommendations as to their proper place in the criminal justice process. One participant noted that although the involvement of the victim in all stages of the criminal process was essential, the victim should not be in a position to influence the sentence imposed on the offender by the court, as that would endanger the independence of the judiciary. Another expert proposed that consideration of the role of the victim in the criminal justice process and elaboration of the draft declaration on the rights of victims should be based on the following principle: "Victims of crimes must be regarded as a full party to police, civil, customary and criminal justice processes and, as such, have no less rights and privileges than those guaranteed to any other party in these processes and, particularly, to the accused or the offender, whether or not convicted". The mechanisms for redress should include a formal acknowledgment of the transgressor's guilt. One expert emphasized that this should be a common denominator for all criminal justice systems, reflecting a formal recognition of the rights of victims.

37. Another expert gave an account of the experience of his country, explaining the structure of the mechanisms for redress available there. With respect to victims of conventional crime, he noted that the laws of his country made it possible to seek recourse in cases of misapplication of rules concerning fines, pension rights and confiscation of illicitly obtained property, and that they made provision for legal aid. Announcement of convictions in the press, not upheld at higher levels due to a miscarriage of justice, were required to be retracted by a prominent notice announcing the revocation or reversal of a person's conviction. A special budget at the central and provincial levels was available to provide financial redress. There were equally important new laws concerning unconventional victimization. These laws were enacted only recently and provided for

compensation for unlawful prosecution, detention, unfounded conviction and other abuses of power.

38. In considering restitution and compensation, it was stressed that restoration of crime victims' losses by the offender was a legitimate and proper aim of sentencing and penal policy, and should be recognized and utilized as such by the judiciary. Additionally, the role of the State as a source of compensation was emphasized, as there were many cases in which the offender was unknown or insolvent. It was considered appropriate for States to provide the necessary funds for the compensation of victims and to lend their support to those non-official or voluntary services which were geared to securing assistance for victims. The participation of the State should not, however, relieve the offender of his duty to make restitution to the victim, a duty which should be seen not only as a form of punishment, but also as a rehabilitative measure.

39. The meeting considered at length the question of compensation and restitution for acts of abuses of power. In the case of collective victimization by pollution of the environment, for instance, an obligation might be imposed on companies to provide, or be covered by, insurance, so that individuals and communities would be indemnified against damage or loss. It was also stressed that in order to ensure justice, the rapidity of the process of compensation was of the utmost importance, as was equality before the law.

40. The meeting noted with interest existing precedents in this sphere, particularly the experience with "Wiedergutmachung" which could usefully be adapted and applied elsewhere. Certain general principles of wider relevance could be derived from the practical experience gained in providing reparation to the victims of nazism, including: the necessity of central legislative and administrative machinery; use of administrative courts to determine the validity of claims and to prepare the final adjudication; need for clarity, simplicity and flexibility of legislative provisions and procedures, with amendments as necessary; provision of legal assistance in the presentation of claims; and prompt adjudication and settlement of claims.

41. It was noted that the available sources for financial compensation at the international level were very fragmented. Financial aid available through the Office of the United Nations High Commissioner for Refugees or the United Nations Relief and Works Agency was regarded as insufficient. The recently established Voluntary Fund for Victims of Torture provided an example of a compensatory scheme which could be expanded or replicated to provide relief for other groups of victims, such as families of arbitrarily or summarily executed persons, or of those who had disappeared, were illegally detained, or otherwise fell victim to police or military excesses, especially those taking place during times of "emergency". The need for a more comprehensive approach to the establishment of such compensatory mechanisms was stressed, as was the need for co-ordination of United Nations efforts on behalf of victims.

42. The meeting also considered possible principles for holding responsible State agents and others who abused their power through harmful acts. Such responsibility could be divided into three categories, i.e., political responsibility, the responsibility of those who acted under orders, and the

responsibility of those who exceeded these orders in the course of the exercise of their duties. While State agents in this last category could be held personally responsible for their deeds, those in the first two categories might avoid any responsibility. Therefore, it was suggested that in such cases, the concept of vicarious liability should be applied, that is, both the political decision-maker and the State agent who acted on the decision-maker's behalf should be held equally responsible. In this connexion, the specific provisions included in the draft Declaration on the rights of victims of crimes and other illegal acts involving abuses of power (contained in document E/AC.57/1984/14) were welcomed. Particular reference was made to Article I, paragraph 2, subsections(a) through (d) and Article III, paragraph 2 by a speaker who stressed that these draft proposals responded to the concerns of his country. On the basis of his country's experience, he further indicated other prerequisites for holding the State responsible for acts of abuse of power.

43. The need for documentary evidence of abuses of power was stressed, though it was appreciated that such evidence generally tended to be concealed by the victimizers. For example, the fate of disappearance of persons could be internationally misrepresented by victimizers as flight to a foreign country under a changed identity. This facilitated the avoidance of responsibility for such victimization and, at the same time, left the door open for State agents to act with impunity. As a result of such deleterious policies and practices, it was very difficult to assess the true extent of collective victimization. The extent of such victimization, which had already come to light in one particular country, was a source of extremely grave concern for that nation. It was noted that measures were being taken to bring to justice the perpetrators of these abuses of power, but the process was complicated by difficulties of the kind referred to above.

44. The importance of traditional customary justice practices and community-based dispute resolution mechanisms, which sought reconciliation between the offender and the victim, was also highlighted during the discussion. These measures were recognized as an excellent means of providing redress and satisfaction to victims, avoiding as they did many of the negative features of formal criminal justice processing. The meeting was informed that many offences occurring at the provincial and local levels in one country were brought before officially designated mediators for settlement, rather than judicial courts.

