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**FORMULATION AND APPLICATION OF UNITED NATIONS STANDARDS AND
NORMS IN CRIMINAL JUSTICE**

Code of Conduct for Law Enforcement Officials

Report of the Secretary-General

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INTRODUCTION

1. At its thirty-fourth session, the General Assembly adopted the Code of Conduct for Law Enforcement Officials (resolution 34/169, annex), which had been formulated by the Committee on Crime Prevention and Control in pursuance of a recommendation of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.* The Assembly decided to transmit the Code to Governments with the recommendation that favourable consideration should be given to its use within the framework of national legislation or practice as a body of principles for observance by law enforcement officials.
2. Subsequently, the Assembly, in its resolution 35/170 of 15 December 1980, recalling resolution 12 of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, invited the Committee on Crime Prevention and Control to study the application of the Code of Conduct for Law Enforcement Officials on the basis of the information received from Member States, taking into account the recommendations of any national symposia on the role of law enforcement officials in the protection of human rights, and to include the outcome of its considerations in its regular report to the Economic and Social Council.
3. Pursuant to that resolution, the Secretary-General prepared a report on the application of the Code (E/AC.57/1984/4 and Corr.1) to assist the Committee on Crime Prevention and Control in its deliberations at its eighth session.
4. That report was based on information received from 29 countries: Argentina, Austria, Bangladesh, Belgium, Canada, Chad, Chile, Cyprus, Czechoslovakia, German Democratic Republic, Germany, Federal Republic of, Greece, Finland, Ireland, Japan, Kuwait, Madagascar, New Zealand, Norway, Pakistan, Philippines, Seychelles, Spain, Sri Lanka, Suriname, Sweden, Thailand, United Kingdom of Great Britain and Northern Ireland and Zimbabwe.
5. The Committee, at its eighth session, in considering the replies received so far (E/AC.57/1984/4 and Corr.1), noted that more information was required to assess fully the degree of implementation, in order to present to the Seventh Congress a comprehensive report. The Economic and Social Council subsequently approved the recommendations of the Committee, including decision 8/5, in which the Secretary-General was requested to invite Member States to provide the necessary information on the implementation of the Code of Conduct in order to submit to the Seventh Congress a comprehensive report on the implementation of the Code.
6. Consequently, a new inquiry, was prepared by the Secretariat and sent to Member States. As of 15 April 1985, replies had been received from the following 43 countries: Algeria, Austria, Bahrain, Belize, Botswana,

*See Report of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 1-12 September 1975 (A/CONF.56/10), paras. 254-259.

Bulgaria, Canada, Chad, Colombia, Cuba, Cyprus, Czechoslovakia, Denmark, Finland, France, German Democratic Republic, Greece, Guatemala, Iceland, Iraq, Israel, Kenya, Kuwait, Madagascar, Netherlands, Norway, Pakistan, Panama, Peru, Philippines, Portugal, Qatar, Rwanda, Somalia, Spain, Sweden, Switzerland,* Thailand, United Arab Emirates, United Kingdom, Uruguay, the United States of America and Zimbabwe. Out of the above-mentioned countries, 18 had also replied to the first inquiry. Therefore, taking into account the countries responding to both inquiries, the total number of respondents amounts to 54 countries. Any additional information that becomes available after 1 April 1985 will be submitted as addenda to the present report.

7. The present report has been prepared on the basis of replies to both inquiries; the first of which dealt with the implementation of the Code in more general terms, while the second one focused on more specific aspects.

I. SUMMARY AND ANALYSIS OF THE REPLIES

A. Relevance of the Code

Overview

8. The information received from all Governments shows that the provisions of the Code of Conduct for Law Enforcement Officials are considered to be of great importance and that, in general, they are incorporated into national legislation. Only one Government noted that the Code was unknown to its police services, and another mentioned that the question of implementation of the Code was still under consideration.

Legislation consistent with the Code

9. The majority of Governments reported that changes in their legislations were not deemed to be necessary because existing constitutional provisions in some cases, as well as laws and regulations, already met the standards of the Code and even often went beyond them; therefore a specific codified statute about law enforcement officials was not necessary. By way of illustration, it was stated that in these countries the guarantees, as established by the Code, were usually embodied either in national constitutions (especially as regards fundamental safeguards for human rights), or in specific regulations such as police and correctional acts. One Government reported that the principles of the Code had already been expressed in its legal provisions, however, it would remain receptive to changing circumstances so as to ensure compliance with the rules of the Code.

Changes in legislation

10. A number of Governments reported the explicit influence of the Code reflected in changes in their legislations embodying some or all of its provisions. The replies, however, did not indicate the extent to which the Code had been adopted or which substantive parts of the Code had been incorporated in national legislation.

