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ON THE PREVENTION OF CRIME
AND THE TREATMENT OF OFFENDERS
Havana, Cuba, 27 August-7 September 1990

LATIN AMERICAN AND CARIBBEAN REGIONAL PREPARATORY MEETING
FOR THE EIGHTH UNITED NATIONS CONGRESS ON THE
PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS
San José, Costa Rica, 8-12 May 1989

Report

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RECOMMENDATIONS

1. The Latin American and Caribbean Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, after exhaustive consideration of all five substantive topics of the provisional agenda of the Congress as outlined in the discussion guide (A/CONF.144/PM.1) and the reports of the five interregional preparatory meetings held at Vienna in 1988 (A/CONF.144/IPM.1-5), unanimously recommended the draft resolution presented below for submission, through the Committee on Crime Prevention and Control, to the Eighth Congress for further consideration and appropriate action.

Basic principles for the treatment of prisoners

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

Bearing in mind the long-standing concern of the United Nations for the humanization of criminal justice and the protection of human rights,

Bearing in mind also that sound policies of crime prevention and control are essential to viable planning for economic and social development,

Recognizing that the Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, are of great value and influence in the development of penal policy and practice,

Considering the concern of previous congresses with the obstacles of various kinds that prevent the full implementation of the Rules,

Believing that the full implementation of the Rules would be facilitated by the articulation of the basic principles underlying them,

Recalling resolutions 10 on the status of prisoners and 17 on the human rights of prisoners of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling also the statement submitted by the International Prisoners' Aid Association, Caritas Internationalis, the Commission of the Churches on International Affairs of the World Council of Peace, the International Council for Adult Education, the International Federation of Human Rights, the International Union of Students, the World Alliance of Young Men's Christian Associations and the World Council of Indigenous Peoples, which are non-governmental organizations in consultative status with the Economic and Social Council, category II, at the tenth session of the Committee on Crime Prevention and Control,

Recalling further the relevant recommendations contained in the report of the Interregional Preparatory Meeting for the Eighth Congress on topic 2, a/

Aware that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders coincides with the International Literacy Year, proclaimed by the General Assembly of the United Nations in its resolution 42/104 of 7 December 1987,

a/ A/CONF.144/IPM.4.

Desiring to reflect, at the Eighth Congress, the perspective noted by the Seventh Congress, namely, that the function of the criminal justice system is to contribute to safeguarding the basic values and norms of society,

Recognizing the usefulness of drafting a declaration on the human rights of prisoners,

Affirms the following statement of basic principles for the treatment of prisoners, and requests the Secretary-General of the United Nations to draw it to the attention of Member States,

Draft basic principles for the treatment of prisoners

1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.

2. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require.

4. The responsibility of prisons for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with a State's other social objectives and its fundamental responsibilities for promoting the well-being and development of all members of society.

5. Except for the necessary limitation of the freedom of movement, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its Optional Protocol, and such other rights as are set out in other United Nations covenants.

6. All prisoners shall have the right to take part in cultural and educational activities aimed at the full development of the human personality.

7. Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be encouraged.

8. Conditions shall be created enabling prisoners to undertake properly remunerated employment, to remain involved in the country's labour market and to contribute to their families' financial support and to their own.

9. Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.

10. With the participation and help of the community and social institutions, favourable conditions shall be created for the re-integration of the ex-prisoner into society under the best possible conditions.

11. The above principles shall be applied impartially.

2. The Meeting unanimously adopted the two resolutions presented below, and recommended resolution 1 for submission, through the Committee on Crime Prevention and Control, to the Eighth Congress for further consideration and appropriate action.

Resolution 1

Improvement of international and regional co-operation in crime prevention and criminal justice

The Latin American and Caribbean Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind the responsibility assumed by the United Nations in the field of crime prevention and criminal justice, and the leadership role assigned to the United Nations by Economic and Social Council resolution 155 (VII) of 13 August 1948 and General Assembly resolution 415 (V) of 1 December 1950,

Also bearing in mind the importance of the recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in particular the Milan Plan of Action and the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order,

Recalling resolution 5 of the Seventh Congress on technical co-operation in the field of crime prevention and criminal justice, in which the Secretary-General of the United Nations was requested to give special attention to technical co-operation in the area of the prevention of crime, the treatment of offenders and criminal justice, and to establish joint programmes with the regional and national institutes collaborating closely with the United Nations,

Also recalling General Assembly resolution 35/171 of 15 December 1980, in which the Assembly approved the Caracas Declaration adopted unanimously by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and called for the implementation of the conclusions relating to the new perspectives for international co-operation in respect of crime prevention in the context of development,

Recognizing the crucial role of the United Nations in the area of crime prevention and criminal justice, as confirmed by the General Assembly in its resolutions 40/32 of 29 November 1985, 41/107 of 4 December 1986, 42/59 of 30 November 1987 and 43/99 of 8 December 1988, as well as by the Economic and Social Council in its resolutions 1986/10 and 1986/11 of 21 May 1986, 1987/49 and 1987/53 of 28 May 1987 and 1988/44 of 27 May 1988,

Alarmed at the increase of crime in its different forms and dimensions and, in particular, of the various kinds of organized crime and terrorism, economic criminality, illicit drug-trafficking and crimes against the environment, which not only take their toll in human, material and social terms, placing a heavy burden on the economy, seriously affecting the health of peoples and creating a negative impact on the quality of life and on development programmes, but also can destabilize the very foundations of society,

Mindful that the growing internationalization of crime calls for adequate measures at the national, regional and global levels, including the collection of reliable data, informed decision-making and proper management of criminal

justice systems by computerized methods, and the establishment of information networks with access to national and international sources of data, as well as the equitable and fair treatment of all persons subject to criminal proceedings,

Recognizing the valuable work performed in these and other areas by the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, as well as by the Economic Commission for Latin America and the Caribbean in the economic and social fields,

Bearing in mind the conclusions of the Meeting of Presidents of Latin American and Caribbean Supreme Courts of Justice (San José, 30 November-2 December 1988) that, inter alia, reaffirmed its support for the United Nations Latin American Institute for the Crime Prevention and Criminal Justice Branch of the United Nations, and for the interregional advisory services in crime prevention and criminal justice, and urged the international community to intensify its efforts to promote higher levels of economic and social development in the region,

Dismayed at the complex and worsening economic situation in the region, which is affected by the heavy foreign debt burden and its adverse effects on the social structures of most of the countries of the region,

Gravely concerned about the serious resource constraints affecting the United Nations crime prevention and criminal justice programme in the face of its growing responsibilities, which constraints are making it difficult to implement effective technical co-operation projects, and are also threatening the preparatory process for the Eighth Congress,

Reaffirming the need for additional financial resources from the international community in order to assist the developing countries in identifying, analysing, monitoring, preventing and addressing the problems of criminality and delinquency, in accordance with their national development plans, priorities and objectives,

Bearing in mind the recommendations and conclusions of the interregional preparatory meetings for the Eighth Congress and the decisions and conclusions of the Committee on Crime Prevention and Control at its tenth session, held at Vienna in August 1988,

Determined to improve international and regional co-operation and co-ordination in order to achieve greater progress in this area, including the full and effective implementation of the resolutions of the quinquennial United Nations congresses,

1. Expresses its profound appreciation to the Government of Costa Rica and to the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders for the efficiency and generosity displayed at the Meeting;
2. Notes with appreciation the progress achieved to date in the preparations for the Eighth Congress, and the valuable work done by the Secretariat in spite of the limitation of financial resources and staffing available for this purpose;
3. Expresses its gratitude to the Committee on Crime Prevention and Control for the work it has accomplished as the preparatory body for the Eighth Congress;

4. Endorses the recommendations contained in the reports of the five interregional preparatory meetings, subject to any comments thereon made at the Regional Preparatory Meeting;

5. Reiterates the common commitment of the countries of the region to the effective functioning of the United Nations criminal justice programme, and their readiness to be involved in action intended to overcome the current crime problems, particularly those relating to organized crime, terrorism, illicit drug-trafficking, smuggling and illegal transactions based on capital flight and bank secrecy, without overlooking those that arise from situations of social risk to which minors and youth are exposed, profoundly affected as they are by the present crisis;

6. Earnestly appeals to the Secretary-General of the United Nations to devote special attention to strengthening the role of the Crime Prevention and Criminal Justice Branch of the United Nations and furnishing it with adequate means of coping successfully with the increase in its specific, high-level responsibilities, including various arrangements for technical co-operation, and the interregional advisory services in crime prevention and criminal justice;