45. There was general agreement that victims required assistance in recovering financially, emotionally, medically and socially from crime. In developing countries, many communities and families were continuing to provide systems of mutual support and care that could be complemented by formal systems to support victims' recovery. Few countries, however, provided comprehensive assistance which was necessary to deal with the whole spectrum of victims' needs. The State had an important role to play in the delivery of free services to the victim, including legal, social, medical and other services. Many countries provided some form of universally available health care as well as welfare and housing. Some provided compensation from the State for the victim, as well as programmes for special categories of victims, such as women and children. It was noted that, while many developed countries

had established sophisticated health services, in many developing countries there was an acute shortage of such facilities, including mental health services. This problem was, however, frequently handled in the developing countries by the use of traditional networks of support. For instance, "post-traumatic stress disorder", likened to "delayed grief", was ameliorated or avoided in many African rural areas by the encouragement of spontaneous expression of emotional reactions to grief or victimization. The traditional solidarity and support of the family and community provided the caring environment which considerably alleviated the trauma of the victim. In this connexion, it was pointed out that some forms of assistance provided in developed countries followed a similar pattern, as in many cases the tendency was to organize citizens to render emotional support to the victim. The provision of such caring services was strongly endorsed by the meeting.

### III. STRATEGIES FOR THE REDUCTION AND PREVENTION OF VICTIMIZATION

46. With reference to the abuse of power, the meeting noted that the problem of reduction and prevention of victimization was compounded by the offender's frequent insulation from the force of the law through an assumption of immunity and the ability to act with impunity. In the case of such new forms of crime as environmental pollution and violation of privacy through the abuse of computerized data banks, new legislative provisions were needed in order to regulate the activities involved and provide avenues of redress for victims. In many instances, victims were precluded from claiming redress because of lack of legislation which fully and adequately protected their interests.

47. One country was reported to have adopted concrete measures to reduce or prevent the abuse of public power by setting up special tribunals to inquire into the conduct of high-level government officials, covering all kinds of official acts, whether or not they were classified as offences under the municipal penal law.

48. As far as the prevention of victimization was concerned, some participants felt that the subject fell within the broader problem of crime prevention and that, consequently, some of the traditional methods of tackling it, such as efforts by the police and other institutions to eliminate an environment conducive to crime and to educate the public, had not lost their value. It was also noted, however, that certain countries had recently witnessed an increase of public apathy in regard to the commission of crimes and the plight of victims in distress. It was suggested that this apathy was due in part to the fact that community members were becoming increasingly inured to crime and alienated from others around them, and that those individuals who did go to the help of the victim frequently did not receive fair treatment when victimized themselves. For this reason, it was reiterated that due protection must be provided for third-party bystanders who intervened to assist victims. Additionally, the public must be educated and made aware that it is primarily responsible for its own security. In this connexion, it was noted as particularly significant that even some developed countries were shifting from traditional methods of policing to community-based schemes for crime prevention.

49. The need for victims to be protected from crime was considered. It was noted that some countries placed an obligation on their citizens to come to the aid of persons in danger, and some provided citizens with information on how to protect themselves from crime. Few countries, however, had comprehensive strategies for crime reduction through such mechanisms as innovative crime-reducing environmental design, special programmes for persons at risk of committing crimes, or modifications of socio-economic policies. The meeting therefore urged that all such countries in a position to do so should be encouraged to fully implement strategies and programmes of this kind.

50. Regarding vulnerable segments of the population, the problem of violence within the family was singled out as one which deserved particular attention. Several factors were considered to contribute to the failure to adequately address this widespread problem. Primary amongst these was the reluctance of relevant authorities, particularly the police, to intervene in situations where this could be construed as interference in the privacy of the family. In the light of these observations, the meeting reiterated the need to adopt effective remedial measures, including comprehensive programmes for the education of the public, and legislative reforms. It was further suggested that prosecution of offenders should not only follow complaints initiated by victims themselves, but should also proceed ex officio.

51. Several participants observed that efforts to prevent victimization should be concentrating on areas where widespread victimization occurred. One participant mentioned, for instance, that victimization of delinquents through negligent guardianship of parents was counteracted in his country by the introduction of special criminal provisions holding these parents responsible for the delinquents' offending conduct (e.g. drug abuse, alcoholism and prostitution). Another pointed out seemingly unnoticed victimization arising from unsafe working conditions. Thus, for example, he informed the meeting that in work-related accidents occurring during one year alone in one developed country, four times more people lost their lives from such accidents than from homicides. Clearly, there was a need for greater attention to be devoted to redress and assistance for victims of offences against labour safety.

52. Many participants observed that there also existed a need for better monitoring and recording of the occurrences of victimization. At the national level, several kinds of victimization were only reported under general crime categories. Thus neither child abuse nor sexual abuse and wife battering were fully and adequately reflected in the official figures. This lack of basic information about the extent of victimization made it particularly difficult to formulate appropriate policies and programmes for dealing with it.

53. In this and other contexts, the participants strongly emphasized the necessity of in-depth research on victims, the results of which would strengthen preventive efforts. It was observed that the identification of victim risk elements and precipitating factors (e.g. situational) was one of the best foundations for determining appropriate remedies and helping to identify the personal and social needs of victims. One participant observed that research results had revealed that the fear of victimization might be exaggerated by potential victims, yet this very fear altered patterns of

social interaction in the community. Fear could inspire victimizers to commit offences, which could in turn become more easily tolerated as they were already expected. To avoid such a vicious circle, comprehensive plans to bring about the reduction and prevention of victimization should include policies and procedures designed to reduce the fear of crime to realistic levels.