*Non-Member State.

B. Measures for implementation and difficulties encountered

11. The replies indicated that, in principle, the Code was available to all law enforcement officials, but not always in their mother tongue. However, many Governments reported that it was not necessary to make the Code available to their law enforcement officials, since similar provisions were incorporated in their laws and regulations, and these provisions were adequately disseminated.

Training

12. Most replies indicated that training programmes included special indoctrination on the main principles regarding individual rights and guarantees in order to prevent abuses of authority. Furthermore, it was stated, every police agency should take steps to ensure that all officers had an understanding of their roles, and an awareness of the culture of the community in which they worked. Several Governments stated that police officers and their assistants took continuous and consecutive training courses, which covered material directly connected with the Universal Declaration of Human Rights and other relevant United Nations instruments. Other Governments mentioned that although they did not use the Code in their training programmes, they did, in fact, use similar provisions found in other legal texts.

Seminars

13. Several Governments reported having held national and international seminars on the role of the police in the protection of human rights, one of them in close collaboration with the United Nations. With respect to national seminars in particular, one Government reported that it invited foreign jurists who were specialized in the field of human rights to give lectures to national law enforcement officials. However, many of the replies that mentioned such seminars did not provide specific information on the topics covered by the seminars.

Difficulties

14. The difficulties reported in implementing the Code were numerous, covering budgetary, cultural, economic, geographical, legal, social and technical matters. However, only a few Governments gave specific examples. One Government reported that violators of the Code sometimes could not be held accountable because of legal technicalities. In addition, the financial and economic crisis had resulted in budgetary restraints which gave the implementation of the Code a lower priority than other, seemingly more urgent, items. Such obstacles might not easily be overcome totally, but continuing studies and reviews of the various difficulties affecting the Code's implementation might help to minimize them. Another Government reported some problems in implementing article 4 of the Code containing the principle of confidentiality, in so far as there was currently a tendency to make the criminal justice system more visible and accountable.

Proposals

15. About half of the Governments were of the opinion that additional measures should be undertaken to promote the application of the Code, and cited several, such as presidential decrees, departmental directives or periodical circulars. One Government suggested that citizens and police should endeavour to acquaint themselves with their rights and duties, since

this would contribute to a better relationship between law enforcement officials and the public, which was considered to be an effective measure to promote the application of the Code. Another Government reported that all law enforcement officials, during their service, were required to carry a copy of the Code of Conduct, as a reminder.

C. Status of law enforcement officials*

Overview

16. Most Governments reported that the status of law enforcement officials was that of a civil servant; in three countries, law enforcement officials belonged to the armed forces or military personnel. Two governments named their law enforcement agents "Peace Officers", whose function it was to implement, inter alia, the Code and all other legislation. Nearly all the Governments agreed upon the need for an ultimate civilian authority for law enforcement officials, to serve as a political control over their activities. It was considered that the main tasks for law enforcement officials were to preserve security and order, to supervise the enforcement of laws and regulations and to prevent, investigate and assist in prosecuting crime. One Government emphasized the fact that two important functions of law enforcement officials were to warn citizens against the commission of crime, and the resocialization of persons released from prison.

Social status

17. The provision of adequate salaries for law enforcement officials was deemed to be an important issue and some Governments reported that such remuneration was the result of an agreement between the State and the police or the authority in charge. Appropriate social status and social insurance were considered important by the majority of the Governments, and one Government explained that the remuneration of law enforcement officials was based on a percentage of the amount of the salary of the chief of police.

Selection and recruitment

18. Several Governments mentioned that their law enforcement officials were recruited on the basis of competitive examinations and appointed on a probationary basis. Criteria for selection and recruitment seemed to differ only in details; requirements regarding citizenship, age, weight and height, physical and mental fitness, education and a clean record were among the most commonly specified. Conditions like good social and moral conduct were also mentioned by a few Governments. Two Governments reported that they applied psychodiagnostical tests, and four other Governments used psychological tests in the recruitment process; the importance of using psychological tests was to examine the suitability and mental stability of the candidates in terms of their reactions to the behaviour of third parties. However, most Governments did not mention the application of such tests.

*For a definition of "law enforcement officials" see the Commentary to article 1 of the Code of Conduct. See, also, the report of the Interregional Preparatory Meeting on Formulation and Application of United Nations Standards and Norms in Criminal Justice held at Varenna in 1984, which states that: "In order to achieve the aims and objectives set out in article 1 of the Code and its relevant commentaries, the definition of "law enforcement officials" shall be given the widest possible interpretation".