7. Recognizes the outstanding contribution of the United Nations Latin American Institute to upgrading the crime prevention and criminal justice systems of the region and, in particular, its innovative role as a tool for regional co-operation;

8. Also recognizes the important contributions made by the Economic Commission for Latin America and the Caribbean, and requests its intensified support through continuing collaboration with the United Nations Latin American Institute and the Crime Prevention and Criminal Justice Branch;

9. Urges Governments and the relevant United Nations agencies to increase their support to the United Nations Latin American Institute, so that the Institute can expand its activities and programmes in the region, including its efforts to improve criminal justice systems and promote effective crime prevention policies and strategies, particularly efforts to combat new forms of criminality, such as organized crime and drug-trafficking, crimes against the historical, cultural and archeological heritage, and crimes against the environment;

10. Calls upon the countries of the region to include adequate resources in their national development plans and in their plans for bilateral and multi-lateral collaboration, in order to give shape and effect to programmes and activities in the area of crime prevention and criminal justice;

11. Expresses its gratitude to the United Nations Development Programme for its assistance to the project entitled "Support to the system of justice and human rights for development", and requests it to prolong this assistance and extend it to a larger number of countries;

12. Requests support, on a priority basis, from the relevant United Nations agencies, inter alia, the Department of Technical Co-operation for Development, the Centre for Human Rights, the United Nations Fund for Drug Abuse Control and the World Bank;

13. Recommends that Governments in the region more actively promote the exchange of information and experiences and the implementation of joint projects;

14. Also recommends that Governments in the region intensify their efforts to reduce the excessive length of proceedings, establish community-service alternatives to imprisonment, reduce prison overcrowding, and employ modern techniques of prison organization, administration and planning in crime prevention and criminal justice, encouraging Member States that have not yet tried such methods to consider the possibility of doing so, and to share relevant experience with other States;

15. Urges Governments, in their efforts to prevent juvenile delinquency and situations of high social risk for minors, to seek, as a general rule, non-judicial alternatives for affording them protection and community support, fully respecting the human rights of minors and the young;

16. Calls upon Governments in the region and the public to intensify their support to the judiciary in its role as the guarantor of fundamental rights and freedoms;

17. Requests the international community to intensify its support to countries in the region, with a view to producing economic and social solutions that will pave the way for lasting social peace and respect for fundamental rights and freedoms, protected by a fair and impartial judicial system;

18. Supports the proposal to organize a Pledging Day during the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, so that Governments can pledge their financial contributions to the United Nations Trust Fund for Social Defence;

19. Requests the Eighth Congress to accord special priority to strengthening the structure and functioning of the United Nations programme in crime prevention and criminal justice, recommending relevant action to ensure that it is sufficiently responsive to the growing needs of Member States, both now and in the future;

20. Further requests the Eighth Congress to establish guidelines for a new international convention encompassing the various aspects of international co-operation in crime prevention and criminal justice, for consideration by the Committee on Crime Prevention and Control and subsequent adoption by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

Resolution 2

Offer to host the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

The Latin American and Caribbean Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling that, at the first session of the Economic and Social Council in 1988, Cuba expressed the wish to host the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and that the Council noted the offer with gratitude,

Further recalling that, at the tenth session of the Committee on Crime Prevention and Control, in August 1988, this offer by the Government of Cuba was presented and was favourably received, and that a mission by the Secretariat of the United Nations visited Cuba from 3 to 8 August 1988, inspected the

facilities, considered the organizational aspects that would make it possible to hold the Congress, and decided that "the facilities visited appeared to be fully adequate for holding the Eighth Congress, in terms of both structure and basic requirements",

Decides to support the Government of Cuba in its wish to host the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in 1990.

INTRODUCTION

3. The Latin American and Caribbean Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders was the third of five regional preparatory meetings convened to discuss the substantive topics included in the provisional agenda for the Eighth Congress, to be held in 1990, in accordance with Economic and Social Council resolution 1987/49 of 28 May 1987, and General Assembly resolution 42/59 of 30 November 1987.

I. ORGANIZATION OF THE MEETING

Date and venue

4. The Meeting was organized by the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, United Nations Office at Vienna, in co-operation with the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) and with the support and assistance of the Economic Commission for Latin America and the Caribbean (ECLAC). The Meeting was held at ILANUD Headquarters, at San José, Costa Rica, from 8 to 12 May 1989.

Attendance

5. The Meeting was attended by more than 80 participants including participants and experts from 24 Member States, observers from ILANUD and from inter-governmental and non-governmental organizations, and a participant of the Committee on Crime Prevention and Control. The list of participants is contained in annex I.

Election of officers

6. The Meeting elected the following officers:

Chairman: Luis Paulino Mora, Minister of Justice (Costa Rica)

Vice-Chairmen: Augustín-Romain Cemé, Minister of Justice (Haiti)
Juan Escalona Reguera, Minister of Justice (Cuba)

Rapporteur: Jacinta Balbela de Delgue, Minister, Supreme Court of Justice (Uruguay)

Adoption of the agenda

7. The Meeting adopted the following agenda:

1. Opening of the Meeting.
2. Election of officers.
3. Adoption of the agenda.
4. Crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation.
5. Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures.

6. Effective national and international action against:
 - (a) Organized crime;
 - (b) Terrorist criminal activities.
7. Prevention of delinquency, juvenile justice and the protection of the young: policy approaches and directions.
8. United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard-setting.
9. Consideration of the conclusions and recommendations and adoption of the report of the Meeting.

List of documents

8. The documents before the Meeting are listed in annex II.

Opening of the Meeting

9. After extending a most cordial welcome to all the participants on behalf of the Institute and himself, the Director of ILANUD traced the events leading to the establishment of the Institute. Since 1975, the year in which ILANUD was founded, the aim of its activities had been, on the one hand, to pursue the objectives of the United Nations and, on the other, to satisfy the particular needs of the countries of the region in the field of crime prevention and criminal justice. In order to achieve the latter objective, research, training and technical co-operation programmes, and programmes for disseminating information and educating the public, were being carried out. Despite serious resource constraints, the Institute's achievements had been widely acknowledged at both the regional and international levels.

10. The Director described the various activities of ILANUD that were directly related to the substantive topics before the Eighth Congress. The Institute was contributing in that manner to the preparation and success of that important event. Moreover, attempts were being made, through several pilot projects, to assist the countries of the region in resolving some of their more urgent problems.

11. The participant of ECLAC said that the Commission was pleased to collaborate in holding the Meeting. At the previous Congress, ECLAC had already expressed an interest in collaborating more closely with both ILANUD and the Centre for Social Development and Humanitarian Affairs. That interest stemmed from the clear but poorly understood relationship between the overwhelming deterioration of the economy in many countries of the region and the steady increase in their crime rates. In order to help elucidate the relationship between the two phenomena, ECLAC had systematically maintained contact with both the Institute and the Centre, and had also prepared research documents and discussion papers on the topic, such as the one now submitted to the Meeting.

12. The participant of ECLAC briefly described the stagnation and deterioration of the economies of the region. Those processes had been aggravated in 1988, when real average per capita income in the region barely attained the 1987 level. The recession, moreover, had been accompanied by financial instability, high inflation rates, and negative capital flows generated by external debt servicing. The most vulnerable segments of the population were the ones most affected by that negative development.

13. The socio-economic effects of the crisis led to the proliferation of survival attempts among those population segments. Some of those attempts, such as the increase in self-employment, were positive, while others were clearly criminal in nature. That situation was extremely distressing, for if criminality came to appear, in the eyes of many, as a valid means of survival, the legal and ethical social control structures would lose their effectiveness. The problem was compounded by the corrupting influence, at every stratum of society and in several public institutions, of the criminal drug-trafficking organizations.

14. Other factors to be taken into account were the psychological impact of unemployment and social marginalization. The primary victims were the youngest sectors of the population, a fact that was reflected in the increase of violent juvenile behaviour. Social values were undermined by those circumstances, encouraging forms of behaviour that often led to crime.

15. A statement was delivered by the Minister of Justice of Costa Rica, who welcomed the participants. In referring to the achievements of his country in the area of crime prevention and criminal justice, the Minister also described a number of problems peculiar to the Costa Rican situation. One example was the growing number of crimes against property, which frequently characterized periods of deteriorating economic conditions, such as those being experienced by his country as well as by several other countries in the region.