54. The meeting then took note of basic preventive measures which should be applied in cases of torture and prolonged detention. One participant observed that without outside controls, including the application of international standards, victimization could forge a bond between the captive and the captor, in which case the victim suffered double jeopardy by being compelled to compromise his right to independence of mind and having his interests subordinated to those of the victimizer. It was strongly advocated that international standards should bar prolonged incommunicado detention as cruel, inhuman and degrading punishment. They should also make it possible to challenge such detention under any circumstances, especially in times of public emergencies proclaimed under laws which tend to derogate fundamental rights. Additionally, it was suggested that preventive or institutional detention pending trial should be reduced to a minimum, thus limiting the danger of excessive deprivation of freedom. It was stressed that torture and prolonged detention, if allowed to persist uncontrolled by external mechanisms, could heighten the incidence and degree of such detentions and arrests and could ultimately lead to involuntary disappearances. Echoing these sentiments, another participant stated that a crucial prerequisite for the delineation of police functions and powers was a written authorization to detain an individual, whose name and other personal particulars ought to be known beforehand and appropriately recorded in the official documentation for identification. The participant explained that in his country's experience, there were occurrences of detention of suspected offenders carrying firearms without proper prior identification of the suspect; thus there had been instances of the use by the police of a blank arrest warrant which was later abused by police officials for arbitrary detentions. In this particular case, however, the Government withdrew the legislation giving rise to this abuse.

55. Having discussed the relevant issues, the participants agreed that all victimizers should be held accountable for their deeds. In this connexion, the meeting was informed of the events taking place in one country, where recently a new Government had come to power. Its basic policy was one of national reconciliation and redress for past victimization. For the purpose of implementing this latter aspect of the declared policy, the Government intended to prosecute former officials for grave instances of their abuse of power.

56. With further reference to the question of accountability for victimization, participants emphasized that the executive branches of government should be entrusted with precise tasks. These tasks, if blurred, created opportunities for excesses which could be justified as legitimate, and thus converted them into non-punishable actions. The experience of certain countries suggested that a precise definition of the tasks of the military forces and the police might have prevented tragic abuses of power. The police, for instance, should only be professionally entrusted with the

investigation of a crime and not with ideological surveillance, usually conducted by other agencies. Good training was another mechanism for preventing the erosion of integrity. The use of judicial police or similar institutions was also a useful way of solving the problem of delineation of tasks within law enforcement agencies. Furthermore, a precise definition of crimes according to the principle of nullum crimen sine lege was a proper approach corresponding to such a delineation of tasks.

57. In order to avoid the exacerbation of victimization in the criminal justice system, it was pointed out that it must, in all its facets, exhibit a greater effort to meet the needs of victims. Criminal justice procedures were still too slow, formal, complex and rigid. Increased popular participation on a democratic basis and greater accountability should be promoted, as a means of countering judicial and other bureaucratic excesses. Open, democratic governments and processes in political, economic and social institutions were the best insurance against uncontrolled abuses. The provision of appropriate legal assistance to victims was also considered crucial for the avoidance of malfunctioning of criminal justice systems. One further noteworthy mechanism was that of departmental or other inquiries for victims of judicial errors and unjust detention.

58. On the whole, participants shared the view that victimization arising from inadequacies and other defects in the criminal justice system could be ameliorated by the enactment of comprehensive legislation designed to afford maximum protection to members of society. In this connexion, one participant informed the meeting that in the penal codes of socialist countries, military offences were incorporated into one code, while other offences were proscribed for the rest of the population. That arrangement increased the possibility of the armed forces being held responsible and fully accountable before the law and the criminal justice system.

59. The discussion on the question of accountability of officials was developed and considered by other participants, who suggested that the victimizing actions of companies could be controlled by holding the key officials individually responsible and accountable before the law. Generally, it was observed that the possibility of removal from office, whether of a public or private official, provided an important means of protection against misconduct. Some participants observed, however, that it was not always possible to apply these kinds of measures or to achieve effective control. In cases of remote victimization on a transnational scale, national and even international controls might not prove sufficiently effective. Nevertheless, participants recognized that there existed ways and means for offsetting this tendency. By way of illustration, the meeting was informed of national experiences with self-management organizations where the use of checks and balances made it possible to prevent to some extent the occurrence of victimization of various kinds.

60. The meeting stressed that the abuse of power should be brought within the purview of national and international criminal justice. The corruption of public officials, particularly the judiciary, highlighted the need for international standards and pointed to the importance of the work of the United Nations in formulating guidelines on the independence of the judiciary.



61. It was observed that there was a clear interface between various kinds of crimes and abuses, and that one could not reduce ordinary crime without dealing also with abuses of power. This "grey" area of crime had serious repercussions in the international sphere, including economic relations between States. This kind of deleterious conduct, which was often not penalized under existing laws, required urgent attention, involving as it did, massive persecution, the abrogation of human rights and the denial of justice and respect for the dignity of vast numbers of people. Urgent and far-reaching action was needed with regard to these pervasive problems which could not be ignored or deferred as being too difficult to counteract.

62. In order to redress the imbalance of power between victimizers and victims, it was suggested that the leverage of the latter could be increased. A concerted victim movement and victim lobby groups could advance the effort to achieve needed reforms. Self-help and communal efforts springing from the grass-root level were of major significance in this respect, as they were particularly attuned to the needs of victims.

63. Participants suggested that institutionalized victimization could be curtailed by the promulgation and observance of Bills and Charters of Rights and Freedoms for individuals. Such instruments should be beyond the easy reach of those who might be inclined to amend them to suit their selfish interests or repeal them altogether. An independent and unfettered public defender or ombudsman-type of institution, with the authority to review, restrain and publicize unreasonable exercises of economic, political or administrative power was, in this respect, an important means of preventing abuses.