Training

19. The length of the basic training courses after recruitment varied from four months to two years. They were usually followed by refresher courses and/or other programmes of further specialization. The intensity of courses during service differed considerably: one Government stated that about 10 per cent of the total work time per person per year was devoted to further education. In one country, the training level for police personnel seemed to be exceptionally high, and officers who graduated from such courses could also continue higher university studies. Many Governments mentioned that the level of training would depend on the rank and specialization of the candidate's future job. Officers recruited for higher responsibilities would have to attend extensive courses in law, criminology procedures, police strategies, tactics, national defence, and sometimes even foreign languages. Officers of lower ranks received basic training in crime investigation and detection, criminalistics, traffic regulations and other related requirements. One Government classified its training courses into four main types: basic training, regular further education, special training and conferences for specific functions, and police commissioner training programmes. One Government referred to a requirement concerning the general educational and cultural knowledge of the personnel, and the possibility to receive fellowships abroad, based on merit.

II. USE OF FORCE AND FIREARMS

Overview

20. Ongoing international concern with the use of force and firearms, as stressed by several regional and international bodies, such as the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities, as well as by the Council of Europe, confirms the gravity of this matter. This concern has also been reflected in the special attention paid to it in the report.

21. The amount of information given varied from one country to another: some countries included in their replies detailed laws and regulations regarding the use of force and firearms, whereas others selected a few of their regulations to give examples of their directives. Two countries reported the lack of written regulations, and one of those mentioned that such regulations were under consideration.

Existing norms

22. The laws and regulations controlling the use of force and firearms reported by Governments can generally be categorized into the following two main groups:

(a) Legislative penal measures against the misuse of force;

(b) Administrative regulations providing clear instructions for law enforcement officials, including more specific and detailed rules on the use of force and, especially, of firearms.

23. In the case of subparagraph 22(b) above, these regulations were reported to be the basic texts for the training of law enforcement officials. In view of the increasing technological complexity of instruments of force, one

Government stressed the need to elaborate a detailed syllabus for the training of law enforcement officials.

24. On the basis of the information supplied by Governments, the regulations concerning the use of force by law enforcement officials may be divided into three different categories:

(a) Use of force by an individual law enforcement official. Detailed information was provided and there was a consensus regarding the following principles: law enforcement officials are authorized to use force when they are unable to achieve their purpose in any other way and when the seriousness of the case requires such reaction. This principle might be applied in the course of an arrest, if the person to be arrested is armed, tries to avoid arrest and the escape cannot be prevented by reasonable means in a less violent manner. Law enforcement officials may also use weapons to defend themselves, or any person under their protection, from bodily harm or possible death, and also to prevent the commission of a serious offence, especially when the offender uses force;

(b) Use of force in formation or in larger units. Some Governments had issued very thorough directives on this subject in order to preclude the possible misuse of force by law enforcement officials when in formation or in larger units to combat mass violence. There was a consensus that in such cases there should be an order to use force given by a competent superior officer, or, as one country reported, by the civilian authority in charge of the community in which such action was to take place. In fact, all the respondents agreed upon the necessity to try all other means of persuasion, including clear warnings to disperse unlawfully assembled gatherings, before using force. A few Governments reported that before resorting to firearms they would use, whenever possible, special equipment such as high-pressure hoses or tear-gas;

(c) Use of force by prison officers. Although it is well known that many Governments provide their prison officers with relevant information on the use of force and firearms and train them accordingly, reference to this subject was made only by a very few Governments. They reported that force against prisoners could be used in cases of exceptional gravity such as escapes, outbreaks and riots. It was emphasized that the staff in direct contact with inmates should not be armed, notwithstanding periodical training in handling weapons.

Special issues

25. In addition to the aforementioned categories the following issues were pointed out:

(a) The use of force should be within reasonable boundaries. However, the problem of defining the term "reasonable boundaries" gave rise to various practical difficulties and required further study;

(b) The principle of proportionality should be observed.* Therefore, a proper balance between the need to use force and the possible damage emerging from such action should be sought. Serious damage and bodily harm to persons

*See Code of Conduct, Commentary to article 3.

directly involved, or to innocent bystanders, should be averted through a more moderate approach in specific situations. Moreover, force should, as far as possible, be used only to restrain, and to cause the least possible harm;

(c) Deadly force should never be used on mere suspicion;

(d) Whenever possible, a clear warning, preferably a vocal one, should be given before force is used;

(e) After each incident involving the use of firearms, a written report should be submitted to the superior officer, which should justify such action. Furthermore, in cases of physical injury resulting from the use of force, such a report should also be made available to the public prosecutor.