16. The participant of the Committee on Crime Prevention and Control extended the Committee's cordial greetings to the participants. Further, he asserted that the criminal justice system could not be equated merely with the prison system, for at the core of the former was the human being, who was more valuable than any system. Since pure and simple punishment had proved to be ineffective, legislators should avoid giving in to public demands for more severe punishments. A just penal system rested on two pillars: crime prevention and respect for the person of the offender. For several decades, the United Nations had been an extremely valuable forum for the discussion of those two aspects. It was, therefore, very disturbing that, although the United Nations programme in that field had already been in existence for more than 40 years, an alarming scarcity of resources currently menaced the appropriate fulfilment of its multiple tasks.

17. The participant of the Committee then enumerated the opportunities for discussion offered by each substantive topic. He added that the Committee wished the Meeting to consider the possibility of adopting recommendations that would demonstrate the region's concern over the lack of adequate resources to maintain the efficient operation of the United Nations crime prevention and criminal justice programme.

18. In her statement, the Secretary-General of the Eighth Congress conveyed to the participants the warm greetings of the Secretary-General of the United Nations. Referring to the topics before the Meeting, she noted that humankind was confronted by the serious threat of the growing internationalization of large-scale criminal operations, such as illicit drug-trafficking. Some recent political initiatives, however, gave ground to hope that a certain measure of détente would prevail in the relations between States. The new international atmosphere could have major implications for crime prevention and criminal justice, since it would facilitate co-operation for the international control of transborder criminality. It was important to find ways of eliminating that legal no man's land, those loopholes in and between national jurisdictions, where impunity reigned supreme and where such activities such as drug-trafficking and other serious crimes with international dimensions flourished.

19. Among the consequences of the growing impunity enjoyed by organized transnational criminals were the astronomical dimensions of their profits, which gave them the financial capability to buy even more impunity. The resulting corruption was one of the most serious problems generated by the international scope of crime, since it could radically undermine the confidence of citizens in their leaders and in their political and legal institutions.

20. Latin America and the Caribbean had suffered more than their share of international criminal activities, as evidenced by the impact that drug-trafficking was having on them. Foreign indebtedness and the deterioration of the economic situation in many countries of the region were exacerbating an already extremely serious situation. The most vulnerable groups had been left virtually helpless, and the resulting frustration often gave rise to dangerous tensions that were fertile soil for violence, crime and lawlessness. In the light of those phenomena, it was evident that crime prevention called for, inter alia, socio-economic development as a means of helping to eradicate dire poverty, one of the root causes of crime. Economic development per se would not, however, suffice; it was also necessary to promote legal, normative and institutional changes.

21. The United Nations was subject, however, to the constraint exerted by inadequate resources, which prevented the Organization from providing all the technical co-operation requested by Member States. The situation could only be addressed if there existed the political will to face the issues. Otherwise, it would be impossible for the United Nations to respond appropriately to those requests.

22. In his address, the First Vice-President of Costa Rica referred to the crisis affecting the economies of the region. Large sectors of the population lived in extreme poverty. The resulting social and economic tragedy threatened to destroy the emerging democracies. It was, therefore, imperative to pay more attention to the problems that were at the root of criminality. The economic crisis had led to the emergence of new and menacing forms of crime. But the existence of unfair trade relations and the persistence of a heavy foreign debt, together with the suspension of social programmes in order to meet commitments to international banking institutions, prevented an effective assault on the real cause of criminality. The worsening situation underscored the importance of the Meeting for the improvement of regional and international co-operation in crime prevention.

23. The First Vice-President also stated that, in Costa Rica, the authorities gave high priority to crime prevention and criminal justice. Accordingly, in 1988 new legislation on psychotropic substances had been adopted. Its provisions laid down severe penalties and authorized the confiscation of the property and assets of drug-traffickers and their accomplices. He also stressed that the internationalization of criminality clearly demonstrated the interdependence of countries in a world that had become smaller as a result of advances in communications and transport. It was, therefore, imperative to take a global approach, promoting close co-operation in implementing joint strategies. Conducive to such co-operation were the growing manifestations of détente and willingness to carry on a dialogue. In order for the peoples of the region to advance along the road to economic, social and cultural progress, it was necessary to prevent new forms of criminality from further extending their tentacles.

II. REPORT OF THE DISCUSSION

Topic 1: Crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation

24. The Executive Secretary of the Eighth Congress introduced the main issues to be covered under topic 1, pointing out that the recommendations adopted by the corresponding Interregional Preparatory Meeting (A/CONF.144/IPM.1) could be a useful basis for the current discussion. He stressed that closer collaboration between various countries was an indispensable condition for establishing a more effective programme to combat the new forms of transborder criminality. The United Nations had played a major role in co-ordinating and implementing international initiatives, as provided for in the Milan Plan of Action, adopted by consensus at the Seventh Congress.

25. At the beginning of his statement, the Minister of Justice of Cuba referred to his country's aspiration to host the Eighth Congress. That had been expressed in the invitation extended by his Government in 1988, which the Economic and Social Council had noted with appreciation. The Minister added that the invitation reflected the concerns of the Cuban Government since 1982, when the Government's position on crime prevention had begun to change significantly. A growing awareness of the need to amend the country's penal legislation, in order to adapt it to the new circumstances in the country, had led to the initiation of a process of sweeping reform. That process had been further encouraged by Cuba's participation in the Seventh Congress. That event had led the authorities to conclude that the existing penal policies were in need of considerable revision. Consequently, the necessary steps had been taken immediately after the Congress. The process had culminated in the discussion and adoption, in December 1987, of Act No. 62, amending the Penal Code. Hence, the Seventh Congress had helped Cuba to confirm its initial ideas, adjust its course and find ways of formulating the new Cuban model of criminal justice.

26. The new Penal Code represented a considerable effort towards depenalization and decriminalization. It excluded approximately 28 per cent of the acts formerly considered criminal and reduced the upper limits for penalties, in many instances replacing imprisonment with fines. At the same time, a system of individual criminal files had been established and improvements had been made in the design and application of a humane prison policy aimed at maintaining the prisoners' ties to their family and environment. As a result, the prison population had been significantly reduced. Those were some of Cuba's reasons, said the Minister, for wishing to host the Eighth Congress.

27. In the course of the discussion, participants informed the Meeting that their countries welcomed the invitation extended by the Government of Cuba. A draft resolution, submitted by the participants of Colombia, Haiti, Mexico, Nicaragua, Peru and Uruguay, was then adopted, urging the Economic and Social Council to accept the invitation.

28. Several participants reported on reforms that had been or were being carried out in their countries. The purpose of the changes was to modernize the penal system by adapting it to the new circumstances and to international human rights standards. Some of the reforms sought to enhance the effectiveness of the efforts to combat the new and menacing manifestation of criminality, particularly in its transnational forms. Many participants thought that illegal drug-trafficking was the most serious form of transnational crime, capable of undermining the very foundations of social, political and

economic structures. Several participants indicated that their countries had literally been invaded by drug traffickers, who corrupted, intimidated and murdered public officials, members of the judiciary and the armed forces, and journalists who attempted to expose their operations. In that connection, the importance of the new Vienna Convention against drug-trafficking was stressed by several participants, who also referred to the harmonization of legislation that the Convention was likely to encourage.

29. Information was provided on a recent attempted military coup related to drug-trafficking. The attempt had occurred a few days after the head of State had dismissed military personnel acting in collusion with drug traffickers. It was pointed out by other countries that fundamental institutions had been gravely weakened by rampant criminality. Institutional order was being exposed to the assault of drug traffickers, guerrillas and terrorists, both separately and in collusion. The result was chaos and the undermining of personal security. The attacks were directed at members of the judiciary, and at their relatives. Consequently, there was a loss of faith in the judiciary, since the public was aware that its personnel worked in constant fear. Nevertheless, the fight against crime had not been given up. New laws and institutions to that end had been established. Yet, the danger existed that, in the face of continued attack by the forces of crime, the institutions of democracy, which had been recently revived or reinforced, could perish under that frontal aggression.

30. However, the concern over large-scale crime, whether national or international, should not turn attention away from so-called conventional crime. That form of criminality was a source of concern to the citizenry, creating disquieting levels of insecurity and causing the quality of life to deteriorate. Citizens had every right to a minimum level of security, so that they and their children could live without fear. It was, therefore, of the utmost importance that conventional crime should receive sufficient attention from the authorities.