64. It was observed that wider education and provision of information, legislative improvements, and social solidarity and support were essential conditions for curtailing victimization. From the standpoint of the victim, preventive action necessitated the establishment and operation of a system of universal education which included the provision of accurate information and full access to it through such means as the mass media and the exercise of freedom of speech. The public should be fully informed of the right to redress, including the right to have counsel and other legal services at reasonable cost. Moreover, victims and potential victims should be made aware of the available mechanisms for the enforcement of rights and freedoms and for the review of governmental discretion.

65. Participants in the meeting also expressed views about the appropriate structural and organizational mechanisms for the protection of people subjected to collective victimization and evaluated the efficacy of existing models. It was observed that, while a number of mechanisms and modalities existed at the international level (eg. conventions and other instruments, and United Nations bodies such as the Commission on Human Rights), the machinery for collective redress was fragmentary and frequently ad hoc. A number of gaps existed in the protection of groups of victims, due to the absence of coordinated and integrated modalities of assistance and redress. It was thus suggested that inter-agency co-operation both within the United Nations and between the United Nations and other inter-governmental and non-governmental bodies should be reviewed and strengthened.

#### IV. PRIORITIES FOR NATIONAL, REGIONAL AND INTERNATIONAL ACTION

66. In discussing priorities for the future, the importance of concerted international action relating to victims was strongly emphasized, particularly with regard to research, training of personnel, provision of mutual assistance and establishment of other practical arrangements designed to foster and promote regional and international co-operation in reducing and providing remedies for victimization.

67. The potential for collaborative action-oriented research in this field was stressed and their undertaking recommended. It was believed that all countries could profit from the results of such studies, since it was felt that no single country was truly developed in this area, and much could be learned from other societies, particularly from traditional and customary justice systems, which afforded a wider basis of family and community support for victims. The results of assessments of the effectiveness of successful pilot or demonstration programmes for victims could provide a basis for adoption and adaptation elsewhere, as circumstances might dictate.

68. To facilitate collaborative action, the experts stressed the need for a better information base concerning victimization and victims. It was noted that there was a large dark figure which masked the true extent of the victim problem. Official statistics were usually not very helpful in this regard, although some attempts to provide information on victims were being made. Victimization studies provided a useful tool in this connexion, but additional means were needed to ascertain the real extent of victimization, especially through the abuse of power. There were evidently many more victims than crimes or abuses presently known, and their numbers could hardly be ascertained by the methods currently available. While all countries were in a sense developing countries with regard to this problem, some had recently initiated more effective methods of victim-related data-gathering, designed to reveal the true extent of victimization - still greatly underestimated - and the reasons for the failure of victims to report instances to the police. The use of modern technology to improve data collection was stressed, as was the use of innovative approaches; the computerization of information and the establishment of data banks served to increase the efficacy of criminal justice systems and could also be used to improve the gathering and flow of information relative to victims, provided that the necessary human rights safeguards were devised to protect privacy and prevent possible misuse.

69. Data collection and the sharing and exchange of information regionally and internationally were essential elements in comparative research studies, evaluative research and pilot investigations. The exchange of information could greatly enhance the utilization of research findings in the formulation of sound and effective policies for victims.

70. Reference was made during the meeting to the United Nations crime prevention institutes. The Rome interregional institute and the regional institutes had a special role to play in this regard, and their research and training initiatives relating to victims were noted with interest. It was suggested that these institutes could play a particularly fruitful role in

collating and evaluating what was already known and what needed to be ascertained regarding victim-support systems as determined by socio-cultural and economic factors. It would be most instructive, for instance, to examine in detail how older, closely-knit communities dealt with victimization, and the kinds of support networks which they utilized. Some of the research techniques employed in studies of victims of conventional crimes could also be used in research on some aspects of the abuse of power. In all cases, information-sharing among countries would be an invaluable mechanism for disseminating the results and maximizing the utility of the work undertaken.

71. The meeting noted that technical assistance, including that provided by the interregional adviser in crime prevention, could be made available to Governments upon request, and that in order to help Governments to improve their victim-related policies and services, there was also need for technical assistance to victims by various means. The preparation of a manual for victims was suggested in this connexion, to be started at the regional level. The envisaged manual would inform victims of their rights and available remedies. It was pointed out that such manuals already existed in some countries and could form the basis for similar efforts elsewhere.

72. Participants felt strongly that there was a need for multi-pronged action on behalf of victims at the regional and international levels. In this connexion, it was recommended that the United Nations Trust Fund for Victims of Torture, which now had very limited application, be expanded in scope and means to become a United Nations Trust Fund for Victims. For this purpose, victimizers themselves could be made to contribute to this fund, wherever possible. Other ways of augmenting its financial resources should also be devised. It was also recommended that regional funds for victims should be established under the auspices of regional organizations. Member States would be asked to contribute a certain percentage to these funds for the purpose of providing compensation and assistance to victims. Both regionally and, especially, internationally, there was also a need for co-ordination and integration of efforts. It was further recommended that countries should be encouraged to ratify all relevant international instruments and to apply them in practice so as to minimize violations of human rights.

73. In addition, participants recommended that international and regional courts should be competent to adjudicate violations of such rights. Participants felt that this recommendation did not imply interference in the internal affairs of States but, rather, sought to give tangible expression to a broader, world-wide concern for the plight of victims and to the concomitant need to provide a practical demonstration of universal solidarity with victims.

74. Training of personnel, such as those responsible for service delivery to victims, was considered to be of special importance in increasing sensitivity and responsiveness to victim needs. The experience of some countries in this regard was outlined and noted, with emphasis placed on the clear formulation of basic policies and implementation strategies designed to meet these needs more adequately and expeditiously. Several experts stressed the importance of evoking positive changes in society's attitudes and responses towards victims, as a prerequisite for improving their condition. Experience had shown that

all too often there was double victimization through stigmatization of those already victimized. "Sensitivity training" and related approaches could be useful in preparing the helping professions to deal effectively with the problem and to curtail it. At the same time, the attitudes of the community at large had to be oriented towards change in order to enhance the possibilities of meaningful improvements in the position of victims.