III. SAFEGUARDS AGAINST VIOLATIONS OF THE CODE

Overview

26. All countries mentioned that certain violations of the Code were punishable under their penal legislation, mainly in the case of gross misconduct. Apart from penal measures, all the respondents reported the existence of disciplinary or administrative norms serving as internal regulations. Sanctions ranged from reminders to dismissals, depending on the nature of the violation.

Preventive measures

27. To prevent or reduce violations of the Code, several Governments stressed the importance of a thorough police training. The obligation to submit written reports on extraordinary circumstances, especially after the use of force and firearms encountered in the course of the duty, was also considered to be a valuable means of controlling and redressing violations of the Code. One Government reported that its Public Prosecutor's Office, in safeguarding human rights and the administration of justice, watched over the work of investigation officers and members of the judicial police and supervised the execution of decisions. Many Governments also emphasized the importance of a clear distribution of competence and responsibility in the administration of criminal justice.

28. One Government underlined the importance of the involvement of various mass communication media in monitoring the application of the law in the protection of human rights, as that might help to improve the relationship between law enforcement officials and the public. It was stressed, furthermore, that law enforcement agencies should engage actively in public information rather than merely responding to occasional public inquiries.

Complaint procedures

29. Some Governments agreed that one of the duties of the police was to inform the citizens about their rights and, in particular, about their right to file complaints, even against the police itself. The services that might be rendered to the community by law enforcement officials in this regard were considered to be of great importance, as they would enhance co-operation and confidence between the citizenry and the law enforcement officials. In this context, one Government expressly reported that it accorded no exemptions or privileges to its law enforcement officials, a policy which, it believed,

would in turn, lead to a more effective criminal justice administration. It was also observed that establishing and institutionalizing effective measures to handle complaints against law enforcement officials by the public could improve relations between them.

30. Most Governments reported the existence of ad hoc courts of discipline or panels within the national police, composed of members of the police only.

31. However, a few Governments reported the existence of independent bodies to prevent or redress violations of the Code. In one region, the existence of a parliamentary ombudsman was mentioned, and one Government reported that the legislative assembly appointed such an ombudsman who was a parliamentary commissioner and who, on his or her own initiative, or at the request of the public, could demand to be fully informed of all the cases dealt with by the administration or the police and who could thereafter express his or her views. Apart from this very specific instance, no other Government reported the establishment of permanent and special independent administrative institutions handling violations of the Code.

32. One Government reported detailed legislative initiatives in this connection. Under the current system, the officer concerned had to submit the complaints to the Police Complaints Board, which could recommend disciplinary charges, and also bring charges to a tribunal consisting of members of the police. It was noted, however, that this procedure was not independent enough. Therefore, the provisions of a draft Bill included a new independent Police Complaints Authority that would supervise the investigation of the most serious complaints, with full control over the investigation. For less serious complaints the draft Bill recommended an informal settlement within the administration.

IV. FUTURE IMPLEMENTATION OF THE CODE

Overview

33. The need for further promotion of the implementation of the principles of the Code at all levels was referred to by all the Governments. It was also noted that activities of the United Nations such as technical assistance, advisory services and the organization of seminars should be strengthened so as to facilitate implementation.

National level

34. At the national level, the widest possible dissemination and information of the ideas of the Code to all sectors of the population was proposed by several Governments. The need to develop more detailed rules in areas that might cause conflicts owing to the lack of precise definition, such as the use of force and firearms, was emphasized.

35. One Government stated that a more effective implementation of the Code could be achieved through training, and that the training should be oriented towards a high level of professional competence and moral qualities in order to improve relations between the public and law enforcement officials.

36. Other Governments stressed the importance of the development of professional skills through modern scientific means and the use of computers to increase the efficiency of the police, by having as much information as possible at their disposal, with appropriate safeguards against its misuse.

Regional and international levels

37. The importance and value of the role of the United Nations in promoting regional and international meetings at all levels were generally stressed. Many countries expressed their need for technical assistance through the United Nations advisory services and other means on a permanent or more regular basis.

38. It was emphasized further that the role of the United Nations regional and interregional institutes should be strengthened, and that co-operation with them in the field of crime prevention and criminal justice should be intensified. In this connection, one Government expressed its readiness to promote national and regional seminars and other meetings at a professional and non-professional level for further implementation of the Code.

39. Many Governments made special reference to the importance of a continuing co-operation among Governments, the United Nations, the International Criminal Police Organization (INTERPOL) and other international organizations in this field. One Government expressed its hope that, at the international level, criteria to unify the relevant national and international standards and norms in the interest of improved application of the Code might be established through such international meetings.

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.