31. Conventional or street crime was closely related, however, to economic and social factors such as poverty, unemployment and the anomie resulting from marginalization and lack of opportunity. More than 100 million of the region's inhabitants lived in dire poverty. As was to be expected, the increase in conventional crime was linked to the severe economic crisis that had been experienced by Latin America and the Caribbean in the 1980s. The economic crisis was, in turn, the result of attempts to meet the demands of international financial organizations. A whole series of development projects had had to be abandoned, and many social welfare programmes cancelled, making the lot of the most destitute even worse. Furthermore, the lack of opportunities was causing a mass rural-urban exodus, which was often accompanied by the disruption of community links and social disintegration, with the result that all protection against criminogenic tendencies ceased to exist.

32. One participant reported an immense increase in criminality caused by foreign aggression against his country. After an initial phase, during which crime rates had declined considerably thanks to radical socio-economic reforms, those gains had been wiped out by the tremendous instability and the ensuing economic crisis created by war. Nevertheless, new legislation had been introduced, in an attempt to carry out the relevant United Nations recommendations ensuring greater rights for all, including prisoners.

33. Some participants felt that a more satisfactory definition of the role of socio-economic development in crime prevention was required. It was obvious that prevention in the context of development could not be discussed since virtually all development in the region had come to a halt as a result of external debt. There was a tendency to emphasize the punitive approach to criminal justice because of lower cost of that approach. Rehabilitative options, often poorly understood by the public, were often costly. The punitive approach, however, had proved inadequate and, at worst, counter-productive. In that connection, reference was made to the major study submitted by ECLAC, supplemented by the ILANUD contribution. The study, which had been funded by the United Nations Development Programme, indicated that several factors were responsible for accelerated social deterioration: first, unconventional forms of criminality, such as drug-trafficking and terrorism; secondly, unjustified social alarm, as reflected in the demands for more severe punishment and for lowering in the age of criminal responsibility; and, thirdly, prison overcrowding, involving both minors and adults, with occupancy rates in some countries ranging between 300 and 900 per cent.

34. Not only was crime the result of certain phenomena that often accompanied economic development, such as rapid industrialization and increased urbanization, it was also an obstacle to development. On the one hand, scarce resources had to be diverted from productive activities and social sectors in order to finance the operation of the prison system; on the other, the financial manipulations of organized crime often led to serious economic distortions, particularly in the weakest countries. But it was not only the economic and social development potential that suffered from the impact of criminality; it was obvious that political development was also stunted by those activities, for they threatened the most fundamental institutions of democracy.

35. It was noted that significant efforts were being made in the region to improve international co-operation. In that respect, reference was made to the valuable contribution of the regional institute, ILANUD which, in spite of serious financial constraints, was carrying out important work that had received and was receiving due recognition from the countries of the region. A wide gap continued to exist between international recommendations in that area and actual implementation. That gap was due largely to inadequate resources. It was encouraging, however, that international institutions, such as the World Bank, had begun to include programmes in the field of crime prevention and criminal justice for some countries of the region. Emphasis was also placed on the importance of the technical assistance provided by the United Nations, including the interregional advisory services. Consequently, it was requested that such activities should be strengthened.

36. The participants expressed their satisfaction with, and appreciation of, the recommendations regarding topic 1 of the provisional agenda for the Eighth Congress, as set forth in the report of the Interregional Preparatory Meeting. However, some participants suggested certain amendments or reformulations. Accordingly, it was proposed that recommendation 3, section A, should read: "Governments should adopt control and surveillance techniques ...", instead of: "Governments should monitor control and surveillance techniques ...". Recommendation 6 in that section should use the term "dangerous substances" instead of "narcotic drugs and psychotropic substances". Recommendation 15, section B, should read "... banking organizations should be urged to unify ..." instead of "banking organizations should be urged to standardize ...".

Topic 2: Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures

37. The Executive Secretary introduced topic 2 for consideration by the participants, noting that its various aspects had particular relevance for several countries of the region. He stated that a society's attitudes towards crime, including the importance attached to rehabilitation, were reliably reflected by its prison system. There was an urgent need for a critical examination of phenomena such as prison overcrowding and the abuse of pre-trial detention, since respect for human rights and the principles of rehabilitation required prompt solutions to those problems. The proposals formulated by the Interregional Preparatory Meeting (A/CONF.144/IPM.4), especially the United Nations Draft Standard Minimum Rules for Non-custodial Measures (the "Tokyo Rules"), deserved the participants' careful attention.

38. In discussing the topic, the participants stressed the need for a radical improvement of the prison system based on the principles of rehabilitation and humanization. Prison overcrowding reduced the possibilities for re-education and rehabilitation. Parole and other alternatives to imprisonment, apart from playing a considerable role in the prisoner's social reintegration, could lead to a significant reduction in the prison population. That, in turn, would help to create more humane conditions in prisons, allowing them to carry out their rehabilitative function. Moreover, alternative measures should also be conceived as measures for rehabilitation. Reference was made to the importance of involving the mass media, particularly television, in educating the public on the virtues of such measures. That would help to overcome the mistrust those measures at times generated in a population inclined to believe in the value of tough treatment. In that connection, emphasis was laid on the importance of oral proceedings and the introduction of the jury system, which could help the public to arrive at a better understanding of the criminal justice system.

39. In the view of some participants, computers should play a key role in streamlining the administration of justice. Due caution should be exercised, however, in their application, so that a prisoners' right to privacy was not violated.

40. Several participants reported on the establishment, in their countries, of special commissions of jurists, criminologists, psychologists and other experts responsible for examining the criminal justice system. It was reported that new procedures for compensating material damages by non-penal formulas had been institutionalized. That was how, in several countries, provisions had been introduced for removing petty offences from the regular criminal case-load, thereby obviating the need for an indictment and penal sanctions. Moreover, new procedures had also been introduced in order to facilitate the review of criminal sentences, in an attempt to reduce pre-trial detention as much as possible. At the same time, under the auspices of ILANUD, several countries were participating in pilot projects and studies on the improvement of judicial institutions, the preliminary results of which were communicated to the participants.

41. Other participants reported that in their countries new, very progressive legislation concerning rehabilitation had been adopted. Unfortunately, it had not been possible to implement that legislation fully owing to the lack of physical space and of human and material resources. For that reason, certain critical conditions persisted. Moreover, in many cases, economic difficulties had reversed the reform process.

42. It was also emphatically stated that building prisons was not sufficient. The causes of crime should be resolved before their effects were treated. Prison personnel were often dangerously undertrained and grossly underpaid, which was the root of grave troubles inside prisons. A predominantly punitive prison system almost inevitably generated high rates of recidivism. Similar conditions prevailed also for judges, prosecutors and the police.

43. For some of the participants, the crisis in their countries' prison systems had already become a permanent feature in the region. Re-education in prison was, in such cases, a matter of theory rather than practice. For it to become a practice, the first task was to abolish solitary confinement in favour of a system that was more open and more community-oriented. That would enable the offender to remain integrated into his social environment. It should be borne in mind that confinement severed extremely important social ties, making successful re-integration difficult and recidivism likely. Moreover, the prisoner's family suffered serious financial problems. Those problems could be lessened considerably by systems that used institutionalization sparingly, resorting to it only for the most serious crimes.

44. Court congestion and lengthy criminal trials exacerbated the problem insofar as they led to prison overcrowding. ILANUD had documented the fact that a very high proportion of prisoners remained in prison without any final disposition of their cases. That was in violation of fundamental guarantees. Most alarming was the fact that such prisoners made up the majority of the prison population in most countries of the region.

45. Prisoners often lacked material resources and lived on the margin of society, which prevented them from obtaining adequate legal assistance and lengthened their trials. That situation led several participants to stress the urgent need for change and for the implementation of alternatives to imprisonment. For that reason, they welcomed the formulation of the Tokyo Rules, as well as the other recommendations set forth in the report of the interregional meeting on the topic.

46. One participant noted that insofar as the Tokyo Rules sought to empower the police, the prosecution or other agencies to dismiss the charges against the offender, they could allow too large a measure of discretionary power to be granted to those or other administrative organs. That could mean either giving the police and the prosecution jurisdictional powers or depriving the proceedings of judicial guarantees, in which cases all necessary precautions had to be taken for the protection of the rights of the accused.

47. It was also pointed out that communities that embodied the region's indigenous cultural heritage, one element of which had been non-custodial conflict resolution rather than imprisonment, had become marginalized as a result of alien legal models that imposed institutional measures even for minor offences.

48. The participant of the Council for Adult Education referred to the importance of training and education in prison, and then circulated specific proposals on how to resolve the related problems. Those proposals were endorsed by many participants.

49. It was proposed that, in the spirit of the American Convention on Human Rights (Pact of San José), article 5, and the Convention on the Protection of all Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, all necessary measures should be taken to put an end to the use of solitary confinement for purposes of punishment, and the Standard Minimum Rules for the Treatment of Prisoners should be more scrupulously observed.