## V. CONCLUSIONS AND RECOMMENDATIONS

75. During the final plenary session of the Meeting of Experts, the Chairman of the Drafting Group, which had been entrusted with the task of preparing a draft resolution and draft Declaration on Justice and Assistance for Victims, formally presented the proposed texts of these two documents. Having had the opportunity to examine and study these documents prior to the final plenary meeting, the experts unanimously approved them, but with the request that the Secretariat assist the Rapporteur to effect, in the usual way, all the necessary editorial improvements. The text of the provisional version of the draft resolution and draft Declaration appears in Annex I to this Report.

76. The draft Declaration aroused special interest among the participants, who praised it both in terms of its breadth of scope and its contents. Participants hailed the document as a laudable achievement among the overall United Nations initiatives in the field of crime prevention and crime justice. They thus felt in a position to commend to the Seventh Congress the draft Declaration on Justice and Assistance for Victims, which they considered to be a fruitful result of the collaborative efforts undertaken.

77. Following the adoption of the draft Declaration, several experts made suggestions for the re-arrangement of certain articles of the Declaration and for certain textual or drafting modifications, designed to introduce clarity and precision in the provisions concerned. In the end, the meeting gave a full mandate to the Secretariat and the Rapporteur to effect all the necessary adjustments and customary editorial revisions in the preparation of the final version of the draft Declaration.

78. The meeting also requested that the Secretariat circulate the draft Declaration along with the report of the Meeting to all the participants, and emphasized that these documents should be made available in all the working languages of the United Nations. It was also requested that these documents be submitted to the members of the Committee on Crime Prevention and Control for their comments, and that these be taken into account in the final text of the Declaration. Some participants expressed the view that the draft Declaration was of such great significance that it would be advisable and desirable to publicize it and, if possible, circulate it to Governments and interested organizations well in advance of the Seventh Congress in 1985. With this objective in mind, some experts undertook to bring the draft Declaration to the notice of their national Governments and of appropriate professional organizations, both national and international, as soon as the document was received from the Secretariat.

Annex I

DRAFT RESOLUTION ON JUSTICE AND ASSISTANCE FOR VICTIMS

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

Mindful that the principles and purposes set out in the Charter of the United Nations include the achievement of international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion,

Mindful also of the pledge made by Member States under the Charter, to take joint and separate action in co-operation with the United Nations to promote higher standards of living, full employment and conditions of economic and social progress and development,

Mindful, further, that the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights b/ proclaim that every human being has the inherent right to life, liberty, security of person, freedom of conscience and other human rights and fundamental freedoms,

Reaffirming its faith in human rights and fundamental freedoms and in the principles of peace, of the dignity and worth of the human person and of social justice,

Conscious that the International Covenant on Economic, Social and Cultural Rights b/ and the International Covenant on Civil and Political Rights proclaim that all peoples may, for their own ends, freely dispose of their natural wealth and resources and that in no case may a people be deprived of its own means of subsistence,

Noting that the Declaration of the United Nations Conference on the Human Environment c/ proclaims that the environment, natural and man-made, is essential to mankind's well-being and to the enjoyment of basic human rights - notably the right to life itself,

Recognizing that article 8 of the Universal Declaration of Human Rights proclaims that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the constitution or by law,

Recalling that under article 2 of the International Covenant on Civil and Political Rights each State party to that instrument undertakes to ensure that any person whose rights or freedoms as therein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity,

Recalling also that article 11 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment d/ provides that where it is proved that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation in accordance with national law.

Recalling further that the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders by its resolution 7 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, e/ and by its resolution 5 called upon all Governments to take effective measures to eradicate the crime of extra-legal executions,

Keeping in mind General Assembly resolution 33/173 of 20 December 1978, which called for official accountability and legal responsibility for enforced or involuntary disappearances,

Keeping further in mind the Declaration on the Rights of Child f/ and the Declaration of Rights of Disabled Persons, g/

Keeping further in mind the relevant provision of other international human rights instruments and international criminal law conventions,

Acknowledging the importance of conventional and customary rules of international law on the rights and duties of States on reparation, compensation and damages,

Considering that the recognition of the dignity and the equal rights of all people is the foundation of freedom, justice and peace, and that domestic tranquility, security of the person and freedom from fear are among the highest aspirations of all people,

Recognizing that the victims of crime, their families and those who aid them are unjustly subjected to loss, whether from injury or deprivation of property, and that victims, their families, those who aid them and witnesses may suffer additional hardship when assisting in the prosecution of offenders,

Recognizing, further, that there may be different approaches to the definition of victims, and to measures for their protection under international and national laws, with respect to individual and collective victims of crime and of "abuses of power by persons beyond the reach of the law",

1. Affirms that victims of crime and of abuses of power have a right to expect justice and public acknowledgement of the wrong done;
2. Recognizes that such victims are entitled either individually or jointly with others in similar circumstances to an effective remedy, including adequate reparation for the harm and damage they suffer;

3. Stresses the need to promote uniform progress of all States in their efforts to ensure that the rights of victims are respected, understanding that such progress should not involve a retreat from the universally accepted rights to be enjoyed by suspects and offenders;
4. Adopts the Declaration annexed hereto designed to assist Governments and the international community in their efforts to bring justice to victims;
5. Invites the General Assembly to endorse the present resolution;
6. Calls upon Member States to take the necessary steps to give effect to the provisions contained in the Declaration in order to ensure the protection of, and redress, assistance and justice for potential and actual victims;
7. 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;
8. Also requests the Secretary-General to provide the necessary resources and means for technical co-operation and advisory services to countries which, in the process of implementing the Declaration, require such assistance;
9. Further requests the Secretary-General to promote the objectives of the Declaration, particularly by ensuring its widest possible dissemination;
10. Urges the specialized agencies, other entities and bodies of the United Nations System, relevant inter-governmental and non-governmental organizations and the public in general to become more involved in crime prevention efforts, thus contributing to the achievement of the objectives of the attached Declaration.

- a/ General Assembly resolution 217 A (III).
- b/ General Assembly resolution 2200 A (XX), annex.
- c/ 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.
- d/ General Assembly resolution 3452 (XXX), annex.
- e/ 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.
- f/ General Assembly resolution 1386 (XIV) of 20 November 1959.
- g/ General Assembly resolution 2856 (XXVI) of 20 December 1971.

DRAFT DECLARATION ON JUSTICE AND ASSISTANCE FOR VICTIMS

ARTICLE I - PURPOSE AND SCOPE

1. The purpose of this Declaration is to recognize the rights of victims and to establish ways and means of ensuring their protection, humane treatment and redress of wrongs.
2. The provisions for the protection of victims and the methods of implementation established in this Declaration shall be applicable to all persons irrespective of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status.

ARTICLE II - DEFINITION

A "victim" is a person who has suffered physical or mental injury or harm, material loss or damage, or other social disadvantage as a result of conduct which:

- a) is in violation of national penal laws; or
- b) is a crime under international law; or
- c) constitutes a violation of internationally recognized human rights norms protecting life, liberty and personal security; or
- d)
  - i) otherwise amounts to an "abuse of power" by persons who, by reason of their political, economic or social position, whether they are public officials, agents or employees of the State or corporate entities, are "beyond the reach of the law"; or
  - ii) although not presently proscribed by national or international law, causes physical, psychological or economic harm comparable to that caused by abuses of power constituting a crime under international law or a violation of internationally recognized human rights norms and creates needs in victims as serious as those caused by violations of such norms.

The term "victim" includes any person who has thus suffered loss, damage or injury whether as an individual or as a member of a group or collectivity.

Where appropriate, the term "person" includes legal entities, organizations, associations, communities, the State or society as a whole.



ARTICLE III - GENERAL PRINCIPLES

1. The rights of victims are based on the right to life, liberty and personal security.
2. The duties of the State follow from legal obligations, collective responsibility and social solidarity.
3. Victims should have a right to redress from the offender.
4. Victims should have a right to compensation from the State.
5. Victims should have a right to assistance in their recovery.
6. Victims should have a right to fair treatment before the law.
7. Victims should have a right to access to justice.
8. Victims and their families should have a right to know the facts surrounding the circumstances of their victimization.
9. Victims should have a right to recognition and support of the national and international community.
10. Victims should have a right to protection and preventive measures.
11. Victims should not be denied basic social services and access to judicial or administrative remedies merely because of non-residency.
12. The rights of victims and the duties of States shall not necessarily depend on findings of criminal responsibility and guilt by the perpetrator, or on the identification or apprehension of the alleged offender.
13. These rights apply to the immediate family of the victim and those persons so close to the victims as to suffer as a result of the victimization.
14. These rights apply to persons harmed in intervening to assist victims in distress or who seek to prevent victimization, and who assist law enforcement efforts.
15. The suffering of victims requires international action and co-operation.

ARTICLE IV - REPARATION

1. Offenders shall be liable for restitution to victims or, where appropriate, to their dependents for any loss, damage or injury caused. This should be one of the primary goals of the process of justice.
2. Victims shall be entitled to obtain reparation for at least the following kinds of loss, damage or injury:
  - a) loss of life;
  - b) impairment of health;
  - c) pain and suffering, both physical and mental;
  - d) loss of liberty;
  - e) loss of income, earning capacity or support;
  - f) loss of or damage to property or deprivation of the use of property;
  - g) special damages, i.e. the expenses reasonably incurred by the victim as a result of the victimization, for example medical, legal, transportation, funeral and burial expenses;
  - h) intangible damage, such as loss of reputation.
3. In determining the amount of reparation, especially in criminal cases, the means and circumstances of the offender and the interests of justice should be considered.
4. Third parties who subsequently acquire title of property taken from victims of abuse of power that are crimes under international law or violations of human rights, or to property which such victims were caused to abandon or relinquish as a result of proscribed conduct, shall be liable to return it to the victims notwithstanding that they were bona fide purchasers for value without knowledge of the victim's interests; provided, however, that reparation shall be made to such bona fide purchasers of property by the party responsible for the damage or loss to the victim.
5. Victims of abuses of power that are crimes under international law or violations of human rights shall be entitled to full reparation from the State whose agents or employees have committed the abuses in the usual course of their duties and within the scope of their actual or ostensible authority.
6. Unless proven otherwise, employees or agents of the State shall, even when committing the abuses referred to in paragraph 6, be presumed to be acting in the usual course of their duties and within the scope of their actual or ostensible authority.

7. Where the abuses referred to in paragraph 6 are committed in circumstances in which it is reasonable to assume that they are committed by employees or agents of the State, 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 abuses were not committed by such employees or agents acting in the usual course of their duties and within the scope of their actual or ostensible authority.
8. Victims of the abuses referred to in paragraph 6 shall, in addition to any rights they may have against the State, have the right to reparation from the persons who actually committed the abuses. They may at their discretion, elect to claim reparation from the State or from such persons in a separate action or in an action in which the State may be joined. In no case should victims receive more reparation than is sufficient to fully compensate them in accordance with the provisions of this Declaration.
9. In cases where serious damage to the environment is occasioned, those responsible for such damage shall be liable to make reparation, 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, reparation shall include payment of damages to affected persons and repatriation or relocation.