50. It was also proposed that surveys and studies on the actual situation in prisons should be carried out, and that special importance should be given to the implementation evaluation and follow-up of alternative measures. Those measures should be accompanied by information campaigns aimed at creating a better understanding among the population in general and among corrections personnel in particular, of the desirability of alternatives to imprisonment. In addition, greater involvement by the community and non-governmental organizations in preventing crime should be promoted, and their co-operation in the dissemination of United Nations plans of action should be obtained. Finally, emergency assistance should be provided for the families of prisoners not only from the time of their detention and throughout their imprisonment but also, and especially, upon their release, with a view to facilitating their re-integration into family and social life.

Topic 3: Effective national and international action against:
(a) organized crime; (b) terrorist criminal activities

51. In his introduction, the Executive Secretary referred to the crucial importance of bilateral and multilateral co-operation in combating organized crime and criminality of a terrorist nature. The Interregional Preparatory Meeting on topic 3 (A/CONF.144/IPM.2) had elaborated a set of recommendations that could serve as a sound basis for the deliberations at the current Meeting. Draft model treaties on mutual assistance in criminal matters and on extradition had also been formulated.

52. The participants pointed out that manifestations of organized crime and terrorism had become extremely serious. Organized crime had dramatically increased its economic, financial and operational potential. In many countries, terrorism dangerously weakened the social fabric and threatened to interfere with the normal conduct of relations between nations. Closer and better co-ordinated international co-operation was essential in order to save human lives, preserve domestic peace and safeguard international relations.

53. Satisfaction was expressed with the interest displayed by the United Nations in considering the origin, control and eradication of the operation of organized crime. That interest complemented the recent decisions by many Governments to devote attention, on a priority basis, to the threat posed by such operations, and it demonstrated that with each passing day there was a further internationalization of efforts to ensure safety and well being.

54. Of the many activities of organized crime, drug-trafficking was perceived as the most serious, although other activities should not be ignored or tolerated. In any case, it was obvious that the effectiveness of efforts against drug-trafficking was conditional, in many instances, not only on the strengthening and modernization of the entire system of crime control, but also on the reinforcement of preventive action. In that context, the education of the young, which was the group most exposed to the ravages of drug abuse, deserved priority attention.

55. Several participants thought that the current penal legislation in many countries was not equal to the task of combating the drug-trafficking problem. In many cases, such legislation was aimed almost exclusively at prosecuting consumers of drugs. That one-sidedness became obvious when prison population statistics were examined. Thus, in some countries more than 75 per cent of those imprisoned for drug-related offences were neither dealers nor producers but users. The view was expressed that national legislation could be harmonized by incorporating the dispositions of the Vienna Convention against illicit drug traffic, adopted in December 1988.

56. Some participants expressed scepticism about crop substitution programmes. In their opinion, eradication would have no chance of success if the problem was not considered in toto. Farmers could not be expected to agree to substitution if markets in developed countries remained closed to their new products. It was, therefore, essential that the idea of shared responsibility should gain acceptance, so that all countries would join in action without attempting to apportion blame between producers, consumers, marketing countries and transit countries. Accordingly, a suggestion was made to add the following sentence to the recommendation contained in the report of the Interregional Preparatory Meeting on topic 3, paragraph 60: "All countries must be involved in combating drug-trafficking on the basis of shared responsibility".

57. It was noted that the term "organized crime" referred to complex criminal activities carried out on a large scale by organizations with the intent of establishing, maintaining and exploiting markets for illegal goods and services, for the profit and the enrichment of their members, and at the expense of society. Such activities generally took place outside the law, and often involved crimes against persons, such as threats, intimidation and physical violence, including murder and mutilation. A secondary, but extremely harmful, effect of such activities on society was the corruption of public officials and political figures by bribes and graft, or was collusion. The characteristics of a criminal organization were several: continuity, a hierarchical structure, defined membership, criminal involvement, recourse to violence and, above all, the acquisition of power.

58. The laundering of money from drug-trafficking represented, in the view of many participants, a serious threat to the political and financial stability of a great many countries; at the same time, however, it was the Achilles' heel of organized crime. Infiltration into legal businesses as a means of laundering money distorted the very basis of commerce and trade, rendering the economies of the affected countries dependent and vulnerable. The sudden withdrawal of those investments could have a devastating impact. In extreme cases, a national economy could run out of control if the national currency were pushed out of circulation by a stronger currency, generally the dollar. Such as use of dollars for daily transactions destroyed the ability of the State to practice effective monetary policy. Moreover, it was necessary to determine who actually benefited from the laundering of drug money, since the bulk of the proceeds usually went to other countries. According to a recent study, the beneficiaries were not the producer countries, since out of a total of \$US 50 billion in revenues generated by the illegal drug trade, only \$US 4 billion remained in the country.

59. Drug-trafficking could and should be attacked primarily at its weakest point, namely, profits. Forfeiture, freezing and seizure of illegal earnings were the most effective weapons in the fight against such criminal activities. The greatest obstacle, however, to the investigation of illicit funds was bank secrecy as currently practised. Although recent legislation had incorporated certain provisions under which bank secrecy could be lifted by court order, much remained to be done, especially at the international level. The 1988 Vienna Convention was considered weak by some of the participants because it permitted countries to enter areas that could be related to the inviolability of bank secrecy. The Eighth Congress should make specific recommendations in that area.

60. Another illicit and extremely harmful activity of organized crime was the dumping of toxic or radioactive wastes. The impact of such action on the environment, and hence, on the health of millions of human beings, could hardly be exaggerated. The victims of such action were often developing

countries. Similarly, ecological damage was caused by deforestation and by the discharge into rivers of the harmful chemical by-products of illicit coca cultivation and the processing of cocaine. Therefore, pollution and destruction of the environment had to be added to the list of organized crime's negative consequences.

61. A message from the Executive Director of the United Nations Fund for Drug Abuse Control (UNFDAC) was conveyed to the Meeting. That message stressed the dramatic impact of organized crime in Latin America. Criminal gangs had begun to openly challenge the authorities, using intimidation and other methods in an attempt to defeat the forces of law and order. The rapid increase in drug-trafficking proceeds had been matched by a proportional increase in those criminal activities. In the Andean subregion, between 750,000 and 1.1 million people were estimated to be involved in drug production. Although only a tiny fraction of drug-trafficking proceeds entered the region, that fraction was equivalent to at least 75 per cent of the legitimate export earnings of Bolivia, 14.5 per cent of Peru's and 13.5 per cent of those of Colombia.

62. All those factors explained the growing interest of UNFDAC in Latin America. The Fund had been attracting increasing support from several Governments outside the region, especially the Governments of the Federal Republic of Germany, Italy, Sweden and the United Kingdom of Great Britain and Northern Ireland. According to the Executive Director, UNFDAC was prepared to strengthen its already close co-operation with the Crime Prevention and Criminal Justice Branch and with ILANUD. That would allow it to continue offering effective assistance to the region in its efforts to combat organized crime, with special reference to drug-trafficking. In response, many participants urged the Fund to increase its assistance to Latin American countries.

63. Turning to the second part of topic 3, several participants reported that their countries were being victimized by terrorist organizations. Terrorism constituted a modern form of warfare, and was designed to destroy the confidence of a country's citizens in the ability of their Government to defend and protect them. One major element of terrorism was psychological warfare. Terrorist operations also sought to destroy economic institutions and to undermine public administration at all levels, so as to impair society's ability to function. The ultimate objective was essentially political: to seize power at the expense of the existing system. For terrorists, that end justified the means.

64. A particularly serious threat was posed by the close alliance between drug-trafficking organizations and terrorist groups, which supported each other and thus constituted a serious danger to the institutional stability of the countries affected by their activities. In some cases, the combination of those deadly forces had taken the societies to the edge of the abyss. Representatives unanimously agreed that only multilateral action and intensive international co-operation were capable of halting the process of degeneration and preventing chaos. In that respect, the United Nations had a key role to play in co-ordinating and channelling assistance.

65. Some participants believed that every effort had to be made to produce a definition of terrorism, although they recognized the difficulty of formulating it. In that connection, it was stated that the recommendations of the Group of Experts on International Co-operation for the Prevention and Control of the Various Manifestations of Crime, including Terrorism, which met at Siracusa, from 20 to 24 January 1988, could provide a useful point of departure. In that connection, it was desirable to support what was referred to in those recommendations as internationally protected targets. Agreement on that would allow a more effective protection of such targets.