#### ARTICLE V - COMPENSATION

1. Where general social insurance programmes are insufficient, the State should establish compensation programmes to assist victims who, because of offenders' lack of means or for any other reason, are unable to receive reparation from them.
2. Compensation by the State should include financial awards for physical and mental injury, loss of income, the cost of rehabilitation, funeral expenses and other kinds of loss, damage or injury, as stipulated in article IV.2 above.
3. State compensation should be provided promptly and in an amount comparable to social assistance available to those suffering similar misfortunes. In appropriate cases, State compensation may be provided to victims on an interim basis before the conclusion of judicial proceedings.
4. International funds, such as the United Nations Voluntary Fund for Victims of Torture, should be strengthened and expanded to provide compensation for victims of other offences or, where appropriate, their dependents.
5. Certain States have assumed responsibility for collective victimization and have consequently established compensation programmes. Other States should draw on their experience, as appropriate.

ARTICLE VI - SERVICES

1. Victims should be provided with the necessary material, psychological and social assistance, including medical and psychiatric help, financial aid, and legal services. Special facilities should be made available to assist the victims of domestic violence and sexual assault. Special efforts should also be made to encourage the involvement of community organizations.
2. Guidelines on identifying and responding to needs of victims should be formulated, with special attention given to the needs of persons who are more vulnerable because of such factors as age, sex, disability, race, religion or birth status.
3. Training to increase sensitivity to the needs of victims should be provided to police, medical and hospital personnel, prosecutors and members of the judiciary, community workers and others who come into contact with victims.
4. Police and other emergency personnel should ensure that the victim is informed promptly and fully about the use of available services, including health, compensation, mediation, victim support and crisis intervention services.

ARTICLE VII - ACCESS TO JUSTICE AND FAIR TREATMENT

1. Where appropriate, civil, criminal and administrative institutions should be established, through which determinations may be made concerning criminal liability, reparation and compensation. Restitution from the offender should be facilitated in criminal proceedings without prejudice to the right of the victim to use informal, administrative or civil procedures to obtain redress.
2. Simple and flexible procedures should be established, as well as class actions and injunctive relief. Wherever possible, legislation and procedures relevant to victims should be simplified and made more comprehensible to the general public.
3. Victims should have the right to prompt access to the institutions referred to in article IV.1 above.
4. The decisions of relevant institutions should be rendered and enforced in a fair and speedy manner.
5. The State should facilitate peaceful, non-adjudicatory resolution of conflicts.

6. Criminal justice authorities should inform victims of their options in seeking reparation for injury, including that of dealing with the matter through community means where available.
7. Victims should be allowed to institute and pursue criminal proceedings where appropriate, or to appeal to a judicial or quasi-judicial authority in such matters.
8. An active role should be assured for victims at all critical States of judicial proceedings, for example by:
  - a) allowing the victims to appear and make representation, either in person or through an authorized representative.
  - b) avoiding unnecessary inconvenience in the scheduling of hearings,
  - c) explaining to victims the timing and purpose of the proceedings,
  - d) avoiding unnecessary delay in the disposition of the case, and
  - e) providing fair compensation for financial loss because of attendance at judicial hearings.
9. The right of victims to privacy should be respected. In particular, police, prosecutors and judicial authorities should not, without the victim's consent, release the name or address of that person except in the interest of justice.
10. Measures to provide fair treatment and protection of witnesses should be promoted, including:
  - a) safeguards for witnesses against intimidation and retaliation,
  - b) prompt gathering and recording of testimony, and
  - c) taking of evidence in proceedings not open to the public.
11. None of the above-mentioned rights should be so construed as to infringe upon the rights of the alleged offender.
12. Families of persons under any form of detention or imprisonment shall have the right, at all times, to be informed of the whereabouts of such persons.

ARTICLE VIII - INTERNATIONAL CO-OPERATION AGAINST CRIMES UNDER INTERNATIONAL LAW

1. Abuses of power that are crimes under international law, such as crimes against peace, war crimes, crimes against humanity, genocide, apartheid, slavery, torture, extra-legal execution, enforced or involuntary disappearances and other gross violations of human rights infringing upon the right to life, liberty and security of persons shall be subject to investigation. Persons against whom there is evidence that they have committed such crimes shall be subject to prosecution wherever they may 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.
2. Efforts shall be made to promote collaboration between States in the detection and pursuit of alleged perpetrators of crimes under international law. Provision of mutual judicial and administrative assistance in such matters should be encouraged, including extradition for the purpose of trying offenders and the seizure of assets to be put at the disposal of the State for providing reparation to victims.

ARTICLE IX - MEASURES TO PREVENT VICTIMIZATION

1. The State should take appropriate measures to protect citizens against victimization, including the following:
  - a) adoption of social, political, economic and penal policies to promote social justice and reduce victimization;
  - b) encouragement of social responsibility through individual and collective action aimed at the reduction of opportunities for victimization;
  - c) promotion of measures to encourage third-party bystanders to assist individuals who are being victimized or who are in danger of being victimized;
  - d) provision of information by police and community agencies to the public on the risk of crime in different areas and situations and on effective crime prevention measures;
  - e) criminalization, where appropriate, of conduct constituting a violation of international recognized human rights norms protecting life, liberty and personal security, or which otherwise amounts to an abuse of power, and development of effective means of enforcement;

- f) ratification of international human rights treaties and their incorporation or application, together with other relevant international standards and norms, in national legislation and State practices;
- g) instruction of all law enforcement and military personnel in the observance of human rights and fundamental freedoms as articulated in international instruments, standards and norms.
- h) instruction of all public servants, elected or appointed, as well as the staff of economic enterprises, in principles of accountability based on internationally recognized norms.
- i) teaching in all schools and colleges on the subject of human rights and the nature of abuses of public and economic power;
- j) constant scrutiny of the exercise of public and economic power through publicity, systems of complaints, investigations and sanctions;
- k) establishment of effective restraints on the exercise of economic power in order to minimize abuses, including disclosure requirements, organization of specialized, multi-disciplinary teams to aid in detection, investigation and prosecution, and the promotion of uniform laws to prevent businesses from taking advantage of lacunae and differences in national legislation.
- l) periodic and comprehensive reviews of legislation in order to reduce victimization, simplify laws and procedures and make them responsive to changing circumstances;
- m) prohibition of secret places of detention;
- n) independent and impartial inspection of all places of detention;
- o) prohibition of incommunicado detention which, if sufficiently prolonged, can constitute a form of torture.