66. For several participants, traditional penal legislation was obviously inadequate vis-à-vis the terrorist threat, for terrorism was not a common, isolated or sporadic criminal phenomenon, but was usually well-organized and military or paramilitary in nature. Hence, there was a need to thoroughly revise and amend some of the traditional principles of criminal law in order to make it a better weapon against the specific features and new dimensions of terrorism.

67. An important but often ignored aspect of terrorism was State terrorism. Reference was made, in that connection, to such phenomena as genocide, apartheid and other oppressive and totalitarian practices of authorities, which denied citizens their most basic political rights.

68. The progress achieved in the formulation of the draft model treaties on mutual assistance in criminal matters, and on extradition, as reflected in the revised texts contained in documents A/CONF.144/RPM/CRP.1 and 2, was acknowledged by the participants. The models were deemed to be of vital importance for closer international co-operation in combating transborder criminality, and the Eighth Congress was urged to take action on all the proposals.

69. None the less, a number of specific changes to the existing texts were suggested. With respect to the draft model treaty on mutual assistance, a proposal was made to introduce a new article immediately after article 3 in the existing draft, with the following wording: "Assistance shall be refused if the request is related to an offence which the Contracting States consider to be (a) an offence of a political character, or (b) an offence under a military law but not under ordinary penal law". In article 5, subparagraph (b) should become subparagraph (a). Paragraph 4 of the same article should read: "If the Requested State considers that the information contained in the request is not sufficient to enable the request to be dealt with, it...". Articles 11 and 12 could be redrafted as a single text. With regard to the Optional Protocol, the following paragraph should be inserted after paragraph 5: "The Requested State shall retain one half of the value of the property referred to in paragraphs 3 and 4 and shall transfer the other half to the Requesting State. If real property is involved, the Requested State shall sell such property and dispose of the proceeds of the sale as stipulated in this paragraph".

70. With respect to the draft model treaty on extradition, the following wording was proposed for article 4, paragraph 1 (a): "if the offence for which extradition is sought is an offence of a political character. Political offences shall not include the taking or attempting the taking of the life of a Head of State or a member of that person's family, nor an offence relating to drug-trafficking, the hijacking or safety of aircraft, the taking of hostages, attacks on internationally protected persons, torture, genocide or other offences related to activities of a terrorist nature or any other offence agreed by the Parties not to be an offence of a political character". In article 5, the following text should be inserted after paragraph 1 (a): "In cases of drug-trafficking, the Requested State shall try the person whose extradition is sought unless the Requesting State objects". Subparagraph (f) should read: "If, in exceptional cases, the Requested State, having evaluated the nature of the offence and the interest of the Requesting State, considers that, owing to the personal circumstances of the person whose extradition is sought, the extradition would be totally incompatible with humanitarian considerations". It was also suggested that a new article should be inserted after article 5, with the following wording: "Extradition shall not be granted when the person whose extradition is sought has been judged by default, unless the Requesting State gives assurances that the trial will be

re-opened so that he/she might exercise his/her right of defence", and that the simplified form of extradition, described in paragraph 3 of article 7, should be covered by a separate article. Similarly, communication of the decision made on the request for extradition, referred to in paragraph 1 of article 12, should be the subject of a separate article. Lastly, paragraph 2 of article 16 (refusal of transit) should be replaced by paragraph 1 (a) of article 4 in the draft model treaty on mutual assistance.

71. The participants unanimously recommended that Governments should vigorously support all initiatives by countries and international institutions to combat drug-trafficking, and should warn others of the imminent danger represented by organized crime. Consequently, they called for continuing efforts to elaborate mechanisms that would be in the forefront of the battle against criminality, and for an appeal to the conscience of States to abandon the belief that the solution of problems related to drug-trafficking was to be found within the territory of a single country.

Topic 4: Prevention of delinquency, juvenile justice and the protection of the young: policy approaches and directions

72. The Executive Secretary introduced topic 4, referring to the importance of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, adopted by consensus at the Seventh Congress. He pointed with optimism to the considerable impact those Rules had had, as evidenced by the number of countries that had already included their provisions in their legislation and were putting them into practice in daily life. He added that the two drafts submitted to the Meeting were based on those Rules, and were the culmination of a long evolutionary process towards recognizing the rights of juveniles.

73. A number of participants reported to the Meeting on reforms that had been adopted or were in the process of being formulated and adopted in their countries. To a large extent, such initiatives amounted to the implementation of international recommendations.

74. The adoption of programmes incorporating preventive strategies that recognized and utilized the basic elements of a young person's social environment, such as the family, school and community, was deemed urgent. It was particularly important to take measures that would contribute to strengthening the family unit. Similarly, it was deemed essential to involve young people living in a "situation of risk" in community activities, as a means of providing them with guidance and education. Thus, the greatest emphasis was placed on primary prevention, an often neglected strategy.

75. In certain cases, however, the popular reaction to juvenile delinquency tended to be punitive and authoritarian. That was often the product of certain stereotypes projected and popularized by some of the mass media, which at times painted an overly negative picture of juvenile offenders. Unfortunately, as a result of popular pressure, communities were often somewhat reluctant to participate in rehabilitation and resocialization programmes. Thus, there was a growing awareness of the need to educate the general public concerning the overall advantages of rehabilitation policies.

76. It was noted that the problem of juvenile delinquency was particularly acute in the region, as young people constituted a very high percentage of the population. Moreover, the young were the hardest hit by the serious economic crisis facing the region, since they were one of the most vulnerable sectors

of society, as borne out by the extremely high unemployment rates prevailing among them. Delinquency, in this case, was the result of dire poverty.

77. Those circumstances had given rise to such phenomena as street children. Hundreds of thousands, if not millions, of young people were growing up without a roof over their heads and were easy prey for criminogenic forces. A wide chasm persisted between legal norms and the reality of daily life. The significant efforts made by ILANUD, the Inter-American Children's Institute and the United Nations Social Defence Research Institute to counter the problem were singled out for praise. Also, at the regional level, the efforts of those organizations had laid the basic foundations for the unquestionable advances now being reported by Governments.

78. None the less, many countries had no plans for preventive action in the area. Moreover, lack of resources often made it impossible to build adequate institutional facilities. The result was that juveniles were often confined together with adult offenders, with the expectable adverse consequences. It was thus necessary to promulgate, inter alia, juvenile justice codes, to establish new institutions, such as "juveniles' defender", and to create specialized detention units, so as to reduce the traumatic effects of imprisonment. It was also essential to keep the institutionalization of minors to a minimum, limiting it to extremely serious offences. Certain countries of the region had already introduced legislative provisions related to the above-mentioned points. Perhaps the most important development, however, was the abandonment of dogmatic attitudes that sought to impose penalties on minors similar to those imposed on adults.

79. The draft instruments before the Meeting were the culmination of a long process of evolution towards the recognition of the fundamental rights and freedoms of children and youth. The draft Guidelines for the Prevention of Juvenile Delinquency emphasized, in accordance with the United Nations Rules for the Administration of Juvenile Justice, solutions that called for priority involvement of the community and community institutions. In that connection, the use of the formal judicial machinery should be the last resort, as suggested in the Guidelines. That was particularly relevant in view of the critical poverty prevailing in the region, of which juveniles were the primary victims. It was, therefore, necessary to create a new mentality in order to promote solutions that involved the least possible use of custodial measures for juveniles, and that respected their fundamental rights and freedoms. For the same reasons, the draft instrument on the Standard Minimum Rules for Juveniles Deprived of their Liberty was also of crucial importance in preventing a very serious situation from developing in several countries where adult prisons, with all their negative features, dehumanized juvenile inmates.

80. The participants endorsed the draft instruments proposed by the inter-regional preparatory meeting, and urged the Eighth Congress to take the necessary measures to ensure their implementation.

Topic 5: United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard-setting

81. The Executive Secretary of the Eighth Congress introduced agenda item 5, stressing that the topic had a long tradition at United Nations congresses on the prevention of crime and the treatment of offenders, since it reflected the continued interest in the protection of the human rights of both offenders and victims. The draft recommendations before the Meeting were the result of a

long process of elaboration in which many Governments, experts and non-governmental organizations had been involved, and which would culminate at the Eighth Congress.