#### ARTICLE X - IMPLEMENTATION

1. In addition to the implementation of the above articles, appropriate steps should be taken at the national level, including:
  - a) promotion of the development and dissemination of relevant statistics and other scientific information on the status, needs and expectations of victims and on ways to reduce victimization, in a manner promoting the development of criminal and social policy;

- b) provisions of safeguards to prevent offenders from passing the cost of sanctions on to the State, consumers or the general public;
  - c) publication of violations, in order to expose such conduct to public scrutiny and raise public awareness;
  - d) investigation of the fate of missing or disappeared persons, in order to render an account to their families;
2. Appropriate steps should be taken at the international level for the implementation of this Declaration, including:
- a) promotion through the United Nations system of the undertaking, collection and exchange of scientific research and statistics on victims in a manner promoting the development of criminal and social policy;
  - b) encouragement of greater use by intergovernmental organizations of the information and capacities of non-governmental organizations in preventing victimization and assisting victims;
  - c) promotion, in the case of conduct constituting a crime under international law or a violation of internationally recognized human rights norms protecting life, liberty and personal security, of greater 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 the conduct in question is believed to be occurring,
    - iii) systems for examining individual complaints that the conduct in question is occurring, or has occurred.
    - iv) development of means, both at the international and regional levels, of adjudicating charges that the conduct in question has occurred;
  - d) continued consideration of new bilateral and multi-lateral treaties concerning victimization.



Annex II

LIST OF PARTICIPANTS

Participating experts

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Hon. Claire Kirkland-Casgrain, President of the Canadian Alliance of Women

International Association of Schools of Social Work: Burt Galaway, Acting Dean and Associate Professor, Department of Social Development, University of Minnesota

International League for Human Rights: Roger Clark, Professor of Law, Rutgers University

International Police Association: Raymond Whitrod, National Spokesperson for Victims, Australia

International Society for Criminology: Denis Szabo, President

International Society of Social Defence: Tadeusz Grygier, Former Director, Centre of Criminology, University of Ottawa

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World Federation of United Nations Associations: Frank P. Miller, Consultant in Corrections, Ottawa

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Annex III

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
- E/AC.57/1984/12 Legislative provisions against abuses of power and measures used for their prevention and control: report of the Secretary-General
- E/AC.57/1984/13 Pattern, trends, dynamics, and impact of criminal acts involving abuses of power, and the typology of offenders and victims: report of the Secretary-General
- E/AC.57/1984/14 Guidelines for measures on behalf of victims of crime and abuses of power: report of the Secretary-General
- E/AC.57/1984/15 The fair treatment of women by the criminal justice system: report of the Secretary-General
- IPM.3/CRP.1 Criminal victimization of the elderly: report of the Crime Prevention and Criminal Justice Branch
- E/AC.57/1984/NGO/1 Statement submitted by the International Association of Penal Law, the International Society for Criminology, the International Society of Social Defence, non-governmental organizations in consultative status, category II

E/AC.57/1984/NGO/2 Statement submitted by the World Federation of Mental Health, a non-governmental organization in consultative status, category II

A/CONF.87/6 Crime and the abuse of power: offences and offenders beyond the reach of the law? - working paper prepared by the Secretariat for the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

### B. Background documents

#### Papers submitted by participating experts

M. Cherif Bassiouni, "The protection of collective victims in international law"

S. M. Diaz, "Victim, victimization and concomitants, with special reference to India"

N. H. A. Karunaratne, "Suggestions for the prevention of transnational corporate abuses and the reparation of victims of such abuses"

Manuel Lopez-Rey, "The victims of crime"

Daniel Nsereko, "Group victims of crime and other illegal acts linked to the abuse of public power, with special reference to Africa"

K. Poklewski-Koziell, "Victims of crime; The abuse of power"

I.D. Rowe, "Victims of crime: a brief commentary"

Carlo Sarzana, "Notes on new forms of crime and victimization in the industrial countries"

Walter Schwarz, "Report on the legislation of the Federal Republic of Germany for the redress of wrongs suffered by victims of national socialist persecution and evaluation of its implementation"

#### Other

Canada Department of Justice, "Victims and witnesses of crime in Canada"

- Federal-provincial task force, "Justice for victims of crime"

- Solicitor General, Geoff Norquay and Richard Weiler, "Services to victims and witnesses of crime in Canada"

Leroy Lamborn, "Toward a United Nations Declaration on crime, abuses of power and the rights of victims", World Society of Victimology, 1984

Guglielmo Gulotta, "Collective victimization through the abuse of power", Milan: Centro Nazionale di Prevenzione E Difesa Sociale, Milan 1983.

Helsinki Institute for Crime Prevention and Control (HEUNI), "Towards a victim policy in Europe", Matti Joutsen (ed.), 1983.

Irvin Waller, "United Nations Declaration on the protection and assistance of victims of crime: Draft explanatory report and draft text", World Society of Victimology, 1984.

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