82. It was noted that the recommendations had been generally accepted, and there was consensus on their objectives and conceptual approach. However, it was stressed that there was need for action at the international level to humanize criminal justice and to enhance the protection of the human rights and fundamental freedoms of all individuals. Prevention should be focused, and should manifest due regard for the context and the socio-economic, political and cultural characteristics of the various countries and the level of their development. A basic strategy was necessary to address the alarming increase in criminality world-wide, yet ensuring full respect for human rights. The adoption and future implementation of the international norms that had been elaborated would help to humanize the treatment of offenders, accused, charged or sentenced persons, and of victims, while at the same time responding to the concern of reducing crime.

83. A highly important development at the Meeting was the reaffirmation of the principles set forth in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the Seventh United Nations Congress. Their provisions encompassed the various aspects of legal, material and social assistance to victims of crime and their dependants. Much more should be done to implement the Declaration at the national and international levels, especially for the victims of abuse of power. Further, all nations should become parties to the Convention against Torture, incorporating in their national legislations specific provisions regarding the crime of torture. Legislative clauses on that subject should be developed.

84. The independence of the judiciary should be anchored in the constitution of the country. The members of the judiciary should be selected by means guaranteeing their independence and ensuring that they could not be removed before the end of their mandate. In the administration of justice it was very important to streamline the proceedings and to expedite the handing down of judgements. All citizens should have equal access to the various judicial organs.

85. There was a need to seek the deepest possible understanding of the phenomenon of crime. To that end, it was very useful to establish appropriate systems for the collection, organization and analysis of crime statistics, which would permit more rigorous decision-making in criminal policy matters. That would also facilitate the application of norms and guidelines, using modern scientific methods.

86. The participant of the World Health Organization referred to the Global Programme on the Acquired Immunodeficiency Syndrome (AIDS) and to the Geneva Consultations on AIDS in Prison, which had involved 37 experts from 26 countries. The active collaboration of the judicial machinery was essential to the fight against AIDS in prisons. New problems had been detected as a result of the outbreak of AIDS, even though prison life in and of itself did not constitute a risk situation for the disease. With respect to attitudes towards prisoners who had a positive test or were confirmed to be suffering from AIDS, it was acknowledged that prisons were not hospitals, but that every prisoner, as a human being, should be able to benefit from medical care equivalent to that provided to the community.

87. Concrete preventive procedures were suggested, including (a) further measures to prevent drugs from being smuggled into prisons; (b) control of

heroin abuse by substitution with methadone, in spite of possible complications; (c) supply of syringes to inmates; (d) provision of more information to all prison staff; and (e) diffusion among inmates of literature on the risks of sexual relations without condoms and the risks of intravenous drug use.

88. In his statement, the participant of ECLAC pointed out that the right to development was recognized by various United Nations agencies, but that in Latin America it was rarely put into practice. ECLAC, in its study on the dynamics of social deterioration in Latin America and the Caribbean, had wished to highlight the importance of the relationship between underdevelopment and crime, and had urged experts on those subjects to furnish illustrations of that important linkage. Countries had to seek solutions to their own development problems. Given the intention of ECLAC to update the information and the analysis of the relationship between the economic crisis, social problems and crime, in preparation for the Eighth Congress, the participants in the Meeting could offer much-needed help by sending their observations and the latest information.

89. In his statement to the Meeting, the participant of the International Bar Association (IBA) referred to the objectives of his organization, which had members in 101 countries. He noted that drug addiction was turning its victims into modern-day slaves and that serious crime was escalating. Truth, and respect for truth, had to be considered the primary norm of legal procedure. The rule of law and truth were universal values to which the Meeting was adhering, as it was committed to drawing on the finest libertarian traditions.

90. In that connection, the draft Basic Principles on the Role of Lawyers met with general acceptance. The Principles were based on the precepts enshrined by the United Nations, whereby the right to a defence was to be ensured as part of the continuing effort to protect human rights and individual guarantees. One participant pointed to problems that could arise in connection with legal assistance, bearing in mind that the exercise of the legal profession depended in many ways on its status in the political and administrative structure of each country. In penal matters, the deterioration in the practice of law was frequently due to deficiencies and inequalities among those for whom the defence was intended. Therefore, it was suggested that the phrase "under equal conditions" should be inserted after the full stop in principle 13.

91. With respect to the draft Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, participants stressed the delicate nature of the mission carried out by those officials and the risks to their own personal safety entailed in performing the function of preventing and punishing criminal activity. Some observations were expressed in relation to principle 2, and it was proposed that the term "officials" be replaced by "agencies". In principle 6; the phrase "in accordance with the circumstances" should be inserted after "human life" at the end of the article. In principle 11, the last sentence, starting with "In any event ..." should be deleted. In principle 12, the sentence "with the qualification that, in the face of exceptional circumstances, the warning cannot be issued without seriously increasing the risk to third parties" should be inserted after "warning to be observed", at the end of the principle. The addition was necessary because of the risk engendered by certain types of offence and the frustration that could result from identification or warnings prior to the authority's taking action. A proposal was made to add the word "public" before "assemblies" in principle 14. In principle 26, "manifestly illegal" should be inserted before "order", to ensure protection from abuses stemming from the vertical structure generally found in the administrative organization of the police.

92. With reference to the draft Model Agreement on the Transfer of Proceedings in Criminal Matters, observations were made regarding citizenship or nationality, affording the judge an option (article 6), as well as on articles 11 and 15.

93. Similar suggestions of a stylistic nature were made with reference to the proposed Model Agreement on the transfer of conditionally released offenders (articles 2, 5, 8 and 10), to be taken into account for the finalization of the draft.

94. The Interregional Adviser referred to the services offered by the Crime Prevention and Criminal Justice Branch in various technical co-operation areas, which included, *inter alia*, criminal law, criminal justice administration, crime statistics, law enforcement, the treatment of offenders, victims of crime and juvenile justice, as a way of assisting countries in the implementation of existing standards. Advisory missions, financed with funds from the regular budget of the Department of Technical Co-operation for Development, generally lasted two or three weeks. Those missions identified areas of special concern in the field of crime prevention and criminal justice. Of vital importance was to ensure that priority was accorded to crime prevention and criminal justice requirements by the planning ministries for programme support by the United Nations Development Programme (UNDP). Only in that way could countries obtain the resources necessary to follow up the recommendations of the advisory missions with specific projects.

95. The central role that ILANUD was playing in the region in the field of technical co-operation through multilateral and bilateral assistance (e.g. UNDP, Italy, Japan, Spain and United States/Agency for International Development), was stressed by many delegations. Mention was also made of the fact that other specialized agencies of the United Nations system, including the World Bank, were providing funds for projects in such areas as computerized legal data and programmes for street children, as part of social adjustment measures. The importance of computerization was highlighted, as were the initial advances made in the Crime Prevention and Criminal Justice Branch with respect to the global information system recommended by the Seventh United Nations Congress.

96. The participant of the Committee on Crime Prevention and Control commended the Meeting for its work, and expressed support for the goals it had embraced. Resources were urgently needed for the activities carried out by the United Nations in the field. As one who came from the region, he had to insist that the programme should be strengthened, as should also be the relevant activities that had to be implemented in Latin America and the Caribbean.

III. ADOPTION OF THE REPORT OF THE MEETING

97. At its final session, the Meeting adopted the report introduced by the Rapporteur.

Annex I

LIST OF PARTICIPANTS

Members of the Economic and Social
Commission for Latin America and the Caribbean

Argentina

Ricardo Gregorio Rongo, Prosecutor, Criminal Chamber of the Federal Capital

Emilia Bouzón de Terzano, President, Secretariat of Christian Aid to Prisons and International Prisoners' Aid Association

Gustavo Adolfo de Paoli, Deputy-Director, Juridical Affairs Department, Ministry of Foreign Affairs

Zulita Fellini, Adviser, Secretariat for Minors and Families, Ministry of Social Development and Family Affairs

Guillermo Oscar Serpa Guñazú, Adviser, Department of Justice

Bahamas

Marvin Dames, Police Officer

Elliston Rahming, Adviser, Ministry of National Security

Bolivia

Benjamín Miguel, Member of Parliament, Member, United Nations Committee on Crime Prevention and Control

Brazil

José Jerónimo Moscardo de Souza, Ambassador of Brazil to Costa Rica

José Cândido de Carvalho Filho, Attorney-General

José Vicente da Silva Lessa, Second Secretary, Embassy of Brazil, San José, Costa Rica

Eduardo Manoel Lemos, Adviser, Attorney-General's Office

Canada

Peter Boehm, First Secretary and Consul, Embassy of Canada, San José, Costa Rica

Chile

Carmen Mihavilovic, Chief, Social Defence Division, Ministry of Justice

Juan Aníbal Barria, Diplomat, Embassy of Chile, San José, Costa Rica

Colombia

Santiago Gómez, Chief, Bureau of Socio-Juridical and Prevention Research,
Ministry of Justice

Costa Rica

Luis Paulino Mora, Minister of Justice

Ricardo Calvo, Assistant Minister of Justice

Olga Marta Cordero, Director, Diagnostic Centre for Delinquents and Minors
at Risk

Rosa Chan, Director, Department of Administrative Efficiency, Ministry of
Public Safety

María Luz Gutiérrez Chavarría, Adviser, Ministry of Justice

Leticia Hidalgo, Deputy-Director, Department of Administrative Efficiency,
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Fabio León, Adviser, United Nations Latin American Institute for the
Prevention of Crime and the Treatment of Offenders

Federico Marcos, Director, National Institute of Criminology

Otilia Marín, Director, Parole Department, Ministry of Justice

Ana E. Posada, Adviser, Ministry of Justice

Cuba

Juan Escalona Reguera, Minister of Justice

César Escalante, Second Chief, Directorate of the National Revolutionary
Police

Pedro García, Chief Prosecutor

Haroldo Lores, Prosecutor, Penal Matters Department, Office of the
Attorney-General, Ministry of Justice

Aracelis Mastrapa, Division of International Organizations, Ministry of
Foreign Affairs

Dominican Republic

Rhady's Iris Abreu de Polanco, Ambassador, Head of International
Organizations Department, Ministry of Foreign Affairs

Ecuador

Germán Carrión, Attorney-General

El Salvador

Rodolfo Antonio Revelo, Ambassador of El Salvador to Costa Rica

José Samuel Cárdenas, Magistrate

José Ernesto Criollo, Adviser, Ministry of Justice

Homero Armando Sánchez Cerna, Adviser, Ministry of Justice

France

Dominique Le Louarn, Embassy of France, San José, Costa Rica

Guatemala

Victor Manuel Rivera Woltke, Supreme Court of Justice

Juan José Cabrera, Adviser

Haiti

Augustin-Romain Cemé, Minister of Justice

Yvan-Richard Maurrasse, Adviser, Ministry of Justice

Dominique Romain, Adviser, Ministry of Justice

Honduras

Juan Rafael Leiva, Secretary, Civil Matters Chamber, Supreme Court of Justice

Alberto Emilio Cruz, Adviser, Ministry of Justice

Humberto Palacios Moya, Director, Juridical Research Institute, School of Law, University of Honduras

Manuel Antonio Urbina, National Police Force

Jamaica

Leslie Harper, Senior Superintendent of Police, Ministry of National Security

Mexico

Eugenio Ruíz Orozco, Internal Controller, Attorney-General's Office

Augustín Téllez Cruces, Legal Consultant, Attorney-General's Office

Alfonso García Morales, National Institute of Criminal Sciences

José Herminio Jasso, Adviser, Attorney-General's Office

Nicaragua

Hipolito Cortés, Attorney-General

Sergio Lira Gutiérrez, Head, Penal Education Department, National Penitentiary System, Ministry of Interior

Alfonso Valle, Legal Adviser, Ministry of Interior

Paraguay

Modesto Elizeche, Adviser, Ministry of Justice and Labour

Peru

Luis Lamas Puccio, Adviser, Ministry of Justice

Trinidad and Tobago

Michael Hercules, Commissioner of Prisons

United Kingdom of Great Britain and Northern Ireland

William Marsden, Ambassador of the United Kingdom to Costa Rica

Peter Seymour, Second Secretary, Embassy of the United Kingdom, San José, Costa Rica

Patrick Mullee, Third Secretary, Embassy of the United Kingdom, San José, Costa Rica

Uruguay

Jacinta Balbela de Delgue, Minister, Supreme Court of Justice

Associated member of the Economic Commission for Latin America
and the Caribbean

Dutch Antilles

Dick Plar, Prosecutor-General

Observers

Germany, Federal Republic of

Eva Bluemm, First Secretary, Embassy of the Federal Republic of Germany, Costa Rica

Committee on Crime Prevention and Control

Adolfo Luis Tamini, representative of the Committee

United Nations Secretariat units

Department of Public Information

Mario Zamorano, United Nations Information Centre, Mexico

Economic Commission for Latin America and the Caribbean

Daniel S. Blanchard

John Durston

Emmanuelle Verhoeven

United Nations Office at Vienna

Margaret J. Anstee, Secretary-General of the Eighth Congress;
Director-General, United Nations Office at Vienna

Eduardo Vetere, Executive Secretary of the Eighth Congress; Chief, Crime
Prevention and Criminal Justice Branch, Centre for Social Development and
Humanitarian Affairs

Pedro David, Interregional Adviser in Crime Prevention and Criminal Justice

Rodrigo París-Steffens, Social Affairs Officer, Crime Prevention and
Criminal Justice Branch, Centre for Social Development and Humanitarian
Affairs

Julio Heredia, Social Affairs Officer, Crime Prevention and Criminal
Justice Branch, Centre for Social Development and Humanitarian Affairs

United Nations bodies

Office of the United Nations High Commissioner for Refugees: Brian Treacy,
Protection Officer

United Nations Development Programme: Bruno Guandalini, resident
representative

United Nations Fund for Drug Abuse Control: Giovanni Quaglia, Field Adviser

Specialized agencies

United Nations Educational, Scientific and Cultural Organization: Juan Chong

World Health Organization: Gabriel Sanchez-Mazas

Other intergovernmental organizations

Inter-American Human Rights Institute

Roberto Cuéllar, Deputy-Director,

Víctor Hugo Mata Tobar, Adviser

Regional institute

United Nations Latin American Institute for the Prevention of Crime and Treatment of Offenders

Jorge Arturo Montero, Director, United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders

Eliás Carranza, Deputy Director, United Nations Latin American Institute for the Prevention of Crime and Treatment of Offenders

Non-governmental organizations

Category II: International Bar Association, International Commission of Jurists, International Council for Adult Education, International Prisoners Aid Association, Prison Fellowship International

Individual observers

Diego Polit Corral, National Child and Family Institute, Ecuador

Fernando Coto, National Technical Commission for Crime Prevention, Costa Rica

Ana Esther Posada Sánchez, Costarican Human Rights' Defense and Promotion Commission

Domingo Ibarra Vásquez, Colegio Universitario de Cartago, Costa Rica

José Francisco Martínez Rincones, Centre for Criminal and Criminological Research, Venezuela

Annex II

LIST OF DOCUMENTS

A. Basic documents

<u>Document number</u>	<u>Title</u>
A/CONF.144/IPM.1	Discussion guide for the interregional and regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders
	Reports of the interregional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders:
A/CONF.144/IPM.1	Topic 1
A/CONF.144/IPM.2	Topic 3
A/CONF.144/IPM.3	Topic 4
A/CONF.144/IPM.4	Topic 2
A/CONF.144/IPM.5	Topic 5
A/CONF.144/RPM/CRP.1	Draft Model Treaty on Mutual Assistance in Criminal Matters
A/CONF.144/RPM/CRP.2	Draft Model Treaty on Extradition
A/CONF.144/RPM/CRP.3	United Nations Draft Guidelines on Prosecution
E/AC.57/1988/20	Report of the Committee on Crime Prevention and Control on its tenth Session

B. Background documents

A/CONF.121/22/Rev.1	Report of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders
E/AC.57/1988/NGO/3	Statement submitted by non-governmental organizations in consultative status with the Economic and Social Council, category II
International Penal and Penitentiary Foundation document No. 31	Standard Minimum Rules for the Implementation of Non-Custodial Sanctions and Measures involving Restriction of Liberty

C. Instruments

Adopted by the General Assembly

- Body of Principles for the Protection of all Persons Under Any Form of Detention or Imprisonment (resolution 43/173, annex)
- Code of Conduct for Law Enforcement Officials (resolution 34/169, annex)

Adopted by the Economic and Social Council

Safeguards guaranteeing protection of the rights of those facing the death penalty (resolution 1984/50, annex)

Standard Minimum Rules for the Treatment of Prisoners and Procedures for the Effective Implementation of the Rules (resolutions 663 (XXIV) and 2076 (LXII))

Contained in the report of the Seventh Congress

Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order (chap. I, sect. B)

Basic Principles on the Independence of the Judiciary (chap. I, sect. D.2)

Model Agreement on the Transfer of Foreign Prisoners and Recommendations on the Treatment of Foreign Prisoners (chap. I, sect. D.1)

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (chap. I, sect. C.1)

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (chap. I, sect. C.2)

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